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P.L. 2003, CHAPTER 274, *approved January 14, 2004*
Senate, No. 2833 (*Second Reprint*)

1 **AN ACT** concerning the approval of the use of certain bond proceeds
2 for economic growth and development projects, amending
3 P.L.2003, c.166.

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

7
8 1. Section 9 of P.L.2003, c.166 (C.34:1B-139.1) is amended to
9 read as follows:

10 9. Notwithstanding the provisions of any law, rule, regulation or
11 order to the contrary:

12 a. The authority shall have the power, pursuant to the provisions
13 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
14 refunding bonds, incur indebtedness and borrow money secured, in
15 whole or in part, by money received pursuant to this act for the
16 purpose of (1) providing funds for the payment, in full or in part, of
17 the grants provided to businesses under sections 1 through 14 of
18 P.L.1996, c.26 (C.34:1B-124 through 34:1B-137); (2) providing funds
19 to be used by the authority only for the purposes enumerated in
20 subsections a. and b. of section 4 of P.L.1992, c.16 (C.34:1B-7.13) for
21 payments to, or for the benefit of, designated industries that have the
22 greatest potential to create eligible positions and promote State
23 development strategies; and (3) and any costs related to the issuance
24 of such bonds. The authority may establish reserve or other funds to
25 further secure bonds and refunding bonds. The bonds shall be in the
26 amount to yield proceeds to fund, all or in part, the payment of grants
27 provided to business under this act, plus additional bonds to pay for
28 the costs of issuance. Notwithstanding anything to the contrary, bonds
29 issued for the purposes of paragraph (2) of this subsection, excluding
30 refunding bonds, may only be issued upon certification by the authority
31 at the time of issuance to the effect that payments for principal and
32 interest on such bonds and any additional costs authorized by that
33 paragraph (2) may not exceed an amount equivalent to the residual
34 withholdings anticipated at the time of issuance of such bonds for the
35 applicable fiscal years.

36 b. The authority may, in any resolution authorizing the issuance of
37 bonds or refunding bonds, pledge the contract with the State
38 Treasurer, provided for in section 10 of P.L.2003, c.166
39 (C.34:1B-139.2), or any part thereof, for the payment or redemption

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:

¹ **Senate SBA committee amendments adopted January 8, 2004.**

² **Senate amendments adopted in accordance with Governor's recommendations January 12, 2004.**

1 of the bonds or refunding bonds, and covenant as to the use and
2 disposition of money available to the authority for payments of bonds
3 and refunding bonds. All costs associated with the issuance of bonds
4 and refunding bonds by the authority for the purposes set forth in this
5 act may be paid by the authority from amounts it receives from the
6 proceeds of the bonds or refunding bonds and from amounts it
7 receives pursuant to sections 10 and 11 of P.L.2003, c.166
8 (C.34:1B-139.2 and C.34:1B-139.3), which costs may include, but are
9 not limited to, any costs and fees relating to the issuance of the bonds
10 or refunding bonds, annual administrative costs and fees of the
11 authority attributable to the payment of grants issued to businesses
12 under this act, the fees and costs of bond counsel and any other
13 professional fees and costs attributable to the agreements described in
14 subsection c. of this section. The bonds or refunding bonds shall be
15 authorized by resolution, which shall stipulate the manner of execution
16 and form of the bonds, whether the bonds are in one or more series,
17 the date or dates of issue, time or times of maturity, which shall not
18 exceed 20 years, the rate or rates of interest payable on the bonds,
19 which may be at fixed rates or variable rates, and which interest may
20 be current interest or may accrue, the denomination or denominations
21 in which the bonds are issued, conversion or registration privileges,
22 the sources and medium of payment and place or places of payment,
23 terms of redemption, privileges of exchangeability or
24 interchangeability, and entitlement to priorities of payment or security
25 in the amounts to be received by the authority pursuant to sections 10
26 and 11 of P.L.2003, c.166 (C.34:1B-139.2 and C.34:1B-139.3). The
27 bonds may be sold at a public or private sale at a price or prices
28 determined by the authority. The authority is authorized to enter into
29 any agreements necessary or desirable to effectuate the purposes of
30 this section, including agreements to sell bonds or refunding bonds to
31 any person and to comply with the laws of any jurisdiction relating
32 thereto.

33 c. In connection with any bonds or refunding bonds issued
34 pursuant to this act, the authority may also enter into any revolving
35 credit agreement, agreement establishing a line of credit or letter of
36 credit, reimbursement agreement, interest rate exchange agreement,
37 currency exchange agreement, interest rate floor or cap, options, puts
38 or calls to hedge payment, currency, rate, spread or similar exposure,
39 or similar agreements, float agreements, forward agreements,
40 insurance contract, surety bond, commitment to purchase or sell
41 bonds, purchase or sale agreement, or commitments or other contracts
42 or agreements and other security agreements approved by the
43 authority.

