

52:27H-79

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2006 **CHAPTER:** 34

NJSA: 52:27H-79 (Concerns sales tax exemptions for goods and materials purchased by qualified businesses in and operations of urban enterprise zones)

BILL NO: A4702 (Substituted for S1983)

SPONSOR(S) Caraballo and others

DATE INTRODUCED: June 22, 2006

COMMITTEE: **ASSEMBLY:** Budget

SENATE:

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** July 8, 2006

SENATE: July 8, 2006

DATE OF APPROVAL: July 8, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Assembly Committee substitute enacted)

A4702

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

S1983

[SPONSOR'S STATEMENT](#): (Begins on page 10 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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HEARINGS: No

NEWSPAPER ARTICLES: No

RWH 3/4/08

P.L. 2006, CHAPTER 34, *approved July 8, 2006*
Assembly Committee Substitute for
Assembly, No. 4702

1 AN ACT concerning urban enterprise zones, amending P.L.1983,
2 c.303 and P.L.1980, c.105.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to
8 read as follows:

9 20. a. Retail sales of personal property (except motor vehicles
10 and energy) and sales of services (except telecommunications and
11 utility services) to a qualified business for the exclusive use or
12 consumption of such business within an enterprise zone are exempt
13 from the taxes imposed under the "Sales and Use Tax Act,"
14 P.L.1966, c.30 (C.54:32B-1 et seq.).

15 b. Notwithstanding the provisions of subsection a. of this section,
16 the seller shall charge and collect from a purchaser that is not a
17 small qualified business the tax at the rate then in effect, and the tax
18 shall be refunded to the purchaser by the filing, within one year
19 following the date of sale, of a claim with the New Jersey Division
20 of Taxation for a refund of sales and use taxes paid for the goods
21 and materials. Proof of claim for refund shall be made by the
22 submission of auditable receipts and such other documentation as
23 the Director of the Division of Taxation may require.

24 c. As used in this section:

25 "Qualified business" includes a business that becomes qualified
26 by the time the refund application is filed pursuant to subsection b.
27 of this section; and

28 "Small qualified business" means a qualified business that has
29 been determined and certified by the director to have had less than
30 \$1,000,000 in annual gross receipts in that business prior annual tax
31 period.

32 d. The director shall submit to the Senate Legislative Oversight
33 Committee and the Assembly Regulatory Oversight Committee any
34 rules or regulations to effectuate amendments made to this section
35 by P.L. , c. (C.) (pending before the Legislature as this bill)
36 that are proposed for publication in the New Jersey Register. The
37 director shall evaluate the effectiveness of the amendments made to
38 this section by P.L. , c. (C.) (pending before the
39 Legislature as this bill) and report any findings and
40 recommendations regarding the amendments to the Senate
41 Legislative Oversight Committee and the Assembly Regulatory
42 Oversight Committee before the Governor presents a budget

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 proposal for Fiscal Year 2008.

2 (cf: P.L.1997, c.162, s.31)

3

4 2. Section 34 of P.L.1980, c.105 (C.54:32B-8.22) is amended to
5 read as follows:

6 Receipts from sales made to contractors or repairmen of
7 materials, supplies or services for exclusive use in erecting
8 structures or building on, or otherwise improving, altering or
9 repairing real property of:

10 a. Organizations described in subsections (a) and (b) of section 9
11 of the **【Sales and Use Tax Act, P.L.1966, c. 30 (C. 54:32B-9)】**
12 “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-9) that are
13 exempt from the tax imposed under the “Sales and Use Tax Act”;

14 b. Qualified businesses within an enterprise zone as authorized in
15 section 20 of the "New Jersey Urban Enterprise Zones Act,"
16 P.L.1983, c.303 (C. 52:27H-79); and

17 c. Housing sponsors who have obtained financing for housing
18 projects pursuant to the "New Jersey Housing and Mortgage
19 Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-1 et
20 seq.), which projects have received other federal, State or local
21 subsidies in order to achieve financial feasibility are exempt from
22 the tax imposed under the "Sales and Use Tax Act," provided any
23 person seeking to qualify for the exemption shall do so pursuant to
24 such rules and regulations and upon forms as shall be prescribed by
25 the director.

26 For the purposes of this section, a qualified business within an
27 enterprise zone shall include any urban renewal entity established
28 pursuant to P.L.1961, c.40 (C.40:55C-40 et seq.), provided,
29 however, that the entity is the sole owner of an operating company
30 which is a qualified business pursuant to subsection c. of section 3
31 of P.L.1983, c.303 (C.52:27H-62), and that the entity and its
32 operating company are situated within the same zone.

33 (cf: P.L.1988, c.93, s.5)

34

35 3. Section 3 of P.L.1983, c.303 (C.52:27H-62) is amended to
36 read as follows:

37 3. As used in this act:

38 a. "Enterprise zone" or "zone" means an urban enterprise zone
39 designated by the authority pursuant to this act;

40 b. "Authority" means the New Jersey Urban Enterprise Zone
41 Authority created by this act;

42 c. "Qualified business" means any entity authorized to do
43 business in the State of New Jersey which, at the time of
44 designation as an enterprise zone or a UEZ-impacted business
45 district, is engaged in the active conduct of a trade or business in
46 that zone or district; or an entity which, after that designation but
47 during the designation period, becomes newly engaged in the active

1 conduct of a trade or business in that zone or district and has at least
2 25% of its full-time employees employed at a business location in
3 the zone or district, meeting one or more of the following criteria:

4 (1) Residents within the zone, the district, within another zone
5 or within a qualifying municipality; or

6 (2) Unemployed for at least six months prior to being hired and
7 residing in New Jersey, and recipients of New Jersey public
8 assistance programs for at least six months prior to being hired, or
9 either of the aforesaid; or

10 (3) Determined to be low income individuals pursuant to the
11 Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.
12 s.2811);

13 Approval as a qualified business shall be conditional upon
14 meeting all outstanding tax obligations, and may be withdrawn by
15 the authority if a business is continually delinquent in meeting its
16 tax obligations;

