

N.J. Stat. § 34:1B-242

This section is current through New Jersey 218th First Annual Session, L. 2018, c. 9 and J.R. 4

LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 1B. Business and Industry Promotion (§§ 34:1B-1 — 34:1B-265) > Part XIII. Grow New Jersey Assistance Act (§§ 34:1B-242 — 34:1B-250)

§ 34:1B-242. Short title

Sections 1 through 9 [C.34:1B-242 through 34:1B-250] of this act shall be known and may be cited as the "Grow New Jersey Assistance Act."

History

L. 2011, c. 149, § 1, eff. Jan. 5, 2012.

Annotations

LexisNexis® Notes

Notes

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Editor's Notes

Section 21 of L. 2013, c. 161, provides: "On or before July 1, 2018, the authority shall submit a written report to the Governor and the Legislature providing a comprehensive review and analysis of the Grow New Jersey Assistance Program, established pursuant to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic Redevelopment and Growth Grant program, established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic incentive laws under the authority's jurisdiction, with particular emphasis on the recalibration of those programs and the creation of Garden State Growth Zones, pursuant to P.L.2013, c.161 (C.52:27D-489p et al.), and the effectiveness of those programs on economic development and private-sector job retention and growth. In order to ensure the independence and objectivity of the report, the authority shall retain a premier, not-for-profit, non-partisan entity to undertake the review and analysis of the State economic incentive laws, which shall include a cost-benefit analysis of each incentive program, an assessment of the success of each program in meeting the goals of the program, and any recommendations for improving the operation and effectiveness of each program, including recommendations for legislation."

Research References & Practice Aids

LexisNexis® Notes

Cross References:

Definitions relative to the “Urban Transit Hub Tax Credit Act”, see 34:1B-208.

Definitions relative to the “Grow New Jersey Assistance Act.”, see 34:1B-243.

Grow New Jersey Assistance Program, see 34:1B-244.

Limit on combined value of approved credits, see 34:1B-247.

Rules, regulations adopted by chief executive officer, authority, see 34:1B-249.

Definitions relative to public contracts with private entities, see 52:18-42.

Agreement between developer and municipality, see 52:27D-489k.

Administrative Code:

N.J.A.C. 19:31 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, 19, Chapter 31 — Chapter Notes.

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End of Document

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§ 34:1B-243. Definitions relative to the “Grow New Jersey Assistance Act.”

As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

“Affiliate” means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. § 1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. § 414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

“Authority” means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

“Aviation district” means the area within a one-mile radius of the outermost boundary of the “Atlantic City International Airport,” established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24).

“Business” means an applicant proposing to own or lease premises in a qualified business facility that is:

- a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5);
- a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;
- a partnership;
- an S corporation;
- a limited liability company; or
- a non-profit corporation.

If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.

A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

“Capital investment” in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for:

- a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property;
- b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. § 168 and § 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property;
- c. receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or
- d. any of the foregoing.

In addition to the foregoing, in a Garden State Growth Zone, the following qualify as a capital investment: any development, redevelopment, and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

“College or university” means a county college, an independent institution of higher education, a public research university, or a State college.

“Commitment period” means the period of time that is 1.5 times the eligibility period.

“County college” means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

“Deep poverty pocket” means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.

“Disaster recovery project” means a project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster which, after utilizing all disaster funds available from federal, State, county, and local funding sources, demonstrates to the satisfaction of the authority that access to additional funding authorized pursuant to the “New Jersey Economic Opportunity Act of 2013,” P.L.2013, c.161 (C.52:27D-489p et al.), is necessary to complete the redevelopment project, and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

“Distressed municipality” means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the “Local Government Supervision Act (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

“Doctoral university” means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education’s Basic Classification methodology on the effective date [Aug. 7, 2017] of P.L.2017, c.221.

“Eligibility period” means the period in which a business may claim a tax credit under the Grow New Jersey Assistance Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow New Jersey Assistance Program and extending thereafter for a term of not more than 10 years, with the term to be determined solely at the discretion of the applicant.

“Eligible position” or “full-time job” means a full-time position in a business in this State which the business has filled with a full-time employee.

“Full-time employee” means a person:

- a. who is employed by a business 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; or
- b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) 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.54A:1-1 et seq.; or
- c. who is a resident of another State but whose income is not subject to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. or who is a partner of a business 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.54A:1-1 et seq.; and
- d. who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal:

the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement;

full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent;

35 hours of employment per week at a qualified business facility shall constitute one “full-time employee,” regardless of whether or not the hours of work were performed by one or more persons.

For any project located in a Garden State Growth Zone which qualifies under the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, 30 hours of employment per week at a qualified business facility shall constitute one “full-time employee,” regardless of whether the hours of work were performed by one or more persons, and the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the employees of the business are covered by a collective bargaining agreement.

“Full-time employee” shall not include any person who works as an independent contractor or on a consulting basis for the business. Full-time employee shall also not include any person who at the time of project application works in New Jersey for consideration for at least 35 hours per week, or who renders

any other standard of service generally accepted by custom or practice as full-time employment but who prior to project application was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

“Garden State Create Zone” means the campus of a doctoral university, and the area within a three-mile radius of the outermost boundary of the campus of a doctoral university, according to a map appearing in the doctoral university’s official catalog or other official publication on the effective date [Aug. 7, 2017] of P.L.2017, c.221.

“Garden State Growth Zone” or “growth zone” means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009); or a municipality which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority.

“Highlands development credit receiving area or redevelopment area” means an area located within a qualified incentive area and designated by the Highlands Water Protection and Planning Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

“Incentive agreement” means the contract between the business and the authority, which sets forth the terms and conditions under which the business shall be eligible to receive the incentives authorized pursuant to the program.

“Incentive effective date” means the date the authority issues a tax credit based on documentation submitted by a business pursuant to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247).