44 d. (1) No resolution adopted by the authority authorizing the
45 issuance of bonds or refunding bonds pursuant to this act shall be
46 adopted or otherwise made effective without the approval in writing

1 of the State Treasurer and the Joint Budget Oversight Committee.
2 Except as provided by subsection i. of section 4 of P.L.1974, c.80
3 (C.34:1B-4), bonds or refunding bonds may be issued without
4 obtaining the consent of any department, division, commission, board,
5 bureau or agency of the State, other than the approval as required by
6 this subsection, and without any other proceedings or the occurrence
7 of any other conditions or other things other than those proceedings,
8 conditions or things which are specifically required by this act.

9 (2) Subsequent to the issuance of bonds for the purposes of
10 paragraph (2) of subsection a. of this section, but prior to the
11 expenditure of the proceeds of the issuance of those bonds ²for any
12 program² . ²[other than those proceeds used to fund costs of
13 issuance.]² the authority shall provide the Joint Budget Oversight
14 Committee with ²[an] a detailed description of the program to be
15 funded. No expenditure for such program, shall occur without
16 approval by the committee of that program; provided however, that if
17 the committee fails to consider any program for approval within 14
18 calendar days from date of receipt of the program description from
19 authority, each such program not considered shall be deemed
20 approved. "Program" for purposes of this section does not include
21 costs of issuance. In addition, the authority shall provide the
22 committee with² itemized, detailed list of persons, businesses or other
23 entities ²that will receive financing under such approved programs
24 prior to the funding being distributed.² ¹, including other public
25 entities for the purpose of the public entity making grants, loans or
26 entering into other financial transactions,¹ ²[that will receive]² ¹[or
27 benefit from]¹ ²[such expenditures, and the amount that each will so
28 receive ¹[or benefit from]¹ . No expenditure of such bond proceeds
29 shall occur for any item on the detailed list without approval by the
30 committee of that item; provided however, that if the committee fails
31 to consider any item of proposed expenditure for approval within 14
32 calendar days from date of receipt of the list from the authority, each
33 item of expenditure not considered shall be deemed approved.]²

34 ¹When the funds allocated to a public entity for the purpose of the
35 public entity making grants, loans or entering into other financial
36 transactions are subsequently allocated by that other public entity, the
37 ²entity shall provide to the authority so that the authority can provide
38 to [² authority shall provide]² the Joint Budget Oversight Committee
39 with an itemized, detailed list of persons, businesses or other entities,
40 that will receive such funds, and the amount that each will so receive.
41 ²[No such expenditure of funds by such other public entity, in excess
42 of \$500,000, shall occur for any item on the detailed list without
43 approval by the committee of that item; provided however, that if the
44 committee fails to consider any item of proposed expenditure for
45 approval within 14 calendar days from date of receipt of the list from

1 the authority, each item of expenditure not considered shall be deemed
2 approved. 1]²

3 e. Bonds and refunding bonds issued by the authority pursuant to
4 this act shall be special and limited obligations of the authority payable
5 from, and secured by, such funds and moneys determined by the
6 authority in accordance with this section. Neither the members of the
7 authority nor any other person executing the bonds or refunding bonds
8 shall be personally liable with respect to payment of interest and
9 principal on these bonds or refunding bonds. Bonds or refunding
10 bonds issued pursuant to the provisions of this act shall not be a debt
11 or liability of the State or any agency or instrumentality thereof, except
12 as otherwise provided by this subsection, either legal, moral or
13 otherwise, and nothing contained in this act shall be construed to
14 authorize the authority to incur any indebtedness on behalf of or in any
15 way to obligate the State or any political subdivision thereof, and all
16 bonds and refunding bonds issued by the authority shall contain a
17 statement to that effect on their face.

18 f. The authority is authorized to engage, subject to the approval of
19 the State Treasurer and in such manner as the State Treasurer shall
20 determine, the services of bond counsel, financial advisors and experts,
21 placement agents, underwriters, appraisers, and such other advisors,
22 consultants and agents as may be necessary to effectuate the purposes
23 of this act.

24 g. The proceeds from the sale of the bonds, other than refunding
25 bonds, issued pursuant to this act, after payment of any costs related
26 to the issuance of such bonds, shall be paid by the authority to be
27 applied to the payment, in full or in part, for the purposes set forth in
28 subsection a. of this section as directed by the State Treasurer.