17 d. "Qualifying municipality" means any municipality in which
18 there was, in the last full calendar year immediately preceding the
19 year in which application for enterprise zone designation is
20 submitted pursuant to section 14 of P.L.1983, c.303 (C.52:27H-73),
21 an annual average of at least 2,000 unemployed persons, and in
22 which the municipal average annual unemployment rate for that
23 year exceeded the State average annual unemployment rate; except
24 that any municipality which qualifies for State aid pursuant to
25 P.L.1978, c.14 (C.52:27D-178 et seq.) shall qualify if its municipal
26 average annual unemployment rate for that year exceeded the State
27 average annual unemployment rate. The annual average of
28 unemployed persons and the average annual unemployment rates
29 shall be estimated for the relevant calendar year by the Office of
30 Labor Planning and Analysis of the State Department of Labor and
31 Workforce Development. In addition to those municipalities that
32 qualify pursuant to the criteria set forth above, that municipality
33 accorded priority designation pursuant to subsection e. of section 7
34 of P.L.1983, c.303 (C.52:27H-66), those municipalities set forth in
35 paragraph (7), paragraph (8) of section 3 of P.L.1995, c.382
36 (C.52:27H-66.1), and paragraph (9) of section 3 of P.L.1995, c.382
37 as amended by section 3 of P.L.2004, c.75 (C.52:27H-66.1), and the
38 municipalities in which the three additional enterprise zones,
39 including the joint enterprise zone, are to be designated pursuant to
40 criteria according priority consideration for designation of the zones
41 pursuant to section 12 of P.L.2001, c.347 (C.52:27H-66.7) shall be
42 deemed qualifying municipalities;

43 e. "Public assistance" means income maintenance funds
44 administered by the Department of Human Services or by a county
45 welfare agency;

46 f. "Zone development corporation" means a nonprofit
47 corporation or association created or designated by the governing

1 body of a qualifying municipality to formulate and propose a
2 preliminary zone development plan pursuant to section 9 of
3 P.L.1983, c.303 (C.52:27H-68) and to prepare, monitor, administer
4 and implement the zone development plan;

5 g. "Zone development plan" means a plan adopted by the
6 governing body of a qualifying municipality for the development of
7 an enterprise zone therein, and for the direction and coordination of
8 activities of the municipality, zone businesses and community
9 organizations within the enterprise zone toward the economic
10 betterment of the residents of the zone and the municipality;

11 h. "Zone neighborhood association" means a corporation or
12 association of persons who either are residents of, or have their
13 principal place of employment in, a municipality in which an
14 enterprise zone has been designated pursuant to this act; which is
15 organized under the provisions of Title 15 of the Revised Statutes
16 or Title 15A of the New Jersey Statutes; and which has for its
17 principal purpose the encouragement and support of community
18 activities within, or on behalf of, the zone so as to (1) stimulate
19 economic activity, (2) increase or preserve residential amenities, or
20 (3) otherwise encourage community cooperation in achieving the
21 goals of the zone development plan;

22 i. "Enterprise zone assistance fund" or "assistance fund" means
23 the fund created by section 29 of P.L.1983, c.303 (C.52:27H-88);
24 and

25 j. "UEZ-impacted business district" or "district" means an
26 economically-distressed business district classified by the authority
27 as having been negatively impacted by two or more adjacent urban
28 enterprise zones in which 50% less sales tax is collected pursuant to
29 section 21 of P.L.1983, c.303 (C.52:27H-80).

30 (cf: P.L.2004, c.75, s.1)

31

32 4. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to
33 read as follows:

34 29. a. There is created an enterprise zone assistance fund to be
35 held by the State Treasurer, which shall be the repository for all
36 moneys required to be deposited therein under section 21 of
37 P.L.1983, c.303 (C.52:27H-80) or moneys appropriated annually to
38 the fund. All moneys deposited in the fund shall be held and
39 disbursed in the amounts necessary to fulfill the purposes of this
40 section and subject to the requirements hereinafter prescribed. The
41 State Treasurer may invest and reinvest any moneys in the fund, or
42 any portion thereof, in legal obligations of the United States or of
43 the State or of any political subdivision thereof. Any income from,
44 interest on, or increment to moneys so invested or reinvested shall
45 be included in the fund.

46 The State Treasurer shall maintain separate accounts for each
47 enterprise zone designated under this act, and one in the authority's

1 name for the administration of the Urban Enterprise Zone program.
2 The State Treasurer shall credit to each account an amount of the
3 moneys deposited in the fund equal to the amount of revenues
4 collected from the taxation of retail sales made in the zone and
5 appropriated to the enterprise zone assistance fund, or that amount
6 of moneys appropriated to the fund and required to be credited to
7 the enterprise zone account of the qualifying municipality pursuant
8 to section 21 of P.L.1983, c.303 (C.52:27H-80).

9 The State Treasurer shall promulgate the rules and regulations
10 necessary to govern the administration of the fund for the purposes
11 of this section, which shall include, but not be limited to,
12 regulations requiring the establishment of separate bank accounts
13 for funds credited to the enterprise zone account of each
14 municipality from the enterprise zone assistance fund, commonly
15 known as “first generation funds,” and funds generated from the
16 repayments of loans to individuals and businesses from the
17 enterprise zone account of each municipality and the proceeds from
18 the sale of properties and equipment acquired through the enterprise
19 zone program, commonly known as “second generation funds,” and
20 the review, compilation, and monitoring of second generation fund
21 quarterly reports submitted by each enterprise zone.

22 Any individual, including an individual who is not directly
23 employed by a municipality, with the authority to administer,
24 allocate or approve the use of zone assistance funds is subject to the
25 “Local Government Ethics Law,” P.L.1991, c.29 (C.40A:9-22.1 et
26 seq.), unless the individual is a State employee or a special State
27 officer.

28 b. The enterprise zone assistance fund shall be used for the
29 purpose of assisting qualifying municipalities in which enterprise
30 zones are designated in undertaking public improvements,
31 economic development projects and in upgrading eligible municipal
32 services in designated enterprise zones.

33 c. The governing body of a qualifying municipality in which an
34 enterprise zone is designated and the zone development corporation
35 created or designated by the municipality for that enterprise zone
36 may, by resolution jointly adopted after public hearing, propose to
37 undertake a project for the public improvement of the enterprise
38 zone or to increase eligible municipal services in the enterprise
39 zone, and to fund that project or increase in eligible municipal
40 services from moneys deposited in the enterprise zone assistance
41 fund and credited to the account maintained by the State Treasurer
42 for the enterprise zone.

