

ASSEMBLY BILL NO. 747

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 747 (First Reprint) with my recommendation for reconsideration.

A. Summary of Bill

The Purpose of this bill is to assist with funding in established and future "special improvement districts" ("SIDs") to enable them to continue to revitalize existing downtown areas throughout our State. In 1984 the Legislature created the concept of a SID, an area within a town designated by municipal ordinance in which a special assessment on all property is imposed for the purpose of promoting the economic and general welfare of the district and the municipality.

Since their inception, SIDs have, for the most part, succeeded in generating revenue to fund projects such as street lighting, sidewalks, business promotions and increased public safety. Local small businesses have joined together to help promote and improve their downtown areas. According to SIDs' administrators, the zones have increased sales tax revenue and retail sales while eliminating many vacant buildings and storefronts. Due to the expansion in the number of projects, some of the SIDs have found that they lack sufficient funds to complete the work they have started or planned even though some assessments on property owners have doubled.

This bill authorizes any municipality which has established, or does establish, a SID, except a municipality in which an urban enterprise zone has been established,

to designate all or any portion of the SID as a "downtown business Improvement zone" ("DBIZ").

Although sales tax revenues are generally deposited in the General Fund, this bill would provide an exception for revenues on certain retail sales of tangible personal property and services in the zone. A declining share of those revenues would be deposited in a new fund created by this bill, to be known as the downtown business improvement fund.

The moneys in the fund would be used for projects or services to further public improvement within the zone. To receive fund moneys for projects or services, the governing body of any municipality which has created a zone, or the district management corporation which manages the zone, would be required to develop a proposal for the project or for eligible services, as well as a statement of other revenue sources for financing. A proposal, once adopted, would be transmitted to the Division of Housing and Community Development at the Department of Community Affairs ("DCA") for its evaluation and approval. The bill sets forth the criteria which DCA would employ in evaluating such proposals. When DCA approved a project and the release of certain moneys from the fund, the State Treasurer would pay that amount from the fund to the municipality.

B. Recommended Action

I commend the sponsors for their commitment to the revitalization of our downtown areas. Given the obvious success of our existing special improvement district program, it is imperative that we take vital steps to insure continued success. The concept of this bill, in creating a downtown business Improvement district program, goes a long way toward realizing this worthy objective.

Nevertheless, I feel constrained to return this bill with my recommendation for reconsideration because the proposed funding mechanism, retention of certain sales tax revenues by municipalities, is inappropriate. It is inconsistent with the generally accepted concept of a uniform State sales tax, which allows the Governor and the Legislature to set priorities for Statewide spending.

Accordingly, I recommend that we replace the retention of a portion of sales tax revenues with the creation of a revolving loan fund which will allow for the continued replenishment and availability of funds for worthwhile projects. The same municipalities that would have benefited from the bill will continue to be eligible for a loan to assist with the implementation of a public improvement. In addition, as public improvements involving land acquisition, construction and related work are of primary concern in a program like this, I further recommend that we limit the use of these loans to such improvements, rather than make the moneys equally available for "eligible services," such as administration or marketing costs.

My recommendation includes an appropriation of \$5 million from the General Fund to the newly-created downtown business improvement loan fund. This significant appropriation, along with technical assistance from the Department of Community Affairs, will enable the downtown areas in our State to continue to thrive and benefit their communities and all the citizens of our State.

Therefore, I herewith return Assembly Bill No. 747 (First Reprint) and recommend that it be amended as follows:

<u>Page 2, Line 2:</u>	Delete "and"; insert ","
<u>Page 2, Line 3:</u>	After the citation, insert "and making an appropriation"
<u>Page 2, Section 1, Lines 9-12:</u>	Delete in entirety
<u>Page 2, Section 1, Line 19:</u>	After "improvement" insert "loan"
<u>Page 2, Section 1, Line 20:</u>	Delete "by the State Treasurer"; delete "4"; insert "3"
<u>Page 2, Section 1, Line 21:</u>	Delete "into which shall be"
<u>Page 2, Section 1, Lines 22-33:</u>	Delete in entirety
<u>Page 2, Section 1, Line 34:</u>	Delete " "Project" " insert " "Improvement" "
<u>Page 3, Section 1, Line 1:</u>	Delete "utility,"
<u>Page 3, Section 1, Line 6:</u>	Delete "administrative"
<u>Page 3, Section 1, Line 9:</u>	Delete "project" insert "improvement"