29 h. All bonds or refunding bonds issued by the authority are deemed
30 to be issued by a body corporate and politic of the State for an
31 essential governmental purpose, and the interest thereon and the
32 income derived from all funds, revenues, incomes and other moneys
33 received for or to be received by the authority and pledged and
34 available to pay or secure the payment on bonds or refunding bonds
35 and the interest thereon, shall be exempt from all taxes levied pursuant
36 to the provisions of Title 54 of the Revised Statutes or Title 54A of
37 the New Jersey Statutes, except for transfer inheritance and estate
38 taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

39 i. The State hereby pledges and covenants with the holders of any
40 bonds or refunding bonds issued pursuant to the provisions of this act,
41 that it will not limit or alter the rights or powers vested in the
42 authority by this act, nor limit or alter the rights or powers of the State
43 Treasurer in any manner which would jeopardize the interest of the
44 holders or any trustee of such holders, or inhibit or prevent
45 performance or fulfillment by the authority or the State Treasurer with
46 respect to the terms of any agreement made with the holders of these

1 bonds or refunding bonds or agreements made pursuant to subsection
2 c. of this section except that the failure of the Legislature to
3 appropriate moneys for any purpose of this act shall not be deemed a
4 violation of this section.

5 j. Notwithstanding any restriction contained in any other law, rule,
6 regulation or order to the contrary, the State and all political
7 subdivisions of this State, their officers, boards, commissioners,
8 departments or other agencies, all banks, bankers, trust companies,
9 savings banks and institutions, building and loan associations, saving
10 and loan associations, investment companies and other persons
11 carrying on a banking or investment business, and all executors,
12 administrators, guardians, trustees and other fiduciaries, and all other
13 persons whatsoever who now are or may hereafter be authorized to
14 invest in bonds or other obligations of the State, may properly and
15 legally invest any sinking funds, moneys or other funds, including
16 capital, belonging to them or within their control, in any bonds or
17 refunding bonds issued by the authority under the provisions of this
18 act; and said bonds and refunding bonds are hereby made securities
19 which may properly and legally be deposited with, and received by any
20 State or municipal officers or agency of the State, for any purpose for
21 which the deposit of bonds or other obligations of the State is now, or
22 may hereafter be, authorized by law.

23 (cf: P.L.2003, c.166, s.9)

24

25 2. This act shall take effect immediately and be retroactive to
26 September 2, 2003.

27

28

29

30

31 Requires notice to and approval by the Joint Budget Oversight
32 Committee of proposed programs funded by NJEDA withholding-
33 backed economic development bond proceeds.

SENATE, No. 2833

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED DECEMBER 11, 2003

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

SYNOPSIS

Requires notice to and approval by the Joint Budget Oversight Committee of proposed expenditures by the EDA of certain withholding-backed economic development bond proceeds.

CURRENT VERSION OF TEXT

As introduced.



S2833 BRYANT

2

1 AN ACT concerning the approval of the use of certain bond proceeds
2 for economic growth and development projects, amending
3 P.L.2003, c.166.

4

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

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8 1. Section 9 of P.L.2003, c.166 (C.34:1B-139.1) is amended to
9 read as follows:

10 9. Notwithstanding the provisions of any law, rule, regulation or
11 order to the contrary:

12 a. The authority shall have the power, pursuant to the provisions
13 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
14 refunding bonds, incur indebtedness and borrow money secured, in
15 whole or in part, by money received pursuant to this act for the
16 purpose of (1) providing funds for the payment, in full or in part, of
17 the grants provided to businesses under sections 1 through 14 of
18 P.L.1996, c.26 (C.34:1B-124 through 34:1B-137); (2) providing funds
19 to be used by the authority only for the purposes enumerated in
20 subsections a. and b. of section 4 of P.L.1992, c.16 (C.34:1B-7.13) for
21 payments to, or for the benefit of, designated industries that have the
22 greatest potential to create eligible positions and promote State
23 development strategies; and (3) and any costs related to the issuance
24 of such bonds. The authority may establish reserve or other funds to
25 further secure bonds and refunding bonds. The bonds shall be in the
26 amount to yield proceeds to fund, all or in part, the payment of grants
27 provided to business under this act, plus additional bonds to pay for
28 the costs of issuance. Notwithstanding anything to the contrary, bonds
29 issued for the purposes of paragraph (2) of this subsection, excluding
30 refunding bonds, may only be issued upon certification by the authority
31 at the time of issuance to the effect that payments for principal and
32 interest on such bonds and any additional costs authorized by that
33 paragraph (2) may not exceed an amount equivalent to the residual
34 withholdings anticipated at the time of issuance of such bonds for the
35 applicable fiscal years.