43 The proposal so adopted shall set forth a plan for the project or
44 for the increase in eligible municipal services and shall include:

45 (1) A description of the proposed project or of the municipal
46 services to be increased;

- 1 (2) An estimate of the total project costs, or of the total costs of
2 increasing the municipal services, and an estimate of the amounts of
3 funding necessary annually from the enterprise zone account;
- 4 (3) A statement of any other revenue sources to be used to
5 finance the project or to fund the increase in eligible municipal
6 services;
- 7 (4) A statement of the time necessary to complete the project, or
8 of the time during which the increased municipal services are to be
9 maintained;
- 10 (5) A statement of the manner in which the proposed project or
11 increase in municipal services furthers the municipality's policy and
12 intentions for addressing the economic and social conditions
13 existing in the area of the enterprise zone as set forth in the zone
14 development plan approved by the authority; and
- 15 (6) A description of the financial and programmatic controls and
16 reporting mechanisms to be used to guarantee that the funds will be
17 spent in accordance with the plan and that the project or increased
18 municipal service will accomplish its purpose.

19 As used in this section, "project" means an activity funded by the
20 zone assistance fund through the qualified municipality and
21 implemented by the zone development corporation, including the
22 purchasing, leasing, condemning, or otherwise acquiring of land or
23 other property, or an interest therein, in the enterprise zone or as
24 necessary for a right-of-way or other easement to or from the
25 enterprise zone; the relocating and moving of persons or businesses
26 displaced by the acquisition of land or property; the rehabilitation
27 and redevelopment of land or property, including demolition,
28 clearance, removal, relocation, renovation, alteration, construction,
29 reconstruction, installation or repair of a land or a building, street,
30 highway, alley, utility, service or other structure or improvement
31 which will lead to increased economic activity within the zone; the
32 acquisition, construction, reconstruction, rehabilitation, or
33 installation of public facilities and improvements, except buildings
34 and facilities for the general conduct of government and schools;
35 the establishment of revolving loan or grant programs for qualified
36 businesses in the zone to encourage private investment and job
37 creation, matching grant programs for the establishment or
38 operation of pedestrian malls, special improvement districts and tax
39 increment districts, or other appropriate entity; marketing,
40 advertising and special event activities that will lead to increased
41 economic activity or encourage private investment and job creation
42 in the zone, but not including the expenditures therefor which are
43 required to be reported pursuant to "The New Jersey Campaign
44 Contributions and Expenditures Reporting Act," P.L.1973, c.83
45 (C.19:44A-1 et seq.) and the costs associated therewith including
46 the costs of an administrative appraisal, economic and
47 environmental analyses, environmental remediation, engineering,

1 planning, design, architectural, surveying or other professional or
2 managerial services

3 As used in this section, "eligible municipal services" means the
4 hiring of additional policemen or firemen assigned duties in the
5 enterprise zone, or the purchasing or leasing of additional police or
6 fire vehicles, equipment or apparatus to be used for the provision of
7 augmented or upgraded public safety services in the enterprise zone
8 and its immediate vicinities.

9 d. Upon adoption by the governing body of the qualifying
10 municipality and by the zone development corporation, the proposal
11 shall be sent to the authority for its evaluation and approval. The
12 authority shall approve the proposal if it shall find:

13 (1) In the case of a project, that the proposed project furthers the
14 policy and intentions of the zone development plan approved by the
15 authority, and that the estimated annual payments for the project
16 from the enterprise zone account to which the proposal pertains are
17 not likely to result in a deficit in that account;

18 (2) In the case of an increase in eligible municipal services, that
19 the proposal furthers the policy and intentions of the zone
20 development plan approved by the authority; that the qualifying
21 municipality has furnished satisfactory assurances that the
22 additional policemen or firemen to be hired, or the additional
23 vehicles, equipment or apparatus to be purchased or leased, shall be
24 used to augment or upgrade public safety in the enterprise zone, and
25 shall not be used in other areas of the municipality; that the
26 qualifying municipality shall annually appropriate for the increased
27 eligible municipal services an amount equal to 20% of the amount
28 of annual payments for the eligible municipal services from the
29 enterprise zone account and shall not request for the increased
30 eligible municipal services an amount equal to more than 35% of
31 the amount of annual payments into the enterprise zone account,
32 unless the municipality and the authority have entered into an
33 agreement or agreements to the contrary prior to July 1, 1992; and
34 that the estimated annual payments for the eligible municipal
35 services from the enterprise zone account to which the proposal
36 pertains are not likely to result in a deficit in that account.

37 e. If the authority shall approve the proposal, it shall annually,
38 upon its receipt of a written statement from the governing body of
39 the qualifying municipality and the zone development corporation,
40 certify to the State Treasurer the amount to be paid in that year from
41 the enterprise zone account in the enterprise zone assistance fund
42 with respect to each project or increase in eligible municipal
43 services approved. The authority may at any time revoke its
44 approval of a project or an increase in eligible municipal services if
45 it finds that the annual payments made from the enterprise zone
46 assistance fund are not being used as required by this section.

1 f. Upon certification by the authority of the annual amount to
2 be paid to a qualifying zone with respect to any project or increase
3 in eligible municipal services, the State Treasurer shall pay in each
4 year to the qualifying municipality from the amounts deposited in
5 the enterprise zone assistance fund the amount so certified, within
6 the limits of the amounts credited to the enterprise zone account of
7 the qualifying municipality.

8 g. An amount not to exceed one-third of the amount deposited
9 in the account created in the name of the authority in the enterprise
10 zone assistance fund shall be used by the authority for the
11 coordination and administration of the program throughout the
12 State, including but not limited to costs for personnel, operating
13 expenses and marketing. The balance of the remaining amount
14 shall be distributed to qualifying municipalities in proportion to
15 each municipality's contribution to the enterprise zone assistance
16 fund for the coordination and administration of the program within
17 the municipality, including but not limited to costs for personnel,
18 operating expenses and marketing.

19 (cf: P.L.2002, c.64, s.1)

20

21 5. This act shall take effect July 15, 2006 and sections 1 and 2
22 shall apply to sales made on and after that date.

23

24

25

26

27 _____
28 Concerns sales tax exemptions for goods and materials
29 purchased by qualified businesses in and operations of urban
enterprise zones.

ASSEMBLY, No. 4702

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 22, 2006

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

SYNOPSIS

Concerns sales tax exemptions for goods and materials purchased by qualified businesses in urban enterprise zones.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/26/2006)

A4702 CARABALLO

2

1 AN ACT concerning sales tax exemptions for goods and materials
2 purchased by qualified businesses in urban enterprise zones,
3 amending P.L.1983, c.303 and P.L.1980, c.105.