“Independent institution of higher education” means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State’s public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

“Major rail station” means a railroad station located within a qualified incentive area which provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

“Mega project” means:

- a.** a qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:
 - (1)** having a capital investment in excess of \$20,000,000, and at which more than 250 full-time employees of the business are created or retained; or
 - (2)** at which more than 1,000 full-time employees of the business are created or retained;
- b.** a qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:
 - (1)** having a capital investment in excess of \$20,000,000, and at which more than 250 full-time employees of the business are created or retained, or
 - (2)** at which more than 1,000 full-time employees of the business are created or retained;

- c. a qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of \$50,000,000, and at which more than 250 full-time employees of the business are created or retained;
- d. a project located in an area designated in need of redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties having a capital investment in excess of \$20,000,000, and at which more than 150 full-time employees of the business are created or retained; or
- e. a qualified business facility primarily used by a business principally engaged in research, development, or manufacture of a drug or device, as defined in R.S.24:1-1, or primarily used by a business licensed to conduct a clinical laboratory and business facility pursuant to the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:
 - (1) having a capital investment in excess of \$20,000,000, and at which more than 250 full-time employees of the business are created or retained, or
 - (2) at which more than 1,000 full-time employees of the business are created or retained.

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

"Moderate-income housing" means housing affordable, according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

"New full-time job" means an eligible position created by the business at the qualified business facility that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Other eligible area" means the portions of the qualified incentive area that are not located within a distressed municipality, or the priority area.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Port district" means the portions of a qualified incentive area that are located within:

- a. the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or
- b. a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Priority area" means the portions of the qualified incentive area that are not located within a distressed municipality and which:

- a. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;

- b.** intersect with portions of: a deep poverty pocket, a port district, or federally-owned land approved for closure under a federal Commission on Base Realignment and Closure action;
- c.** are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or
- d.** contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a “qualified business facility,” as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

“Professional employer organization” means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

“Program” means the “Grow New Jersey Assistance Program” established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244).

“Public research university” means a public research university as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

“Qualified business facility” means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location unless the building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of:

- a.** a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full-service supermarket or grocery store; or
- b.** a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

“Qualified incentive area” means:

- a.** an aviation district;
- b.** a port district;
- c.** a distressed municipality or urban transit hub municipality;
- d.** an area

(1) designated pursuant to the “State Planning Act,” P.L.1985, c.398 (C.52:18A-196 et seq.), as:

- (a)** Planning Area 1 (Metropolitan);
- (b)** Planning Area 2 (Suburban); or
- (c)** Planning Area 3 (Fringe Planning Area);

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a regional growth area, rural development area zoned for industrial use as of the effective date [Dec. 5, 2016] of P.L.2016, c.75, town, village, or a military and federal installation

area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

- (5) located within the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area;
- (6) located within a Garden State Growth Zone;
- (7) located within land approved for closure under any federal Commission on Base Realignment and Closure action; or
- (8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:
 - (a) a designated center under the State Development and Redevelopment Plan;
 - (b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;
 - (c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);
 - (d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals;
 - (e) the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or
 - (f) any area on which an existing tourism destination project is located.

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

"Qualified incubator facility" means a commercial building located within a qualified incentive area: which contains 50,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 50 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country, or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business. For the purposes of the certifications and annual reports required in the incentive agreement pursuant to subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the extent an eligible position that was the basis of the award no longer exists, a business shall include as a retained full-time job a new eligible position that is filled by a full-time employee provided that the position is included in the order of date of hire and is not the basis for any other incentive award. For a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), retained full-time job shall include any employee previously employed in New Jersey and transferred to the new location in the Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

“SDA municipality” means a municipality in which an SDA district is situate.

“State college” means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

“Targeted industry” means any industry identified from time to time by the authority including initially, a transportation, manufacturing, defense, energy, logistics, life sciences, technology, health, and finance business, but excluding a primarily warehouse or distribution business.

“Technology startup company” means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high-technology or life science-related product, process, or service which the business intends to move to commercialization.

“Tourism destination project” means a qualified non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established Tourism District with a significant impact on the economic viability of that District.

“Transit oriented development” means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Garden State Growth Zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

“Urban transit hub” means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208) and also located within a qualified incentive area.

“Urban transit hub municipality” means a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

History

L. 2011, c. 149, § 2, eff. Jan. 5, 2012; amended 2013, c. 161, § 7, eff. Sept. 18, 2013; 2014, c. 63, § 2, eff. Oct. 24, 2014; 2015, c. 217, § 1, eff. Jan. 11, 2016; 2016, c. 75, § 1, eff. Dec. 5, 2016; 2017, c. 221, § 1, eff. Aug. 7, 2017.

Annotations

Notes

Publisher's Notes

The bracketed material was added by the Publisher to provide a reference.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

The title to L. 2014, c. 63 designates the act as the “Economic Opportunity Act of 2014, Part 3.”

Effective Dates

Section 5 of L. 2015, c. 217 provides: “This act shall take effect immediately, section 1 shall apply to program applications submitted on or after the first July 1 occurring on or after the date of enactment, and section 2 shall be retroactive to October 24, 2014.” Chapter 217, L. 2015, was approved on Jan. 11, 2016.

Amendment Note:

2013 amendment, by Chapter 161, rewrote the section.

2014 amendment, by Chapter 63, rewrote the section.

2015 amendment, by Chapter 217, added e. in the definition of “Mega project”; and made related changes.

2016 amendment, by Chapter 75, substituted “ C.54:18A-3” for “ 54:18A-3” in the third paragraph of the definition of “Business”; in the definition of “Capital investment”, deleted “and all” preceding “development” in the second paragraph, and substituted “the premises” for “such premises” in the third paragraph; substituted “the redevelopment project” for “such redevelopment project” in the definition of “Disaster recovery project”; in the definition of “Full-time employee”, substituted “the benefits” for “such benefits” in the second paragraph, and deleted “or not” preceding “the hours of work” in the last paragraph; in the definition of “Mega project”, substituted “the business” for “such business” in a.(1), a.(2), b.(1), b.(2), e.(1) and e.(2), and substituted “the business” for “a business” in c. and d.; in the definition of “Qualified incentive area”, inserted “rural development area zoned for industrial use as of the effective date of P.L.2016, c.75” in d.(4), substituted “ C.40A:12A-6” for “ 40A:12A-6” in d.(8)(c), and substituted “the expansion” for “such expansion” in d.(8)(d); and made stylistic changes.

2017 amendment, by Chapter 221, added the definitions of “College or university”, “County college”, “Doctoral university”, “Garden State Create Zone”, “Independent institution of higher education”, “Public research university”, and “State college.”

N.J. Stat. § 34:1B-244

This section is current through New Jersey 218th First Annual Session, L. 2018, c. 9 and J.R. 4

LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 1B. Business and Industry Promotion (§§ 34:1B-1 — 34:1B-265) > Part XIII. Grow New Jersey Assistance Act (§§ 34:1B-242 — 34:1B-250)

§ 34:1B-244. Grow New Jersey Assistance Program.