36 b. The authority may, in any resolution authorizing the issuance of
37 bonds or refunding bonds, pledge the contract with the State
38 Treasurer, provided for in section 10 of P.L.2003, c.166
39 (C.34:1B-139.2), or any part thereof, for the payment or redemption
40 of the bonds or refunding bonds, and covenant as to the use and
41 disposition of money available to the authority for payments of bonds
42 and refunding bonds. All costs associated with the issuance of bonds
43 and refunding bonds by the authority for the purposes set forth in this

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.

S2833 BRYANT

1 act may be paid by the authority from amounts it receives from the
2 proceeds of the bonds or refunding bonds and from amounts it
3 receives pursuant to sections 10 and 11 of P.L.2003, c.166
4 (C.34:1B-139.2 and C.34:1B-139.3), which costs may include, but are
5 not limited to, any costs and fees relating to the issuance of the bonds
6 or refunding bonds, annual administrative costs and fees of the
7 authority attributable to the payment of grants issued to businesses
8 under this act, the fees and costs of bond counsel and any other
9 professional fees and costs attributable to the agreements described in
10 subsection c. of this section. The bonds or refunding bonds shall be
11 authorized by resolution, which shall stipulate the manner of execution
12 and form of the bonds, whether the bonds are in one or more series,
13 the date or dates of issue, time or times of maturity, which shall not
14 exceed 20 years, the rate or rates of interest payable on the bonds,
15 which may be at fixed rates or variable rates, and which interest may
16 be current interest or may accrue, the denomination or denominations
17 in which the bonds are issued, conversion or registration privileges,
18 the sources and medium of payment and place or places of payment,
19 terms of redemption, privileges of exchangeability or
20 interchangeability, and entitlement to priorities of payment or security
21 in the amounts to be received by the authority pursuant to sections 10
22 and 11 of P.L.2003, c.166 (C.34:1B-139.2 and C.34:1B-139.3). The
23 bonds may be sold at a public or private sale at a price or prices
24 determined by the authority. The authority is authorized to enter into
25 any agreements necessary or desirable to effectuate the purposes of
26 this section, including agreements to sell bonds or refunding bonds to
27 any person and to comply with the laws of any jurisdiction relating
28 thereto.

29 c. In connection with any bonds or refunding bonds issued
30 pursuant to this act, the authority may also enter into any revolving
31 credit agreement, agreement establishing a line of credit or letter of
32 credit, reimbursement agreement, interest rate exchange agreement,
33 currency exchange agreement, interest rate floor or cap, options, puts
34 or calls to hedge payment, currency, rate, spread or similar exposure,
35 or similar agreements, float agreements, forward agreements,
36 insurance contract, surety bond, commitment to purchase or sell
37 bonds, purchase or sale agreement, or commitments or other contracts
38 or agreements and other security agreements approved by the
39 authority.

40 d. (1) No resolution adopted by the authority authorizing the
41 issuance of bonds or refunding bonds pursuant to this act shall be
42 adopted or otherwise made effective without the approval in writing
43 of the State Treasurer and the Joint Budget Oversight Committee.
44 Except as provided by subsection i. of section 4 of P.L.1974, c.80
45 (C.34:1B-4), bonds or refunding bonds may be issued without
46 obtaining the consent of any department, division, commission, board,

1 bureau or agency of the State, other than the approval as required by
2 this subsection, and without any other proceedings or the occurrence
3 of any other conditions or other things other than those proceedings,
4 conditions or things which are specifically required by this act.

5 (2) Subsequent to the issuance of bonds for the purposes of
6 paragraph (2) of subsection a. of this section, but prior to the
7 expenditure of the proceeds of the issuance of those bonds, other than
8 those proceeds used to fund costs of issuance, the authority shall
9 provide the Joint Budget Oversight Committee with an itemized,
10 detailed list of persons, businesses or other entities that will receive or
11 benefit from such expenditures, and the amount that each will so
12 receive or benefit from. No expenditure of such bond proceeds shall
13 occur for any item on the detailed list without approval by the
14 committee of that item; provided however, that if the committee fails
15 to consider any item of proposed expenditure for approval within 14
16 calendar days from date of receipt of the list from the authority, each
17 item of expenditure not considered shall be deemed approved.