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

7
8 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to
9 read as follows:

10 20. **[Retail sales of personal property (except motor vehicles**
11 **and energy) and sales of services (except telecommunications and**
12 **utility services) to a qualified business for the exclusive use or**
13 **consumption of such business within an enterprise zone are exempt**
14 **from the taxes imposed under the "Sales and Use Tax Act,"**
15 **P.L.1966, c.30 (C.54:32B-1 et seq.).]** a. Receipts from sales of
16 goods and materials to a qualified business, for the exclusive use or
17 consumption of such business within an enterprise zone that is
18 related to building or expanding a commercial structure, or initially
19 equipping the business, or equipping the business in relation to a
20 physical expansion of the business in an enterprise zone are exempt
21 from the tax imposed under the "Sales and Use Tax Act," P.L.1966,
22 c.30 (C.54:32B-1 et seq.). The exemptions granted in this section
23 shall not apply to energy, motor vehicles, or to goods or materials
24 with a useful life of one year or less.

25 b. Receipts from sales of goods and materials to a contractor for
26 the building or expanding of a commercial structure of a qualified
27 business, or initially equipping the business, or equipping the
28 business in relation to a physical expansion of the business, for the
29 exclusive use or consumption of the business within an enterprise
30 zone, are exempt from the tax imposed under the "Sales and Use
31 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

32 c. Notwithstanding the provisions of subsections a. and b. of this
33 section, the seller of goods purchased shall charge and collect from
34 the purchaser on such sales and charges the tax at the rate then in
35 effect, and the tax shall be refunded to the purchaser by the filing,
36 within one year following the date of sale, of a claim with the New
37 Jersey Division of Taxation for a refund of sales and use taxes paid
38 for the goods and materials. Proof of claim for refund shall be
39 made by the submission of auditable receipts and such other
40 documentation as the Director of the Division of Taxation may
41 require.

42 d. As used in this section, "qualified business" includes a
43 business that becomes qualified by the time the refund application
44 is filed pursuant to subsection c. of this section.

45 (cf: P.L.1997, c.162, s.31)

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.

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3

1 2. Section 34 of P.L.1980, c.105 (C.54:32B-8.22) is amended to
2 read as follows:

3 Receipts from sales made to contractors or repairmen of
4 materials, supplies or services for exclusive use in erecting
5 structures or building on, or otherwise improving, altering or
6 repairing real property of:

7 a. Organizations described in subsections (a) and (b) of section 9
8 of the **【Sales and Use Tax Act, P.L. 1966, c. 30 (C. 54:32B-9)】**
9 “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-9) that are
10 exempt from the tax imposed under the “Sales and Use Tax Act”;

11 b. **【Qualified businesses within an enterprise zone as authorized**
12 **in section 20 of the "New Jersey Urban Enterprise Zones Act," P.L.**
13 **1983, c. 303 (C. 52:27H-79)】** (Deleted by amendment, P.L. , c.)
14 (pending before the Legislature as this bill); and

15 c. Housing sponsors who have obtained financing for housing
16 projects pursuant to the "New Jersey Housing and Mortgage
17 Finance Agency Law of 1983," P.L. 1983, c. 530 (C. 55:14K-1 et
18 seq.), which projects have received other federal, State or local
19 subsidies in order to achieve financial feasibility are exempt from
20 the tax imposed under the "Sales and Use Tax Act," provided any
21 person seeking to qualify for the exemption shall do so pursuant to
22 such rules and regulations and upon forms as shall be prescribed by
23 the director.

24 For the purposes of this section, a qualified business within an
25 enterprise zone shall include any urban renewal entity established
26 pursuant to P.L. 1961, c. 40 (C. 40:55C-40 et seq.), provided,
27 however, that the entity is the sole owner of an operating company
28 which is a qualified business pursuant to subsection c. of section 3
29 of P.L. 1983, c. 303 (C. 52:27H-62), and that the entity and its
30 operating company are situated within the same zone.

31 (cf: P.L.1988, c.93, s.5)

32

33 3. This act shall take effect July 1, 2006 and apply to sales made
34 on and after that date.

35

36

37

STATEMENT

38

39 This bill limits the types of business purchases included in the
40 exemptions for businesses and contractors under the Urban
41 Enterprise Zone program. The bill does not affect the reduced tax
42 rates on retail sales made in the zone.

43 The current UEZ statutes grant qualified zone businesses a broad
44 exemption from all sales and use tax on purchases of goods and
45 services for the exclusive use of consumption of such business
46 within the zone. Contrary to the original goals of the UEZ program,
47 this broad exemption has given a disproportionately large benefit to
48 a relatively small number of businesses. This initiative would

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1 target more precisely the sales tax incentive available to purchases
2 made by qualified businesses.

3 The bill provides that the goods purchased for the building of a
4 commercial structure for a qualified business and the physical
5 expansion of a qualified business are exempt purchases. In
6 addition, purchases for the initial equipping of the business and for
7 equipping the business in relation to a physical expansion of the
8 business are exempt. The bill also provides a similar sales tax
9 exemption for contractors whose purchases are for the same
10 purpose. The bill excludes energy, motor vehicles and supplies
11 from the exemption, and it does not exempt services.

12 This bill also requires qualified businesses to obtain their UEZ
13 sales tax exemptions savings in rebate form, rather than exempting
14 the sales tax at the point of sale. The goal of this change is to curb
15 fraud and abuse of the exemption, but also to allow new businesses
16 making purchases for initial building or equipping to qualify for the
17 exemption before they become “qualified businesses.” If they are
18 not already qualified, businesses must show that they have become
19 qualified since the purchases and show their receipts to receive the
20 rebates.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 4702

STATE OF NEW JERSEY

DATED: JULY 7, 2006

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4702.

This Assembly Committee Substitute for Assembly Bill No. 4702 changes certain procedures for the administration of the Urban Enterprise Zone program and creates an exemption for certain businesses. The committee substitute does not affect the reduced tax rates on retail sales made in the zone.