- a. The Grow New Jersey Assistance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State. To implement this purpose, the program may provide tax credits to eligible businesses for an eligibility period not to exceed 10 years.

To be eligible for any tax credits pursuant to P.L.2011, c.149 (C.34:1B-242 et al.), a business's chief executive officer or equivalent officer shall demonstrate to the authority, at the time of application, that:

- (1) the business, expressly including its landlord or seller, will make, acquire, or lease a capital investment equal to, or greater than, the applicable amount set forth in subsection b. of this section at a qualified business facility at which it will:
 - (a) retain full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;
 - (b) create new full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section; or
 - (c) in combination, retain full-time jobs and create new full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;
- (2) the qualified business facility shall be constructed in accordance with the minimum environmental and sustainability standards;
- (3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State equaling at least 110 percent of the requested tax credit allocation amount, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits generated during the first 20 years following the completion of the project, except that:
 - (a) for a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority, and
 - (b) for a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject

to the provisions of section 24 of P.L.2013 c.161 (C.52:27D-489s), or the value of those property taxes that would have been assessed on the new construction, improvements, or substantial rehabilitation of structures on real property if the structures were not exempt because they are on real property owned by a public entity, and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention; and

- (4) except as provided in subsection f. of this section, the award of tax credits will be a material factor in the business's decision to create or retain the minimum number of new or retained full-time jobs for eligibility under the program.

With respect to the provisions of paragraph (3) of this subsection, in the case of a project located in a Garden State Growth Zone, the authority, in its discretion, may award bonuses in its net positive benefit calculation.

- b. For all projects approved after the effective date of P.L.2013, c.161, the minimum capital investment required to be eligible under this program shall be as follows:

- (1) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development premises for continued similar use by the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of \$20 per square foot of gross leasable area;
- (2) for the new construction of an industrial, warehousing, logistics, or research and development premises for similar use by the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of \$60 per square foot of gross leasable area;
- (3) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises that does not qualify pursuant to paragraph (1) or (2) of this subsection, a minimum investment of \$40 per square foot of gross leasable area; and
- (4) for the new construction of a premises that does not qualify pursuant to paragraph (1) or (2) of this subsection, a minimum investment of \$120 per square foot of gross leasable area.

The minimum capital investment required by this subsection shall be reduced by one-third for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

- c. The minimum number of new or retained full-time jobs required to be eligible under this program shall be as follows:

- (1) for a business that is a technology startup company or a manufacturing company, a minimum of 10 new or 25 retained full-time jobs;
- (2) for a business engaged primarily in a targeted industry other than a technology startup company or a manufacturing company, a minimum of 25 new or 35 retained full-time jobs; and
- (3) for any other business, a minimum of 35 new or 50 retained full-time jobs.

The minimum number of new or retained full-time jobs required by this subsection shall be reduced by one-quarter for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

- d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) that any existing full-time jobs are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are

accurate, provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or projects located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, before a business may be awarded any tax credits under this section.

- e. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. For a qualified business facility that is a mixed-use project that includes retail facilities and that is located in a Garden State Growth Zone or the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, retail facilities in an amount up to 7.5 percent of the mixed-use project may be included in the mixed-use project application for a grant of tax credits along with the non-retail facilities, and that application may include in the aggregate the pro-rata number of full-time employees employed by any number of tenants or other occupants of the included retail facilities. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this section, a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone which qualified under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or catalog distribution centers shall not be considered point-of-final-purchase retail facilities.
- f. The authority may determine as eligible for tax credits under the program any business that is required to respond to a request for proposals and to fulfill a contract with the federal government although the business's chief executive officer or equivalent officer has not demonstrated to the authority that the award

of tax credits will be a material factor in the business's decision to retain the minimum number of retained full-time jobs, as otherwise required by this section. The authority may, in its discretion, consider the economic benefit of the retained jobs servicing the contract in conducting a net benefit analysis required by paragraph (4) of subsection a. of this section. For the purposes of this subsection, "retained full-time jobs" includes jobs that are at risk of being eliminated. Applications to the authority for eligibility under the program pursuant to the criteria set forth in this subsection shall be completed by December 31, 2013. Submission of a proposal to the federal government prior to authority approval shall not disqualify a business from the program.

- g.** Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.

History

L. 2011, c. 149, § 3, eff. Jan. 5, 2012; amended 2013, c. 161, § 8, eff. Sept. 18, 2013; 2014, c. 63, § 3, eff. Oct. 24, 2014.

Annotations

Notes

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected technical errors in L. 2011, c. 149, § 3.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

The title to L. 2014, c. 63 designates the act as the "Economic Opportunity Act of 2014, Part 3."

Amendment Note:

2013 amendment, by Chapter 161, rewrote a.; inserted present b. and c.; redesignated former b. through d. as d. through f.; in present d., rewrote the first sentence and inserted "and as to the date or dates at which the authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the 'Municipal Rehabilitation and Economic Recovery Act,' P.L.2002, c.43 (C.52:27BBB-1 et al.), the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the 'Municipal Rehabilitation and Economic Recovery Act,' P.L.2002, c.43 (sC.52:27BBB-1 et al.)" in the last sentence; in present e., inserted the present third sentence and rewrote the last sentence; in the first sentence of present f., substituted "the minimum number of retained" for "at least 100" and deleted "paragraph (3) of subsection a. of" following "otherwise required by"; substituted "paragraph (4)" for "paragraph (2)" in the second sentence of present f.; inserted "full-time" in the third sentence of present f.; substituted "December 31, 2013" for "March 31, 2012" in the fourth sentence of present f.; and added g.

2014 amendment, by Chapter 63, added the a.(3)(a) and a.(3)(b) designations; deleted "except that" at the end of a.(3)(a); substituted "(C.52:27D-489s), or the value of those property taxes that would have been assessed on the

new construction, improvements, or substantial rehabilitation of structures on real property if the structures were not exempt because they are on real property owned by a public entity” for “(C.52:27D-489r)” in a.(3)(b); rewrote b.; in d., in the first sentence, inserted “or a project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority” and added “or a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority” and in the final sentence, inserted “or projects located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority” and “or in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority”; rewrote the third sentence of e.; and made related and stylistic changes.

Research References & Practice Aids

Cross References:

Definitions relative to the “Grow New Jersey Assistance Act.”, see 34:1B-243.

