

52:27D-489o

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2010 **CHAPTER:** 10

NJSA: 52:27D-489o (Revises provisions of "New Jersey Economic Stimulus Act of 2009" concerning public-private higher education construction and improvement projects and municipal ordinances to adopt stimulus measures)

BILL NO: S920 (Substituted for A2059)

SPONSOR(S) Lesniak and Others

DATE INTRODUCED: January 19, 2010

COMMITTEE: **ASSEMBLY:** ---

SENATE: Economic Growth

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 22, 2010

SENATE: March 22, 2010

DATE OF APPROVAL: May 5, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third reprint enacted)

S920

SPONSOR'S STATEMENT: (Begins on page 14 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 2-22-2010
3-15-2010

LEGISLATIVE FISCAL NOTE: No

A2059/A1897

SPONSOR'S STATEMENT A2059: (Begins on page 14 of introduced bill) Yes

SPONSOR'S STATEMENT A1897: (Begins on page 14 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes 2-25-2010
3-15-2010

(continued)

LEGISLATIVE FISCAL NOTE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Revel pledges to help A.C. Christies bars vote on tax breaks," Asbury Park Press, 5-7-2010.

"Proposed AC tax break muted by new NJ law," The Trentonian, 5-7-2010.

"Christie signs bill, aids Revel plan," The Philadelphia Inquirer," 5-6-2010.

"Gov. Christie's signature blocks tax-break vote," The Press, 5-6-2010.

"Christie signs legislation to help stalled Revel casino and Montclair State construction projects, NewJerseyNewsroom.com, 5-6-2010.

"Oceanport eyes for center for redevelopment," Asbury Park Press, 5-6-2010.

LAW/RWH

[Third Reprint]

SENATE, No. 920

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JANUARY 19, 2010

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblyman JOHN F. AMODEO

District 2 (Atlantic)

Assemblyman VINCENT J. POLISTINA

District 2 (Atlantic)

Co-Sponsored by:

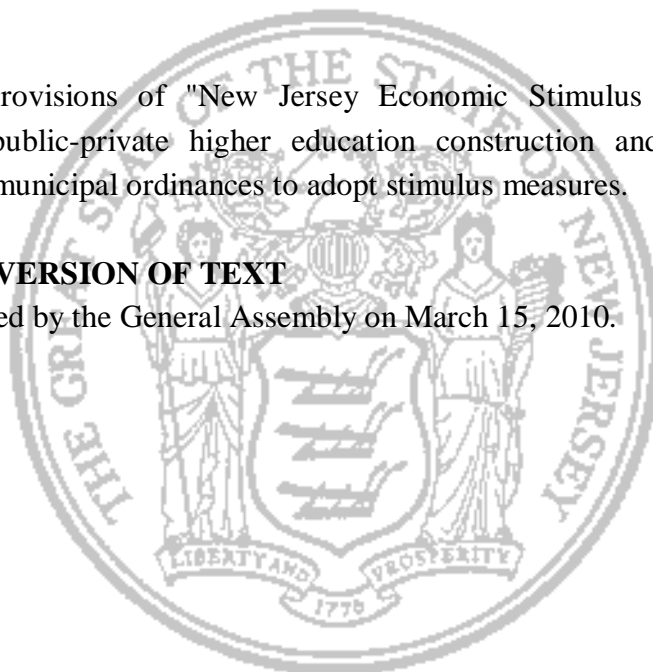
Senators Whelan, Codey, Cunningham and Assemblyman Fuentes

SYNOPSIS

Revises provisions of "New Jersey Economic Stimulus Act of 2009" concerning public-private higher education construction and improvement projects and municipal ordinances to adopt stimulus measures.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 15, 2010.



(Sponsorship Updated As Of: 3/23/2010)

1 AN ACT concerning certain economic stimulus activities and
2 amending ³and supplementing³ P.L.2009, c.90 ²and ³amending³
3 P.L.1999, c.140².

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to
9 read as follows:

10 43. a. A State college or county college may enter into a
11 contract with a private entity, subject to subsection f. of this section,
12 to be referred to as a public-private partnership agreement, that
13 permits the private entity to assume full financial and administrative
14 responsibility for the on-campus construction, reconstruction,
15 repair, alteration, improvement or extension of a building, structure,
16 or facility of, or for the benefit ³**[or enhancement]**³ of, the
17 institution, provided that the project is financed in whole by the
18 private entity and that the State or institution of higher education, as
19 applicable, retains full ownership of the land upon which the project
20 is completed.

21 b. (1) A private entity that assumes financial and administrative
22 responsibility for a project pursuant to subsection a. of this section
23 shall not be subject to the procurement and contracting
24 requirements of all statutes applicable to the institution of higher
25 education at which the project is completed, including, but not
26 limited to, the "State College Contracts Law," P.L.1986, c.43
27 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
28 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of
29 facilitating the financing of a project pursuant to subsection a. of
30 this section, a public entity may become the owner or lessee of the
31 project or the lessee of the land, or both, may issue indebtedness in
32 accordance with the public entity's enabling legislation and,
33 notwithstanding any provision of law to the contrary, shall be
34 empowered to enter into contracts with a private entity and its
35 affiliates without being subject to the procurement and contracting
36 requirements of ¹any statute applicable to¹ the public entity
37 provided that the private entity has been selected by the institution
38 of higher education pursuant to a solicitation of proposals or
39 qualifications. For the purposes of this section, a public entity shall
40 include the New Jersey Economic Development Authority ¹, ¹ and
41 any project undertaken pursuant to subsection a. of this section ¹of
42 which the authority becomes the owner or lessee, or which is

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted February 1, 2010.

²Senate floor amendments adopted February 22, 2010.

³Assembly floor amendments adopted March 15, 2010.

1 situated on land of which the authority becomes the lessee,¹ shall be
2 deemed a “project” under the “New Jersey Economic Development
3 Authority Act,” P.L.1974, c.80 (C.34:1B-1 et seq.).

4 (2) As the carrying out of any project described pursuant to this
5 section constitutes the performance of an essential public function,
6 ³[the project] all projects predominantly used in furtherance of the
7 educational purposes of the institution undertaken pursuant to this
8 section³ , provided it is owned by or leased to a public entity, non-
9 profit business entity, foreign or domestic, or a business entity
10 wholly owned by such non-profit business entity, shall at all times
11 be exempt from property taxation and special assessments of the
12 State, or any municipality, or other political subdivision of the State
13 ³[.]³ and^{3,3} notwithstanding the provisions of section 15 of
14 P.L.1974, c.80 (C.34:1B-15) ³[and] or³ section 2 of P.L.1977,
15 c.272 (C.54:4-2.2b) or any other section of law to the contrary^{3,3},
16 shall not be required to make payments in lieu of taxes. The land
17 upon which the project is located shall also at all times be exempt
18 from property taxation. ³Further, the project and land upon which
19 the project is located shall not be subject to the provisions of
20 section 1 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax
21 liability of private parties conducting for profit activities on tax
22 exempt land, or section 1 of P.L.1949, c.177 (C.54:4-2.3) regarding
23 the taxation of leasehold interests in exempt property that are held
24 by nonexempt parties.³

25 c. Each worker employed in the construction, rehabilitation, or
26 building maintenance services of facilities by a private entity that
27 has entered into a public-private partnership agreement with a State
28 or county college pursuant to subsection a. of this section shall be
29 paid not less than the prevailing wage rate for the worker's craft or
30 trade as determined by the Commissioner of Labor and Workforce
31 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
32 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

33 d. (1) All construction projects under a public-private
34 partnership agreement entered into pursuant to this section shall
35 contain a project labor agreement. The project labor agreement
36 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
37 seq.), and shall be in a manner that to the greatest extent possible
38 enhances employment opportunities for individuals residing in the
39 county of the project's location. Further, the general contractor,
40 construction manager, design-build team, or subcontractor for a
41 construction project proposed in accordance with this paragraph
42 shall be registered pursuant to the provisions of P.L.1999, c.238
43 (C.34:11-56.48 et seq.), and shall be classified by the Division of
44 Property Management and Construction to perform work on a
45 public-private partnership higher education project. All
46 construction projects proposed in accordance with this paragraph
47 shall be submitted to the New Jersey Economic Development

1 Authority for its review and approval and, when practicable, are
2 encouraged to adhere to the Leadership in Energy and
3 Environmental Design Green Building Rating System as adopted by
4 the United States Green Building Council.

5 (2) Where no public fund has been established for the financing
6 of a public improvement, the chief financial officer of the public
7 owner shall require the private entity for whom the public
8 improvement is being made to post, or cause to be posted, a bond
9 guaranteeing prompt payment of moneys due to the contractor, his
10 or her subcontractors and to all persons furnishing labor or
11 materials to the contractor or his or her subcontractors in the
12 prosecution of the work on the public improvement.

13 e. A general contractor, construction manager, design-build
14 team, or subcontractor shall be registered pursuant to the provisions
15 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified
16 by the Division of Property Management and Construction to
17 perform work on a public-private partnership higher education
18 project.

19 f. (1) ~~On or before the first day of the nineteenth month next~~
20 ~~following enactment of P.L.2009, c.90, all~~ ~~['All]~~ On or before
21 February 1, 2012, all¹ projects proposed in accordance with this
22 section shall be submitted to the New Jersey Economic
23 Development Authority for its review and approval. The projects
24 are encouraged, when practicable, to adhere to the green building
25 manual prepared by the Commissioner of Community Affairs
26 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6). ~~Any~~
27 ~~application that is deemed to be incomplete on the first day of the~~
28 ~~nineteenth month next following enactment of P.L.2009, c.90 shall~~
29 ~~not be eligible for consideration.]~~ Any application that is deemed
30 to be incomplete on February 2, 2012 shall not be eligible for
31 consideration.¹

32 (2) (a) In order for an application to be complete and considered
33 by the authority it shall include, but not be limited to: (i) a public-
34 private partnership agreement between the State or county college
35 and the private developer; (ii) a full description of the project; (iii)
36 the estimated costs and financial documentation for the project; (iv)
37 a timetable for completion of the project extending no more than
38 five years after consideration and approval; and (v) any other
39 requirements that the authority deems appropriate or necessary.

40 (b) As part of the estimated costs and financial documentation
41 for the project the application shall contain a long-range
42 maintenance plan and shall specify the expenditures that qualify as
43 an appropriate investment in maintenance. This long-range
44 maintenance plan shall be approved by the authority pursuant to
45 regulations promulgated by the authority that reflect national
46 building maintenance standards and other appropriate building
47 maintenance benchmarks. All contracts to implement a long-range

1 maintenance plan pursuant to this paragraph shall contain a project
2 labor agreement. The project labor agreement shall be subject to
3 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in
4 a manner that to the greatest extent possible enhances employment
5 opportunities for individuals residing in the county of the project's
6 location.

7 (3) The authority shall review all completed applications, and
8 request additional information as is needed to make a complete
9 assessment of the project. No project shall be undertaken until final
10 approval has been granted by the authority; provided, however, that
11 the authority shall retain the right to revoke approval if it
12 determines that the project has deviated from the plan submitted
13 pursuant to paragraph (2) of this subsection.

14 (4) The authority may promulgate any rules and regulations
15 necessary to implement this subsection, including provisions for
16 fees to cover administrative costs.

17 Where no public fund has been established for the financing of a
18 public improvement, the chief financial officer of the public owner
19 shall require the private entity for whom the public improvement is
20 being made to post, or cause to be posted, a bond guaranteeing
21 prompt payment of moneys due to the contractor, his or her
22 subcontractors and to all persons furnishing labor or materials to the
23 contractor or his or her subcontractors in the prosecution of the
24 work on the public improvement.

25 ³g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall
26 not apply to any project carried out pursuant to this section.³
27 (cf: P.L.2009, c.90, s.43)

28
29 ²2. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
30 read as follows:

31 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

35 "Biotechnology" means the continually expanding body of
36 fundamental knowledge about the functioning of biological systems
37 from the macro level to the molecular and sub-atomic levels, as
38 well as novel products, services, technologies and sub-technologies
39 developed as a result of insights gained from research advances that
40 add to that body of fundamental knowledge.

41 "Biotechnology company" means an emerging corporation that
42 has its headquarters or base of operations in this State; that owns,
43 has filed for, or has a valid license to use protected, proprietary
44 intellectual property; and that is engaged in the research,
45 development, production, or provision of biotechnology for the
46 purpose of developing or providing products or processes for
47 specific commercial or public purposes, including but not limited
48 to, medical, pharmaceutical, nutritional, and other health-related

1 purposes, agricultural purposes, and environmental purposes[, or a
2 person whose headquarters or base of operations is located in this
3 State, engaged in providing services or products necessary for such
4 research, development, production, or provision].

5 "Full-time employee" means a person employed by a new or
6 expanding emerging technology or biotechnology company for
7 consideration for at least 35 hours a week, or who renders any other
8 standard of service generally accepted by custom or practice as full-
9 time employment and whose wages are subject to withholding as
10 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
11 et seq., or who is a partner of a new or expanding emerging
12 technology or biotechnology company who works for the
13 partnership for at least 35 hours a week, or who renders any other
14 standard of service generally accepted by custom or practice as full-
15 time employment, and whose distributive share of income, gain,
16 loss, or deduction, or whose guaranteed payments, or any
17 combination thereof, is subject to the payment of estimated taxes, as
18 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
19 et seq. To qualify as a "full-time employee," an employee shall also
20 receive from the new or expanding emerging technology or
21 biotechnology company health benefits under a group health plan as
22 defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health
23 benefits plan as defined under section 1 of P.L.1992, c.162
24 (C.17B:27A-17), or a policy or contract of health insurance
25 covering more than one person issued pursuant to Article 2 of
26 chapter 27 of Title 17B of the New Jersey Statutes. "Full-time
27 employee" shall not include any person who works as an
28 independent contractor or on a consulting basis for the new or
29 expanding emerging technology or biotechnology company.

30 "New or expanding" means a technology or biotechnology
31 company that [at the end of the calendar year prior to] (1) on June
32 30 of the year in which the company files an application for
33 surrender of unused but otherwise allowable tax benefits under
34 P.L.1997, c.334 (C.34:1B-7.42a et al.)[, on the date on which the
35 application is submitted,] and [on the date on which the company
36 receives the corporation business tax benefit certificate,] on the
37 date of the exchange of the corporation business tax benefit
38 certificate, has fewer than 225 employees in the United States of
39 America; [but that] (2) on June 30 of the year in which the
40 company files such an application, has at least one full-time
41 employee working in this State if the company has been
42 incorporated for less than three years, [that] has at least five full-
43 time employees working in this State if the company has been
44 incorporated for more than three years but less than five years, and
45 [that] has at least 10 full-time employees working in this State if
46 the company has been incorporated for more than five years; and
47 (3) on the date of the exchange of the corporation business tax

1 benefit certificate, the company has the requisite number of full-
2 time employees in New Jersey that were required on June 30 as set
3 forth in part (2) of this definition.

4 "Technology company" means an emerging corporation that has
5 its headquarters or base of operations in this State; that owns, has
6 filed for, or has a valid license to use protected, proprietary
7 intellectual property; and that employs some combination of the
8 following: highly educated or trained managers and workers, or
9 both, employed in this State who use sophisticated scientific
10 research service or production equipment, processes or knowledge
11 to discover, develop, test, transfer or manufacture a product or
12 service.²

13 (cf: P.L.2009, c.90, s.30)

14

15 ³[²[2.] 3.² Section 28 of P.L.2009, c.90 (C.40:48G-2) is
16 amended to read as follows:

17 28. a. As used in this section:

18 "Admission charge" means the amount paid for admission,
19 including any service charge and any charge for entertainment at a
20 place of amusement, including but not limited to a dramatic or
21 musical arts admission charge as defined pursuant to subsection (r)
22 of section 2 of P.L.1966, c.30 (C.54:32B-2); and

23 "Major place of amusement" means a place of amusement as that
24 term is defined in subsection (t) of section 2 of P.L.1966, c.30
25 (C.54:32B-2), other than a motion picture theater, and other than an
26 amusement park as defined in section 1 of P.L.1992, c.118 (C.5:3-
27 55), at which admission charges are regularly paid, which place of
28 amusement is not owned by the State or an independent State
29 authority, or is not located on property that is owned by the State,
30 and which contains fixed seats for at least 7,000 patrons. For the
31 purposes of this definition, a county improvement authority is not
32 an independent State authority.

33 b. (1) The governing body of a municipality that is a city of the
34 second class and in which there is located a major place of
35 amusement, except for a municipality subject to the "Municipal
36 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
37 (C.52:27BBB-1 et al.), may adopt an ordinance imposing a
38 surcharge of an amount up to \$2 on each admission charge that is
39 subject to the New Jersey sales tax pursuant to paragraph (1) of
40 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3), and that
41 is not otherwise exempt from that tax, collected by each major place
42 of amusement in the municipality for admission thereto, which
43 surcharge shall be paid by the customer from whom the sales tax is
44 due pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3). A
45 surcharge imposed under an ordinance adopted pursuant to this
46 paragraph shall be in addition to any other tax or fee imposed
47 pursuant to statute or local ordinance or resolution by any
48 governmental entity upon the admission charge. A surcharge

1 imposed under an ordinance adopted pursuant to this paragraph
2 shall be separately stated on any bill, receipt, invoice or similar
3 document provided to the patron, but shall not be considered part of
4 the sale price for the purpose of determining tax pursuant to
5 P.L.1966, c.30 (C.54:32B-1 et seq.).

6 (2) The governing body of a municipality that is a city of the
7 second class in which there is located a major place of amusement,
8 except for a municipality subject to the "Municipal Rehabilitation
9 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
10 al.), may adopt an ordinance imposing a surcharge of an amount up
11 to \$2 on parking for the major place of amusement. A parking
12 surcharge imposed under an ordinance adopted pursuant to this
13 paragraph shall be in addition to any other tax or fee imposed
14 pursuant to statute or local ordinance or resolution by any
15 governmental entity upon the parking charge. A surcharge imposed
16 under an ordinance adopted pursuant to this paragraph shall be
17 separately stated on any bill, receipt, invoice or similar document
18 provided to the patron, if any, but shall not be considered part of the
19 sale price for the purpose of determining tax pursuant to P.L.1966,
20 c.30 (C.54:32B-1 et seq.).

21 (3) No ordinance, amendment, or revision of an ordinance
22 adopted under this subsection shall be submitted to or adopted by
23 initiative or referendum, notwithstanding any other law to the
24 contrary.

25 c. A copy of an ordinance adopted pursuant to this section shall
26 be transmitted upon adoption or amendment to the State Treasurer
27 along with a list of the names and locations of major places of
28 amusement in the municipality. An ordinance so adopted or any
29 amendment thereto shall provide that the surcharge provisions of
30 the ordinance or any amendment to the surcharge provisions shall
31 take effect on the first day of the first full month occurring 30 days
32 after the date of transmittal to the State Treasurer. Any ordinance
33 adopted pursuant to this section shall contain the following
34 provisions:

35 (1) A vendor shall not assume or absorb the surcharge imposed
36 by the ordinance;

37 (2) A vendor shall not in any manner advertise or hold out to
38 any person or to the public in general, in any manner, directly or
39 indirectly, that the surcharge will be assumed or absorbed by the
40 vendor, that the surcharge will not be separately charged and stated
41 to the customer, or that the surcharge will be refunded to the
42 customer;

43 (3) Each assumption or absorption by a vendor of the surcharge
44 shall be deemed a separate offense and each representation or
45 advertisement by a vendor for each day the representation or
46 advertisement continues shall be deemed a separate offense; and

47 (4) Penalties as fixed in the ordinance, for violation of the
48 foregoing provisions.

1 d. (1) A surcharge imposed pursuant to a municipal ordinance
2 adopted under the provisions of this section shall be collected on
3 behalf of the municipality by the person collecting the admission
4 charge or parking fee from the customer.

5 (2) Each person required to collect a surcharge imposed by the
6 ordinance shall be personally liable for the surcharge imposed,
7 collected or required to be collected hereunder. Any such person
8 shall have the same right in respect to collecting the surcharge from
9 a customer as if the surcharge were a part of the admission charge
10 and payable at the same time; provided, however, that the chief
11 fiscal officer of the municipality shall be joined as a party in any
12 action or proceeding brought to collect the surcharge.