The committee substitute revises certain procedures for the administration of the Urban Enterprise Zone program. The substitute creates a new requirement for the director to publicize proposed regulations related to the new exemptions. The substitute allows consideration of delinquent tax information when determining participation in the UEZ program. The substitute requires separate bank accounts for first and second generation funds and quarterly second generation fund reports for each enterprise zone and requires that any individual with the authority to administer such funds be subject to the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.).

This committee substitute requires qualified businesses to obtain their UEZ sales tax exemptions savings in rebate form, rather than exempting the sales tax at the point of sale. The goal of this change is to curb fraud and abuse of the exemption, but also to allow new businesses making purchases for initial building or equipping to qualify for the exemption before they become "qualified businesses." If they are not already qualified, businesses must show that they have become qualified since the purchases and show their receipts to receive the rebates. Qualified businesses that are certified by the Director of the Division of Taxation as having had less than \$1,000,000 in annual gross receipts in that business' prior annual tax period will receive the exemptions at the point of sale.

The substitute also leaves subsection b. of Section 34 of P.L.1980, c.105 (C.54:32B-8.22) intact.

FISCAL IMPACT:

The Executive currently projects that restricted exemptions provided in the bill will increase State revenue by \$46 million in fiscal year 2007 without providing information in support of the estimate.

SENATE, No. 1983

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JUNE 22, 2006

Sponsored by:
Senator BARBARA BUONO
District 18 (Middlesex)

SYNOPSIS

Concerns sales tax exemptions for goods and materials purchased by qualified businesses in and operations of urban enterprise zones.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning urban enterprise zones, amending P.L.1983,
2 c.303 and P.L.1980, c.105.

3

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

6

7 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to
8 read as follows:

9 20. **[Retail sales of personal property (except motor vehicles
10 and energy) and sales of services (except telecommunications and
11 utility services) to a qualified business for the exclusive use or
12 consumption of such business within an enterprise zone are exempt
13 from the taxes imposed under the "Sales and Use Tax Act,"
14 P.L.1966, c.30 (C.54:32B-1 et seq.).]** a. Receipts from sales of
15 goods and materials to a qualified business, for the exclusive use or
16 consumption of such business within an enterprise zone that is
17 related to building or expanding a commercial structure, or initially
18 equipping the business, or equipping the business in relation to a
19 physical expansion of the business in an enterprise zone are exempt
20 from the tax imposed under the "Sales and Use Tax Act," P.L.1966,
21 c.30 (C.54:32B-1 et seq.). The exemptions granted in this section
22 shall not apply to energy, motor vehicles, or to goods or materials
23 with a useful life of one year or less.

24 b. Receipts from sales of goods and materials to a contractor for
25 the building or expanding of a commercial structure of a qualified
26 business, or initially equipping the business, or equipping the
27 business in relation to a physical expansion of the business, for the
28 exclusive use or consumption of the business within an enterprise
29 zone, are exempt from the tax imposed under the "Sales and Use
30 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

31 c. Notwithstanding the provisions of subsections a. and b. of this
32 section, the seller of goods purchased shall charge and collect from
33 the purchaser on such sales and charges the tax at the rate then in
34 effect, and the tax shall be refunded to the purchaser by the filing,
35 within one year following the date of sale, of a claim with the New
36 Jersey Division of Taxation for a refund of sales and use taxes paid
37 for the goods and materials. Proof of claim for refund shall be
38 made by the submission of auditable receipts and such other
39 documentation as the Director of the Division of Taxation may
40 require.

41 d. As used in this section, "qualified business" includes a
42 business that becomes qualified by the time the refund application
43 is filed pursuant to subsection c. of this section.

44 (cf: P.L.1997, c.162, s.31)

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.

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3

1 2. Section 34 of P.L.1980, c.105 (C.54:32B-8.22) is amended to
2 read as follows:

3 Receipts from sales made to contractors or repairmen of
4 materials, supplies or services for exclusive use in erecting
5 structures or building on, or otherwise improving, altering or
6 repairing real property of:

7 a. Organizations described in subsections (a) and (b) of section 9
8 of the **【Sales and Use Tax Act, P.L. 1966, c. 30 (C. 54:32B-9)】**
9 “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-9) that are
10 exempt from the tax imposed under the “Sales and Use Tax Act”;

11 b. **【Qualified businesses within an enterprise zone as authorized**
12 **in section 20 of the "New Jersey Urban Enterprise Zones Act," P.L.**
13 **1983, c. 303 (C. 52:27H-79)】** (Deleted by amendment, P.L. , c.)
14 (pending before the Legislature as this bill); and

15 c. Housing sponsors who have obtained financing for housing
16 projects pursuant to the "New Jersey Housing and Mortgage
17 Finance Agency Law of 1983," P.L. 1983, c. 530 (C. 55:14K-1 et
18 seq.), which projects have received other federal, State or local
19 subsidies in order to achieve financial feasibility are exempt from
20 the tax imposed under the "Sales and Use Tax Act," provided any
21 person seeking to qualify for the exemption shall do so pursuant to
22 such rules and regulations and upon forms as shall be prescribed by
23 the director.

24 For the purposes of this section, a qualified business within an
25 enterprise zone shall include any urban renewal entity established
26 pursuant to P.L. 1961, c. 40 (C. 40:55C-40 et seq.), provided,
27 however, that the entity is the sole owner of an operating company
28 which is a qualified business pursuant to subsection c. of section 3
29 of P.L. 1983, c. 303 (C. 52:27H-62), and that the entity and its
30 operating company are situated within the same zone.

31 (cf: P.L.1988, c.93, s.5)

32

33 3. Section 3 of P.L.1983, c.303 (C.52:27H-62) is amended to
34 read as follows:

35 3. As used in this act:

36 a. "Enterprise zone" or "zone" means an urban enterprise zone
37 designated by the authority pursuant to this act;

38 b. "Authority" means the New Jersey Urban Enterprise Zone
39 Authority created by this act;

40 c. "Qualified business" means any entity authorized to do
41 business in the State of New Jersey which, at the time of
42 designation as an enterprise zone or a UEZ-impacted business
43 district, is engaged in the active conduct of a trade or business in
44 that zone or district; or an entity which, after that designation but
45 during the designation period, becomes newly engaged in the active
46 conduct of a trade or business in that zone or district and has at least
47 25% of its full-time employees employed at a business location in
48 the zone or district, meeting one or more of the following criteria:

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- 1 (1) Residents within the zone, the district, within another zone
2 or within a qualifying municipality; or
- 3 (2) Unemployed for at least six months prior to being hired and
4 residing in New Jersey, and recipients of New Jersey public
5 assistance programs for at least six months prior to being hired, or
6 either of the aforesaid; or
- 7 (3) Determined to be low income individuals pursuant to the
8 Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.
9 s.2811)
- 10 Approval as a qualified business is conditional upon meeting all
11 outstanding tax obligations, and may be withdrawn by the authority
12 if a business is continually delinquent in meeting its tax obligations;
- 13 d. "Qualifying municipality" means any municipality in which
14 there was, in the last full calendar year immediately preceding the
15 year in which application for enterprise zone designation is
16 submitted pursuant to section 14 of P.L.1983, c.303 (C.52:27H-73),
17 an annual average of at least 2,000 unemployed persons, and in
18 which the municipal average annual unemployment rate for that
19 year exceeded the State average annual unemployment rate; except
20 that any municipality which qualifies for State aid pursuant to
21 P.L.1978, c.14 (C.52:27D-178 et seq.) shall qualify if its municipal
22 average annual unemployment rate for that year exceeded the State
23 average annual unemployment rate. The annual average of
24 unemployed persons and the average annual unemployment rates
25 shall be estimated for the relevant calendar year by the Office of
26 Labor Planning and Analysis of the State Department of Labor and
27 Workforce Development. In addition to those municipalities that
28 qualify pursuant to the criteria set forth above, that municipality
29 accorded priority designation pursuant to subsection e. of section 7
30 of P.L.1983, c.303 (C.52:27H-66), those municipalities set forth in
31 paragraph (7), paragraph (8) of section 3 of P.L.1995, c.382
32 (C.52:27H-66.1), and paragraph (9) of section 3 of P.L.1995, c.382
33 as amended by section 3 of P.L.2004, c.75 (C.52:27H-66.1), and the
34 municipalities in which the three additional enterprise zones,
35 including the joint enterprise zone, are to be designated pursuant to
36 criteria according priority consideration for designation of the zones
37 pursuant to section 12 of P.L.2001, c.347 (C.52:27H-66.7) shall be
38 deemed qualifying municipalities;
- 39 e. "Public assistance" means income maintenance funds
40 administered by the Department of Human Services or by a county
41 welfare agency;
- 42 f. "Zone development corporation" means a nonprofit
43 corporation or association created or designated by the governing
44 body of a qualifying municipality to formulate and propose a
45 preliminary zone development plan pursuant to section 9 of
46 P.L.1983, c.303 (C.52:27H-68) and to prepare, monitor, administer
47 and implement the zone development plan;

1 g. "Zone development plan" means a plan adopted by the
2 governing body of a qualifying municipality for the development of
3 an enterprise zone therein, and for the direction and coordination of
4 activities of the municipality, zone businesses and community
5 organizations within the enterprise zone toward the economic
6 betterment of the residents of the zone and the municipality;

7 h. "Zone neighborhood association" means a corporation or
8 association of persons who either are residents of, or have their
9 principal place of employment in, a municipality in which an
10 enterprise zone has been designated pursuant to this act; which is
11 organized under the provisions of Title 15 of the Revised Statutes
12 or Title 15A of the New Jersey Statutes; and which has for its
13 principal purpose the encouragement and support of community
14 activities within, or on behalf of, the zone so as to (1) stimulate
15 economic activity, (2) increase or preserve residential amenities, or
16 (3) otherwise encourage community cooperation in achieving the
17 goals of the zone development plan;

18 i. "Enterprise zone assistance fund" or "assistance fund" means
19 the fund created by section 29 of P.L.1983, c.303 (C.52:27H-88);
20 and

21 j. "UEZ-impacted business district" or "district" means an
22 economically-distressed business district classified by the authority
23 as having been negatively impacted by two or more adjacent urban
24 enterprise zones in which 50% less sales tax is collected pursuant to
25 section 21 of P.L.1983, c.303 (C.52:27H-80).
26 (cf: P.L.2004, c.75, s.1)

27
28 4. Section 6 of P.L.1983, c.303 (C.52:27H-65) is amended to
29 read as follows:

30 6. It shall be the duty of the authority to:

31 a. Promulgate criteria for the designation of zones pursuant to
32 the provisions of this act;

33 b. Receive and evaluate applications of municipalities for the
34 designation of zones;

35 c. Enter into discussions with applying municipalities regarding
36 zone development proposals;

37 d. Act as agent of the State with respect to zone development
38 plans, and in determining the State-furnished components to be
39 included in those plans;

40 e. Designate zones in accordance with the provisions of this act
41 and promulgate rules and regulations necessary to carry out its
42 duties under this act;

43 f. Exercise continuing review and supervision of the
44 implementation of zone development plans, to include, but not be
45 limited to the creation of a database of all loans provided to zones
46 and businesses within a zone, in order to track the status of loan
47 repayments and defaults, and to determine if future funding should
48 be provided to the zone;

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6

1 g. Receive and evaluate proposals of qualifying municipalities
2 in which enterprise zones are designated for funding of projects and
3 increased eligible municipal services from the enterprise zone
4 assistance fund, and to certify annually to the State Treasurer
5 amounts to be paid from the enterprise zone assistance fund to
6 support approved projects and increased eligible municipal services
7 in designated enterprise zones;

8 h. Assist and represent qualifying municipalities in any
9 negotiations with, or proceedings before, other agencies of State
10 Government or of the federal government, to secure necessary or
11 appropriate assistance, support and cooperation of those agencies
12 in the implementation of zone development plans in accordance
13 with the provisions of this act and any other applicable State or
14 federal law;

15 i. Upon request, assist agencies of municipal government in
16 gathering, compiling and organizing data to support an application
17 for designation of a zone, and in identifying and coordinating the
18 elements of a zone development proposal suitable for the zone
19 sought to be designated;

20 j. Provide assistance to State and local government agencies
21 relating to application for the security of permits, licenses and other
22 regulatory approvals required by those agencies, to assure
23 consideration and expeditious handling of regulatory requirements
24 of any zone business, zone business association or zone
25 neighborhood association; regulatory agencies of the State and its
26 agencies and instrumentalities may agree to any simplification,
27 consolidation or other liberalization of procedural requirements
28 which may be requested by the authority and which is not
29 inconsistent with provisions of law;

30 k. Assist the State in applying to, or entering into negotiations or
31 agreements with, the federal government, for federal enterprise
32 zone designations; and

33 l. Exercise continuing review of the implementation of this act,
34 and to report annually to the Governor and the Legislature on the
35 effectiveness of enterprise zones in addressing the conditions cited
36 in this act, including any recommendations for legislation to
37 improve the effectiveness of operation of those zones. The report
38 shall be submitted one year from the effective date of this act, and
39 annually thereafter. The report shall include a summary of all of
40 the data gathered in the annual review of all enterprise zones set
41 forth in subsection f. of this section.