Incentive agreement required prior to issuance of tax credits, see 34:1B-245.

Total amount of tax credit for eligible business, see 34:1B-246.

Limit on combined value of approved credits, see 34:1B-247.

Certain grant agreements permitted, see 52:27D-489i.

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End of Document

N.J. Stat. § 34:1B-245

This section is current through New Jersey 218th First Annual Session, L. 2018, c. 9 and J.R. 4

LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 1B. Business and Industry Promotion (§§ 34:1B-1 — 34:1B-265) > Part XIII. Grow New Jersey Assistance Act (§§ 34:1B-242 — 34:1B-250)

§ 34:1B-245. Incentive agreement required prior to issuance of tax credits.

The authority shall require an eligible business to enter into an incentive agreement prior to the issuance of tax credits. The incentive agreement shall include, but shall not be limited to, the following:

- a. A detailed description of the proposed project which will result in job creation or retention, and the number of new or retained full-time jobs that are approved for tax credits.
- b. The eligibility period of the tax credits, including the first year for which the tax credits may be claimed.
- c. Personnel information that will enable the authority to administer the program.
- d. A requirement that the applicant maintain the project at a location in New Jersey for the commitment period, with at least the minimum number of full-time employees as required by this program, and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the business does not remain in compliance with this provision for the required term, and in the instance of the business terminating an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), such permitted recapture may be calculated to recognize the period of time that the business was in compliance prior to termination.
- e. A method for the business to certify that it has met the capital investment and employment requirements of the program pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011, c.149 (C.34:1B-244) and to report annually to the authority the number of full-time employees for which the tax credits are to be made.
- f. A provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary.
- g. A provision which permits the authority to amend the agreement.
- h. A provision establishing the conditions under which the agreement may be terminated.

History

L. 2011, c. 149, § 4, eff. Jan. 5, 2012; amended 2013, c. 161, § 9, eff. Sept. 18, 2013.

Annotations

LexisNexis® Notes

Notes

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Amendment Note:

2013 amendment, by Chapter 161, in the introductory language, added “into” in the first sentence and inserted “incentive” in the first and second sentences; substituted “new or retained full-time jobs that are approved for tax credits” for “full-time employees” in a.; in b., substituted “eligibility period” for “term” and “including” for “and”; in d., substituted “for the commitment period” for “at least 1.5 times the number of years of the term of the tax credits”, inserted “minimum”, substituted “this program” for “section 6 of P.L.2011, c.149 (C.34:1B-247)”, substituted “and in compliance with this provision” for “at the site”, and added the language beginning with “and in the instance” following “the required term” to the end; inserted “certify that it has met the capital investment and employment requirements of the program pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011, c.149 (C.34:1B-244) and to” in e.; deleted “and awarded tax credits are recaptured, in whole or in part, by the authority at its discretion” at the end of h.; and made a stylistic change.

Research References & Practice Aids

LexisNexis® Notes

Cross References:

Limit on combined value of approved credits, see 34:1B-247.

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N.J. Stat. § 34:1B-246

This section is current through New Jersey 218th First Annual Session, L. 2018, c. 9 and J.R. 4

LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 1B. Business and Industry Promotion (§§ 34:1B-1 — 34:1B-265) > Part XIII. Grow New Jersey Assistance Act (§§ 34:1B-242 — 34:1B-250)

§ 34:1B-246. Total amount of tax credit for eligible business.

- a. The total amount of the tax credit for an eligible business for each new or retained full-time job shall be as set forth in subsections b. through f. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period. Notwithstanding any other provisions of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization or organization operating a qualified incubator facility may make an application on behalf of a business which meets the requirements for the tax credit, or a group of non-qualifying businesses or positions, located at a qualified business facility, that shall be considered a unified project for the purposes of the incentives provided under this section. For any project located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, a business may assign its ability to apply for the tax credit under this subsection to the developer of the facility. The developer may make an application on behalf of the business which meets the requirements for the tax credit, or a group of non-qualifying businesses located at the business facility, that shall be considered a unified project for the purposes of the incentives provided under this section, and the developer may apply for tax credits available based on the number of jobs provided by the business or businesses and the total capital investment of the business or businesses and the developer.
- b. The base amount of the tax credit for each new or retained full-time job shall be as follows:
 - (1)
 - (a) for a qualified business facility located within an urban transit hub municipality, located within a Garden State Growth Zone, or which is a mega project, \$5,000 per year;
 - (b) for a qualified business facility located within a Garden State Create Zone and used by an eligible business in a targeted industry to conduct a collaborative research relationship with a doctoral university within the zone, \$5,000 per year;
 - (2) for a qualified business facility located within a distressed municipality but not qualifying under paragraph (1) of this subsection, \$4,000 per year;
 - (3) for a project in a priority area, \$3,000 per year; and
 - (4) for a project in other eligible areas, \$500 per year.

- c. In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the authority from time to time in response to evolving economic or market conditions:
- (1) for a qualified business facility located in a deep poverty pocket or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, an increase of \$1,500 per year;
 - (2) for a qualified business facility located in a qualified incubator facility, an increase of \$500 per year;
 - (3) for a qualified business facility located in a mixed-use development that incorporates sufficient moderate income housing on site to accommodate a minimum of 20 percent of the full-time employees of the business, an increase of \$500 per year;
 - (4) for a qualified business facility located within a transit oriented development, an increase of \$2,000 per year;
 - (5) for a qualified business facility, other than a mega project, at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by 20 percent, with a maximum increase of \$3,000 per year;
 - (6) for a business with new full-time jobs and retained full-time jobs at the project with an average salary in excess of the existing average salary for the county in which the project is located, or, in the case of a project in a Garden State Growth Zone, a business that employs full-time positions at the project with an average salary in excess of the average salary for the Garden State Growth Zone, an increase of \$250 per year during the commitment period for each 35 percent by which the project's average salary levels exceeds the county or Garden State Growth Zone average salary, with a maximum increase of \$1,500 per year;
 - (7) for a business with large numbers of new full-time jobs and retained full-time jobs during the commitment period, the increases shall be in accordance with the following schedule:
 - (a) if the number of new full-time jobs and retained full-time jobs is between 251 and 400, \$500 per year;
 - (b) if the number of new full-time jobs and retained full-time jobs is between 401 and 600, \$750 per year;
 - (c) if the number of new full-time jobs and retained full-time jobs is between 601 and 800, \$1000 per year;
 - (d) if the number of new full-time jobs and retained full-time jobs is between 801 and 1,000, \$1,250 per year;
 - (e) if the number of new full-time jobs and retained full-time jobs is in excess of 1,000, \$1,500 per year;
 - (8) for a business in a targeted industry, an increase of \$500 per year;
 - (9) for a qualified business facility exceeding the Leadership in Energy and Environmental Design's "Silver" rating standards or completes substantial environmental remediation, an additional increase of \$250 per year;
 - (10) for a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial premises for industrial use by the business exceeds the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for each additional amount of investment that exceeds the minimum amount by 20 percent, with a maximum increase of \$5,000 per year;