13 e. (1) A person required to collect a surcharge imposed
14 pursuant to the provisions of this section shall, on or before the
15 dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-
16 17), forward to the Director of the Division of Taxation in the
17 Department of the Treasury the surcharge collected in the preceding
18 month and make and file a return for the preceding month with the
19 director on any form and containing any information as the director
20 shall prescribe as necessary to determine liability for the surcharge
21 in the preceding month during which the person was required to
22 collect the surcharge.

23 (2) The director may permit or require returns to be made
24 covering other periods and upon any dates as the director may
25 specify. In addition, the director may require payments of
26 surcharge liability at any intervals and based upon any
27 classifications as the director may designate. In prescribing any
28 other periods to be covered by the return or intervals or
29 classifications for payment of surcharge liability, the director may
30 take into account the dollar volume of surcharge involved as well as
31 the need for ensuring the prompt and orderly collection of the
32 surcharge imposed.

33 (3) The director may require amended returns to be filed within
34 20 days after notice and to contain the information specified in the
35 notice.

36 f. (1) The Director of the Division of Taxation in the
37 Department of the Treasury shall collect and administer the
38 surcharges; in so doing, the director shall have all the powers
39 granted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.).
40 Surcharges imposed pursuant to the provisions of this section shall
41 be governed by the provisions of the State Uniform Tax Procedure
42 Law, R.S.54:48-1 et seq.

43 (2) The director shall determine and certify to the State
44 Treasurer on a quarterly or more frequent basis, as prescribed by the
45 State Treasurer, the amount of revenues collected in each
46 municipality pursuant to this section.

47 (3) The State Treasurer, upon the certification of the director
48 and upon the warrant of the State Comptroller, shall pay and

1 distribute on a quarterly or more frequent basis, as prescribed by the
2 State Treasurer, to each municipality the amount of revenues
3 determined and certified under this subsection.

4 (4) The revenue received by a municipality shall be appropriated
5 as a special item of local revenue subject to the prior written
6 approval by the Director of the Division of Local Government
7 Services in the Department of Community Affairs, and shall be
8 offset with a local unit appropriation of an equal amount for
9 economic development purposes.

10 g. The director may, pursuant to the provisions of the
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.), make, adopt, amend, or repeal such rules and regulations as
13 the director finds necessary to carry out the provisions of this
14 section.

15 (cf: P.L.2009, c.90, s.28)]³

16

17 ³[²[3.] 4.² Section 20 of P.L.2009, c.90 (C.40:48H-2) is
18 amended to read as follows:

19 20. a. A municipality having a population in excess of 100,000
20 and within which is located a commercial airport which provides for
21 a minimum of 10 regularly scheduled commercial airplane flights
22 per day, or a municipality in which any portion of such an airport is
23 located, by ordinance, may impose a tax on the rental of motor
24 vehicles on such rental transactions that occur within a designated
25 industrial zone of the municipality. Such tax shall be imposed on
26 the person, corporation, or other legal entity that is permitted the
27 use of a motor vehicle that it does not own for a period of time that
28 is less than one year, in exchange for the payment of a fee, and shall
29 be collected on behalf of the municipality by the person collecting
30 such rental fee, in accordance with such procedures as shall be
31 established in the ordinance imposing the tax.

32 The local motor vehicle rental tax rate imposed under an
33 ordinance adopted pursuant to this section shall not exceed five
34 percent of the total amount of the fee charged for the rental of the
35 motor vehicle, excluding any taxes and surcharges. After the
36 adoption of an ordinance, a municipality may subsequently amend
37 the ordinance from time to time to adjust the boundaries of the
38 industrial zone or, subject to the provisions of section 26 of
39 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
40 modified rate shall not exceed five percent of the total amount of
41 the fee charged for the rental of the motor vehicle, excluding any
42 taxes and surcharges.

43 An ordinance establishing a local motor vehicle rental tax, or
44 modifying the rate of that tax, shall take effect on the first day of
45 the month immediately following the date on which the ordinance
46 becomes legally in force and effect.

1 No ordinance, amendment, or revision of an ordinance adopted
2 under this subsection shall be submitted to or adopted by initiative
3 or referendum, notwithstanding any other law to the contrary.

4 b. As used in this section:

5 "Eligible purposes" means (1) the payment or reimbursement of
6 costs of any "redevelopment project" or other undertaking in
7 furtherance of a "redevelopment plan" in any "area in need of
8 redevelopment" or "area in need of rehabilitation" within the
9 municipality (including, but not limited to, redevelopment projects
10 and undertakings located within the industrial zone), as such terms
11 are defined in the "Local Redevelopment and Housing Law",
12 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal
13 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
14 payment or reimbursement, within or relating to any urban
15 enterprise zone located within the municipality, of such costs as are
16 enumerated in the definition of "project" as contained in subsection
17 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
18 reference to the zone assistance fund or the zone development
19 corporation, (4) the payment of bonds issued for any of the
20 foregoing purposes, (5) planning, evaluation, negotiation, and other
21 preliminary expenses relating to any of the foregoing purposes, and
22 (6) costs of administration and enforcement, including costs and
23 expenses of the municipality incurred in collecting the tax.

24 "Industrial zone" means such portion or portions of the
25 municipality, which may be identified by reference to zoning
26 districts, census tracts, or both, not exceeding in the aggregate 50
27 percent of the territory of the municipality, as is determined by the
28 municipality to be an area having, or intended to have,
29 predominantly industrial, port, airport, and related uses.

30 "Motor vehicle" means any automobile, truck, van, bus, or
31 similar conveyance that is intended primarily for passenger (as
32 distinct from cargo) use, and meeting the requirements of the State
33 for operation on public roads.

34 "Rental of motor vehicle" means any contract or agreement by
35 which a person, corporation, or other legal entity is permitted the
36 use of a motor vehicle that it does not own for a period of time that
37 is less than one year in exchange for the payment of a fee. A rental
38 transaction is deemed to occur at the location at which such person,
39 corporation, or other legal entity takes possession of the motor
40 vehicle.

41 "Rental tax account" means the dedicated trust account
42 established by a municipality pursuant to subsection c. of this
43 section.

44 "Tax proceeds" means amounts collected pursuant to any tax
45 imposed pursuant to sections 19 through 27 of P.L.2009, c.90
46 (C.40:48H-1 et seq.).

47 c. The Director of the Division of Taxation in the Department
48 of the Treasury may require, by regulation, that all taxes collected

1 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
2 seq.) be collected in the same manner as surcharges are collected
3 under section 28 of P.L.2009, c.90 (C.40:48G-2). Revenues that are
4 collected and distributed back to the municipality shall be deposited
5 into a trust account established by the municipality and dedicated
6 exclusively to the purpose of funding one or more eligible purposes.
7 In the case of any assignment pursuant to section 23 of P.L.2009,
8 c.90 (C.40:48H-5), the terms of such assignment shall include the
9 agreement of the municipality to enforce collection of the taxes in
10 such manner as provided therein, and may provide for direct
11 payment of all or a portion of the tax proceeds to a bond trustee. In
12 addition to tax proceeds, there shall be deposited into the rental tax
13 account such other moneys as may, from time to time, be directed
14 by law to be deposited therein.
15 (cf: P.L.2009, c.90, s.20)]³

16

17 ²[4.] ³[5.] ^{3.}² Section 4 of P.L.2009, c.90 (C.52:27D-489d) is
18 amended to read as follows:

19 4. a. ³[(1)]³ The governing body of a municipality wherein is
20 located a qualifying economic redevelopment and growth grant
21 incentive area may adopt an ordinance to establish a local Economic
22 Redevelopment and Growth Grant program for the purpose of
23 encouraging redevelopment projects in that area through the
24 provision of incentive grants to reimburse developers for all or a
25 portion of the project financing gap for such projects. No local
26 Economic Redevelopment and Growth Grant program shall take
27 effect until the Local Finance Board approves the ordinance.

28 ³[(2) No ordinance, amendment, or revision of an ordinance
29 adopted under this subsection shall be submitted to or adopted by
30 initiative or referendum, notwithstanding any other law to the
31 contrary.]³

32 b. A developer that submits an application for a local incentive
33 grant shall indicate on the application whether it is also applying for
34 a State incentive grant. An application by a developer applying for
35 a local incentive grant only shall not require approval by the
36 authority. A ³[municipality or its redevelopment agency only]
37 municipal redeveloper³ may ³only³ apply for local incentive grants
38 for ³the construction of³: (1) ³[the construction of]³ infrastructure
39 improvements in the public right-of-way, or (2) publicly owned
40 facilities.

41 c. No local incentive grant shall be finally approved by a
42 municipality until approved by the Local Finance Board.

43 d. In deciding whether or not to approve a local incentive grant
44 agreement the Local Finance Board shall consider the following
45 factors:

46 (1) the economic feasibility of the redevelopment project;

- 1 (2) the extent of economic and related social distress in the
2 municipality and the area to be affected by the redevelopment
3 project;
- 4 (3) the degree to which the redevelopment project will advance
5 State, regional, and local development and planning strategies;
- 6 (4) the likelihood that the redevelopment project shall, upon
7 completion, be capable of generating new tax revenue in an amount
8 in excess of the amount necessary to reimburse the developer for
9 project costs incurred as provided in the redevelopment incentive
10 grant agreement;
- 11 (5) the relationship of the redevelopment project to a
12 comprehensive local development strategy, including other major
13 projects undertaken within the municipality;
- 14 (6) the need for the redevelopment incentive grant agreement to
15 the viability of the redevelopment project;
- 16 (7) compliance with the provisions of P.L.2009, c.90
17 (C.52:27D-489a et al.); and
- 18 (8) the degree to which the redevelopment project enhances and
19 promotes job creation and economic development.
20 (cf: P.L.2009, c.90, s.4)

21
22 ² ³[6.] 4.³ Section 3 of P.L.2009, c.90 (C.52:27D-489c) is
23 amended to read as follows:

24 3. As used in sections 3 through 18 of P.L.2009, c.90
25 (C.52:27D-489c et al.):

26 "Applicant" means a developer proposing to enter into a
27 redevelopment incentive grant agreement.

28 ³"Ancillary infrastructure project" means public structures or
29 improvements that are located in the public right-of-way outside the
30 project area of a redevelopment project, provided a developer or
31 municipal redeveloper has demonstrated that the redevelopment
32 project would not be economically viable without such
33 improvements.³

34 "Authority" means the New Jersey Economic Development
35 Authority established under section 4 of P.L.1974, c.80 (C.34:1B-
36 4).

37 "Developer" means any person who enters or proposes to enter
38 into a redevelopment incentive grant agreement pursuant to the
39 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i). A
40 developer also may be a municipal government or a redevelopment
41 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

42 "Director" means the Director of the Division of Taxation in the
43 Department of the Treasury.

44 "Eligible revenue" means the property tax increment and any
45 other incremental revenues set forth in section 11 of P.L.2009, c.90
46 (C.52:27D-489k).

47 "Incentive grant" means reimbursement of all or a portion of the
48 project financing gap of a redevelopment project through the State

1 or a local Economic Redevelopment and Growth Grant program
2 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d
3 or C.52:27D-489e).

4 ³"Infrastructure improvements in the public right-of-way" mean
5 public structures or improvements located in the public right of way
6 that are located within a project area or that constitute an ancillary
7 infrastructure project.

8 "Municipal redeveloper" means a municipal government or a
9 redevelopment agency acting on behalf of a municipal government
10 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an
11 applicant for a redevelopment incentive grant agreement.³

12 "Project area" means land or lands under common ownership or
13 control including through a redevelopment agreement with a
14 municipality or as otherwise established by a municipality.

15 "Project financing gap" means the part of the total
16 redevelopment project cost, including return on investment, that
17 remains to be financed after all other sources of capital have been
18 accounted for, including, but not limited to, developer contributed
19 capital, which shall not be less than 20 percent of the total project
20 cost, and investor or financial entity capital or loans for which the
21 developer, after making all good faith efforts to raise additional
22 capital, certifies that additional capital cannot be raised from other
23 sources.

24 "Project revenue" means all rents, fees, sales, and payments
25 generated by a project, less taxes or other government payments.

26 "Property tax increment" means the amount obtained by:

27 (1) multiplying the general tax rate levied each year by the
28 taxable value of all the property assessed within a project area in
29 the same year, excluding any special assessments; and

30 (2) multiplying that product by a fraction having a numerator
31 equal to the taxable value of all the property assessed within the
32 project area, minus the property tax increment base, and having a
33 denominator equal to the taxable value of all property assessed
34 within the project area.

35 For the purpose of this definition, "property tax increment base"
36 means the aggregate taxable value of all property assessed which is
37 located within the redevelopment project area as of October 1st of
38 the year preceding the year in which the redevelopment incentive
39 grant agreement is authorized.

40 "Qualifying economic redevelopment and growth grant incentive
41 area" means Planning Area 1 (Metropolitan), Planning Area 2
42 (Suburban), or a center as designated by the State Planning
43 Commission; a pinelands regional growth area³, a pinelands town
44 management area, a pinelands village, or a military and federal
45 installation area³ established pursuant to the pinelands
46 comprehensive management plan adopted pursuant to P.L.1979,
47 c.111 (C.13:18A-1 et seq.); a transit village, as determined by the
48 Commissioner of Transportation; and federally owned land

1 approved for closure under a federal Base Realignment Closing
2 Commission action.

3 "Redevelopment incentive grant agreement" means an agreement
4 between, (1) the State and the New Jersey Economic Development
5 Authority and a developer, or (2) a municipality and a developer,
6 ³or a municipal ordinance authorizing a project to be undertaken by
7 a municipal redeveloper,³ under which, in exchange for the
8 proceeds of an incentive grant, the developer agrees to perform any
9 work or undertaking necessary for a redevelopment project,
10 including the clearance, development or redevelopment,
11 construction, or rehabilitation of any structure or improvement of
12 commercial, industrial, residential, or public structures or
13 improvements within a qualifying economic redevelopment and
14 growth grant incentive area or a transit village.

15 "Redevelopment project" means a specific work or improvement,
16 including lands, buildings, improvements, real and personal
17 property or any interest therein, including lands under water,
18 riparian rights, space rights and air rights, acquired, owned,
19 developed or redeveloped, constructed, reconstructed, rehabilitated
20 or improved, undertaken by a developer within a project area ³and
21 any ancillary infrastructure project associated therewith³.

22 "Redevelopment utility" means a self-liquidating fund created by
23 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
24 489l) to account for revenues collected and incentive grants paid
25 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
26 revenues dedicated to a redevelopment project.

27 "Revenue increment base" means the amounts of all eligible
28 revenues from sources within the redevelopment project area in the
29 calendar year preceding the year in which the redevelopment
30 incentive grant agreement is executed, as certified by the State
31 Treasurer for State revenues, and the chief financial officer of the
32 municipality for municipal revenues.

33 "Transit village" means a community with a bus, train, light rail,
34 or ferry station that has developed a plan to achieve its economic
35 development and revitalization goals and has been designated by
36 the New Jersey Department of Transportation as a transit village.²
37 (cf: P.L.2009, c.90, s.3)

38
39 ² ³[7.] 5.³ Section 5 of P.L.2009, c.90 (C.52:27D-489e) is
40 amended to read as follows:

41 5. a. The New Jersey Economic Development Authority, in
42 consultation with the State Treasurer, shall establish an Economic
43 Redevelopment and Growth Grant program for the purpose of
44 encouraging redevelopment projects in qualifying economic
45 redevelopment and growth grant incentive areas that do not qualify
46 as such areas solely by virtue of being a transit village, through the

1 provision of incentive grants to reimburse developers for certain
2 project financing gap costs.

3 b. (1) A developer that submits an application for a State
4 incentive grant shall indicate on the application whether it is also
5 applying for a local incentive grant.

6 (2) When an applicant indicates it is also applying for a local
7 incentive grant, the authority shall forward a copy of the application
8 to the municipality wherein the redevelopment project is to be
9 located for approval by municipal ordinance. ³[No ordinance,
10 amendment, or revision of an ordinance adopted under this
11 subsection shall be submitted to or adopted by initiative or
12 referendum, notwithstanding any other law to the contrary.]³

13 c. An application for a State incentive grant shall be reviewed
14 and approved by the authority ³[and by the municipality by
15 ordinance]³. ³[No ordinance, amendment, or revision of an
16 ordinance adopted under this subsection shall be submitted to or
17 adopted by initiative or referendum, notwithstanding any other law
18 to the contrary.]^{3 2}

19 (cf: P.L.2009, c.90, s.5)

20

21 ³6. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
22 read as follows:

23 6. a. Up to the limits established in subsection b. of this
24 section and in accordance with a redevelopment incentive grant
25 agreement, the State Treasurer shall pay to the developer
26 incremental State revenues directly realized from businesses
27 operating on the redevelopment project premises from the following
28 taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162
29 (C.54:10A-1 et seq.), the tax imposed on marine insurance
30 companies pursuant to R.S.54:16-1 et seq., the tax imposed on
31 insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et
32 seq.), the public utility franchise tax, public utilities gross receipts
33 tax and public utility excise tax imposed on sewerage and water
34 corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), the
35 tax derived from net profits from business, a distributive share of
36 partnership income, or a pro rata share of S corporation income
37 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
38 seq., the tax derived from a business at the site of a redevelopment
39 project that is required to collect the tax pursuant to the "Sales and
40 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
41 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
42 of materials used for the remediation, the construction of new
43 structures, or the construction of new residences at the site of a
44 redevelopment project, the hotel and motel occupancy fee imposed
45 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
46 portion of the fee imposed pursuant to section 3 of P.L.1968, c.49
47 (C.46:15-7) derived from the sale of real property at the site of the

1 redevelopment project and paid to the State Treasurer for use by the
2 State, that is not credited to the "Shore Protection Fund" or the
3 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
4 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
5 P.L.1968, c.49 (C.46:15-8).

6 b. Up to 75 percent of the projected annual incremental
7 revenues may be pledged towards the State portion of an incentive
8 grant.

9 c. All administrative costs associated with the incentive grant
10 shall be assessed to the applicant and be retained by the State
11 Treasurer from the annual incentive grant payments.

12 d. The incremental revenue for the revenues listed in
13 subsection a. of this section shall be calculated as the difference
14 between the amount collected in any fiscal year from any eligible
15 revenue source included in the [local] State redevelopment
16 incentive grant agreement, less the revenue increment base for that
17 eligible revenue.

18 e. The municipality is authorized to collect any and all
19 information necessary to facilitate grants under this program and
20 remit that information, as may be required from time to time, in
21 order to assist in the calculation of incremental revenue.³

22 (cf: P.L.2009, c.90, s.6)

23

24 ³7. Section 7 of P.L.2009, c.90 (C.52:27D-489g) is amended to
25 read as follows:

26 7. a. Up to the limits established in subsection b. of this
27 section, and in accordance with a redevelopment incentive grant
28 agreement, the municipality shall pay to the developer incremental
29 eligible revenues directly realized from activities or business
30 operations on the redevelopment project premises and may also pay
31 eligible revenues derived from the project area.

32 b. Up to 75 percent of the incremental local revenues collected
33 pursuant to subsection d. of section 11 of P.L.2009, c.90
34 (C.52:27D-489k) may be pledged towards the municipal portion, if
35 any, of an incentive grant.

36 c. All administrative costs associated with the local incentive
37 grant shall be assessed to the applicant and be retained by the
38 municipality from its annual payments to the developer.³

39 (cf: P.L.2009, c.90, s.7)

40

41 ³8. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
42 read as follows:

43 8. a. (1) The New Jersey Economic Development Authority, in
44 consultation with the State Treasurer, shall promulgate an incentive
45 grant application form and procedure for the Economic
46 Redevelopment and Growth Grant program.

1 (2) (a) The Local Finance Board, in consultation with the New
2 Jersey Economic Development Authority, shall develop a minimum
3 standard incentive grant application form for municipal Economic
4 Redevelopment and Growth Grant programs.