18 e. Bonds and refunding bonds issued by the authority pursuant to
19 this act shall be special and limited obligations of the authority payable
20 from, and secured by, such funds and moneys determined by the
21 authority in accordance with this section. Neither the members of the
22 authority nor any other person executing the bonds or refunding bonds
23 shall be personally liable with respect to payment of interest and
24 principal on these bonds or refunding bonds. Bonds or refunding
25 bonds issued pursuant to the provisions of this act shall not be a debt
26 or liability of the State or any agency or instrumentality thereof, except
27 as otherwise provided by this subsection, either legal, moral or
28 otherwise, and nothing contained in this act shall be construed to
29 authorize the authority to incur any indebtedness on behalf of or in any
30 way to obligate the State or any political subdivision thereof, and all
31 bonds and refunding bonds issued by the authority shall contain a
32 statement to that effect on their face.

33 f. The authority is authorized to engage, subject to the approval of
34 the State Treasurer and in such manner as the State Treasurer shall
35 determine, the services of bond counsel, financial advisors and experts,
36 placement agents, underwriters, appraisers, and such other advisors,
37 consultants and agents as may be necessary to effectuate the purposes
38 of this act.

39 g. The proceeds from the sale of the bonds, other than refunding
40 bonds, issued pursuant to this act, after payment of any costs related
41 to the issuance of such bonds, shall be paid by the authority to be
42 applied to the payment, in full or in part, for the purposes set forth in
43 subsection a. of this section as directed by the State Treasurer.

44 h. All bonds or refunding bonds issued by the authority are deemed
45 to be issued by a body corporate and politic of the State for an
46 essential governmental purpose, and the interest thereon and the

1 income derived from all funds, revenues, incomes and other moneys
2 received for or to be received by the authority and pledged and
3 available to pay or secure the payment on bonds or refunding bonds
4 and the interest thereon, shall be exempt from all taxes levied pursuant
5 to the provisions of Title 54 of the Revised Statutes or Title 54A of
6 the New Jersey Statutes, except for transfer inheritance and estate
7 taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

8 i. The State hereby pledges and covenants with the holders of any
9 bonds or refunding bonds issued pursuant to the provisions of this act,
10 that it will not limit or alter the rights or powers vested in the
11 authority by this act, nor limit or alter the rights or powers of the State
12 Treasurer in any manner which would jeopardize the interest of the
13 holders or any trustee of such holders, or inhibit or prevent
14 performance or fulfillment by the authority or the State Treasurer with
15 respect to the terms of any agreement made with the holders of these
16 bonds or refunding bonds or agreements made pursuant to subsection
17 c. of this section except that the failure of the Legislature to
18 appropriate moneys for any purpose of this act shall not be deemed a
19 violation of this section.

20 j. Notwithstanding any restriction contained in any other law, rule,
21 regulation or order to the contrary, the State and all political
22 subdivisions of this State, their officers, boards, commissioners,
23 departments or other agencies, all banks, bankers, trust companies,
24 savings banks and institutions, building and loan associations, saving
25 and loan associations, investment companies and other persons
26 carrying on a banking or investment business, and all executors,
27 administrators, guardians, trustees and other fiduciaries, and all other
28 persons whatsoever who now are or may hereafter be authorized to
29 invest in bonds or other obligations of the State, may properly and
30 legally invest any sinking funds, moneys or other funds, including
31 capital, belonging to them or within their control, in any bonds or
32 refunding bonds issued by the authority under the provisions of this
33 act; and said bonds and refunding bonds are hereby made securities
34 which may properly and legally be deposited with, and received by any
35 State or municipal officers or agency of the State, for any purpose for
36 which the deposit of bonds or other obligations of the State is now, or
37 may hereafter be, authorized by law.

38 (cf: P.L.2003, c.166, s.9)

39

40 2. This act shall take effect immediately and be retroactive to
41 September 2, 2003.

42

43

STATEMENT

44

45 This bill provides the Joint Budget Oversight Committee with
46 statutory authority to approve or disapprove expenditures by the New

S2833 BRYANT

1 Jersey Economic Development Authority of bond proceeds for grants
2 for economic growth and development for designated industries. The
3 committee currently has statutory authority to approve the issuance of
4 the bonds.

5 This bill will establish further oversight over the itemized, detailed
6 list of persons, businesses or other entities that will receive or benefit
7 from the expenditures of the bond proceeds. If the committee does
8 not approve or disapprove of an item from the list of proposed
9 expenditures that the EDA will provide to the committee, each item of
10 expenditure on the list will be deemed approved within 14 days of the
11 committee's receipt of that list.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2833

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 8, 2004

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2833.

This bill provides the Joint Budget Oversight Committee (JBOC) with statutory authority to approve or disapprove expenditures by the New Jersey Economic Development Authority (EDA) of bond proceeds for grants for economic growth and development for designated industries. Currently, the committee only has statutory authority to approve the issuance of the bonds.