- (11) for a project in which a business retains at least 400 jobs and is located within the municipality in which it was located immediately prior to the filing of the application hereunder and is the United States headquarters of an automobile manufacturer, an increase of \$1,500 per year;
 - (12) for a project located in a municipality in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties with a 2007 Municipality Revitalization Index greater than 465, an increase of \$1,000 per year;
 - (13) for a project located within a half-mile of any light rail station constructed after the effective date [Sept. 18, 2013] of P.L.2013, c.161 (C.52:27D-489p et al.), an increase of \$1,000 per year;
 - (14) for a marine terminal project in a municipality located outside the Garden State Growth Zone, but within the geographical boundaries of the South Jersey Port District, an increase of \$1,500 per year;
 - (15) for a project located within an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6), and which is located within a quarter mile of at least one United States Highway and at least two New Jersey State Highways, an increase of \$1,500 per year;
 - (16) for a project that generates solar energy on site for use within the project of an amount that equals at least 50 percent of the project's electric supply service needs, an increase of \$250 per year;
 - (17) for a qualified business facility that includes a vacant commercial building having over 1,000,000 square feet of office or laboratory space available for occupancy for a period of over one year, an increase of \$1,000 per year; and
 - (18) for an eligible business in a targeted industry at a qualified business facility on the campus of a college or university other than a doctoral university, or at a qualified business facility within a three-mile radius of the outermost boundary of the campus of a college or university other than a doctoral university, which facility is used by the business to conduct a collaborative research relationship with the college or university, an increase of \$1,000 per year. The boundary of the campus of a college or university shall be based upon a map appearing in the college's or university's official catalog or other official publication on the effective date [Aug. 7, 2017] of P.L.2017, c.221.
- d. The gross amount of the tax credit for an eligible business for each new or retained full-time job shall be the sum of the base amount as set forth pursuant to subsection b. of this section and the various additional bonus amounts for which the business is eligible pursuant to subsection c. of this section, subject to the following limitations:
- (1) for a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed \$15,000 per year;
 - (2) for a qualified business facility located within an urban transit hub municipality or a Garden State Create Zone, the gross amount for each new or retained full-time job shall not exceed \$12,000 per year;
 - (3) for a qualified business facility in a distressed municipality the gross amount for each new or retained full-time job shall not exceed \$11,000 per year;
 - (4) for a qualified business facility in other priority areas, the gross amount for each new or retained full-time job shall not exceed \$10,500 per year;
 - (5) for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed \$6,000 per year; and
 - (6) for a disaster recovery project, the gross amount for each new or retained full-time job shall not exceed \$2,000 per year.

Notwithstanding anything to the contrary set forth herein and in the provisions of subsections a. through f. of this section, but subject to the provisions of paragraph (1) of subsection f. of this section, for a project located within a Garden State Growth Zone which qualifies for the "Municipal Rehabilitation and

Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), which creates 35 or more full-time jobs new to the municipality, the total tax credit shall be:

- (a)** for a project which creates 35 or more full-time jobs new to the municipality and makes a capital investment of at least \$5,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$2,000,000 per year over the grant term of ten years;
 - (b)** for a project which creates 70 or more full-time jobs new to the municipality and makes a capital investment of at least \$10,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$3,000,000 per year over the grant term of ten years;
 - (c)** for a project which creates 100 or more full-time jobs new to the municipality and makes a capital investment of at least \$15,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$4,000,000 per year over the grant term of ten years;
 - (d)** for a project which creates 150 or more full-time jobs new to the municipality and makes a capital investment of at least \$20,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than \$5,000,000 per year over the grant term of ten years; or
 - (e)** for a project which creates 250 or more full-time jobs new to the municipality and makes a capital investment of at least \$30,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs as defined herein at that project divided by the ten-year grant term.
- e.** After the determination by the authority of the gross amount of tax credits for which a business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows: (1) for each new full-time job, the business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and (2) for each retained full-time job, the business shall be allowed tax credits equaling the lesser of 50 percent of the gross amount of tax credits for each retained full-time job, or one-tenth of the capital investment divided by the number of retained and new full-time jobs per year over the grant term of ten years, unless the jobs are part of a mega project which is the United States headquarters of an automobile manufacturer located within a priority area or in a Garden State Growth Zone, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job, or unless the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job.
- f.** Notwithstanding the provisions of subsections a. through e. of this section, for each application approved by the authority's board, the amount of tax credits available to be applied by the business annually shall not exceed:

- (1) \$35,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a Garden State Growth Zone which qualifies under the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority;
- (2) \$30,000,000 and provides a net benefit to the State as provided herein with respect to a mega project or a qualified business facility in a Garden State Growth Zone;
- (3) \$10,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in an urban transit hub municipality or a Garden State Create Zone;
- (4) \$8,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a distressed municipality;
- (5) \$4,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in other priority areas, but not more than 90 percent of the withholdings of the business from the qualified business facility; and
- (6) \$2,500,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in other eligible areas, but not more than 90 percent of the withholdings of the business from the qualified business facility.

Under paragraphs (1) through (6) of this subsection, with the exception of a project located within a Garden State Growth Zone which qualifies for the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, that divides the total capital investment of the project by the total number of full-time jobs at that project, for each application for tax credits in excess of \$4,000,000 annually, the amount of tax credits available to be applied by the business annually shall be the lesser of the maximum amount under the applicable subsection or an amount determined by the authority necessary to complete the project, with such determination made by the authority’s utilization of a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business’s current in-State locations, as applicable; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm the amount necessary to complete the project.

History

L. 2011, c. 149, § 5, eff. Jan. 5, 2012; amended 2013, c. 161, § 10, eff. Sept. 18, 2013; 2014, c. 63, § 4, eff. Oct. 24, 2014; 2017, c. 221, § 2, eff. Aug. 7, 2017.