5 (b) Through regulation, the Economic Development Authority
6 shall establish standards for redevelopment projects seeking State or
7 local incentive grants based on the green building manual prepared
8 by the Commissioner of Community Affairs pursuant to section 1 of
9 P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable
10 energy, energy-efficient technology, and non-renewable resources
11 in order to reduce environmental degradation and encourage long-
12 term cost reduction.

13 b. Within each incentive grant application, a developer shall
14 certify information concerning:

- 15 (1) the status of control of the entire redevelopment project site;
16 (2) all required State and federal government permits that have
17 been issued for the redevelopment project, or will be issued pending
18 resolution of financing issues;
19 (3) local planning and zoning board approvals, as required, for
20 the redevelopment project;
21 (4) estimates of the revenue increment base, the eligible
22 revenues for the project, and the assumptions upon which those
23 estimates are made.

24 c. (1) With regard to State tax revenues proposed to be pledged
25 for an incentive grant the authority and the State Treasurer shall
26 review the redevelopment project costs, evaluate and validate the
27 project financing gap estimated by the developer, and conduct a
28 State fiscal impact analysis to ensure that the overall public
29 assistance provided to the project will result in net benefits to the
30 State.

31 (2) With regard to local incremental revenues proposed to be
32 pledged for an incentive grant the authority and the Local Finance
33 Board shall review the redevelopment project costs, and except with
34 respect to an application by a municipal redeveloper, evaluate and
35 validate the financing gap projected by the developer, and conduct a
36 local fiscal impact analysis to ensure that the overall public
37 assistance provided to the project will result in net benefits to the
38 municipality wherein the redevelopment project is located.

39 (3) The authority, State Treasurer, and Local Finance Board
40 may act cooperatively to administer and review applications, and
41 shall consult with the Office of State Planning on matters
42 concerning State, regional, and local development and planning
43 strategies.

44 (4) The costs of the aforementioned reviews shall be assessed to
45 the applicant as an application fee.³

46 (cf: P.L.2009, c.90, s.8)

1 ³[²[6.] 9.² Section 12 of P.L.2009, c.90 (C.52:27D-489l) is
2 amended to read as follows:

3 12. a. A municipality may adopt an ordinance creating a
4 municipal redevelopment utility under the name and style of "the
5 _____ redevelopment utility," with all or any significant part
6 of the name of the municipality inserted. The redevelopment utility
7 shall be a municipal public utility for the purposes of Title 40A of
8 the New Jersey Statutes. No ordinance, amendment, or revision of
9 an ordinance adopted under this subsection shall be submitted to or
10 adopted by initiative or referendum, notwithstanding any other law
11 to the contrary.

12 b. The purpose of every redevelopment utility shall be to
13 receive revenues collected pursuant to section 11 of P.L.2009, c.90
14 (C.52:27D-489k) and to use those revenues as payment of incentive
15 grants, and for other local purposes that may be approved by the
16 Local Finance Board, as that board deems necessary or useful.

17 c. If a municipality does not create a municipal redevelopment
18 utility, then any revenues collected pursuant to section 11 of
19 P.L.2009, c.90 (C.52:27D-489k) and any grants received to pay
20 incentive grants shall be treated as riders in the municipal budget
21 pursuant to N.J.S.40A:4-36.

22 (cf: P.L.2009, c.90, s.12)]³

23

24 ³9. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
25 read as follows:

26 9. a. The authority is authorized to enter into a redevelopment
27 incentive grant agreement with a developer for any redevelopment
28 project located within a qualifying economic redevelopment and
29 growth grant incentive area that does not qualify as such area solely
30 by virtue of being a transit village.

31 b. The decision whether or not to enter into a redevelopment
32 incentive grant agreement is solely within the discretion of the
33 authority and the State Treasurer, provided that they both agree to
34 enter into an agreement.

35 c. The Chief Executive Officer of the New Jersey Economic
36 Development Authority, in consultation with the State Treasurer
37 shall negotiate the terms and conditions of any redevelopment
38 incentive grant agreement on behalf of the State.

39 d. The redevelopment incentive grant agreement shall specify
40 the amount of the incentive grant to be awarded the developer, the
41 frequency of payments, and the length of time, which shall not
42 exceed 20 years, during which that reimbursement shall be granted.

43 [In] Except for redevelopment incentive grant agreements with a
44 municipal redeveloper, in no event shall the combined amount of
45 the reimbursements under redevelopment incentive grant
46 agreements with the State or municipality exceed 20 percent of the
47 total cost of the project[, exclusive of publicly-owned

1 infrastructure]. For the purposes of calculating the total cost of all
2 projects, the cost of infrastructure improvements in the public right-
3 of-way and publicly owned facilities shall not be included. The
4 amount of the redevelopment incentive grant for a municipal
5 redeveloper may include the total cost of such infrastructure
6 improvements and publicly owned facilities.

7 e. The authority and the State Treasurer may enter into a
8 redevelopment incentive grant agreement only if they make a
9 finding that the State revenues to be realized from the
10 redevelopment project will be in excess of the amount necessary to
11 reimburse the developer for its project financing gap. This finding
12 may be made by an estimation based upon the professional
13 judgment of the Chief Executive Officer of the New Jersey
14 Economic Development Authority and the State Treasurer.

15 f. In deciding whether or not to recommend entering into a
16 redevelopment incentive grant agreement and in negotiating a
17 redevelopment agreement with a developer, the Chief Executive
18 Officer of the New Jersey Economic Development Authority shall
19 consider the following factors:

- 20 (1) the economic feasibility of the redevelopment project;
- 21 (2) the extent of economic and related social distress in the
22 municipality and the area to be affected by the redevelopment
23 project;
- 24 (3) the degree to which the redevelopment project will advance
25 State, regional and local development and planning strategies;
- 26 (4) the likelihood that the redevelopment project shall, upon
27 completion, be capable of generating new tax revenue in an amount
28 in excess of the amount necessary to reimburse the developer for
29 project costs incurred as provided in the redevelopment incentive
30 grant agreement;
- 31 (5) the relationship of the redevelopment project to a
32 comprehensive local development strategy, including other major
33 projects undertaken within the municipality;
- 34 (6) the need of the redevelopment incentive grant agreement to
35 the viability of the redevelopment project; and
- 36 (7) the degree to which the redevelopment project enhances and
37 promotes job creation and economic development.

38 g. (1) A developer that has entered into a redevelopment
39 incentive grant agreement with the authority and the State Treasurer
40 pursuant to this section may, upon notice to and consent of the
41 authority and the State Treasurer, pledge and assign as security or
42 support for any loan or bond, any or all of its right, title and interest
43 in and to such agreements and in the incentive grants payable
44 thereunder, and the right to receive same, along with the rights and
45 remedies provided to the developer under such agreement. Any
46 such assignment shall be an absolute assignment for all purposes,
47 including the federal bankruptcy code.

1 (2) Any pledge of incentive grants made by the developer shall
2 be valid and binding from the time when the pledge is made and
3 filed in the records of the authority. The incentive grants so
4 pledged and thereafter received by the developer shall immediately
5 be subject to the lien of the pledge without any physical delivery
6 thereof or further act, and the lien of any pledge shall be valid and
7 binding as against all parties having claims of any kind in tort,
8 contract, or otherwise against the developer irrespective of whether
9 the parties have notice thereof. Neither the redevelopment
10 incentive grant agreement nor any other instrument by which a
11 pledge under this section is created need be filed or recorded except
12 with the authority.³

13 (cf: P.L.2009, c.90, s.9)

14

15 ²[5.] ³[8.] 10.^{3 2} Section 11 of P.L.2009, c.90 (C.52:27D-489k)
16 is amended to read as follows:

17 11. a. The governing body of a municipality is authorized to
18 enter into a redevelopment incentive grant agreement with a
19 developer, which shall not be effective until adopted by ordinance,
20 for any redevelopment project located within a qualifying economic
21 redevelopment and growth grant incentive area. ³[No ordinance,
22 amendment, or revision of an ordinance adopted under this
23 subsection shall be submitted to or adopted by initiative or
24 referendum, notwithstanding any other law to the contrary.]³

25 b. The redevelopment incentive grant agreement shall specify
26 the amount of the incentive grant to be awarded the developer, the
27 frequency of payments, and the length of time, which shall not
28 exceed 20 years, during which that reimbursement shall be granted.
29 ³[In] Except for redevelopment incentive grants with a municipal
30 redeveloper, in³ no event shall the combined amount of the
31 reimbursements under redevelopment incentive grant agreements
32 with the State or municipality exceed 20 percent of the total cost of
33 the project. ³For the purposes of calculating the total cost of all
34 projects, the cost of infrastructure improvements in the public right-
35 of-way and publicly owned facilities shall not be included. The
36 amount of the redevelopment incentive grant for a municipal
37 redeveloper may include the total cost of such infrastructure
38 improvements and publicly owned facilities.³

39 c. The municipality may enter into a redevelopment incentive
40 grant agreement only if the chief financial officer of the
41 municipality makes a finding that the incremental revenues to be
42 realized from the redevelopment project will be in excess of the
43 amount necessary to reimburse the developer for its project
44 financing gap. Such finding shall be based upon appropriate
45 documentation and calculations supporting the decision.

46 d. Within a qualifying economic redevelopment and growth
47 grant incentive area a municipality that has entered into a local

1 redevelopment incentive grant agreement may pledge eligible
2 revenues it is authorized to collect as follows:

3 (1) incremental payments in lieu of taxes, with respect to
4 property located in the district, made pursuant to the "Five-Year
5 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
6 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
7 (C.40A:20-1 et al.);

8 (2) incremental revenues collected from payroll taxes, with
9 respect to business activities carried on within the area, pursuant to
10 section 15 of P.L.1970, c.326 (C.40:48C-15);

11 (3) incremental revenue from lease payments made to the
12 municipality, the developer, or the developer's successors with
13 respect to property located in the area;

14 (4) incremental revenue collected from parking taxes derived
15 from parking facilities located within the area pursuant to section 7
16 of P.L.1970, c.326 (C.40:48C-7);

17 (5) incremental admissions and sales taxes derived from the
18 operation of a public facility within the area pursuant to section 1 of
19 P.L.2007, c.302 (C.40:48G-1);

20 (6) (a) incremental sales and excise taxes which are derived
21 from activities within the area and which are rebated to or retained
22 by the municipality pursuant to the "New Jersey Urban Enterprise
23 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law
24 providing for such rebate or retention;

25 (b) within Planning Area 1 (Metropolitan) under the State
26 Development and Redevelopment Plan adopted pursuant to the
27 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
28 (C.52:18A-196 et seq.), a municipality may impose the entire State
29 sales tax on business activities within a redevelopment project
30 located in an urban enterprise zone that would ordinarily be entitled
31 to collect reduced rate revenues under section 21 of P.L.1983, c.303
32 (C.52:27H-80), and pledge the excess revenues to a local
33 redevelopment incentive grant agreement;

34 (7) incremental parking revenue collected, pursuant to section 7
35 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
36 as part of a redevelopment project, except for public parking
37 facilities owned by parking authorities pursuant to the "Parking
38 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

39 (8) incremental revenues collected, pursuant to section 3 of
40 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),
41 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel
42 taxes;

43 (9) upon approval by the Local Finance Board, other
44 incremental municipal revenues that may become available;

45 (10) the property tax increment.

46 The incremental revenue for the revenues listed in this
47 subsection, when applicable, shall be calculated as the difference
48 between the amount collected in any fiscal year from any eligible

1 revenue source included in the local redevelopment incentive grant
2 agreement, less the revenue increment base for that eligible
3 revenue.

4 e. (1) In calculating the general tax rate of a municipality each
5 year, the aggregate amount of the incremental ratable value over the
6 property tax increment base in the redevelopment project area that
7 is pledged as part of a redevelopment incentive grant agreement
8 shall be excluded from the ratable base of a municipality.

9 (2) The amount of property tax increment not pledged toward a
10 redevelopment incentive grant agreement shall be allocated
11 pursuant to the normal tax rate distribution.

12 The full incremental value of a project area shall be included in
13 the value used for county and regional school tax apportionment
14 until such time that the Director of the Division of Taxation in the
15 Department of the Treasury can certify that property tax
16 management systems are capable of handling the technical and legal
17 requirements of treating parcels in areas of redevelopment as
18 exempt from county and regional school apportionment.

19 f. In addition to the incremental revenues that may be pledged
20 in subsection d. of this section, any amount of tax proceeds
21 collected from the tax on the rental of motor vehicles pursuant to
22 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a
23 redevelopment incentive grant agreement with a developer,
24 regardless of whether or not the redevelopment project area is
25 within or outside of the designated industrial zone from which the
26 tax on the rental of motor vehicles is collected.

27 g. (1) A developer that has entered into a redevelopment
28 incentive grant agreement with a municipality pursuant to this
29 section may, upon notice to and consent of the municipality, pledge
30 and assign as security ³or support³ for any loan ³or bond³, any or all
31 of its right, title and interest in and to such agreements and in the
32 incentive grants payable thereunder, and the right to receive same,
33 along with the rights and remedies provided to the developer under
34 such agreement. Any such assignment shall be an absolute
35 assignment for all purposes, including the federal bankruptcy code.

36 (2) Any pledge of incentive grants made by the developer shall
37 be valid and binding from the time when the pledge is made and
38 filed in the office of the municipal clerk. The incentive grants so
39 pledged and thereafter received by the developer shall immediately
40 be subject to the lien of the pledge without any physical delivery
41 thereof or further act, and the lien of any pledge shall be valid and
42 binding as against all parties having claims of any kind in tort,
43 contract, or otherwise against the developer irrespective of whether
44 the parties have notice thereof. Neither the redevelopment
45 incentive grant agreement nor any other instrument by which a
46 pledge under this section is created need be filed or recorded except
47 with the municipality.

48 (cf: P.L.2009, c.90, s.11)

1 ³11. (New section) a. The governing body of a municipality
2 may, by ordinance, agree that certain eligible revenues in a project
3 area may be paid for a period, not to exceed 20 years, to a
4 municipal redeveloper to undertake and fund up to 100 percent of
5 the construction of infrastructure improvements in a public right-of-
6 way or publicly owned facilities.

7 b. An ordinance adopted pursuant to subsection a. of this
8 section shall set forth in detail the proposed construction, the
9 proposed redevelopment project, the estimated project costs, and
10 the projected eligible incremental revenues to be paid. No
11 ordinance shall be finally approved by the municipality unless
12 approved by the Local Finance Board. In deciding whether or not
13 to approve such ordinance, the Local Finance Board shall determine
14 whether the proposed redevelopment project consists of publicly
15 owned facilities or infrastructure improvements in the public right-
16 of-way. It also shall consider the factors listed at paragraphs (1)
17 through (8) of subsection d. of section 4 of P.L.2009, c.90
18 (C.52:27D-489d), provided that with respect to infrastructure
19 improvements in the public right-of-way, it shall not consider
20 paragraph (4) of subsection d. of section 4 of P.L.2009, c.90
21 (C.52:27D-489d). Such proposed redevelopment project shall
22 conform to the requirements of sections 7, 8, and 11 of P.L.2009,
23 c.90 (C.52:27D-489g, C.52:27D-489h, and C.52:27D-489k), except
24 as set forth therein.³

25
26 ²[7.] ³[~~10.~~²] 12.³ This act shall take effect immediately and
27 ²section 1 and sections 3 through 9² shall be retroactive to July 28,
28 2009 (the date of enactment of P.L.2009, c.90) ², and section 2, if
29 enacted on or before June 30, 2010, shall apply to applications
30 submitted for the 2010 Technology Business Tax Certificate
31 Transfer Program².

SENATE, No. 920

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JANUARY 19, 2010

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Senator Whelan

SYNOPSIS

Revises provisions of "New Jersey Economic Stimulus Act of 2009" concerning public-private higher education construction and improvement projects and municipal ordinances to adopt stimulus measures.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain economic stimulus activities and
2 amending P.L.2009, c.90.

3

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

6

7 1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to
8 read as follows:

9 43. a. A State college or county college may enter into a
10 contract with a private entity, subject to subsection f. of this section,
11 to be referred to as a public-private partnership agreement, that
12 permits the private entity to assume full financial and administrative
13 responsibility for the on-campus construction, reconstruction,
14 repair, alteration, improvement or extension of a building, structure,
15 or facility of, or for the benefit or enhancement of, the institution,
16 provided that the project is financed in whole by the private entity
17 and that the State or institution of higher education, as applicable,
18 retains full ownership of the land upon which the project is
19 completed.

20 b. (1) A private entity that assumes financial and
21 administrative responsibility for a project pursuant to subsection a.
22 of this section shall not be subject to the procurement and
23 contracting requirements of all statutes applicable to the institution
24 of higher education at which the project is completed, including, but
25 not limited to, the "State College Contracts Law," P.L.1986, c.43
26 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
27 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of
28 facilitating the financing of a project pursuant to subsection a. of
29 this section, a public entity may become the owner or lessee of the
30 project or the lessee of the land, or both, may issue indebtedness in
31 accordance with the public entity's enabling legislation and,
32 notwithstanding any provision of law to the contrary, shall be
33 empowered to enter into contracts with a private entity and its
34 affiliates without being subject to the procurement and contracting
35 requirements of the public entity provided that the private entity has
36 been selected by the institution of higher education pursuant to a
37 solicitation of proposals or qualifications. For the purposes of this
38 section, a public entity shall include the New Jersey Economic
39 Development Authority and any project undertaken pursuant to
40 subsection a. of this section shall be deemed a "project" under the
41 "New Jersey Economic Development Authority Act," P.L.1974,
42 c.80 (C.34:1B-1 et seq.).

43 (2) As the carrying out of any project described pursuant to this
44 section constitutes the performance of an essential public function,
45 the project, provided it is owned by or leased to a public entity,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 non-profit business entity, foreign or domestic, or a business entity
2 wholly owned by such non-profit business entity, shall at all times
3 be exempt from property taxation and special assessments of the
4 State, or any municipality, or other political subdivision of the
5 State, and notwithstanding the provisions of section 15 of P.L.1974,
6 c.80 (C.34:1B-15) and section 2 of P.L.1977, c.272 (C.54:4-2.2b) or
7 any other section of law to the contrary shall not be required to
8 make payments in lieu of taxes. The land upon which the project is
9 located shall also at all times be exempt from property taxation.

10 c. Each worker employed in the construction, rehabilitation, or
11 building maintenance services of facilities by a private entity that
12 has entered into a public-private partnership agreement with a State
13 or county college pursuant to subsection a. of this section shall be
14 paid not less than the prevailing wage rate for the worker's craft or
15 trade as determined by the Commissioner of Labor and Workforce
16 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
17 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

18 d. (1) All construction projects under a public-private
19 partnership agreement entered into pursuant to this section shall
20 contain a project labor agreement. The project labor agreement
21 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
22 seq.), and shall be in a manner that to the greatest extent possible
23 enhances employment opportunities for individuals residing in the
24 county of the project's location. Further, the general contractor,
25 construction manager, design-build team, or subcontractor for a
26 construction project proposed in accordance with this paragraph
27 shall be registered pursuant to the provisions of P.L.1999, c.238
28 (C.34:11-56.48 et seq.), and shall be classified by the Division of
29 Property Management and Construction to perform work on a
30 public-private partnership higher education project. All
31 construction projects proposed in accordance with this paragraph
32 shall be submitted to the New Jersey Economic Development
33 Authority for its review and approval and, when practicable, are
34 encouraged to adhere to the Leadership in Energy and
35 Environmental Design Green Building Rating System as adopted by
36 the United States Green Building Council.

37 (2) Where no public fund has been established for the financing
38 of a public improvement, the chief financial officer of the public
39 owner shall require the private entity for whom the public
40 improvement is being made to post, or cause to be posted, a bond
41 guaranteeing prompt payment of moneys due to the contractor, his
42 or her subcontractors and to all persons furnishing labor or
43 materials to the contractor or his or her subcontractors in the
44 prosecution of the work on the public improvement.

45 e. A general contractor, construction manager, design-build
46 team, or subcontractor shall be registered pursuant to the provisions
47 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified
48 by the Division of Property Management and Construction to

1 perform work on a public-private partnership higher education
2 project.