42 (cf: P.L.1983, c. 303, s. 6)

43

44 5. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to
45 read as follows:

46 29. a. There is created an enterprise zone assistance fund to be
47 held by the State Treasurer, which shall be the repository for all
48 moneys required to be deposited therein under section 21 of

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1 P.L.1983, c.303 (C.52:27H-80) or moneys appropriated annually to
2 the fund. All moneys deposited in the fund shall be held and
3 disbursed in the amounts necessary to fulfill the purposes of this
4 section and subject to the requirements hereinafter prescribed. The
5 State Treasurer may invest and reinvest any moneys in the fund, or
6 any portion thereof, in legal obligations of the United States or of
7 the State or of any political subdivision thereof. Any income from,
8 interest on, or increment to moneys so invested or reinvested shall
9 be included in the fund.

10 The State Treasurer shall maintain separate accounts for each
11 enterprise zone designated under this act, and one in the authority's
12 name for the administration of the Urban Enterprise Zone program.
13 The State Treasurer shall credit to each account an amount of the
14 moneys deposited in the fund equal to the amount of revenues
15 collected from the taxation of retail sales made in the zone and
16 appropriated to the enterprise zone assistance fund, or that amount
17 of moneys appropriated to the fund and required to be credited to
18 the enterprise zone account of the qualifying municipality pursuant
19 to section 21 of P.L.1983, c.303 (C.52:27H-80).

20 The State Treasurer shall promulgate the rules and regulations
21 necessary to govern the administration of the fund for the purposes
22 of this section, which shall include, but not be limited to,
23 regulations requiring the establishment of separate bank accounts
24 for funds credited to the enterprise zone account of each
25 municipality from the enterprise zone assistance fund, commonly
26 known as "first generation funds," and funds generated from the
27 repayments of loans to individuals and businesses from the
28 enterprise zone account of each municipality and the proceeds from
29 the sale of properties and equipment acquired through the enterprise
30 zone program, commonly known as "second generation funds," and
31 the review, compilation, and monitoring of second generation fund
32 quarterly reports submitted by each enterprise zone.

33 Any individual, including an individual who is not directly
34 employed by a municipality, with the authority to administer,
35 allocate or approve the use of zone assistance funds is subject to the
36 "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et
37 seq.), unless the individual is a State employee or a special State
38 officer.

39 b. The enterprise zone assistance fund shall be used for the
40 purpose of assisting qualifying municipalities in which enterprise
41 zones are designated in undertaking public improvements,
42 economic development projects and in upgrading eligible municipal
43 services in designated enterprise zones.

44 c. The governing body of a qualifying municipality in which an
45 enterprise zone is designated and the zone development corporation
46 created or designated by the municipality for that enterprise zone
47 may, by resolution jointly adopted after public hearing, propose to
48 undertake a project for the public improvement of the enterprise

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1 zone or to increase eligible municipal services in the enterprise
2 zone, and to fund that project or increase in eligible municipal
3 services from moneys deposited in the enterprise zone assistance
4 fund and credited to the account maintained by the State Treasurer
5 for the enterprise zone.

6 The proposal so adopted shall set forth a plan for the project or
7 for the increase in eligible municipal services and shall include:

8 (1) A description of the proposed project or of the municipal
9 services to be increased;

10 (2) An estimate of the total project costs, or of the total costs of
11 increasing the municipal services, and an estimate of the amounts of
12 funding necessary annually from the enterprise zone account;

13 (3) A statement of any other revenue sources to be used to
14 finance the project or to fund the increase in eligible municipal
15 services;

16 (4) A statement of the time necessary to complete the project, or
17 of the time during which the increased municipal services are to be
18 maintained;

19 (5) A statement of the manner in which the proposed project or
20 increase in municipal services furthers the municipality's policy and
21 intentions for addressing the economic and social conditions
22 existing in the area of the enterprise zone as set forth in the zone
23 development plan approved by the authority; and

24 (6) A description of the financial and programmatic controls and
25 reporting mechanisms to be used to guarantee that the funds will be
26 spent in accordance with the plan and that the project or increased
27 municipal service will accomplish its purpose.

28 As used in this section, "project" means an activity funded by the
29 zone assistance fund through the qualified municipality and
30 implemented by the zone development corporation, including the
31 purchasing, leasing, condemning, or otherwise acquiring of land or
32 other property, or an interest therein, in the enterprise zone or as
33 necessary for a right-of-way or other easement to or from the
34 enterprise zone; the relocating and moving of persons or businesses
35 displaced by the acquisition of land or property; the rehabilitation
36 and redevelopment of land or property, including demolition,
37 clearance, removal, relocation, renovation, alteration, construction,
38 reconstruction, installation or repair of a land or a building, street,
39 highway, alley, utility, service or other structure or improvement
40 which will lead to increased economic activity within the zone; the
41 acquisition, construction, reconstruction, rehabilitation, or
42 installation of public facilities and improvements, except buildings
43 and facilities for the general conduct of government and schools;
44 the establishment of revolving loan or grant programs for qualified
45 businesses in the zone to encourage private investment and job
46 creation, matching grant programs for the establishment or
47 operation of pedestrian malls, special improvement districts and tax
48 increment districts, or other appropriate entity; marketing,

1 advertising and special event activities that will lead to increased
2 economic activity or encourage private investment and job creation
3 in the zone, but not including the expenditures therefor which are
4 required to be reported pursuant to "The New Jersey Campaign
5 Contributions and Expenditures Reporting Act," P.L.1973, c.83
6 (C.19:44A-1 et seq.) and the costs associated therewith including
7 the costs of an administrative appraisal, economic and
8 environmental analyses, environmental remediation, engineering,
9 planning, design, architectural, surveying or other professional or
10 managerial services

11 As used in this section, "eligible municipal services" means the
12 hiring of additional policemen or firemen assigned duties in the
13 enterprise zone, or the purchasing or leasing of additional police or
14 fire vehicles, equipment or apparatus to be used for the provision of
15 augmented or upgraded public safety services in the enterprise zone
16 and its immediate vicinities.