Annotations

Notes

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

The title to L. 2014, c. 63 designates the act as the "Economic Opportunity Act of 2014, Part 3."

Amendment Note:

2013 amendment, by Chapter 161, rewrote the section.

2014 amendment, by Chapter 63, rewrote the section.

2017 amendment, by Chapter 221, inserted "the" preceding "tax credit" in a.; redesignated former b.(1) as b.(1)(a); added b.(1)(b); in b.(1)(a), substituted "located within a" for "or" and inserted "which"; substituted "exceeds" for "is in excess of" in c.(10); added c.(18); inserted "or a Garden State Create Zone" in d.(2); added "or a Garden State Create Zone" at the end of in f.(3); and made related and stylistic changes.

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N.J. Stat. § 34:1B-247

This section is current through New Jersey 218th First Annual Session, L. 2018, c. 9 and J.R. 4

LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 1B. Business and Industry Promotion (§§ 34:1B-1 — 34:1B-265) > Part XIII. Grow New Jersey Assistance Act (§§ 34:1B-242 — 34:1B-250)

§ 34:1B-247. Limits on combined value of approved credits

a.

- (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed \$1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).
- (2) (Deleted by amendment, P.L.2013, c.161)
- (3) (Deleted by amendment, P.L.2013, c.161)
- (4) (Deleted by amendment, P.L.2013, c.161)
- (5) (Deleted by amendment, P.L.2013, c.161)

b.

- (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2019.
- (2)
 - (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. Except as provided in subparagraph (b) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.
 - (b) As of the effective date [Jan. 16, 2018] of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.
- (3) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

- (4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c.

- (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period for which the documentation of a business's credit amount remains uncertified as of a date three years after the closing date of that period shall be forfeited, although credit amounts for the remainder of the years of the eligibility period shall remain available to it.

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods, and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time within three years of the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any tax period.

- (2) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the Director of the Division of Taxation in the Department of the Treasury accompanied by any additional information as the director may require.
- (3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d.

- (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

- (2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

- (3)

- (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected.

- (b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than

one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4)

- (a)** For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.
- (b)** For a project located within a Garden State Growth Zone which qualifies under the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.
- e.** The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the “Business Retention and Relocation Assistance Act,” P.L.1996, c.25 (C.34:1B-112 et seq.), the “Business Employment Incentive Program Act,” P.L.1996, c.26 (C.34:1B-124 et al.), or any other program administered by the authority unless:

 - (1)** the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245); or
 - (2)** the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

- f. A business which has already applied for a tax credit incentive award prior to the effective date [Sept. 18, 2013] of the “New Jersey Economic Opportunity Act of 2013,” P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

History

L. 2011, c. 149, § 6, eff. Jan. 5, 2012; amended 2012, c. 35, § 4, eff. Aug. 7, 2012; 2013, c. 161, § 11, eff. Sept. 18, 2013; 2014, c. 63, § 5, eff. Oct. 24, 2014; 2015, c. 252, § 4, eff. Jan. 19, 2016; 2017, c. 313, § 1, eff. Jan. 16, 2018; 2017, c. 314, § 4, eff. Jan. 16, 2018.

Annotations

Notes

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected technical errors in L. 2011, c. 149, § 6.

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected L. 2017, c. 314, § 4 to incorporate the inadvertently omitted provisions of the amendment of this section by L. 2017, c.313, § 1.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

The title to L. 2014, c. 63 designates the act as the “Economic Opportunity Act of 2014, Part 3.”

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

Effective Dates

Section 6 of L. 2017, c. 313 provides: “This act shall take effect immediately and section 4 shall apply to accounting and privilege periods beginning on and after January 1, 2017 and section 5 shall apply to taxable years beginning on and after January 1, 2017.” Chapter 313, L. 2017, was approved on Jan. 16, 2018.

Amendment Note:

2012 amendment, by Chapter 35, substituted “\$1,750,000,000” for “\$1,500,000,000” in a.(1) and the third paragraph of c.(1).

2013 amendment, by Chapter 161, rewrote a. and b.; deleted the former first sentence of the first paragraph of c.(1); in the second paragraph of c.(1), substituted “for which” for “ending after July 28, 2017, during which”, inserted “as of a date three years after the closing date of that period”, and substituted “eligibility” for “10-year credit”; deleted “provided that the value of all credits approved by the authority against tax liabilities pursuant to

P.L.2011, c.149, in any fiscal year shall not exceed \$150,000,000 and the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed \$1,750,000,000” at the end of the third paragraph of c.(1); deleted the former last paragraph of c.(1); in d.(2), substituted “80 percent” for “100 or 80 percent” following “area drops below”, substituted “incentive” for “project” preceding “agreement, then the”, and substituted “80 percent of the number of jobs specified in the incentive agreement” for “100”; in d.(3)(a), inserted “by the owner”, deleted “10-year” following “part during the”, inserted the comma following “eligibility period”, and substituted “the business” for “tenants”; rewrote d.(3)(b); and added d.(4), e., and f.

2014 amendment, by Chapter 63, inserted “section 35 of” in the first sentence of a.(1); in the third paragraph of c.(1), rewrote the first sentence and added the second and third sentences; rewrote c.(2); added the d.(4)(a) designation; added d.(4)(b); and made stylistic changes.

2015 amendment, by Chapter 252, added the b.(2)(a) designation; added “Except as provided in subparagraph (b) of this paragraph” in the final sentence of b.(2)(a); added b.(2)(b); and made related and stylistic changes.

2017 amendment, by Chapter 313, in c.(1), substituted “for which it was issued” for “during which it was transferred” and “20 successive” for “three successive.”

2017 amendment, by Chapter 314, in b.(2)(b), substituted “P.L.2017, c.314” for “P.L.2015, c.252” and “July 28, 2019” for “July 28, 2018”; substituted “the incentive agreement” for “this paragraph” in d.(1); and substituted “P.L.1996, c.26 (C.34:1B-124 et al.)” for “P.L.1996, c.26 (C.34:1B-124 et seq.)” in e.; and made stylistic changes.

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Research References & Practice Aids

Cross References:

Definitions relative to the “Grow New Jersey Assistance Act.”, see 34:1B-243.