The bill is intended to establish further oversight over the itemized, detailed list of persons, businesses or other entities that will receive the expenditures of the bond proceeds. If the committee does not approve or disapprove of an item from the list of proposed expenditures that the EDA will provide to the committee, each item of expenditure on the list will be deemed approved within 14 days of the committee's receipt of that list.

COMMITTEE AMENDMENTS

Committee amendments to the bill clarify that the bill's requirement of EDA notice to JBOC of the prospective expenditure of bond proceeds will apply to EDA payments to other public entities to fund grants to businesses and other parties. The amendments require that, when those other public entities allocate these payments to grantees, the EDA must provide JBOC with a detailed list of the prospective recipients and the amount each is to receive. Finally, the amendments prohibit the expenditure by any such entity of funds in excess of \$500,000 for any item on the detailed list without the committee's approval; this provision is subject to the same condition, applicable to initial payments of bond proceeds, that items on such a list are deemed approved if JBOC does not consider the list within 14 days of receipt.

FISCAL IMPACT

This bill will not have a fiscal impact on State revenues or expenditures. It is noted that about \$60 million of EDA bonds are currently awaiting issuance, pending approval by JBOC.

ASSEMBLY, No. 3945

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED DECEMBER 11, 2003

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

SYNOPSIS

Requires notice to and approval by the Joint Budget Oversight Committee of proposed expenditures by the EDA of certain withholding-backed economic development bond proceeds.

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4 (C.34:1B-139.2 and C.34:1B-139.3), which costs may include, but are
5 not limited to, any costs and fees relating to the issuance of the bonds
6 or refunding bonds, annual administrative costs and fees of the
7 authority attributable to the payment of grants issued to businesses
8 under this act, the fees and costs of bond counsel and any other
9 professional fees and costs attributable to the agreements described in
10 subsection c. of this section. The bonds or refunding bonds shall be
11 authorized by resolution, which shall stipulate the manner of execution
12 and form of the bonds, whether the bonds are in one or more series,
13 the date or dates of issue, time or times of maturity, which shall not
14 exceed 20 years, the rate or rates of interest payable on the bonds,
15 which may be at fixed rates or variable rates, and which interest may
16 be current interest or may accrue, the denomination or denominations
17 in which the bonds are issued, conversion or registration privileges,
18 the sources and medium of payment and place or places of payment,
19 terms of redemption, privileges of exchangeability or
20 interchangeability, and entitlement to priorities of payment or security
21 in the amounts to be received by the authority pursuant to sections 10
22 and 11 of P.L.2003, c.166 (C.34:1B-139.2 and C.34:1B-139.3). The
23 bonds may be sold at a public or private sale at a price or prices
24 determined by the authority. The authority is authorized to enter into
25 any agreements necessary or desirable to effectuate the purposes of
26 this section, including agreements to sell bonds or refunding bonds to
27 any person and to comply with the laws of any jurisdiction relating
28 thereto.

29 c. In connection with any bonds or refunding bonds issued
30 pursuant to this act, the authority may also enter into any revolving
31 credit agreement, agreement establishing a line of credit or letter of
32 credit, reimbursement agreement, interest rate exchange agreement,
33 currency exchange agreement, interest rate floor or cap, options, puts
34 or calls to hedge payment, currency, rate, spread or similar exposure,
35 or similar agreements, float agreements, forward agreements,
36 insurance contract, surety bond, commitment to purchase or sell
37 bonds, purchase or sale agreement, or commitments or other contracts
38 or agreements and other security agreements approved by the
39 authority.

40 d. (1) No resolution adopted by the authority authorizing the
41 issuance of bonds or refunding bonds pursuant to this act shall be
42 adopted or otherwise made effective without the approval in writing
43 of the State Treasurer and the Joint Budget Oversight Committee.
44 Except as provided by subsection i. of section 4 of P.L.1974, c.80
45 (C.34:1B-4), bonds or refunding bonds may be issued without
46 obtaining the consent of any department, division, commission, board,

1 bureau or agency of the State, other than the approval as required by
2 this subsection, and without any other proceedings or the occurrence
3 of any other conditions or other things other than those proceedings,
4 conditions or things which are specifically required by this act.