3 f. (1) **【On or before the first day of the nineteenth month next**
4 **following enactment of P.L.2009, c.90, all】** All projects proposed in
5 accordance with this section shall be submitted to the New Jersey
6 Economic Development Authority for its review and approval. The
7 projects are encouraged, when practicable, to adhere to the green
8 building manual prepared by the Commissioner of Community
9 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).
10 **【Any application that is deemed to be incomplete on the first day of**
11 **the nineteenth month next following enactment of P.L.2009, c.90**
12 **shall not be eligible for consideration.】**

13 (2) (a) In order for an application to be complete and considered
14 by the authority it shall include, but not be limited to: (i) a public-
15 private partnership agreement between the State or county college
16 and the private developer; (ii) a full description of the project; (iii)
17 the estimated costs and financial documentation for the project; (iv)
18 a timetable for completion of the project extending no more than
19 five years after consideration and approval; and (v) any other
20 requirements that the authority deems appropriate or necessary.

21 (b) As part of the estimated costs and financial documentation
22 for the project the application shall contain a long-range
23 maintenance plan and shall specify the expenditures that qualify as
24 an appropriate investment in maintenance. This long-range
25 maintenance plan shall be approved by the authority pursuant to
26 regulations promulgated by the authority that reflect national
27 building maintenance standards and other appropriate building
28 maintenance benchmarks. All contracts to implement a long-range
29 maintenance plan pursuant to this paragraph shall contain a project
30 labor agreement. The project labor agreement shall be subject to
31 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in
32 a manner that to the greatest extent possible enhances employment
33 opportunities for individuals residing in the county of the project's
34 location.

35 (3) The authority shall review all completed applications, and
36 request additional information as is needed to make a complete
37 assessment of the project. No project shall be undertaken until final
38 approval has been granted by the authority; provided, however, that
39 the authority shall retain the right to revoke approval if it
40 determines that the project has deviated from the plan submitted
41 pursuant to paragraph (2) of this subsection.

42 (4) The authority may promulgate any rules and regulations
43 necessary to implement this subsection, including provisions for
44 fees to cover administrative costs.

45 Where no public fund has been established for the financing of a
46 public improvement, the chief financial officer of the public owner
47 shall require the private entity for whom the public improvement is
48 being made to post, or cause to be posted, a bond guaranteeing

1 prompt payment of moneys due to the contractor, his or her
2 subcontractors and to all persons furnishing labor or materials to the
3 contractor or his or her subcontractors in the prosecution of the
4 work on the public improvement.

5 (cf: P.L.2009, c.90, s.43)

6

7 2. Section 28 of P.L.2009, c.90 (C.40:48G-2) is amended to
8 read as follows:

9 28. a. As used in this section:

10 "Admission charge" means the amount paid for admission,
11 including any service charge and any charge for entertainment at a
12 place of amusement, including but not limited to a dramatic or
13 musical arts admission charge as defined pursuant to subsection (r)
14 of section 2 of P.L.1966, c.30 (C.54:32B-2); and

15 "Major place of amusement" means a place of amusement as that
16 term is defined in subsection (t) of section 2 of P.L.1966, c.30
17 (C.54:32B-2), other than a motion picture theater, and other than an
18 amusement park as defined in section 1 of P.L.1992, c.118 (C.5:3-
19 55), at which admission charges are regularly paid, which place of
20 amusement is not owned by the State or an independent State
21 authority, or is not located on property that is owned by the State,
22 and which contains fixed seats for at least 7,000 patrons. For the
23 purposes of this definition, a county improvement authority is not
24 an independent State authority.

25 b. (1) The governing body of a municipality that is a city of the
26 second class and in which there is located a major place of
27 amusement, except for a municipality subject to the "Municipal
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
29 (C.52:27BBB-1 et al.), may adopt an ordinance imposing a
30 surcharge of an amount up to \$2 on each admission charge that is
31 subject to the New Jersey sales tax pursuant to paragraph (1) of
32 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3), and that
33 is not otherwise exempt from that tax, collected by each major place
34 of amusement in the municipality for admission thereto, which
35 surcharge shall be paid by the customer from whom the sales tax is
36 due pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3). A
37 surcharge imposed under an ordinance adopted pursuant to this
38 paragraph shall be in addition to any other tax or fee imposed
39 pursuant to statute or local ordinance or resolution by any
40 governmental entity upon the admission charge. A surcharge
41 imposed under an ordinance adopted pursuant to this paragraph
42 shall be separately stated on any bill, receipt, invoice or similar
43 document provided to the patron, but shall not be considered part of
44 the sale price for the purpose of determining tax pursuant to
45 P.L.1966, c.30 (C.54:32B-1 et seq.).

46 (2) The governing body of a municipality that is a city of the
47 second class in which there is located a major place of amusement,
48 except for a municipality subject to the "Municipal Rehabilitation

1 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
2 al.), may adopt an ordinance imposing a surcharge of an amount up
3 to \$2 on parking for the major place of amusement. A parking
4 surcharge imposed under an ordinance adopted pursuant to this
5 paragraph shall be in addition to any other tax or fee imposed
6 pursuant to statute or local ordinance or resolution by any
7 governmental entity upon the parking charge. A surcharge imposed
8 under an ordinance adopted pursuant to this paragraph shall be
9 separately stated on any bill, receipt, invoice or similar document
10 provided to the patron, if any, but shall not be considered part of the
11 sale price for the purpose of determining tax pursuant to P.L.1966,
12 c.30 (C.54:32B-1 et seq.).

13 (3) No ordinance, amendment, or revision of an ordinance
14 adopted under this subsection shall be submitted to or adopted by
15 initiative or referendum, notwithstanding any other law to the
16 contrary.

17 c. A copy of an ordinance adopted pursuant to this section shall
18 be transmitted upon adoption or amendment to the State Treasurer
19 along with a list of the names and locations of major places of
20 amusement in the municipality. An ordinance so adopted or any
21 amendment thereto shall provide that the surcharge provisions of
22 the ordinance or any amendment to the surcharge provisions shall
23 take effect on the first day of the first full month occurring 30 days
24 after the date of transmittal to the State Treasurer. Any ordinance
25 adopted pursuant to this section shall contain the following
26 provisions:

27 (1) A vendor shall not assume or absorb the surcharge imposed
28 by the ordinance;

29 (2) A vendor shall not in any manner advertise or hold out to
30 any person or to the public in general, in any manner, directly or
31 indirectly, that the surcharge will be assumed or absorbed by the
32 vendor, that the surcharge will not be separately charged and stated
33 to the customer, or that the surcharge will be refunded to the
34 customer;

35 (3) Each assumption or absorption by a vendor of the surcharge
36 shall be deemed a separate offense and each representation or
37 advertisement by a vendor for each day the representation or
38 advertisement continues shall be deemed a separate offense; and

39 (4) Penalties as fixed in the ordinance, for violation of the
40 foregoing provisions.

41 d. (1) A surcharge imposed pursuant to a municipal ordinance
42 adopted under the provisions of this section shall be collected on
43 behalf of the municipality by the person collecting the admission
44 charge or parking fee from the customer.

45 (2) Each person required to collect a surcharge imposed by the
46 ordinance shall be personally liable for the surcharge imposed,
47 collected or required to be collected hereunder. Any such person
48 shall have the same right in respect to collecting the surcharge from

1 a customer as if the surcharge were a part of the admission charge
2 and payable at the same time; provided, however, that the chief
3 fiscal officer of the municipality shall be joined as a party in any
4 action or proceeding brought to collect the surcharge.

5 e. (1) A person required to collect a surcharge imposed
6 pursuant to the provisions of this section shall, on or before the
7 dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-
8 17), forward to the Director of the Division of Taxation in the
9 Department of the Treasury the surcharge collected in the preceding
10 month and make and file a return for the preceding month with the
11 director on any form and containing any information as the director
12 shall prescribe as necessary to determine liability for the surcharge
13 in the preceding month during which the person was required to
14 collect the surcharge.

15 (2) The director may permit or require returns to be made
16 covering other periods and upon any dates as the director may
17 specify. In addition, the director may require payments of
18 surcharge liability at any intervals and based upon any
19 classifications as the director may designate. In prescribing any
20 other periods to be covered by the return or intervals or
21 classifications for payment of surcharge liability, the director may
22 take into account the dollar volume of surcharge involved as well as
23 the need for ensuring the prompt and orderly collection of the
24 surcharge imposed.

25 (3) The director may require amended returns to be filed within
26 20 days after notice and to contain the information specified in the
27 notice.

28 f. (1) The Director of the Division of Taxation in the
29 Department of the Treasury shall collect and administer the
30 surcharges; in so doing, the director shall have all the powers
31 granted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.).
32 Surcharges imposed pursuant to the provisions of this section shall
33 be governed by the provisions of the State Uniform Tax Procedure
34 Law, R.S.54:48-1 et seq.

35 (2) The director shall determine and certify to the State
36 Treasurer on a quarterly or more frequent basis, as prescribed by the
37 State Treasurer, the amount of revenues collected in each
38 municipality pursuant to this section.

39 (3) The State Treasurer, upon the certification of the director
40 and upon the warrant of the State Comptroller, shall pay and
41 distribute on a quarterly or more frequent basis, as prescribed by the
42 State Treasurer, to each municipality the amount of revenues
43 determined and certified under this subsection.

44 (4) The revenue received by a municipality shall be appropriated
45 as a special item of local revenue subject to the prior written
46 approval by the Director of the Division of Local Government
47 Services in the Department of Community Affairs, and shall be

1 offset with a local unit appropriation of an equal amount for
2 economic development purposes.

3 g. The director may, pursuant to the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), make, adopt, amend, or repeal such rules and regulations as
6 the director finds necessary to carry out the provisions of this
7 section.

8 (cf: P.L.2009, c.90, s.28)

9

10 3. Section 20 of P.L.2009, c.90 (C.40:48H-2) is amended to
11 read as follows:

12 20. a. A municipality having a population in excess of 100,000
13 and within which is located a commercial airport which provides for
14 a minimum of 10 regularly scheduled commercial airplane flights
15 per day, or a municipality in which any portion of such an airport is
16 located, by ordinance, may impose a tax on the rental of motor
17 vehicles on such rental transactions that occur within a designated
18 industrial zone of the municipality. Such tax shall be imposed on
19 the person, corporation, or other legal entity that is permitted the
20 use of a motor vehicle that it does not own for a period of time that
21 is less than one year, in exchange for the payment of a fee, and shall
22 be collected on behalf of the municipality by the person collecting
23 such rental fee, in accordance with such procedures as shall be
24 established in the ordinance imposing the tax.

25 The local motor vehicle rental tax rate imposed under an
26 ordinance adopted pursuant to this section shall not exceed five
27 percent of the total amount of the fee charged for the rental of the
28 motor vehicle, excluding any taxes and surcharges. After the
29 adoption of an ordinance, a municipality may subsequently amend
30 the ordinance from time to time to adjust the boundaries of the
31 industrial zone or, subject to the provisions of section 26 of
32 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
33 modified rate shall not exceed five percent of the total amount of
34 the fee charged for the rental of the motor vehicle, excluding any
35 taxes and surcharges.

36 An ordinance establishing a local motor vehicle rental tax, or
37 modifying the rate of that tax, shall take effect on the first day of
38 the month immediately following the date on which the ordinance
39 becomes legally in force and effect.

40 No ordinance, amendment, or revision of an ordinance adopted
41 under this subsection shall be submitted to or adopted by initiative
42 or referendum, notwithstanding any other law to the contrary.

43 b. As used in this section:

44 "Eligible purposes" means (1) the payment or reimbursement of
45 costs of any "redevelopment project" or other undertaking in
46 furtherance of a "redevelopment plan" in any "area in need of
47 redevelopment" or "area in need of rehabilitation" within the
48 municipality (including, but not limited to, redevelopment projects

1 and undertakings located within the industrial zone), as such terms
2 are defined in the "Local Redevelopment and Housing Law",
3 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal
4 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
5 payment or reimbursement, within or relating to any urban
6 enterprise zone located within the municipality, of such costs as are
7 enumerated in the definition of "project" as contained in subsection
8 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
9 reference to the zone assistance fund or the zone development
10 corporation, (4) the payment of bonds issued for any of the
11 foregoing purposes, (5) planning, evaluation, negotiation, and other
12 preliminary expenses relating to any of the foregoing purposes, and
13 (6) costs of administration and enforcement, including costs and
14 expenses of the municipality incurred in collecting the tax.

15 "Industrial zone" means such portion or portions of the
16 municipality, which may be identified by reference to zoning
17 districts, census tracts, or both, not exceeding in the aggregate 50
18 percent of the territory of the municipality, as is determined by the
19 municipality to be an area having, or intended to have,
20 predominantly industrial, port, airport, and related uses.

21 "Motor vehicle" means any automobile, truck, van, bus, or
22 similar conveyance that is intended primarily for passenger (as
23 distinct from cargo) use, and meeting the requirements of the State
24 for operation on public roads.

25 "Rental of motor vehicle" means any contract or agreement by
26 which a person, corporation, or other legal entity is permitted the
27 use of a motor vehicle that it does not own for a period of time that
28 is less than one year in exchange for the payment of a fee. A rental
29 transaction is deemed to occur at the location at which such person,
30 corporation, or other legal entity takes possession of the motor
31 vehicle.

32 "Rental tax account" means the dedicated trust account
33 established by a municipality pursuant to subsection c. of this
34 section.

35 "Tax proceeds" means amounts collected pursuant to any tax
36 imposed pursuant to sections 19 through 27 of P.L.2009, c.90
37 (C.40:48H-1 et seq.).

38 c. The Director of the Division of Taxation in the Department
39 of the Treasury may require, by regulation, that all taxes collected
40 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
41 seq.) be collected in the same manner as surcharges are collected
42 under section 28 of P.L.2009, c.90 (C.40:48G-2). Revenues that are
43 collected and distributed back to the municipality shall be deposited
44 into a trust account established by the municipality and dedicated
45 exclusively to the purpose of funding one or more eligible purposes.
46 In the case of any assignment pursuant to section 23 of P.L.2009,
47 c.90 (C.40:48H-5), the terms of such assignment shall include the
48 agreement of the municipality to enforce collection of the taxes in

1 such manner as provided therein, and may provide for direct
2 payment of all or a portion of the tax proceeds to a bond trustee. In
3 addition to tax proceeds, there shall be deposited into the rental tax
4 account such other moneys as may, from time to time, be directed
5 by law to be deposited therein.

6 (cf: P.L.2009, c.90, s.20)

7

8 4. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to
9 read as follows:

10 4. a. (1) The governing body of a municipality wherein is
11 located a qualifying economic redevelopment and growth grant
12 incentive area may adopt an ordinance to establish a local Economic
13 Redevelopment and Growth Grant program for the purpose of
14 encouraging redevelopment projects in that area through the
15 provision of incentive grants to reimburse developers for all or a
16 portion of the project financing gap for such projects. No local
17 Economic Redevelopment and Growth Grant program shall take
18 effect until the Local Finance Board approves the ordinance.

19 (2) No ordinance, amendment, or revision of an ordinance
20 adopted under this subsection shall be submitted to or adopted by
21 initiative or referendum, notwithstanding any other law to the
22 contrary.

23 b. A developer that submits an application for a local incentive
24 grant shall indicate on the application whether it is also applying for
25 a State incentive grant. An application by a developer applying for
26 a local incentive grant only shall not require approval by the
27 authority. A municipality or its redevelopment agency only may
28 apply for local incentive grants for: (1) the construction of
29 infrastructure improvements in the public right-of-way, or (2)
30 publicly owned facilities.

31 c. No local incentive grant shall be finally approved by a
32 municipality until approved by the Local Finance Board.

33 d. In deciding whether or not to approve a local incentive grant
34 agreement the Local Finance Board shall consider the following
35 factors:

36 (1) the economic feasibility of the redevelopment project;

37 (2) the extent of economic and related social distress in the
38 municipality and the area to be affected by the redevelopment
39 project;

40 (3) the degree to which the redevelopment project will advance
41 State, regional, and local development and planning strategies;

42 (4) the likelihood that the redevelopment project shall, upon
43 completion, be capable of generating new tax revenue in an amount
44 in excess of the amount necessary to reimburse the developer for
45 project costs incurred as provided in the redevelopment incentive
46 grant agreement;

- 1 (5) the relationship of the redevelopment project to a
2 comprehensive local development strategy, including other major
3 projects undertaken within the municipality;
4 (6) the need for the redevelopment incentive grant agreement to
5 the viability of the redevelopment project;
6 (7) compliance with the provisions of P.L.2009, c.90
7 (C.52:27D-489a et al.); and
8 (8) the degree to which the redevelopment project enhances and
9 promotes job creation and economic development.
10 (cf: P.L.2009, c.90, s.4)

11
12 5. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to
13 read as follows:

14 11. a. The governing body of a municipality is authorized to
15 enter into a redevelopment incentive grant agreement with a
16 developer, which shall not be effective until adopted by ordinance,
17 for any redevelopment project located within a qualifying economic
18 redevelopment and growth grant incentive area. No ordinance,
19 amendment, or revision of an ordinance adopted under this
20 subsection shall be submitted to or adopted by initiative or
21 referendum, notwithstanding any other law to the contrary.

22 b. The redevelopment incentive grant agreement shall specify
23 the amount of the incentive grant to be awarded the developer, the
24 frequency of payments, and the length of time, which shall not
25 exceed 20 years, during which that reimbursement shall be granted.
26 In no event shall the combined amount of the reimbursements under
27 redevelopment incentive grant agreements with the State or
28 municipality exceed 20 percent of the total cost of the project.

29 c. The municipality may enter into a redevelopment incentive
30 grant agreement only if the chief financial officer of the
31 municipality makes a finding that the incremental revenues to be
32 realized from the redevelopment project will be in excess of the
33 amount necessary to reimburse the developer for its project
34 financing gap. Such finding shall be based upon appropriate
35 documentation and calculations supporting the decision.

36 d. Within a qualifying economic redevelopment and growth
37 grant incentive area a municipality that has entered into a local
38 redevelopment incentive grant agreement may pledge eligible
39 revenues it is authorized to collect as follows:

40 (1) incremental payments in lieu of taxes, with respect to
41 property located in the district, made pursuant to the "Five-Year
42 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
43 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
44 (C.40A:20-1 et al.);

45 (2) incremental revenues collected from payroll taxes, with
46 respect to business activities carried on within the area, pursuant to
47 section 15 of P.L.1970, c.326 (C.40:48C-15);

1 (3) incremental revenue from lease payments made to the
2 municipality, the developer, or the developer's successors with
3 respect to property located in the area;

4 (4) incremental revenue collected from parking taxes derived
5 from parking facilities located within the area pursuant to section 7
6 of P.L.1970, c.326 (C.40:48C-7);

7 (5) incremental admissions and sales taxes derived from the
8 operation of a public facility within the area pursuant to section 1 of
9 P.L.2007, c.302 (C.40:48G-1);

10 (6) (a) incremental sales and excise taxes which are derived
11 from activities within the area and which are rebated to or retained
12 by the municipality pursuant to the "New Jersey Urban Enterprise
13 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law
14 providing for such rebate or retention;

15 (b) within Planning Area 1 (Metropolitan) under the State
16 Development and Redevelopment Plan adopted pursuant to the
17 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
18 (C.52:18A-196 et seq.), a municipality may impose the entire State
19 sales tax on business activities within a redevelopment project
20 located in an urban enterprise zone that would ordinarily be entitled
21 to collect reduced rate revenues under section 21 of P.L.1983, c.303
22 (C.52:27H-80), and pledge the excess revenues to a local
23 redevelopment incentive grant agreement;

24 (7) incremental parking revenue collected, pursuant to section 7
25 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
26 as part of a redevelopment project, except for public parking
27 facilities owned by parking authorities pursuant to the "Parking
28 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

29 (8) incremental revenues collected, pursuant to section 3 of
30 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),
31 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel
32 taxes;

33 (9) upon approval by the Local Finance Board, other
34 incremental municipal revenues that may become available;

35 (10) the property tax increment.