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N.J. Stat. § 34:1B-248

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§ 34:1B-248. Application for tax credit transfer certificate

A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business. The tax credit transfer certificate, upon receipt thereof by the business from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in an amount not less than \$25,000, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except that the 75 percent minimum measure of consideration shall not apply to the sale or assignment of a tax credit transfer certificate to an affiliate irrespective of whether the affiliate met the capital investment and employment requirements specified in the incentive agreement. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the business that originally applied for and was allowed the credit.

History

L. 2011, c. 149, § 7, eff. Jan. 5, 2012; amended 2014, c. 63, § 6, eff. Oct. 24, 2014; 2017, c. 313, § 2, eff. Jan. 16, 2018.

Annotations

Notes

Editor's Note:

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

The title to L. 2014, c. 63 designates the act as the "Economic Opportunity Act of 2014, Part 3."

Effective Dates

Section 6 of L. 2017, c. 313 provides: "This act shall take effect immediately and section 4 shall apply to accounting and privilege periods beginning on and after January 1, 2017 and section 5 shall apply to taxable years beginning on and after January 1, 2017." Chapter 313, L. 2017, was approved on Jan. 16, 2018.

Amendment Note:

2014 amendment, by Chapter 63, inserted "in an amount not less than \$25,000" in the second sentence; and added "before considering any further discounting to present value which shall be permitted" in the fourth sentence.

2017 amendment, by Chapter 313, inserted "except that the 75 percent minimum measure of consideration shall not apply to the sale or assignment of a tax credit transfer certificate to an affiliate irrespective of whether the affiliate met the capital investment and employment requirements specified in the incentive agreement" at the end of the fourth sentence.

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N.J. Stat. § 34:1B-249

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§ 34:1B-249. Rules, regulations adopted by chief executive officer, authority.

- a. The chief executive officer of the authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242 et al.), including but not limited to: examples of and the determination of capital investment; the enumeration of qualified incentive areas; the enumeration of specific targeted industries; specific delineation of the incentive areas; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a tax credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility; and provisions for tax credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the tax credit.
- b. Through regulation, the authority shall establish standards by which qualified business facilities shall be constructed or renovated in compliance with the minimum environmental and sustainability standards.
- c. Through regulation, the chief executive officer of the authority, in consultation with the Secretary of Higher Education, shall establish standards for collaborative research relationships between businesses in targeted industries and colleges and universities sufficient to qualify a business for an enhanced base or bonus tax credit amount under P.L.2017, c.221.

History

L. 2011, c. 149, § 8, eff. Jan. 5, 2012; amended 2013, c. 161, § 12, eff. Sept. 18, 2013; 2017, c. 221, § 3, eff. Aug. 7, 2017.

Annotations

Notes

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Amendment Note:

N.J. Stat. § 34:1B-249

2013 amendment, by Chapter 161, inserted “the enumeration of specific targeted industries” in a.; substituted “in compliance with the minimum environmental and sustainability standards” for “based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction” in b.; and made a stylistic change.

2017 amendment, by Chapter 221, added c.

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N.J. Stat. § 34:1B-250

This section is current through New Jersey 218th First Annual Session, L. 2018, c. 9 and J.R. 4

LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 1B. Business and Industry Promotion (§§ 34:1B-1 — 34:1B-265) > Part XIII. Grow New Jersey Assistance Act (§§ 34:1B-242 — 34:1B-250)

§ 34:1B-250. Certain sales, conveyances authorized

- a. Notwithstanding the provisions of P.L.1962, c. 220 (C.52:31-1.1 et seq.), P.L. 2011, c.85, or any other law or regulation to the contrary, and without the requirement for the approval by any other party or entity, the State Treasurer is hereby authorized to sell and convey, to the New Jersey Performing Arts Center, in one or more series of transactions, all or any portion of the State of New Jersey's right, title and interest in the land and improvements located in the City of Newark, County of Essex, now subject to the sublease between the State Treasurer and the New Jersey Performing Arts Center which appear on the tax map of the City of Newark and are designated as Block 125, Lots 23, 26 and 115, Block 126.01, Lot 21, such portion of Block 17, Lot 1, which was designated for commercial development pursuant to the sublease, and Block 17, Lots 20 and 21. Such conveyances shall be on such terms and conditions, and for such consideration, as shall be determined by the State Treasurer in the State Treasurer's sole discretion. The proceeds from any such sales and conveyances shall be deposited and applied as provided by law. In the event that the identification of any of the property contained in this section by block and lot number is inaccurate, the State Treasurer is authorized to convey such blocks and lots which are subject to the sublease between the State Treasurer and the New Jersey Performing Arts Center as represent the actual parcels to be conveyed.
- b. The State Treasurer is hereby authorized to enter into any agreements, and to amend any existing agreements, required to effectuate this sale and conveyance to the New Jersey Performing Arts Center and any such agreements and amendments shall not require the approval of any other party or entity, notwithstanding any other law or regulation to the contrary.
- c. The New Jersey Economic Development Authority is hereby authorized to sell and convey all or any portion of its right, title, and interest in the property described in subsection a. of this section to the New Jersey Performing Arts Center, in one or more series of transactions on such terms and conditions, and for such consideration, as shall be determined by the authority in its sole discretion and to enter into any agreements and amend any existing agreements required to effectuate this sale and conveyance. Any such sale or conveyance shall not require the approval of any other party or entity, notwithstanding any other law or regulation to the contrary.

History

L. 2011, c. 149, § 9, eff. Jan. 5, 2012.

End of Document

N.J. Stat. § 34:1B-251

This section is current through New Jersey 218th First Annual Session, L. 2018, c. 9 and J.R. 4

LexisNexis® New Jersey Annotated Statutes > Title 34. Labor and Workers' Compensation (Chs. 1 — 21) > Chapter 1B. Business and Industry Promotion (§§ 34:1B-1 — 34:1B-265) > Part XIV. Public Infrastructure Tax Credit (§ 34:1B-251)

§ 34:1B-251. Definitions relative to certain economic development projects

a. For the purposes of this section:

“Authority” means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

“Government entity” means the State government, a local unit of government, or a State or local government agency or authority.

“Providing public infrastructure” means undertaking and paying for the construction of public infrastructure; contributing money or paying debt service for the construction of public infrastructure; or deeding land to a government entity for use as public infrastructure.