5 (2) Subsequent to the issuance of bonds for the purposes of
6 paragraph (2) of subsection a. of this section, but prior to the
7 expenditure of the proceeds of the issuance of those bonds, other than
8 those proceeds used to fund costs of issuance, the authority shall
9 provide the Joint Budget Oversight Committee with an itemized,
10 detailed list of persons, businesses or other entities that will receive or
11 benefit from such expenditures, and the amount that each will so
12 receive or benefit from. No expenditure of such bond proceeds shall
13 occur for any item on the detailed list without approval by the
14 committee of that item; provided however, that if the committee fails
15 to consider any item of proposed expenditure for approval within 14
16 calendar days from date of receipt of the list from the authority, each
17 item of expenditure not considered shall be deemed approved.

18 e. Bonds and refunding bonds issued by the authority pursuant to
19 this act shall be special and limited obligations of the authority payable
20 from, and secured by, such funds and moneys determined by the
21 authority in accordance with this section. Neither the members of the
22 authority nor any other person executing the bonds or refunding bonds
23 shall be personally liable with respect to payment of interest and
24 principal on these bonds or refunding bonds. Bonds or refunding
25 bonds issued pursuant to the provisions of this act shall not be a debt
26 or liability of the State or any agency or instrumentality thereof, except
27 as otherwise provided by this subsection, either legal, moral or
28 otherwise, and nothing contained in this act shall be construed to
29 authorize the authority to incur any indebtedness on behalf of or in any
30 way to obligate the State or any political subdivision thereof, and all
31 bonds and refunding bonds issued by the authority shall contain a
32 statement to that effect on their face.

33 f. The authority is authorized to engage, subject to the approval of
34 the State Treasurer and in such manner as the State Treasurer shall
35 determine, the services of bond counsel, financial advisors and experts,
36 placement agents, underwriters, appraisers, and such other advisors,
37 consultants and agents as may be necessary to effectuate the purposes
38 of this act.

39 g. The proceeds from the sale of the bonds, other than refunding
40 bonds, issued pursuant to this act, after payment of any costs related
41 to the issuance of such bonds, shall be paid by the authority to be
42 applied to the payment, in full or in part, for the purposes set forth in
43 subsection a. of this section as directed by the State Treasurer.

44 h. All bonds or refunding bonds issued by the authority are deemed
45 to be issued by a body corporate and politic of the State for an
46 essential governmental purpose, and the interest thereon and the

1 income derived from all funds, revenues, incomes and other moneys
2 received for or to be received by the authority and pledged and
3 available to pay or secure the payment on bonds or refunding bonds
4 and the interest thereon, shall be exempt from all taxes levied pursuant
5 to the provisions of Title 54 of the Revised Statutes or Title 54A of
6 the New Jersey Statutes, except for transfer inheritance and estate
7 taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

8 i. The State hereby pledges and covenants with the holders of any
9 bonds or refunding bonds issued pursuant to the provisions of this act,
10 that it will not limit or alter the rights or powers vested in the
11 authority by this act, nor limit or alter the rights or powers of the State
12 Treasurer in any manner which would jeopardize the interest of the
13 holders or any trustee of such holders, or inhibit or prevent
14 performance or fulfillment by the authority or the State Treasurer with
15 respect to the terms of any agreement made with the holders of these
16 bonds or refunding bonds or agreements made pursuant to subsection
17 c. of this section except that the failure of the Legislature to
18 appropriate moneys for any purpose of this act shall not be deemed a
19 violation of this section.

20 j. Notwithstanding any restriction contained in any other law, rule,
21 regulation or order to the contrary, the State and all political
22 subdivisions of this State, their officers, boards, commissioners,
23 departments or other agencies, all banks, bankers, trust companies,
24 savings banks and institutions, building and loan associations, saving
25 and loan associations, investment companies and other persons
26 carrying on a banking or investment business, and all executors,
27 administrators, guardians, trustees and other fiduciaries, and all other
28 persons whatsoever who now are or may hereafter be authorized to
29 invest in bonds or other obligations of the State, may properly and
30 legally invest any sinking funds, moneys or other funds, including
31 capital, belonging to them or within their control, in any bonds or
32 refunding bonds issued by the authority under the provisions of this
33 act; and said bonds and refunding bonds are hereby made securities
34 which may properly and legally be deposited with, and received by any
35 State or municipal officers or agency of the State, for any purpose for
36 which the deposit of bonds or other obligations of the State is now, or
37 may hereafter be, authorized by law.

38 (cf: P.L.2003, c.166, s.9)

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40 2. This act shall take effect immediately and be retroactive to
41 September 2, 2003.

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STATEMENT

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46 This bill provides the Joint Budget Oversight Committee with

1 statutory authority to approve or disapprove expenditures by the New
2 Jersey Economic Development Authority of bond proceeds for grants
3 for economic growth and development for designated industries. The
4 committee currently has statutory authority to approve the issuance of
5 the bonds.