36 The incremental revenue for the revenues listed in this
37 subsection, when applicable, shall be calculated as the difference
38 between the amount collected in any fiscal year from any eligible
39 revenue source included in the local redevelopment incentive grant
40 agreement, less the revenue increment base for that eligible
41 revenue.

42 e. (1) In calculating the general tax rate of a municipality each
43 year, the aggregate amount of the incremental ratable value over the
44 property tax increment base in the redevelopment project area that
45 is pledged as part of a redevelopment incentive grant agreement
46 shall be excluded from the ratable base of a municipality.

1 (2) The amount of property tax increment not pledged toward a
2 redevelopment incentive grant agreement shall be allocated
3 pursuant to the normal tax rate distribution.

4 The full incremental value of a project area shall be included in
5 the value used for county and regional school tax apportionment
6 until such time that the Director of the Division of Taxation in the
7 Department of the Treasury can certify that property tax
8 management systems are capable of handling the technical and legal
9 requirements of treating parcels in areas of redevelopment as
10 exempt from county and regional school apportionment.

11 f. In addition to the incremental revenues that may be pledged
12 in subsection d. of this section, any amount of tax proceeds
13 collected from the tax on the rental of motor vehicles pursuant to
14 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a
15 redevelopment incentive grant agreement with a developer,
16 regardless of whether or not the redevelopment project area is
17 within or outside of the designated industrial zone from which the
18 tax on the rental of motor vehicles is collected.

19 g. (1) A developer that has entered into a redevelopment
20 incentive grant agreement with a municipality pursuant to this
21 section may, upon notice to and consent of the municipality, pledge
22 and assign as security for any loan, any or all of its right, title and
23 interest in and to such agreements and in the incentive grants
24 payable thereunder, and the right to receive same, along with the
25 rights and remedies provided to the developer under such
26 agreement. Any such assignment shall be an absolute assignment
27 for all purposes, including the federal bankruptcy code.

28 (2) Any pledge of incentive grants made by the developer shall
29 be valid and binding from the time when the pledge is made and
30 filed in the office of the municipal clerk. The incentive grants so
31 pledged and thereafter received by the developer shall immediately
32 be subject to the lien of the pledge without any physical delivery
33 thereof or further act, and the lien of any pledge shall be valid and
34 binding as against all parties having claims of any kind in tort,
35 contract, or otherwise against the developer irrespective of whether
36 the parties have notice thereof. Neither the redevelopment
37 incentive grant agreement nor any other instrument by which a
38 pledge under this section is created need be filed or recorded except
39 with the municipality.

40 (cf: P.L.2009, c.90, s.11)

41

42 6. Section 12 of P.L.2009, c.90 (C.52:27D-489l) is amended to
43 read as follows:

44 12. a. A municipality may adopt an ordinance creating a
45 municipal redevelopment utility under the name and style of "the
46 _____ redevelopment utility," with all or any significant part
47 of the name of the municipality inserted. The redevelopment utility
48 shall be a municipal public utility for the purposes of Title 40A of

1 the New Jersey Statutes. No ordinance, amendment, or revision of
2 an ordinance adopted under this subsection shall be submitted to or
3 adopted by initiative or referendum, notwithstanding any other law
4 to the contrary.

5 b. The purpose of every redevelopment utility shall be to
6 receive revenues collected pursuant to section 11 of P.L.2009, c.90
7 (C.52:27D-489k) and to use those revenues as payment of incentive
8 grants, and for other local purposes that may be approved by the
9 Local Finance Board, as that board deems necessary or useful.

10 c. If a municipality does not create a municipal redevelopment
11 utility, then any revenues collected pursuant to section 11 of
12 P.L.2009, c.90 (C.52:27D-489k) and any grants received to pay
13 incentive grants shall be treated as riders in the municipal budget
14 pursuant to N.J.S.40A:4-36.
15 (cf: P.L.2009, c.90, s.12)

16
17 7. This act shall take effect immediately and shall be
18 retroactive to July 28, 2009 (the date of enactment of P.L.2009,
19 c.90).

20

21

22

STATEMENT

23

24 This bill modifies provisions of the "New Jersey Economic
25 Stimulus Act of 2009," P.L.2009, c.90 to ensure that it can be
26 implemented effectively.

27 One provision of that law that allows a State college or a county
28 college to enter into a contract with a private entity, permitting the
29 private entity to assume full financial and administrative
30 responsibility for construction or improvement of a project on
31 campus, provided that the private entity finances the project and the
32 State or institution of higher education retains ownership of the
33 land. Section 1 of this bill amends that section to provide that a
34 project will be eligible as a public-private partnership if the project
35 benefits or enhances the institution although the project does not
36 specifically involve a building, structure or facility of the college.

37 The bill authorizes another public entity to become the owner or
38 lessee of the project, the lessee of the land, or both, and to issue
39 indebtedness in accordance with that public entity's enabling
40 statute. The bill provides that the public entity will not be subject
41 to the contracting or procurement requirements established under
42 law for that entity.

43 This bill clarifies that such a project and the land upon which the
44 project is located are exempt from property taxation and special
45 assessments of the State, the municipality, or other political
46 subdivision of the State provided that the project is owned by or
47 leased to a public entity, non-profit business entity, foreign or
48 domestic, or a business entity wholly owned by such non-profit

1 business entity. Also, the bill provides that no payment in lieu of
2 taxes will be required.

3 Under current law, a project must be submitted to the New
4 Jersey Economic Development Authority for its review and
5 approval within nineteen months of the law's original effective
6 date, July 28, 2009. The bill removes this time limit on the
7 submission and approval of projects.

8 Sections 2 through 6 of the bill ensure that ordinances that are
9 authorized to be adopted pursuant to the "New Jersey Economic
10 Stimulus Act of 2009" will not be subject to delays from public
11 referendum challenges in those municipalities in which general
12 initiative and referendum is authorized. The statutes contain other
13 provisions to ensure that certain types of ordinances are not subject
14 to public changes through initiative and referendum and ordinances
15 adopted for the purpose of providing economic stimulus require
16 swift implementation and should not be impeded through the
17 referendum process.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 920

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 1, 2010

The Senate Economic Growth Committee reports favorably Senate Bill, No. 920.

This bill, as amended, modifies provisions of the "New Jersey Economic Stimulus Act of 2009," P.L.2009, c.90 to ensure that it can be implemented effectively.

One provision of that law allows a State college or a county college to enter into a public-private partnership contract with a private entity, permitting the private entity to assume full financial and administrative responsibility for construction or improvement of a project on campus, provided that the private entity finances the project and the State or institution of higher education retains ownership of the land. Section 1 of this bill amends that section to provide that a project will be eligible as a public-private partnership if the project benefits or enhances the institution even if the project does not specifically involve a building, structure or facility of the college.

The bill authorizes another public entity to become the owner or lessee of the project, the lessee of the land, or both, and to issue indebtedness in accordance with that public entity's enabling statute. The bill provides that the public entity will not be subject to the contracting or procurement requirements established under law for that entity.

The bill clarifies that such a project and the land upon which the project is located are exempt from property taxation and special assessments of the State, the municipality, or other political subdivision of the State provided that the project is owned by or leased to a public entity, non-profit business entity, foreign or domestic, or a business entity wholly owned by such non-profit business entity. Also, the bill provides that no payment in lieu of taxes will be required.

Under current law, a project must be submitted to the New Jersey Economic Development Authority for its review and approval within nineteen months of the law's effective date, July 28, 2009. The amended bill extends this time limit on the submission and approval of projects by one year, to within 31 months of the law's effective date.

Sections 2 through 6 of the bill ensure that ordinances that are authorized to be adopted pursuant to the "New Jersey Economic Stimulus Act of 2009" will not be subject to delays from public referendum challenges in those municipalities in which general initiative and referendum is authorized. Other statutes contain provisions to ensure that certain types of ordinances are not subject to public changes through initiative and referendum; ordinances adopted for the purpose of providing economic stimulus require swift implementation and likewise should not be impeded through the referendum process.

The committee amended the bill to: 1) extend the time limit on the submission and approval of the type of projects described in section 1 of the bill by one year, to within 31 months of the law's effective date (February 1, 2012); and 2) make minor editorial clarifications.

STATEMENT TO
[First Reprint]
SENATE, No. 920

with Senate Floor Amendments
(Proposed by Senator LESNIAK)

ADOPTED: FEBRUARY 22, 2010

These floor amendments:

- clarify that ordinances adopted by municipalities pursuant to subsection b. of N.J.S.A.52:27D-489e, to approve State incentive grants for developers also seeking municipal incentive grants, and pursuant to subsection c. of that section, to approve an application for a State incentive grant, would not be subject to possible impediment through the referendum process. This floor amendment is clarifying because N.J.S.A.40A:12A-28 already provides that redevelopment ordinances under the "Local Redevelopment and Housing Law" are not subject to initiative or referendum. Also, it would not be consistent to exempt the municipal incentive grant ordinance from referendum without exempting the State incentive grant approval ordinance for the same redevelopment project.
- amend the definition of "biotechnology company" to clarify that only a company sufficiently involved in biotechnology would be eligible to participate in the program. The company must own, or have filed for or have a valid license to use protected, proprietary intellectual property. Specifically, language added to the definition of "new or expanding" would require that eligible companies would have to have fewer than 225 employees in the United States as of June 30 and as of the date of the exchange of the tax benefit certificate. In addition, companies would have to meet certain employee threshold requirements in New Jersey as of June 30 and meet the same threshold requirements applicable on June 30 on the date of the exchange of the certificate. The purpose of the revisions is to preclude a company from having to meet the minimum employee eligibility requirement on three separate dates, as presently required by the statute.
- add to the definition of "qualifying economic redevelopment and growth grant incentive area" in section 3 of P.L.2009, c.90 (C.52:27D-489c) a pinelands regional growth area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.).

Finally, these floor amendments, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program.

STATEMENT TO
[Second Reprint]
SENATE, No. 920

with Assembly Floor Amendments
(Proposed by Assemblyman COUTINHO)

ADOPTED: MARCH 15, 2010

These floor amendments were recommended by the New Jersey Economic Development Authority to ensure that the property tax exemption is limited to appropriate projects that further the educational purposes of an educational institution. The intent is to treat these projects in a similar fashion to projects directly undertaken by a public or private institution of higher education. Leases of parts of exempt property to for-profit entities would not result in taxation of the leasehold interest.

These floor amendments would resolve an ambiguity in P.L.2009, c.90 and permit a municipal redeveloper to construct ancillary public improvements and receive reimbursements for the full costs of those improvements that are located in the public right-of-way, but outside of the project area of a redevelopment project. These provisions are needed to ensure that the infrastructure improvements, particularly road, bridge, and tunnel improvements, which are located on site or off-tract of the redevelopment project and are essential for the success of the project, are eligible for full reimbursement.

The floor amendments eliminate the requirement for approval of a State redevelopment incentive grant by municipal ordinance.

These floor amendments also contain a recommendation by the Pinelands Commission for additional language to the definition of a "qualifying economic redevelopment and growth grant area" to ensure that all of the "centers" contained in the commission's memo of understanding concerning center designations under the State Plan are reflected in the law.

ASSEMBLY, No. 2059

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:
Assemblyman ALBERT COUTINHO
District 29 (Essex and Union)

SYNOPSIS

Revises provisions of "New Jersey Economic Stimulus Act of 2009" concerning public-private higher education construction and improvement projects and municipal ordinances to adopt stimulus measures.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain economic stimulus activities and
2 amending P.L.2009, c.90.

3

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

6

7 1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to
8 read as follows:

9 43. a. A State college or county college may enter into a
10 contract with a private entity, subject to subsection f. of this section,
11 to be referred to as a public-private partnership agreement, that
12 permits the private entity to assume full financial and administrative
13 responsibility for the on-campus construction, reconstruction,
14 repair, alteration, improvement or extension of a building, structure,
15 or facility of, or for the benefit or enhancement of, the institution,
16 provided that the project is financed in whole by the private entity
17 and that the State or institution of higher education, as applicable,
18 retains full ownership of the land upon which the project is
19 completed.

20 b. (1) A private entity that assumes financial and administrative
21 responsibility for a project pursuant to subsection a. of this section
22 shall not be subject to the procurement and contracting
23 requirements of all statutes applicable to the institution of higher
24 education at which the project is completed, including, but not
25 limited to, the "State College Contracts Law," P.L.1986, c.43
26 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
27 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of
28 facilitating the financing of a project pursuant to subsection a. of
29 this section, a public entity may become the owner or lessee of the
30 project or the lessee of the land, or both, may issue indebtedness in
31 accordance with the public entity's enabling legislation and,
32 notwithstanding any provision of law to the contrary, shall be
33 empowered to enter into contracts with a private entity and its
34 affiliates without being subject to the procurement and contracting
35 requirements of the public entity provided that the private entity has
36 been selected by the institution of higher education pursuant to a
37 solicitation of proposals or qualifications. For the purposes of this
38 section, a public entity shall include the New Jersey Economic
39 Development Authority and any project undertaken pursuant to
40 subsection a. of this section shall be deemed a "project" under the
41 "New Jersey Economic Development Authority Act," P.L.1974,
42 c.80 (C.34:1B-1 et seq.).

43 (2) As the carrying out of any project described pursuant to this
44 section constitutes the performance of an essential public function,
45 the project, provided it is owned by or leased to a public entity,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 non-profit business entity, foreign or domestic, or a business entity
2 wholly owned by such non-profit business entity, shall at all times
3 be exempt from property taxation and special assessments of the
4 State, or any municipality, or other political subdivision of the
5 State, and notwithstanding the provisions of section 15 of P.L.1974,
6 c.80 (C.34:1B-15) and section 2 of P.L.1977, c.272 (C.54:4-2.2b) or
7 any other section of law to the contrary shall not be required to
8 make payments in lieu of taxes. The land upon which the project is
9 located shall also at all times be exempt from property taxation.

10 c. Each worker employed in the construction, rehabilitation, or
11 building maintenance services of facilities by a private entity that
12 has entered into a public-private partnership agreement with a State
13 or county college pursuant to subsection a. of this section shall be
14 paid not less than the prevailing wage rate for the worker's craft or
15 trade as determined by the Commissioner of Labor and Workforce
16 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
17 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

18 d. (1) All construction projects under a public-private
19 partnership agreement entered into pursuant to this section shall
20 contain a project labor agreement. The project labor agreement
21 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
22 seq.), and shall be in a manner that to the greatest extent possible
23 enhances employment opportunities for individuals residing in the
24 county of the project's location. Further, the general contractor,
25 construction manager, design-build team, or subcontractor for a
26 construction project proposed in accordance with this paragraph
27 shall be registered pursuant to the provisions of P.L.1999, c.238
28 (C.34:11-56.48 et seq.), and shall be classified by the Division of
29 Property Management and Construction to perform work on a
30 public-private partnership higher education project. All
31 construction projects proposed in accordance with this paragraph
32 shall be submitted to the New Jersey Economic Development
33 Authority for its review and approval and, when practicable, are
34 encouraged to adhere to the Leadership in Energy and
35 Environmental Design Green Building Rating System as adopted by
36 the United States Green Building Council.

37 (2) Where no public fund has been established for the financing
38 of a public improvement, the chief financial officer of the public
39 owner shall require the private entity for whom the public
40 improvement is being made to post, or cause to be posted, a bond
41 guaranteeing prompt payment of moneys due to the contractor, his
42 or her subcontractors and to all persons furnishing labor or
43 materials to the contractor or his or her subcontractors in the
44 prosecution of the work on the public improvement.

45 e. A general contractor, construction manager, design-build
46 team, or subcontractor shall be registered pursuant to the provisions
47 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified
48 by the Division of Property Management and Construction to

1 perform work on a public-private partnership higher education
2 project.

3 f. (1) **【On or before the first day of the nineteenth month next**
4 **following enactment of P.L.2009, c.90, all】** All projects proposed in
5 accordance with this section shall be submitted to the New Jersey
6 Economic Development Authority for its review and approval. The
7 projects are encouraged, when practicable, to adhere to the green
8 building manual prepared by the Commissioner of Community
9 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).
10 **【Any application that is deemed to be incomplete on the first day of**
11 **the nineteenth month next following enactment of P.L.2009, c.90**
12 **shall not be eligible for consideration.】**

13 (2) (a) In order for an application to be complete and considered
14 by the authority it shall include, but not be limited to: (i) a public-
15 private partnership agreement between the State or county college
16 and the private developer; (ii) a full description of the project; (iii)
17 the estimated costs and financial documentation for the project; (iv)
18 a timetable for completion of the project extending no more than
19 five years after consideration and approval; and (v) any other
20 requirements that the authority deems appropriate or necessary.

21 (b) As part of the estimated costs and financial documentation
22 for the project the application shall contain a long-range
23 maintenance plan and shall specify the expenditures that qualify as
24 an appropriate investment in maintenance. This long-range
25 maintenance plan shall be approved by the authority pursuant to
26 regulations promulgated by the authority that reflect national
27 building maintenance standards and other appropriate building
28 maintenance benchmarks. All contracts to implement a long-range
29 maintenance plan pursuant to this paragraph shall contain a project
30 labor agreement. The project labor agreement shall be subject to
31 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in
32 a manner that to the greatest extent possible enhances employment
33 opportunities for individuals residing in the county of the project's
34 location.

35 (3) The authority shall review all completed applications, and
36 request additional information as is needed to make a complete
37 assessment of the project. No project shall be undertaken until final
38 approval has been granted by the authority; provided, however, that
39 the authority shall retain the right to revoke approval if it
40 determines that the project has deviated from the plan submitted
41 pursuant to paragraph (2) of this subsection.

42 (4) The authority may promulgate any rules and regulations
43 necessary to implement this subsection, including provisions for
44 fees to cover administrative costs.

45 Where no public fund has been established for the financing of a
46 public improvement, the chief financial officer of the public owner
47 shall require the private entity for whom the public improvement is
48 being made to post, or cause to be posted, a bond guaranteeing

1 prompt payment of moneys due to the contractor, his or her
2 subcontractors and to all persons furnishing labor or materials to the
3 contractor or his or her subcontractors in the prosecution of the
4 work on the public improvement.

5 (cf: P.L.2009, c.90, s.43)

6

7 2. Section 28 of P.L.2009, c.90 (C.40:48G-2) is amended to
8 read as follows:

9 28. a. As used in this section:

10 "Admission charge" means the amount paid for admission,
11 including any service charge and any charge for entertainment at a
12 place of amusement, including but not limited to a dramatic or
13 musical arts admission charge as defined pursuant to subsection (r)
14 of section 2 of P.L.1966, c.30 (C.54:32B-2); and

15 "Major place of amusement" means a place of amusement as that
16 term is defined in subsection (t) of section 2 of P.L.1966, c.30
17 (C.54:32B-2), other than a motion picture theater, and other than an
18 amusement park as defined in section 1 of P.L.1992, c.118 (C.5:3-
19 55), at which admission charges are regularly paid, which place of
20 amusement is not owned by the State or an independent State
21 authority, or is not located on property that is owned by the State,
22 and which contains fixed seats for at least 7,000 patrons. For the
23 purposes of this definition, a county improvement authority is not
24 an independent State authority.

25 b. (1) The governing body of a municipality that is a city of the
26 second class and in which there is located a major place of
27 amusement, except for a municipality subject to the "Municipal
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
29 (C.52:27BBB-1 et al.), may adopt an ordinance imposing a
30 surcharge of an amount up to \$2 on each admission charge that is
31 subject to the New Jersey sales tax pursuant to paragraph (1) of
32 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3), and that
33 is not otherwise exempt from that tax, collected by each major place
34 of amusement in the municipality for admission thereto, which
35 surcharge shall be paid by the customer from whom the sales tax is
36 due pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3). A
37 surcharge imposed under an ordinance adopted pursuant to this
38 paragraph shall be in addition to any other tax or fee imposed
39 pursuant to statute or local ordinance or resolution by any
40 governmental entity upon the admission charge. A surcharge
41 imposed under an ordinance adopted pursuant to this paragraph
42 shall be separately stated on any bill, receipt, invoice or similar
43 document provided to the patron, but shall not be considered part of
44 the sale price for the purpose of determining tax pursuant to
45 P.L.1966, c.30 (C.54:32B-1 et seq.).