<u>Page 3, Section 2, Line 17:</u>	Delete "Any"
<u>Page 3, Section 2, Lines 18-31:</u>	Delete in entirety
<u>Page.3, Section 2, Lines 34-35:</u>	Delete "of the Division of Taxation In the Department of the Treasury and to the Director"
<u>Page 3, Section 3, Line 38 –</u> <u>Page 4. Section 3. Line 25:</u>	Delete section 3 In Its entirety
<u>Page 4, Section 4, Line 27:</u>	Delete "4." Insert "3."; after "improvement" insert "loan"
<u>Page 4, Section 4, Line 28:</u>	Delete "to be held by the State Treasurer" insert "in the Department of Community Affairs"
<u>Page 4. Section 4, Line 29:</u>	Delete "required to be deposited therein under section 3 of"
<u>Page 4. Section 4. Line 30:</u>	Delete in entirety
<u>Page 4. Section 4. Line 31:</u>	Delete "and any moneys"
<u>Page 4- Section 4, Line 35:</u>	Delete "The State Treasurer may invest and reinvest any" ; insert "All"
<u>Page 4. Section 4. Line 36:</u>	After 'thereof,' Insert "may be invested and reinvested"
<u>Page 4. Section 5. Line 41 –</u> <u>Page 5. Section 5. Line 9:</u>	Delete section 5 in its entirety
<u>Page 5. Section 6. Line 11:</u>	Delete "6."; insert "4." ; after "improvement" insert "loan"
<u>Page 5. Section 6. Lines 13-14</u>	Delete "and administering entities, if any, which manage such zones"
<u>Page 5,Section 6. Line 15:</u>	Delete "and In providing eligible services"
<u>Page 5. Section 6,Lines 16-18:</u>	Delete "governing body of a municipality in which a zone is designated and an administering entity, if any, which manages that zone"; Insert "municipality or district management corporation"
<u>Page 5. Section 6, Line 18:</u>	Delete "by resolution, propose" insert " submit a loan application to the Department of Community Affairs to borrow moneys from the fund"
<u>Page 5, Section 6, Lines 18-19:</u>	Delete "project for the"; after "zone" insert "."
<u>Page 5, Section 6, Line 19:</u>	Delete "or to provide eligible services to the zone,"

- Page 5, Section 6, Lines 20-32: Delete in entirety
- Page 5, Section 6, Line 33: Delete "services" insert "c. The loan application shall meet all of the requirements set forth in rules and regulations promulgated by the Commissioner of Community Affairs"; after "include" insert "the following information":
- Page 5, Section 6, Lines 34-35: Delete "project or of the eligible services to be provided,"; insert "improvement and how it relates to the special improvement district plan".
- Page 5, Section 6, Line 36: Delete "project"; insert "improvement"
- Page 5, Section 6, Lines 36-38: Delete ", or of the total costs of eligible services, and an estimate of the amounts of funding necessary annually from the account"
- Page 5, Section 6, Line 40: Delete "project or to fund the cost of eligible services"; insert "improvement"
- Page 5, Section 6, Lines 41-42: Delete "project, or of the time during which the eligible services are to be maintained"; insert "improvement"
- Page 5, Section 6, Line 44 -
Page 6, Section 6, Line 1: Delete "project or the eligible services further the municipality's policy and intentions for addressing the economic conditions existing In the zone"; insert "improvement furthers the purposes of the downtown business Improvement zone'
- Page 6, Section 6, Line 2: Delete "A provision that not less than the prevailing wage rate, as"
- Page 6, Section 6, Lines 2-7: Delete in entirety; insert "An analysis of the costs to be incurred and the benefits anticipated to be derived from the proposed public Improvement."
- Page 6, Section 6, After line 7: Insert "d. In reviewing and approving applications for loans from the downtown business improvement loan fund, the Department of Community Affairs may require that the municipality or the district management corporation receiving the loan provide matching funds, in any percentage that may be deemed appropriate by the department, as a condition for the receipt of the loan.
- 5.a. In any instance In which a municipality or a district management corporation receives a loan from the

downtown business improvement loan fund, the governing body of the municipality shall establish assessments in the manner in which costs may be assessed pursuant to section 18 of P.L.1972, c.134 (C.40:56-72) within the special improvement district in which the downtown business improvement zone is located in an amount sufficient to produce revenues on an annual basis to repay the loan in accordance with the repayment schedule for the loan established by the Department of Community Affairs.

b. The Department of Community Affairs may, at any time, revoke the approval of an improvement or funding for an improvement if it finds that the payments made from the fund are not being used as required by P. L. , c. (C.) (pending before the Legislature as this bill).”

Page 6, Section 7, Lines 9-36:

Delete section 7 in its entirety

Page 6, Section 8, Line 38 -
Page 7, Section 8, Line 3:

Delete section 8 in its entirety

Page 7, Section 9, Lines 5-12:

Delete section 9 in its entirety

Page 7, After Line 12:

Insert “6. The Commissioner of Community Affairs shall promulgate, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) such rules and regulations as are necessary to implement the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

7. The Department of Community Affairs shall conduct a study of the effects of P.L. , c. (C.) (pending before the Legislature as this bill), make a report of the study's findings and recommendations and submit the report to the Governor, President of the Senate and Speaker of the General Assembly no later than 3 years following the effective date of P.L. , c. (C.).

8. There is hereby appropriated \$5 million from the General Fund to the Department of Community Affairs to be deposited in the downtown business improvement loan fund.”

Page 7, Section 10, Line 14:

Delete “10.”; Insert “9.”

Respectfully,

Governor

Attest:

John J. Farmer, Jr.
Chief Counsel to the Governor