6 This bill will establish further oversight over the itemized, detailed
7 list of persons, businesses or other entities that will receive or benefit
8 from the expenditures of the bond proceeds. If the committee does
9 not approve or disapprove of an item from the list of proposed
10 expenditures that the EDA will provide to the committee, each item of
11 expenditure on the list will be deemed approved within 14 days of the
12 committee's receipt of that list.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3945

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 8, 2004

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3945, with committee amendments.

Assembly Bill No. 3945 provides the Joint Budget Oversight Committee (JBOC) with statutory authority to approve or disapprove expenditures by the New Jersey Economic Development Authority of bond proceeds for grants for economic growth and development for designated industries under the Business Employment Incentive Program (BEIP). Currently, the committee only has statutory authority to approve the issuance of the bonds.

The bill is intended to establish further oversight over the itemized, detailed list of persons, businesses or other entities that will receive the expenditures of the bond proceeds. If the committee does not approve or disapprove of an item from the list of proposed expenditures that the EDA will provide to the committee, each item of expenditure on the list will be deemed approved within 14 days of the committee's receipt of that list.

FISCAL IMPACT:

This bill will not have a fiscal impact on State revenues or expenditures. It is noted that about \$60 million of EDA bonds are currently awaiting issuance, pending approval by JBOC.

COMMITTEE AMENDMENTS:

The amendments clarify that the bill's requirement of EDA notice to JBOC of the prospective expenditure of BEIP bond proceeds will apply to EDA payments to other public entities to fund BEIP grants to businesses and other parties. The amendments require that, when those other public entities allocate these payments to BEIP grantees, the EDA must provide JBOC with a detailed list of the prospective recipients and the amount each is to receive. Finally, the amendments prohibit the expenditure by any such entity of funds in excess of \$500,000 for any item on the detailed list without the committee's approval; this provision is subject to the same condition, applicable to initial payments of bond proceeds, that items on such a list are deemed approved if JBOC does not consider the list within 14 days of receipt.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3945

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2003

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3945.

Assembly Bill No. 3945 provides the Joint Budget Oversight Committee with statutory authority to approve or disapprove expenditures by the New Jersey Economic Development Authority (EDA) of bond proceeds for grants for economic growth and development for designated industries.

P.L.2003, c.166 provided a mechanism for funding New Jersey's Business Employment Incentive Program (BEIP) grants in State Fiscal Year 2004 and thereafter in the absence of a specific appropriation in annual appropriations act. That act gave the EDA the power to issue bonds, backed by a State contract, and subject to approval by the Joint Budget Oversight Committee, to fund the payment of BEIP grants. That act also gave the EDA authority to issue bonds for purposes other than funding BEIP program grants.

The EDA was authorized to use part of the bond proceeds for payments to, or for the benefit of, designated industries that have the greatest potential to create eligible positions (new jobs) and promote State development strategies. A "designated industry" is a business engaged in the field of biotechnology, pharmaceuticals, financial services or transportation and logistics, advanced computing, advanced materials, electronic device technology, environmental technology or medical device technology. In rough terms, this auxiliary program is funded by the incremental tax revenue from new jobs under the BEIP program that is not rebated to businesses in the form of BEIP program grants.

This auxiliary program is limited to investment in small and medium-size businesses that have the greatest potential for creating jobs and stimulating economic growth through such elements as a Statewide lending pool for small business, a business composite bond guarantee, a fund to further supplement the export finance program of the authority to provide direct loans and working capital necessary for New Jersey businesses to compete in the global market, real estate partnerships, a venture capital fund for start-up costs for businesses developing new concepts and inventions, and a fund to assist businesses with expansion in such areas as manufacturing retooling to improve quality, to reduce production costs and to train employees to

apply the latest technology; and the financing and development of infrastructure and transportation projects, including but not limited to ports, terminal and transit facilities, roads and airports, parking facilities used in connection with transit facilities, and related facilities, including public-private partnerships, that are integral to economic growth.

Currently, the Joint Budget Oversight Committee has statutory authority to approve the issuance of the bonds. This bill will establish further oversight over the itemized, detailed list of persons, businesses or other entities that will receive or benefit from the expenditures of the bond proceeds under the auxiliary program. If the committee does not approve or disapprove of an item from the list of proposed expenditures that the EDA will provide to the committee, each item of expenditure on the list will be deemed approved within 14 days of the committee's receipt of that list.

FISCAL IMPACT:

This bill provides Legislative oversight of EDA projects, and has no direct impact on State revenues or expenditures.