46 (2) The governing body of a municipality that is a city of the
47 second class in which there is located a major place of amusement,
48 except for a municipality subject to the "Municipal Rehabilitation

1 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
2 al.), may adopt an ordinance imposing a surcharge of an amount up
3 to \$2 on parking for the major place of amusement. A parking
4 surcharge imposed under an ordinance adopted pursuant to this
5 paragraph shall be in addition to any other tax or fee imposed
6 pursuant to statute or local ordinance or resolution by any
7 governmental entity upon the parking charge. A surcharge imposed
8 under an ordinance adopted pursuant to this paragraph shall be
9 separately stated on any bill, receipt, invoice or similar document
10 provided to the patron, if any, but shall not be considered part of the
11 sale price for the purpose of determining tax pursuant to P.L.1966,
12 c.30 (C.54:32B-1 et seq.).

13 (3) No ordinance, amendment, or revision of an ordinance
14 adopted under this subsection shall be submitted to or adopted by
15 initiative or referendum, notwithstanding any other law to the
16 contrary.

17 c. A copy of an ordinance adopted pursuant to this section shall
18 be transmitted upon adoption or amendment to the State Treasurer
19 along with a list of the names and locations of major places of
20 amusement in the municipality. An ordinance so adopted or any
21 amendment thereto shall provide that the surcharge provisions of
22 the ordinance or any amendment to the surcharge provisions shall
23 take effect on the first day of the first full month occurring 30 days
24 after the date of transmittal to the State Treasurer. Any ordinance
25 adopted pursuant to this section shall contain the following
26 provisions:

27 (1) A vendor shall not assume or absorb the surcharge imposed
28 by the ordinance;

29 (2) A vendor shall not in any manner advertise or hold out to any
30 person or to the public in general, in any manner, directly or
31 indirectly, that the surcharge will be assumed or absorbed by the
32 vendor, that the surcharge will not be separately charged and stated
33 to the customer, or that the surcharge will be refunded to the
34 customer;

35 (3) Each assumption or absorption by a vendor of the surcharge
36 shall be deemed a separate offense and each representation or
37 advertisement by a vendor for each day the representation or
38 advertisement continues shall be deemed a separate offense; and

39 (4) Penalties as fixed in the ordinance, for violation of the
40 foregoing provisions.

41 d. (1) A surcharge imposed pursuant to a municipal ordinance
42 adopted under the provisions of this section shall be collected on
43 behalf of the municipality by the person collecting the admission
44 charge or parking fee from the customer.

45 (2) Each person required to collect a surcharge imposed by the
46 ordinance shall be personally liable for the surcharge imposed,
47 collected or required to be collected hereunder. Any such person
48 shall have the same right in respect to collecting the surcharge from

1 a customer as if the surcharge were a part of the admission charge
2 and payable at the same time; provided, however, that the chief
3 fiscal officer of the municipality shall be joined as a party in any
4 action or proceeding brought to collect the surcharge.

5 e. (1) A person required to collect a surcharge imposed pursuant
6 to the provisions of this section shall, on or before the dates
7 required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17),
8 forward to the Director of the Division of Taxation in the
9 Department of the Treasury the surcharge collected in the preceding
10 month and make and file a return for the preceding month with the
11 director on any form and containing any information as the director
12 shall prescribe as necessary to determine liability for the surcharge
13 in the preceding month during which the person was required to
14 collect the surcharge.

15 (2) The director may permit or require returns to be made
16 covering other periods and upon any dates as the director may
17 specify. In addition, the director may require payments of
18 surcharge liability at any intervals and based upon any
19 classifications as the director may designate. In prescribing any
20 other periods to be covered by the return or intervals or
21 classifications for payment of surcharge liability, the director may
22 take into account the dollar volume of surcharge involved as well as
23 the need for ensuring the prompt and orderly collection of the
24 surcharge imposed.

25 (3) The director may require amended returns to be filed within
26 20 days after notice and to contain the information specified in the
27 notice.

28 f. (1) The Director of the Division of Taxation in the
29 Department of the Treasury shall collect and administer the
30 surcharges; in so doing, the director shall have all the powers
31 granted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.).
32 Surcharges imposed pursuant to the provisions of this section shall
33 be governed by the provisions of the State Uniform Tax Procedure
34 Law, R.S.54:48-1 et seq.

35 (2) The director shall determine and certify to the State Treasurer
36 on a quarterly or more frequent basis, as prescribed by the State
37 Treasurer, the amount of revenues collected in each municipality
38 pursuant to this section.

39 (3) The State Treasurer, upon the certification of the director and
40 upon the warrant of the State Comptroller, shall pay and distribute
41 on a quarterly or more frequent basis, as prescribed by the State
42 Treasurer, to each municipality the amount of revenues determined
43 and certified under this subsection.

44 (4) The revenue received by a municipality shall be appropriated
45 as a special item of local revenue subject to the prior written
46 approval by the Director of the Division of Local Government
47 Services in the Department of Community Affairs, and shall be

1 offset with a local unit appropriation of an equal amount for
2 economic development purposes.

3 g. The director may, pursuant to the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), make, adopt, amend, or repeal such rules and regulations as
6 the director finds necessary to carry out the provisions of this
7 section.

8 (cf: P.L.2009, c.90, s.28)

9

10 3. Section 20 of P.L.2009, c.90 (C.40:48H-2) is amended to
11 read as follows:

12 20. a. A municipality having a population in excess of 100,000
13 and within which is located a commercial airport which provides for
14 a minimum of 10 regularly scheduled commercial airplane flights
15 per day, or a municipality in which any portion of such an airport is
16 located, by ordinance, may impose a tax on the rental of motor
17 vehicles on such rental transactions that occur within a designated
18 industrial zone of the municipality. Such tax shall be imposed on
19 the person, corporation, or other legal entity that is permitted the
20 use of a motor vehicle that it does not own for a period of time that
21 is less than one year, in exchange for the payment of a fee, and shall
22 be collected on behalf of the municipality by the person collecting
23 such rental fee, in accordance with such procedures as shall be
24 established in the ordinance imposing the tax.

25 The local motor vehicle rental tax rate imposed under an
26 ordinance adopted pursuant to this section shall not exceed five
27 percent of the total amount of the fee charged for the rental of the
28 motor vehicle, excluding any taxes and surcharges. After the
29 adoption of an ordinance, a municipality may subsequently amend
30 the ordinance from time to time to adjust the boundaries of the
31 industrial zone or, subject to the provisions of section 26 of
32 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
33 modified rate shall not exceed five percent of the total amount of
34 the fee charged for the rental of the motor vehicle, excluding any
35 taxes and surcharges.

36 An ordinance establishing a local motor vehicle rental tax, or
37 modifying the rate of that tax, shall take effect on the first day of
38 the month immediately following the date on which the ordinance
39 becomes legally in force and effect.

40 No ordinance, amendment, or revision of an ordinance adopted
41 under this subsection shall be submitted to or adopted by initiative
42 or referendum, notwithstanding any other law to the contrary.

43 b. As used in this section:

44 "Eligible purposes" means (1) the payment or reimbursement of
45 costs of any "redevelopment project" or other undertaking in
46 furtherance of a "redevelopment plan" in any "area in need of
47 redevelopment" or "area in need of rehabilitation" within the
48 municipality (including, but not limited to, redevelopment projects

1 and undertakings located within the industrial zone), as such terms
2 are defined in the "Local Redevelopment and Housing Law",
3 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal
4 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
5 payment or reimbursement, within or relating to any urban
6 enterprise zone located within the municipality, of such costs as are
7 enumerated in the definition of "project" as contained in subsection
8 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
9 reference to the zone assistance fund or the zone development
10 corporation, (4) the payment of bonds issued for any of the
11 foregoing purposes, (5) planning, evaluation, negotiation, and other
12 preliminary expenses relating to any of the foregoing purposes, and
13 (6) costs of administration and enforcement, including costs and
14 expenses of the municipality incurred in collecting the tax.

15 "Industrial zone" means such portion or portions of the
16 municipality, which may be identified by reference to zoning
17 districts, census tracts, or both, not exceeding in the aggregate 50
18 percent of the territory of the municipality, as is determined by the
19 municipality to be an area having, or intended to have,
20 predominantly industrial, port, airport, and related uses.

21 "Motor vehicle" means any automobile, truck, van, bus, or
22 similar conveyance that is intended primarily for passenger (as
23 distinct from cargo) use, and meeting the requirements of the State
24 for operation on public roads.

25 "Rental of motor vehicle" means any contract or agreement by
26 which a person, corporation, or other legal entity is permitted the
27 use of a motor vehicle that it does not own for a period of time that
28 is less than one year in exchange for the payment of a fee. A rental
29 transaction is deemed to occur at the location at which such person,
30 corporation, or other legal entity takes possession of the motor
31 vehicle.

32 "Rental tax account" means the dedicated trust account
33 established by a municipality pursuant to subsection c. of this
34 section.

35 "Tax proceeds" means amounts collected pursuant to any tax
36 imposed pursuant to sections 19 through 27 of P.L.2009, c.90
37 (C.40:48H-1 et seq.).

38 c. The Director of the Division of Taxation in the Department
39 of the Treasury may require, by regulation, that all taxes collected
40 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
41 seq.) be collected in the same manner as surcharges are collected
42 under section 28 of P.L.2009, c.90 (C.40:48G-2). Revenues that are
43 collected and distributed back to the municipality shall be deposited
44 into a trust account established by the municipality and dedicated
45 exclusively to the purpose of funding one or more eligible purposes.
46 In the case of any assignment pursuant to section 23 of P.L.2009,
47 c.90 (C.40:48H-5), the terms of such assignment shall include the
48 agreement of the municipality to enforce collection of the taxes in

1 such manner as provided therein, and may provide for direct
2 payment of all or a portion of the tax proceeds to a bond trustee. In
3 addition to tax proceeds, there shall be deposited into the rental tax
4 account such other moneys as may, from time to time, be directed
5 by law to be deposited therein.

6 (cf: P.L.2009, c.90, s.20)

7

8 4. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to
9 read as follows:

10 4. a. (1) The governing body of a municipality wherein is
11 located a qualifying economic redevelopment and growth grant
12 incentive area may adopt an ordinance to establish a local Economic
13 Redevelopment and Growth Grant program for the purpose of
14 encouraging redevelopment projects in that area through the
15 provision of incentive grants to reimburse developers for all or a
16 portion of the project financing gap for such projects. No local
17 Economic Redevelopment and Growth Grant program shall take
18 effect until the Local Finance Board approves the ordinance.

19 (2) No ordinance, amendment, or revision of an ordinance
20 adopted under this subsection shall be submitted to or adopted by
21 initiative or referendum, notwithstanding any other law to the
22 contrary.

23 b. A developer that submits an application for a local incentive
24 grant shall indicate on the application whether it is also applying for
25 a State incentive grant. An application by a developer applying for
26 a local incentive grant only shall not require approval by the
27 authority. A municipality or its redevelopment agency only may
28 apply for local incentive grants for: (1) the construction of
29 infrastructure improvements in the public right-of-way, or (2)
30 publicly owned facilities.

31 c. No local incentive grant shall be finally approved by a
32 municipality until approved by the Local Finance Board.

33 d. In deciding whether or not to approve a local incentive grant
34 agreement the Local Finance Board shall consider the following
35 factors:

36 (1) the economic feasibility of the redevelopment project;

37 (2) the extent of economic and related social distress in the
38 municipality and the area to be affected by the redevelopment
39 project;

40 (3) the degree to which the redevelopment project will advance
41 State, regional, and local development and planning strategies;

42 (4) the likelihood that the redevelopment project shall, upon
43 completion, be capable of generating new tax revenue in an amount
44 in excess of the amount necessary to reimburse the developer for
45 project costs incurred as provided in the redevelopment incentive
46 grant agreement;

- 1 (5) the relationship of the redevelopment project to a
2 comprehensive local development strategy, including other major
3 projects undertaken within the municipality;
- 4 (6) the need for the redevelopment incentive grant agreement to
5 the viability of the redevelopment project;
- 6 (7) compliance with the provisions of P.L.2009, c.90
7 (C.52:27D-489a et al.); and
- 8 (8) the degree to which the redevelopment project enhances and
9 promotes job creation and economic development.
10 (cf: P.L.2009, c.90, s.4)

11
12 5. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to
13 read as follows:

14 11. a. The governing body of a municipality is authorized to
15 enter into a redevelopment incentive grant agreement with a
16 developer, which shall not be effective until adopted by ordinance,
17 for any redevelopment project located within a qualifying economic
18 redevelopment and growth grant incentive area. No ordinance,
19 amendment, or revision of an ordinance adopted under this
20 subsection shall be submitted to or adopted by initiative or
21 referendum, notwithstanding any other law to the contrary.

22 b. The redevelopment incentive grant agreement shall specify
23 the amount of the incentive grant to be awarded the developer, the
24 frequency of payments, and the length of time, which shall not
25 exceed 20 years, during which that reimbursement shall be granted.
26 In no event shall the combined amount of the reimbursements under
27 redevelopment incentive grant agreements with the State or
28 municipality exceed 20 percent of the total cost of the project.

29 c. The municipality may enter into a redevelopment incentive
30 grant agreement only if the chief financial officer of the
31 municipality makes a finding that the incremental revenues to be
32 realized from the redevelopment project will be in excess of the
33 amount necessary to reimburse the developer for its project
34 financing gap. Such finding shall be based upon appropriate
35 documentation and calculations supporting the decision.

36 d. Within a qualifying economic redevelopment and growth
37 grant incentive area a municipality that has entered into a local
38 redevelopment incentive grant agreement may pledge eligible
39 revenues it is authorized to collect as follows:

40 (1) incremental payments in lieu of taxes, with respect to
41 property located in the district, made pursuant to the "Five-Year
42 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
43 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
44 (C.40A:20-1 et al.);

45 (2) incremental revenues collected from payroll taxes, with
46 respect to business activities carried on within the area, pursuant to
47 section 15 of P.L.1970, c.326 (C.40:48C-15);

- 1 (3) incremental revenue from lease payments made to the
2 municipality, the developer, or the developer's successors with
3 respect to property located in the area;
- 4 (4) incremental revenue collected from parking taxes derived
5 from parking facilities located within the area pursuant to section 7
6 of P.L.1970, c.326 (C.40:48C-7);
- 7 (5) incremental admissions and sales taxes derived from the
8 operation of a public facility within the area pursuant to section 1 of
9 P.L.2007, c.302 (C.40:48G-1);
- 10 (6) (a) incremental sales and excise taxes which are derived
11 from activities within the area and which are rebated to or retained
12 by the municipality pursuant to the "New Jersey Urban Enterprise
13 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law
14 providing for such rebate or retention;
- 15 (b) within Planning Area 1 (Metropolitan) under the State
16 Development and Redevelopment Plan adopted pursuant to the
17 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
18 (C.52:18A-196 et seq.), a municipality may impose the entire State
19 sales tax on business activities within a redevelopment project
20 located in an urban enterprise zone that would ordinarily be entitled
21 to collect reduced rate revenues under section 21 of P.L.1983, c.303
22 (C.52:27H-80), and pledge the excess revenues to a local
23 redevelopment incentive grant agreement;
- 24 (7) incremental parking revenue collected, pursuant to section 7
25 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
26 as part of a redevelopment project, except for public parking
27 facilities owned by parking authorities pursuant to the "Parking
28 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);
- 29 (8) incremental revenues collected, pursuant to section 3 of
30 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),
31 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel
32 taxes;
- 33 (9) upon approval by the Local Finance Board, other incremental
34 municipal revenues that may become available;
- 35 (10) the property tax increment.
- 36 The incremental revenue for the revenues listed in this
37 subsection, when applicable, shall be calculated as the difference
38 between the amount collected in any fiscal year from any eligible
39 revenue source included in the local redevelopment incentive grant
40 agreement, less the revenue increment base for that eligible
41 revenue.
- 42 e. (1) In calculating the general tax rate of a municipality each
43 year, the aggregate amount of the incremental ratable value over the
44 property tax increment base in the redevelopment project area that
45 is pledged as part of a redevelopment incentive grant agreement
46 shall be excluded from the ratable base of a municipality.

1 (2) The amount of property tax increment not pledged toward a
2 redevelopment incentive grant agreement shall be allocated
3 pursuant to the normal tax rate distribution.

4 The full incremental value of a project area shall be included in
5 the value used for county and regional school tax apportionment
6 until such time that the Director of the Division of Taxation in the
7 Department of the Treasury can certify that property tax
8 management systems are capable of handling the technical and legal
9 requirements of treating parcels in areas of redevelopment as
10 exempt from county and regional school apportionment.

11 f. In addition to the incremental revenues that may be pledged
12 in subsection d. of this section, any amount of tax proceeds
13 collected from the tax on the rental of motor vehicles pursuant to
14 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a
15 redevelopment incentive grant agreement with a developer,
16 regardless of whether or not the redevelopment project area is
17 within or outside of the designated industrial zone from which the
18 tax on the rental of motor vehicles is collected.

19 g. (1) A developer that has entered into a redevelopment
20 incentive grant agreement with a municipality pursuant to this
21 section may, upon notice to and consent of the municipality, pledge
22 and assign as security for any loan, any or all of its right, title and
23 interest in and to such agreements and in the incentive grants
24 payable thereunder, and the right to receive same, along with the
25 rights and remedies provided to the developer under such
26 agreement. Any such assignment shall be an absolute assignment
27 for all purposes, including the federal bankruptcy code.

28 (2) Any pledge of incentive grants made by the developer shall
29 be valid and binding from the time when the pledge is made and
30 filed in the office of the municipal clerk. The incentive grants so
31 pledged and thereafter received by the developer shall immediately
32 be subject to the lien of the pledge without any physical delivery
33 thereof or further act, and the lien of any pledge shall be valid and
34 binding as against all parties having claims of any kind in tort,
35 contract, or otherwise against the developer irrespective of whether
36 the parties have notice thereof. Neither the redevelopment
37 incentive grant agreement nor any other instrument by which a
38 pledge under this section is created need be filed or recorded except
39 with the municipality.

40 (cf: P.L.2009, c.90, s.11)

41

42 6. Section 12 of P.L.2009, c.90 (C.52:27D-489l) is amended to
43 read as follows:

44 12. a. A municipality may adopt an ordinance creating a
45 municipal redevelopment utility under the name and style of "the
46 _____ redevelopment utility," with all or any significant part
47 of the name of the municipality inserted. The redevelopment utility
48 shall be a municipal public utility for the purposes of Title 40A of

1 the New Jersey Statutes. No ordinance, amendment, or revision of
2 an ordinance adopted under this subsection shall be submitted to or
3 adopted by initiative or referendum, notwithstanding any other law
4 to the contrary.

5 b. The purpose of every redevelopment utility shall be to
6 receive revenues collected pursuant to section 11 of P.L.2009, c.90
7 (C.52:27D-489k) and to use those revenues as payment of incentive
8 grants, and for other local purposes that may be approved by the
9 Local Finance Board, as that board deems necessary or useful.

10 c. If a municipality does not create a municipal redevelopment
11 utility, then any revenues collected pursuant to section 11 of
12 P.L.2009, c.90 (C.52:27D-489k) and any grants received to pay
13 incentive grants shall be treated as riders in the municipal budget
14 pursuant to N.J.S.40A:4-36.
15 (cf: P.L.2009, c.90, s.12)

16

17 7. This act shall take effect immediately and shall be
18 retroactive to July 28, 2009 (the date of enactment of P.L.2009,
19 c.90).

20

21

22

STATEMENT

23

24 This bill modifies provisions of the "New Jersey Economic
25 Stimulus Act of 2009," P.L.2009, c.90 to ensure that it can be
26 implemented effectively.

27 One provision of that law that allows a State college or a county
28 college to enter into a contract with a private entity, permitting the
29 private entity to assume full financial and administrative
30 responsibility for construction or improvement of a project on
31 campus, provided that the private entity finances the project and the
32 State or institution of higher education retains ownership of the
33 land. Section 1 of this bill amends that section to provide that a
34 project will be eligible as a public-private partnership if the project
35 benefits or enhances the institution although the project does not
36 specifically involve a building, structure or facility of the college.