“Public infrastructure” means: (1) buildings and structures, such as schools; fire houses; police stations; recreation centers; public works garages; and water and sewer treatment and pumping facilities; (2) open space with improvements such as athletic fields; playgrounds; planned parks; (3) open space without improvements; and (4) public transportation facilities such as train stations and public parking facilities. To qualify as public infrastructure under this section, the facilities, land, or both, shall have a minimum fair market value of \$5 million; provided, however, that multiple lands and facilities, valued individually at less than \$5 million, that are part of the same redevelopment project may be aggregated to achieve the minimum \$5 million requirement. In the case of open space without improvements, the land shall have a minimum fair market value of at least \$1 million prior to its dedication as open space. Sidewalks, streets, roads, ramps, and jug handles shall not be deemed public infrastructure for the purposes of this section.

“Tax credit” means a credit equal to 100 percent of the applicant’s cost of providing public infrastructure for use to offset a tax liability.

“Tax liability” means a liability for the taxes imposed pursuant to the “Corporation Business Tax (1945),” P.L.1945, c.162 (C.54:10A-1 et seq.), and liability for basic, general, additional, and supplemental realty transfer fees imposed pursuant to P.L.1968, c.49 (C.46:15-5 et seq.), as amended and supplemented.

“Urban transit hub municipality” means an urban transit hub municipality, as defined in section 2 of P.L.2011, c.149 (C.34:1B-243).

b. Commencing with October 24, 2014, the effective date of P.L.2014, c.63 (C.34:1B-251 et al.), and ending on December 31 of the fifth complete year next following, an applicant that has agreed to, or has provided, public infrastructure may apply to the New Jersey Economic Development Authority for a tax credit under the following conditions:

- (1)** The applicant or another entity by contract or development agreement either makes a new capital investment in an amount equal to or greater than \$10,000,000 at any time during the term set forth in

- this subsection, or causes another entity by contract or development agreement to construct a building, complex of buildings or other similar structures or facilities, which relies on the completed public infrastructure and completes construction during the term set forth in this subsection.
- (2) The applicant has not received a tax credit under the “Grow New Jersey Assistance Program” established by section 3 of P.L.2011, c.149 (C.34:1B-244).
 - (3) The applicant has not received a grant under a State or a local Economic Redevelopment and Growth Grant program pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).
 - (4) The applicant is not a “Garden State Growth Zone Development Entity,” as defined in section 23 of P.L.2013, c.161 (C.52:27D-489r).
 - (5) The applicant is not partnered with the New Jersey Sports and Exposition Authority for the capital investment pursuant to this section.
- c. The New Jersey Economic Development Authority shall grant an application for a tax credit if the government entity receiving the public infrastructure adopts a resolution and files it with the authority, consenting to the award of the tax credit and the ownership of the public infrastructure is transferred to that government entity, and either: (1) the construction commences after January 1, 2013; (2) the construction is completed, as evidenced by a certificate of occupancy or other certificate of completion, after January 1, 2013; (3) the first monetary or debt service payment occurs after January 1, 2013; or (4) the land is deeded to the government entity after January 1, 2013.
- d.
- (1)
 - (a) Except as provided in subparagraph (b) of this paragraph, the total amount of tax credits that may be awarded to an eligible applicant for a single project shall not exceed \$5,000,000.
 - (b) In the case of an applicant engaged in a brownfields redevelopment project comprising park and infrastructure development within an urban transit hub municipality, the total amount of tax credits the authority may award to the applicant shall not exceed \$2,000,000 cumulative of all applications submitted under this section by the applicant. As used in this subparagraph, “applicant” means an entity applying for a tax credit pursuant to subsection b. of this section and shall include its subsidiaries, its parent, affiliated entities, and common principal owners.
 - (c) The total value of all tax credits approved by the authority pursuant to this section shall not exceed \$22,000,000.
 - (2) A tax credit granted pursuant to this section may be transferred in the same manner as tax credits are transferred pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and utilized in the same manner as provided pursuant to paragraph (1) of subsection c. of section 6 of P.L.2011, c.149 (C.34:1B-247).
 - (3) Except for the limitations set forth in paragraph (1) of this subsection, nothing in this section shall prohibit an applicant from applying for and being awarded multiple tax credit awards based on separate public infrastructure projects.
- e. The chief executive of the authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, may adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the provisions of this section.

History

L. 2014, c. 63, § 10, eff. Oct. 24, 2014; amended 2015, c. 217, § 2, eff. Jan. 11, 2016, retroactive to Oct. 24, 2014; 2017, c. 313, § 3, eff. Jan. 16, 2018.

Notes

Effective Dates

Section 6 of L. 2017, c. 313 provides: "This act shall take effect immediately and section 4 shall apply to accounting and privilege periods beginning on and after January 1, 2017 and section 5 shall apply to taxable years beginning on and after January 1, 2017." Chapter 313, L. 2017, was approved on Jan. 16, 2018.

Amendment Note:

2015 amendment, by Chapter 217, inserted the definition of "Urban transit hub municipality" in a.; inserted "October 24, 2014" in the introductory language of b.; in b.(1), inserted "or another entity by contract or development agreement either", substituted "at any time during the term set forth in this subsection" for "in", deleted "shall be completed within two years following approval by the Authority, which" following "facilities, which", and added "and completes construction during the term set forth in this subsection"; added the d.(1)(a) and d.(1)(c) designations; added "Except as provided in subparagraph (b) of this paragraph" in d.(1)(a); inserted d.(1)(b); substituted "this section shall not exceed \$22,000,000" for " P.L.2014, c.63 (C.34:1B-251 et al.) shall not exceed \$25,000,000" in d.(1)(c); added "Except for the limitations set forth in paragraph (1) of this subsection" in d.(3); and made related and stylistic changes.

2017 amendment, by Chapter 313, substituted "pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and utilized in the same manner as provided pursuant to paragraph (1) of subsection c. of section 6 of P.L.2011, c.149 (C.34:1B-247)" for "under section 33 of P.L.2009, c.90 (C.34:1B-209.1)" in d.(2).

Effective Dates:

Section 5 of L. 2015, c. 217 provides: "This act shall take effect immediately, section 1 shall apply to program applications submitted on or after the first July 1 occurring on or after the date of enactment, and section 2 shall be retroactive to October 24, 2014." Chapter 217, L. 2015, was approved on Jan. 11, 2016.

Editor's Note:

The title to L. 2014, c. 63 designates the act as the "Economic Opportunity Act of 2014, Part 3."

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.