37 The bill authorizes another public entity to become the owner or
38 lessee of the project, the lessee of the land, or both, and to issue
39 indebtedness in accordance with that public entity's enabling
40 statute. The bill provides that the public entity will not be subject
41 to the contracting or procurement requirements established under
42 law for that entity.

43 This bill clarifies that such a project and the land upon which the
44 project is located are exempt from property taxation and special
45 assessments of the State, the municipality, or other political
46 subdivision of the State provided that the project is owned by or
47 leased to a public entity, non-profit business entity, foreign or
48 domestic, or a business entity wholly owned by such non-profit

1 business entity. Also, the bill provides that no payment in lieu of
2 taxes will be required.

3 Under current law, a project must be submitted to the New
4 Jersey Economic Development Authority for its review and
5 approval within nineteen months of the law's original effective
6 date, July 28, 2009. The bill removes this time limit on the
7 submission and approval of projects.

8 Sections 2 through 6 of the bill ensure that ordinances that are
9 authorized to be adopted pursuant to the "New Jersey Economic
10 Stimulus Act of 2009" will not be subject to delays from public
11 referendum challenges in those municipalities in which general
12 initiative and referendum is authorized. The statutes contain other
13 provisions to ensure that certain types of ordinances are not subject
14 to public changes through initiative and referendum and ordinances
15 adopted for the purpose of providing economic stimulus require
16 swift implementation and should not be impeded through the
17 referendum process.

ASSEMBLY, No. 1897

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:

Assemblyman JOHN F. AMODEO

District 2 (Atlantic)

Assemblyman VINCENT J. POLISTINA

District 2 (Atlantic)

SYNOPSIS

Revises provisions of "New Jersey Economic Stimulus Act of 2009" concerning public-private higher education construction and improvement projects and municipal ordinances to adopt stimulus measures.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain economic stimulus activities and
2 amending P.L.2009, c.90.

3

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

6

7 1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to
8 read as follows:

9 43. a. A State college or county college may enter into a
10 contract with a private entity, subject to subsection f. of this section,
11 to be referred to as a public-private partnership agreement, that
12 permits the private entity to assume full financial and administrative
13 responsibility for the on-campus construction, reconstruction,
14 repair, alteration, improvement or extension of a building, structure,
15 or facility of, or for the benefit or enhancement of, the institution,
16 provided that the project is financed in whole by the private entity
17 and that the State or institution of higher education, as applicable,
18 retains full ownership of the land upon which the project is
19 completed.

20 b. (1) A private entity that assumes financial and
21 administrative responsibility for a project pursuant to subsection a.
22 of this section shall not be subject to the procurement and
23 contracting requirements of all statutes applicable to the institution
24 of higher education at which the project is completed, including, but
25 not limited to, the "State College Contracts Law," P.L.1986, c.43
26 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
27 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of
28 facilitating the financing of a project pursuant to subsection a. of
29 this section, a public entity may become the owner or lessee of the
30 project or the lessee of the land, or both, may issue indebtedness in
31 accordance with the public entity's enabling legislation and,
32 notwithstanding any provision of law to the contrary, shall be
33 empowered to enter into contracts with a private entity and its
34 affiliates without being subject to the procurement and contracting
35 requirements of the public entity provided that the private entity has
36 been selected by the institution of higher education pursuant to a
37 solicitation of proposals or qualifications. For the purposes of this
38 section, a public entity shall include the New Jersey Economic
39 Development Authority and any project undertaken pursuant to
40 subsection a. of this section shall be deemed a "project" under the
41 "New Jersey Economic Development Authority Act," P.L.1974,
42 c.80 (C.34:1B-1 et seq.).

43 (2) As the carrying out of any project described pursuant to this
44 section constitutes the performance of an essential public function,
45 the project, provided it is owned by or leased to a public entity,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 non-profit business entity, foreign or domestic, or a business entity
2 wholly owned by such non-profit business entity, shall at all times
3 be exempt from property taxation and special assessments of the
4 State, or any municipality, or other political subdivision of the
5 State, and notwithstanding the provisions of section 15 of P.L.1974,
6 c.80 (C.34:1B-15) and section 2 of P.L.1977, c.272 (C.54:4-2.2b) or
7 any other section of law to the contrary shall not be required to
8 make payments in lieu of taxes. The land upon which the project is
9 located shall also at all times be exempt from property taxation.

10 c. Each worker employed in the construction, rehabilitation, or
11 building maintenance services of facilities by a private entity that
12 has entered into a public-private partnership agreement with a State
13 or county college pursuant to subsection a. of this section shall be
14 paid not less than the prevailing wage rate for the worker's craft or
15 trade as determined by the Commissioner of Labor and Workforce
16 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
17 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

18 d. (1) All construction projects under a public-private
19 partnership agreement entered into pursuant to this section shall
20 contain a project labor agreement. The project labor agreement
21 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
22 seq.), and shall be in a manner that to the greatest extent possible
23 enhances employment opportunities for individuals residing in the
24 county of the project's location. Further, the general contractor,
25 construction manager, design-build team, or subcontractor for a
26 construction project proposed in accordance with this paragraph
27 shall be registered pursuant to the provisions of P.L.1999, c.238
28 (C.34:11-56.48 et seq.), and shall be classified by the Division of
29 Property Management and Construction to perform work on a
30 public-private partnership higher education project. All
31 construction projects proposed in accordance with this paragraph
32 shall be submitted to the New Jersey Economic Development
33 Authority for its review and approval and, when practicable, are
34 encouraged to adhere to the Leadership in Energy and
35 Environmental Design Green Building Rating System as adopted by
36 the United States Green Building Council.

37 (2) Where no public fund has been established for the financing
38 of a public improvement, the chief financial officer of the public
39 owner shall require the private entity for whom the public
40 improvement is being made to post, or cause to be posted, a bond
41 guaranteeing prompt payment of moneys due to the contractor, his
42 or her subcontractors and to all persons furnishing labor or
43 materials to the contractor or his or her subcontractors in the
44 prosecution of the work on the public improvement.

45 e. A general contractor, construction manager, design-build
46 team, or subcontractor shall be registered pursuant to the provisions
47 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified
48 by the Division of Property Management and Construction to

1 perform work on a public-private partnership higher education
2 project.

3 f. (1) **【On or before the first day of the nineteenth month next**
4 **following enactment of P.L.2009, c.90, all】** All projects proposed in
5 accordance with this section shall be submitted to the New Jersey
6 Economic Development Authority for its review and approval. The
7 projects are encouraged, when practicable, to adhere to the green
8 building manual prepared by the Commissioner of Community
9 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).
10 **【Any application that is deemed to be incomplete on the first day of**
11 **the nineteenth month next following enactment of P.L.2009, c.90**
12 **shall not be eligible for consideration.】**

13 (2) (a) In order for an application to be complete and considered
14 by the authority it shall include, but not be limited to: (i) a public-
15 private partnership agreement between the State or county college
16 and the private developer; (ii) a full description of the project; (iii)
17 the estimated costs and financial documentation for the project; (iv)
18 a timetable for completion of the project extending no more than
19 five years after consideration and approval; and (v) any other
20 requirements that the authority deems appropriate or necessary.

21 (b) As part of the estimated costs and financial documentation
22 for the project the application shall contain a long-range
23 maintenance plan and shall specify the expenditures that qualify as
24 an appropriate investment in maintenance. This long-range
25 maintenance plan shall be approved by the authority pursuant to
26 regulations promulgated by the authority that reflect national
27 building maintenance standards and other appropriate building
28 maintenance benchmarks. All contracts to implement a long-range
29 maintenance plan pursuant to this paragraph shall contain a project
30 labor agreement. The project labor agreement shall be subject to
31 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in
32 a manner that to the greatest extent possible enhances employment
33 opportunities for individuals residing in the county of the project's
34 location.

35 (3) The authority shall review all completed applications, and
36 request additional information as is needed to make a complete
37 assessment of the project. No project shall be undertaken until final
38 approval has been granted by the authority; provided, however, that
39 the authority shall retain the right to revoke approval if it
40 determines that the project has deviated from the plan submitted
41 pursuant to paragraph (2) of this subsection.

42 (4) The authority may promulgate any rules and regulations
43 necessary to implement this subsection, including provisions for
44 fees to cover administrative costs.

45 Where no public fund has been established for the financing of a
46 public improvement, the chief financial officer of the public owner
47 shall require the private entity for whom the public improvement is
48 being made to post, or cause to be posted, a bond guaranteeing

1 prompt payment of moneys due to the contractor, his or her
2 subcontractors and to all persons furnishing labor or materials to the
3 contractor or his or her subcontractors in the prosecution of the
4 work on the public improvement.

5 (cf: P.L.2009, c.90, s.43)

6

7 2. Section 28 of P.L.2009, c.90 (C.40:48G-2) is amended to
8 read as follows:

9 28. a. As used in this section:

10 "Admission charge" means the amount paid for admission,
11 including any service charge and any charge for entertainment at a
12 place of amusement, including but not limited to a dramatic or
13 musical arts admission charge as defined pursuant to subsection (r)
14 of section 2 of P.L.1966, c.30 (C.54:32B-2); and

15 "Major place of amusement" means a place of amusement as that
16 term is defined in subsection (t) of section 2 of P.L.1966, c.30
17 (C.54:32B-2), other than a motion picture theater, and other than an
18 amusement park as defined in section 1 of P.L.1992, c.118 (C.5:3-
19 55), at which admission charges are regularly paid, which place of
20 amusement is not owned by the State or an independent State
21 authority, or is not located on property that is owned by the State,
22 and which contains fixed seats for at least 7,000 patrons. For the
23 purposes of this definition, a county improvement authority is not
24 an independent State authority.

25 b. (1) The governing body of a municipality that is a city of the
26 second class and in which there is located a major place of
27 amusement, except for a municipality subject to the "Municipal
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
29 (C.52:27BBB-1 et al.), may adopt an ordinance imposing a
30 surcharge of an amount up to \$2 on each admission charge that is
31 subject to the New Jersey sales tax pursuant to paragraph (1) of
32 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3), and that
33 is not otherwise exempt from that tax, collected by each major place
34 of amusement in the municipality for admission thereto, which
35 surcharge shall be paid by the customer from whom the sales tax is
36 due pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3). A
37 surcharge imposed under an ordinance adopted pursuant to this
38 paragraph shall be in addition to any other tax or fee imposed
39 pursuant to statute or local ordinance or resolution by any
40 governmental entity upon the admission charge. A surcharge
41 imposed under an ordinance adopted pursuant to this paragraph
42 shall be separately stated on any bill, receipt, invoice or similar
43 document provided to the patron, but shall not be considered part of
44 the sale price for the purpose of determining tax pursuant to
45 P.L.1966, c.30 (C.54:32B-1 et seq.).

46 (2) The governing body of a municipality that is a city of the
47 second class in which there is located a major place of amusement,
48 except for a municipality subject to the "Municipal Rehabilitation

1 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
2 al.), may adopt an ordinance imposing a surcharge of an amount up
3 to \$2 on parking for the major place of amusement. A parking
4 surcharge imposed under an ordinance adopted pursuant to this
5 paragraph shall be in addition to any other tax or fee imposed
6 pursuant to statute or local ordinance or resolution by any
7 governmental entity upon the parking charge. A surcharge imposed
8 under an ordinance adopted pursuant to this paragraph shall be
9 separately stated on any bill, receipt, invoice or similar document
10 provided to the patron, if any, but shall not be considered part of the
11 sale price for the purpose of determining tax pursuant to P.L.1966,
12 c.30 (C.54:32B-1 et seq.).

13 (3) No ordinance, amendment, or revision of an ordinance
14 adopted under this subsection shall be submitted to or adopted by
15 initiative or referendum, notwithstanding any other law to the
16 contrary.

17 c. A copy of an ordinance adopted pursuant to this section shall
18 be transmitted upon adoption or amendment to the State Treasurer
19 along with a list of the names and locations of major places of
20 amusement in the municipality. An ordinance so adopted or any
21 amendment thereto shall provide that the surcharge provisions of
22 the ordinance or any amendment to the surcharge provisions shall
23 take effect on the first day of the first full month occurring 30 days
24 after the date of transmittal to the State Treasurer. Any ordinance
25 adopted pursuant to this section shall contain the following
26 provisions:

27 (1) A vendor shall not assume or absorb the surcharge imposed
28 by the ordinance;

29 (2) A vendor shall not in any manner advertise or hold out to
30 any person or to the public in general, in any manner, directly or
31 indirectly, that the surcharge will be assumed or absorbed by the
32 vendor, that the surcharge will not be separately charged and stated
33 to the customer, or that the surcharge will be refunded to the
34 customer;

35 (3) Each assumption or absorption by a vendor of the surcharge
36 shall be deemed a separate offense and each representation or
37 advertisement by a vendor for each day the representation or
38 advertisement continues shall be deemed a separate offense; and

39 (4) Penalties as fixed in the ordinance, for violation of the
40 foregoing provisions.

41 d. (1) A surcharge imposed pursuant to a municipal ordinance
42 adopted under the provisions of this section shall be collected on
43 behalf of the municipality by the person collecting the admission
44 charge or parking fee from the customer.

45 (2) Each person required to collect a surcharge imposed by the
46 ordinance shall be personally liable for the surcharge imposed,
47 collected or required to be collected hereunder. Any such person
48 shall have the same right in respect to collecting the surcharge from

1 a customer as if the surcharge were a part of the admission charge
2 and payable at the same time; provided, however, that the chief
3 fiscal officer of the municipality shall be joined as a party in any
4 action or proceeding brought to collect the surcharge.

5 e. (1) A person required to collect a surcharge imposed
6 pursuant to the provisions of this section shall, on or before the
7 dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-
8 17), forward to the Director of the Division of Taxation in the
9 Department of the Treasury the surcharge collected in the preceding
10 month and make and file a return for the preceding month with the
11 director on any form and containing any information as the director
12 shall prescribe as necessary to determine liability for the surcharge
13 in the preceding month during which the person was required to
14 collect the surcharge.

15 (2) The director may permit or require returns to be made
16 covering other periods and upon any dates as the director may
17 specify. In addition, the director may require payments of
18 surcharge liability at any intervals and based upon any
19 classifications as the director may designate. In prescribing any
20 other periods to be covered by the return or intervals or
21 classifications for payment of surcharge liability, the director may
22 take into account the dollar volume of surcharge involved as well as
23 the need for ensuring the prompt and orderly collection of the
24 surcharge imposed.

25 (3) The director may require amended returns to be filed within
26 20 days after notice and to contain the information specified in the
27 notice.

28 f. (1) The Director of the Division of Taxation in the
29 Department of the Treasury shall collect and administer the
30 surcharges; in so doing, the director shall have all the powers
31 granted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.).
32 Surcharges imposed pursuant to the provisions of this section shall
33 be governed by the provisions of the State Uniform Tax Procedure
34 Law, R.S.54:48-1 et seq.

35 (2) The director shall determine and certify to the State
36 Treasurer on a quarterly or more frequent basis, as prescribed by the
37 State Treasurer, the amount of revenues collected in each
38 municipality pursuant to this section.

39 (3) The State Treasurer, upon the certification of the director
40 and upon the warrant of the State Comptroller, shall pay and
41 distribute on a quarterly or more frequent basis, as prescribed by the
42 State Treasurer, to each municipality the amount of revenues
43 determined and certified under this subsection.

44 (4) The revenue received by a municipality shall be appropriated
45 as a special item of local revenue subject to the prior written
46 approval by the Director of the Division of Local Government
47 Services in the Department of Community Affairs, and shall be

1 offset with a local unit appropriation of an equal amount for
2 economic development purposes.

3 g. The director may, pursuant to the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), make, adopt, amend, or repeal such rules and regulations as
6 the director finds necessary to carry out the provisions of this
7 section.

8 (cf: P.L.2009, c.90, s.28)

9

10 3. Section 20 of P.L.2009, c.90 (C.40:48H-2) is amended to
11 read as follows:

12 20. a. A municipality having a population in excess of 100,000
13 and within which is located a commercial airport which provides for
14 a minimum of 10 regularly scheduled commercial airplane flights
15 per day, or a municipality in which any portion of such an airport is
16 located, by ordinance, may impose a tax on the rental of motor
17 vehicles on such rental transactions that occur within a designated
18 industrial zone of the municipality. Such tax shall be imposed on
19 the person, corporation, or other legal entity that is permitted the
20 use of a motor vehicle that it does not own for a period of time that
21 is less than one year, in exchange for the payment of a fee, and shall
22 be collected on behalf of the municipality by the person collecting
23 such rental fee, in accordance with such procedures as shall be
24 established in the ordinance imposing the tax.

25 The local motor vehicle rental tax rate imposed under an
26 ordinance adopted pursuant to this section shall not exceed five
27 percent of the total amount of the fee charged for the rental of the
28 motor vehicle, excluding any taxes and surcharges. After the
29 adoption of an ordinance, a municipality may subsequently amend
30 the ordinance from time to time to adjust the boundaries of the
31 industrial zone or, subject to the provisions of section 26 of
32 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
33 modified rate shall not exceed five percent of the total amount of
34 the fee charged for the rental of the motor vehicle, excluding any
35 taxes and surcharges.

36 An ordinance establishing a local motor vehicle rental tax, or
37 modifying the rate of that tax, shall take effect on the first day of
38 the month immediately following the date on which the ordinance
39 becomes legally in force and effect.

40 No ordinance, amendment, or revision of an ordinance adopted
41 under this subsection shall be submitted to or adopted by initiative
42 or referendum, notwithstanding any other law to the contrary.

43 b. As used in this section:

44 "Eligible purposes" means (1) the payment or reimbursement of
45 costs of any "redevelopment project" or other undertaking in
46 furtherance of a "redevelopment plan" in any "area in need of
47 redevelopment" or "area in need of rehabilitation" within the
48 municipality (including, but not limited to, redevelopment projects

1 and undertakings located within the industrial zone), as such terms
2 are defined in the "Local Redevelopment and Housing Law",
3 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal
4 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
5 payment or reimbursement, within or relating to any urban
6 enterprise zone located within the municipality, of such costs as are
7 enumerated in the definition of "project" as contained in subsection
8 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
9 reference to the zone assistance fund or the zone development
10 corporation, (4) the payment of bonds issued for any of the
11 foregoing purposes, (5) planning, evaluation, negotiation, and other
12 preliminary expenses relating to any of the foregoing purposes, and
13 (6) costs of administration and enforcement, including costs and
14 expenses of the municipality incurred in collecting the tax.

15 "Industrial zone" means such portion or portions of the
16 municipality, which may be identified by reference to zoning
17 districts, census tracts, or both, not exceeding in the aggregate 50
18 percent of the territory of the municipality, as is determined by the
19 municipality to be an area having, or intended to have,
20 predominantly industrial, port, airport, and related uses.

21 "Motor vehicle" means any automobile, truck, van, bus, or
22 similar conveyance that is intended primarily for passenger (as
23 distinct from cargo) use, and meeting the requirements of the State
24 for operation on public roads.

25 "Rental of motor vehicle" means any contract or agreement by
26 which a person, corporation, or other legal entity is permitted the
27 use of a motor vehicle that it does not own for a period of time that
28 is less than one year in exchange for the payment of a fee. A rental
29 transaction is deemed to occur at the location at which such person,
30 corporation, or other legal entity takes possession of the motor
31 vehicle.

32 "Rental tax account" means the dedicated trust account
33 established by a municipality pursuant to subsection c. of this
34 section.

35 "Tax proceeds" means amounts collected pursuant to any tax
36 imposed pursuant to sections 19 through 27 of P.L.2009, c.90
37 (C.40:48H-1 et seq.).

38 c. The Director of the Division of Taxation in the Department
39 of the Treasury may require, by regulation, that all taxes collected
40 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
41 seq.) be collected in the same manner as surcharges are collected
42 under section 28 of P.L.2009, c.90 (C.40:48G-2). Revenues that are
43 collected and distributed back to the municipality shall be deposited
44 into a trust account established by the municipality and dedicated
45 exclusively to the purpose of funding one or more eligible purposes.
46 In the case of any assignment pursuant to section 23 of P.L.2009,
47 c.90 (C.40:48H-5), the terms of such assignment shall include the
48 agreement of the municipality to enforce collection of the taxes in

1 such manner as provided therein, and may provide for direct
2 payment of all or a portion of the tax proceeds to a bond trustee. In
3 addition to tax proceeds, there shall be deposited into the rental tax
4 account such other moneys as may, from time to time, be directed
5 by law to be deposited therein.

6 (cf: P.L.2009, c.90, s.20)

7

8 4. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to
9 read as follows:

10 4. a. (1) The governing body of a municipality wherein is
11 located a qualifying economic redevelopment and growth grant
12 incentive area may adopt an ordinance to establish a local Economic
13 Redevelopment and Growth Grant program for the purpose of
14 encouraging redevelopment projects in that area through the
15 provision of incentive grants to reimburse developers for all or a
16 portion of the project financing gap for such projects. No local
17 Economic Redevelopment and Growth Grant program shall take
18 effect until the Local Finance Board approves the ordinance.

19 (2) No ordinance, amendment, or revision of an ordinance
20 adopted under this subsection shall be submitted to or adopted by
21 initiative or referendum, notwithstanding any other law to the
22 contrary.

23 b. A developer that submits an application for a local incentive
24 grant shall indicate on the application whether it is also applying for
25 a State incentive grant. An application by a developer applying for
26 a local incentive grant only shall not require approval by the
27 authority. A municipality or its redevelopment agency only may
28 apply for local incentive grants for: (1) the construction of
29 infrastructure improvements in the public right-of-way, or (2)
30 publicly owned facilities.

31 c. No local incentive grant shall be finally approved by a
32 municipality until approved by the Local Finance Board.

33 d. In deciding whether or not to approve a local incentive grant
34 agreement the Local Finance Board shall consider the following
35 factors:

36 (1) the economic feasibility of the redevelopment project;

37 (2) the extent of economic and related social distress in the
38 municipality and the area to be affected by the redevelopment
39 project;

40 (3) the degree to which the redevelopment project will advance
41 State, regional, and local development and planning strategies;

42 (4) the likelihood that the redevelopment project shall, upon
43 completion, be capable of generating new tax revenue in an amount
44 in excess of the amount necessary to reimburse the developer for
45 project costs incurred as provided in the redevelopment incentive
46 grant agreement;

- 1 (5) the relationship of the redevelopment project to a
2 comprehensive local development strategy, including other major
3 projects undertaken within the municipality;
4 (6) the need for the redevelopment incentive grant agreement to
5 the viability of the redevelopment project;
6 (7) compliance with the provisions of P.L.2009, c.90
7 (C.52:27D-489a et al.); and
8 (8) the degree to which the redevelopment project enhances and
9 promotes job creation and economic development.
10 (cf: P.L.2009, c.90, s.4)

11
12 5. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to
13 read as follows:

14 11. a. The governing body of a municipality is authorized to
15 enter into a redevelopment incentive grant agreement with a
16 developer, which shall not be effective until adopted by ordinance,
17 for any redevelopment project located within a qualifying economic
18 redevelopment and growth grant incentive area. No ordinance,
19 amendment, or revision of an ordinance adopted under this
20 subsection shall be submitted to or adopted by initiative or
21 referendum, notwithstanding any other law to the contrary.

22 b. The redevelopment incentive grant agreement shall specify
23 the amount of the incentive grant to be awarded the developer, the
24 frequency of payments, and the length of time, which shall not
25 exceed 20 years, during which that reimbursement shall be granted.
26 In no event shall the combined amount of the reimbursements under
27 redevelopment incentive grant agreements with the State or
28 municipality exceed 20 percent of the total cost of the project.

29 c. The municipality may enter into a redevelopment incentive
30 grant agreement only if the chief financial officer of the
31 municipality makes a finding that the incremental revenues to be
32 realized from the redevelopment project will be in excess of the
33 amount necessary to reimburse the developer for its project
34 financing gap. Such finding shall be based upon appropriate
35 documentation and calculations supporting the decision.

36 d. Within a qualifying economic redevelopment and growth
37 grant incentive area a municipality that has entered into a local
38 redevelopment incentive grant agreement may pledge eligible
39 revenues it is authorized to collect as follows:

40 (1) incremental payments in lieu of taxes, with respect to
41 property located in the district, made pursuant to the "Five-Year
42 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
43 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
44 (C.40A:20-1 et al.);

45 (2) incremental revenues collected from payroll taxes, with
46 respect to business activities carried on within the area, pursuant to
47 section 15 of P.L.1970, c.326 (C.40:48C-15);

1 (3) incremental revenue from lease payments made to the
2 municipality, the developer, or the developer's successors with
3 respect to property located in the area;

4 (4) incremental revenue collected from parking taxes derived
5 from parking facilities located within the area pursuant to section 7
6 of P.L.1970, c.326 (C.40:48C-7);

7 (5) incremental admissions and sales taxes derived from the
8 operation of a public facility within the area pursuant to section 1 of
9 P.L.2007, c.302 (C.40:48G-1);

10 (6) (a) incremental sales and excise taxes which are derived
11 from activities within the area and which are rebated to or retained
12 by the municipality pursuant to the "New Jersey Urban Enterprise
13 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law
14 providing for such rebate or retention;

15 (b) within Planning Area 1 (Metropolitan) under the State
16 Development and Redevelopment Plan adopted pursuant to the
17 "State Planning Act," sections 1 through 12 of P.L.1985, c.398
18 (C.52:18A-196 et seq.), a municipality may impose the entire State
19 sales tax on business activities within a redevelopment project
20 located in an urban enterprise zone that would ordinarily be entitled
21 to collect reduced rate revenues under section 21 of P.L.1983, c.303
22 (C.52:27H-80), and pledge the excess revenues to a local
23 redevelopment incentive grant agreement;

24 (7) incremental parking revenue collected, pursuant to section 7
25 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
26 as part of a redevelopment project, except for public parking
27 facilities owned by parking authorities pursuant to the "Parking
28 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

29 (8) incremental revenues collected, pursuant to section 3 of
30 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),
31 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel
32 taxes;

33 (9) upon approval by the Local Finance Board, other
34 incremental municipal revenues that may become available;

35 (10) the property tax increment.

36 The incremental revenue for the revenues listed in this
37 subsection, when applicable, shall be calculated as the difference
38 between the amount collected in any fiscal year from any eligible
39 revenue source included in the local redevelopment incentive grant
40 agreement, less the revenue increment base for that eligible
41 revenue.

42 e. (1) In calculating the general tax rate of a municipality each
43 year, the aggregate amount of the incremental ratable value over the
44 property tax increment base in the redevelopment project area that
45 is pledged as part of a redevelopment incentive grant agreement
46 shall be excluded from the ratable base of a municipality.

1 (2) The amount of property tax increment not pledged toward a
2 redevelopment incentive grant agreement shall be allocated
3 pursuant to the normal tax rate distribution.

4 The full incremental value of a project area shall be included in
5 the value used for county and regional school tax apportionment
6 until such time that the Director of the Division of Taxation in the
7 Department of the Treasury can certify that property tax
8 management systems are capable of handling the technical and legal
9 requirements of treating parcels in areas of redevelopment as
10 exempt from county and regional school apportionment.

11 f. In addition to the incremental revenues that may be pledged
12 in subsection d. of this section, any amount of tax proceeds
13 collected from the tax on the rental of motor vehicles pursuant to
14 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a
15 redevelopment incentive grant agreement with a developer,
16 regardless of whether or not the redevelopment project area is
17 within or outside of the designated industrial zone from which the
18 tax on the rental of motor vehicles is collected.

19 g. (1) A developer that has entered into a redevelopment
20 incentive grant agreement with a municipality pursuant to this
21 section may, upon notice to and consent of the municipality, pledge
22 and assign as security for any loan, any or all of its right, title and
23 interest in and to such agreements and in the incentive grants
24 payable thereunder, and the right to receive same, along with the
25 rights and remedies provided to the developer under such
26 agreement. Any such assignment shall be an absolute assignment
27 for all purposes, including the federal bankruptcy code.

28 (2) Any pledge of incentive grants made by the developer shall
29 be valid and binding from the time when the pledge is made and
30 filed in the office of the municipal clerk. The incentive grants so
31 pledged and thereafter received by the developer shall immediately
32 be subject to the lien of the pledge without any physical delivery
33 thereof or further act, and the lien of any pledge shall be valid and
34 binding as against all parties having claims of any kind in tort,
35 contract, or otherwise against the developer irrespective of whether
36 the parties have notice thereof. Neither the redevelopment
37 incentive grant agreement nor any other instrument by which a
38 pledge under this section is created need be filed or recorded except
39 with the municipality.

40 (cf: P.L.2009, c.90, s.11)

41

42 6. Section 12 of P.L.2009, c.90 (C.52:27D-489l) is amended to
43 read as follows:

44 12. a. A municipality may adopt an ordinance creating a
45 municipal redevelopment utility under the name and style of "the
46 _____ redevelopment utility," with all or any significant part
47 of the name of the municipality inserted. The redevelopment utility
48 shall be a municipal public utility for the purposes of Title 40A of

1 the New Jersey Statutes. No ordinance, amendment, or revision of
2 an ordinance adopted under this subsection shall be submitted to or
3 adopted by initiative or referendum, notwithstanding any other law
4 to the contrary.

5 b. The purpose of every redevelopment utility shall be to
6 receive revenues collected pursuant to section 11 of P.L.2009, c.90
7 (C.52:27D-489k) and to use those revenues as payment of incentive
8 grants, and for other local purposes that may be approved by the
9 Local Finance Board, as that board deems necessary or useful.

10 c. If a municipality does not create a municipal redevelopment
11 utility, then any revenues collected pursuant to section 11 of
12 P.L.2009, c.90 (C.52:27D-489k) and any grants received to pay
13 incentive grants shall be treated as riders in the municipal budget
14 pursuant to N.J.S.40A:4-36.
15 (cf: P.L.2009, c.90, s.12)

16
17 7. This act shall take effect immediately and shall be
18 retroactive to July 28, 2009 (the date of enactment of P.L.2009,
19 c.90).

20

21

22

STATEMENT

23

24 This bill modifies provisions of the "New Jersey Economic
25 Stimulus Act of 2009," P.L.2009, c.90 to ensure that it can be
26 implemented effectively.

27 One provision of that law that allows a State college or a county
28 college to enter into a contract with a private entity, permitting the
29 private entity to assume full financial and administrative
30 responsibility for construction or improvement of a project on
31 campus, provided that the private entity finances the project and the
32 State or institution of higher education retains ownership of the
33 land. Section 1 of this bill amends that section to provide that a
34 project will be eligible as a public-private partnership if the project
35 benefits or enhances the institution although the project does not
36 specifically involve a building, structure or facility of the college.

37 The bill authorizes another public entity to become the owner or
38 lessee of the project, the lessee of the land, or both, and to issue
39 indebtedness in accordance with that public entity's enabling
40 statute. The bill provides that the public entity will not be subject
41 to the contracting or procurement requirements established under
42 law for that entity.

43 This bill clarifies that such a project and the land upon which the
44 project is located are exempt from property taxation and special
45 assessments of the State, the municipality, or other political
46 subdivision of the State provided that the project is owned by or
47 leased to a public entity, non-profit business entity, foreign or
48 domestic, or a business entity wholly owned by such non-profit

1 business entity. Also, the bill provides that no payment in lieu of
2 taxes will be required.

3 Under current law, a project must be submitted to the New
4 Jersey Economic Development Authority for its review and
5 approval within nineteen months of the law's original effective
6 date, July 28, 2009. The bill removes this time limit on the
7 submission and approval of projects.

8 Sections 2 through 6 of the bill ensure that ordinances that are
9 authorized to be adopted pursuant to the "New Jersey Economic
10 Stimulus Act of 2009" will not be subject to delays from public
11 referendum challenges in those municipalities in which general
12 initiative and referendum is authorized. The statutes contain other
13 provisions to ensure that certain types of ordinances are not subject
14 to public changes through initiative and referendum and ordinances
15 adopted for the purpose of providing economic stimulus require
16 swift implementation and should not be impeded through the
17 referendum process.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2059 and 1897

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2010

The Assembly Commerce and Economic Development Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2059 and 1897.

This Assembly Commerce and Economic Development Committee Substitute for Assembly, Nos. 2059 and 1897 modifies provisions of the "New Jersey Economic Stimulus Act of 2009," P.L.2009, c.90, to ensure that it can be implemented effectively.

One provision of P.L.2009, c.90 allows a State college or a county college to enter into a public-private partnership contract with a private entity, permitting the private entity to assume full financial and administrative responsibility for construction or improvement of a project on campus, provided that the private entity finances the project and the State or institution of higher education retains ownership of the land. Section 1 of this substitute amends that section to provide that a project will be eligible as a public-private partnership if the project benefits or enhances the institution even if the project does not specifically involve a building, structure or facility of the college.

The substitute authorizes another public entity to become the owner or lessee of the project, the lessee of the land, or both, and to issue indebtedness in accordance with that public entity's enabling statute. The substitute provides that the public entity will not be subject to the contracting or procurement requirements established under law for that entity.

The substitute clarifies that such a project and the land upon which the project is located are exempt from property taxation and special assessments of the State, the municipality, or other political subdivision of the State provided that the project is owned by or leased to a public entity, non-profit business entity, foreign or domestic, or a business entity wholly owned by such non-profit business entity. Also, the bill provides that no payment in lieu of taxes will be required.

Under current law, a project must be submitted to the New Jersey Economic Development Authority for its review and approval within nineteen months of the law's effective date, July 28, 2009. The

substitute extends this time limit on the submission and approval of projects by one year, to within 31 months of the law's effective date.

Sections 2 through 6 of the substitute ensure that ordinances that are authorized to be adopted pursuant to the "New Jersey Economic Stimulus Act of 2009" will not be subject to delays from public referendum challenges in those municipalities in which general initiative and referendum is authorized. Other statutes contain provisions to ensure that certain types of ordinances are not subject to public changes through initiative and referendum; ordinances adopted for the purpose of providing economic stimulus require swift implementation and likewise should not be impeded through the referendum process.

This Assembly Commerce and Economic Development Committee Substitute for Assembly, Nos. 2059 and 1897 is identical to Senate, No. 920 [1R].

STATEMENT TO

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2059 and 1897**

with Assembly Floor Amendments
(Proposed by Assemblyman COUTINHO)

ADOPTED: FEBRUARY 25, 2010

These floor amendments:

- clarify that ordinances adopted by municipalities pursuant to subsection b. of N.J.S.A.52:27D-489e, to approve State incentive grants for developers also seeking municipal incentive grants, and pursuant to subsection c. of that section, to approve an application for a State incentive grant, would not be subject to possible impediment through the referendum process. This floor amendment is clarifying because N.J.S.A.40A:12A-28 already provides that redevelopment ordinances under the "Local Redevelopment and Housing Law" are not subject to initiative or referendum. Also, it would not be consistent to exempt the municipal incentive grant ordinance from referendum without exempting the State incentive grant approval ordinance for the same redevelopment project.
- amend the definition of "biotechnology company" to clarify that only a company sufficiently involved in biotechnology would be eligible to participate in the program. The company must own, or have filed for or have a valid license to use protected, proprietary intellectual property. Specifically, language added to the definition of "new or expanding" would require that eligible companies would have to have fewer than 225 employees in the United States as of June 30 and as of the date of the exchange of the tax benefit certificate. In addition, companies would have to meet certain employee threshold requirements in New Jersey as of June 30 and meet the same threshold requirements applicable on June 30 on the date of the exchange of the certificate. The purpose of the revisions is to preclude a company from having to meet the minimum employee eligibility requirement on three separate dates, as presently required by the statute.
- add to the definition of "qualifying economic redevelopment and growth grant incentive area" in section 3 of P.L.2009, c.90 (C.52:27D-489c) a pinelands regional

growth area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.).

Finally, these floor amendments, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program.

STATEMENT TO
[First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2059 and 1897

with Assembly Floor Amendments
(Proposed by Assemblyman COUTINHO)

ADOPTED: MARCH 15, 2010

These floor amendments were recommended by the New Jersey Economic Development Authority to ensure that the property tax exemption is limited to appropriate projects that further the educational purposes of an educational institution. The intent is to treat these projects in a similar fashion to projects directly undertaken by a public or private institution of higher education. Leases of parts of exempt property to for-profit entities would not result in taxation of the leasehold interest.

These floor amendments would resolve an ambiguity in P.L.2009, c.90 and permit a municipal redeveloper to construct ancillary public improvements and receive reimbursements for the full costs of those improvements that are located in the public right-of-way, but outside of the project area of a redevelopment project. These provisions are needed to ensure that the infrastructure improvements, particularly road, bridge, and tunnel improvements, which are located on site or off-tract of the redevelopment project and are essential for the success of the project, are eligible for full reimbursement.

The floor amendments eliminate the requirement for approval of a State redevelopment incentive grant by municipal ordinance.

These floor amendments also contain a recommendation by the Pinelands Commission for additional language to the definition of a "qualifying economic redevelopment and growth grant area" to ensure that all of the "centers" contained in the commission's memo of understanding concerning center designations under the State Plan are reflected in the law.

Newsroom

Home > Newsroom > Press Releases > 2010 > May 05, 2010 - Governor Christie Signs Legislation to Encourage Public-Private Partnerships for Higher Education Institutions

May 05, 2010 - Governor Christie Signs Legislation to Encourage Public-Private Partnerships for Higher Education Institutions

For Immediate Release:
Date: Wednesday, May 5, 2010

Contact: Michael Drewniak
609-777-2600

Trenton, NJ - Governor Chris Christie today signed legislation to ease restrictions on public-private partnerships between higher education institutions and private entities, encouraging flexibility in planning and growth at state and county colleges, and creating jobs.

The bill, S-920 makes amendments to "New Jersey Economic Stimulus Act of 2009." Immediately, the law will enable Montclair State University to proceed with the construction of a 2,000-unit housing and dining complex on the MSU campus, a \$180 million, shovel-ready project that will put an estimated 1,350 New Jersey construction workers to work.

In the long term, the legislation will remove restrictions preventing New Jersey's state and county colleges from entering into public-private construction partnerships, clarify that these projects are exempt from property taxation, provided that they are owned by a public or non-profit entity and are used to further the educational mission of the institution, and allow a public entity to become the owner or lessee of the project for financing arrangement purposes. The legislation may spur further private construction partnership projects at other institutions, including Kean University, Stockton College, The College of New Jersey, Ramapo College, and NJ City University.

"New Jersey's higher education institutions must be given the necessary tools to plan their growth through creative and responsible arrangements that do not leave the funding burden solely on institution budgets," said Governor Christie. "Public-private partnerships are a key mechanism to provide that flexibility and accommodate growth in our state and county colleges, while creating jobs and spurring economic growth. The legislation signed today provides needed tools that will be critical to maintaining our colleges' status as world-class learning centers. We will see the immediate gains provided by this legislation here at Montclair State University with the construction of a new housing complex, creating much needed jobs for 1,350 construction workers."

Prior to the signing of S-920, state and county colleges were only authorized to enter into agreements with private entities that permitted the private entity to assume full financial and administrative responsibility for the on-campus construction, reconstruction, repair, alteration, improvement, or extension of a building, structure, or facility of the institution, provided that the project is financed entirely by the private entity, and the college maintains full ownership of the land.

Through the enactment of S-920, state and county colleges will be permitted to become the owner or lessee of public-private partnership projects and take a vested interest in their own growth and expansion.

S-920 also includes amendments to:

- Simplify and streamline management of certain tax credit transfer programs for Biotech firms;
- Make technical modifications and clarify the scope of infrastructure projects that may be undertaken pursuant to an Economic Redevelopment and Growth Grant (ERGG), and expand the scope of projects that may be taken by a municipal redeveloper pursuant to an ERGG grant;
- Expand the definition of "Qualifying Economic Redevelopment and Growth Grant Incentive Area" to include any areas designated as Pinelands Regional Growth Areas; and

Press Releases



Photos



Public Addresses



Executive Orders



Press Kit



Reports



Video/Audio