17 d. Upon adoption by the governing body of the qualifying
18 municipality and by the zone development corporation, the proposal
19 shall be sent to the authority for its evaluation and approval. The
20 authority shall approve the proposal if it shall find:

21 (1) In the case of a project, that the proposed project furthers the
22 policy and intentions of the zone development plan approved by the
23 authority, and that the estimated annual payments for the project
24 from the enterprise zone account to which the proposal pertains are
25 not likely to result in a deficit in that account;

26 (2) In the case of an increase in eligible municipal services, that
27 the proposal furthers the policy and intentions of the zone
28 development plan approved by the authority; that the qualifying
29 municipality has furnished satisfactory assurances that the
30 additional policemen or firemen to be hired, or the additional
31 vehicles, equipment or apparatus to be purchased or leased, shall be
32 used to augment or upgrade public safety in the enterprise zone, and
33 shall not be used in other areas of the municipality; that the
34 qualifying municipality shall annually appropriate for the increased
35 eligible municipal services an amount equal to 20% of the amount
36 of annual payments for the eligible municipal services from the
37 enterprise zone account and shall not request for the increased
38 eligible municipal services an amount equal to more than 35% of
39 the amount of annual payments into the enterprise zone account,
40 unless the municipality and the authority have entered into an
41 agreement or agreements to the contrary prior to July 1, 1992; and
42 that the estimated annual payments for the eligible municipal
43 services from the enterprise zone account to which the proposal
44 pertains are not likely to result in a deficit in that account.

45 e. If the authority shall approve the proposal, it shall annually,
46 upon its receipt of a written statement from the governing body of
47 the qualifying municipality and the zone development corporation,
48 certify to the State Treasurer the amount to be paid in that year from

1 the enterprise zone account in the enterprise zone assistance fund
2 with respect to each project or increase in eligible municipal
3 services approved. The authority may at any time revoke its
4 approval of a project or an increase in eligible municipal services if
5 it finds that the annual payments made from the enterprise zone
6 assistance fund are not being used as required by this section.

7 f. Upon certification by the authority of the annual amount to
8 be paid to a qualifying zone with respect to any project or increase
9 in eligible municipal services, the State Treasurer shall pay in each
10 year to the qualifying municipality from the amounts deposited in
11 the enterprise zone assistance fund the amount so certified, within
12 the limits of the amounts credited to the enterprise zone account of
13 the qualifying municipality.

14 g. An amount not to exceed one-third of the amount deposited
15 in the account created in the name of the authority in the enterprise
16 zone assistance fund shall be used by the authority for the
17 coordination and administration of the program throughout the
18 State, including but not limited to costs for personnel, operating
19 expenses and marketing. The balance of the remaining amount
20 shall be distributed to qualifying municipalities in proportion to
21 each municipality's contribution to the enterprise zone assistance
22 fund for the coordination and administration of the program within
23 the municipality, including but not limited to costs for personnel,
24 operating expenses and marketing.

25 (cf: P.L.2002, c.64, s.1)

26

27 6. This act shall take effect July 1, 2006 and sections 1 and 2
28 shall apply to sales made on and after that date.

29

30

31

STATEMENT

32

33 This bill changes certain procedures for the administration of the
34 Urban Enterprise Zone program and limits the types of business
35 purchases included in the exemptions for businesses and contractors
36 under the Urban Enterprise Zone program. The bill does not affect
37 the reduced tax rates on retail sales made in the zone.

38 The bill revises certain procedures for the administration of the
39 Urban Enterprise Zone program. The first amendment allows
40 consideration of delinquent tax information when determining
41 participation in the UEZ program. The second amendment allows
42 the creation of a database to monitor the status of loan
43 disbursements and repayments and requires that annual reports to
44 the Governor reviewing the program include summaries of
45 information gathered in such databases. The last amendment
46 requires separate bank accounts for first and second generation
47 funds and quarterly second generation fund reports for each
48 enterprise zone and requires that any individual with the authority

1 to administer such funds be subject to the “Local Government
2 Ethics Law,” P.L.1991, c.29 (C.40A:9-22.1 et seq.).

3 The current UEZ statutes grant qualified zone businesses a broad
4 exemption from all sales and use tax on purchases of goods and
5 services for the exclusive use of consumption of such business
6 within the zone. Contrary to the original goals of the UEZ program,
7 this broad exemption has given a disproportionately large benefit to
8 a relatively small number of businesses. This initiative would
9 target more precisely the sales tax incentive available to purchases
10 made by qualified businesses.

11 The bill provides that the goods purchased for the building of a
12 commercial structure for a qualified business and the physical
13 expansion of a qualified business are exempt purchases. In
14 addition, purchases for the initial equipping of the business and for
15 equipping the business in relation to a physical expansion of the
16 business are exempt. The bill also provides a similar sales tax
17 exemption for contractors whose purchases are for the same
18 purpose. The bill excludes energy, motor vehicles and supplies
19 from the exemption, and it does not exempt services.

20 This bill also requires qualified businesses to obtain their UEZ
21 sales tax exemptions savings in rebate form, rather than exempting
22 the sales tax at the point of sale. The goal of this change is to curb
23 fraud and abuse of the exemption, but also to allow new businesses
24 making purchases for initial building or equipping to qualify for the
25 exemption before they become “qualified businesses.” If they are
26 not already qualified, businesses must show that they have become
27 qualified since the purchases and show their receipts to receive the
28 rebates.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1983**

STATE OF NEW JERSEY

DATED: JULY 7, 2006

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1983.

This committee substitute changes certain procedures for the administration of the Urban Enterprise Zone program and creates an exemption for certain businesses. The committee substitute does not affect the reduced tax rates on retail sales made in the zone.

The committee substitute revises certain procedures for the administration of the Urban Enterprise Zone program. The substitute creates a new requirement for the director to publicize proposed regulations related to the new exemptions. The substitute allows consideration of delinquent tax information when determining participation in the UEZ program. The substitute requires separate bank accounts for first and second generation funds and quarterly second generation fund reports for each enterprise zone and requires that any individual with the authority to administer such funds be subject to the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.).

This committee substitute requires qualified businesses to obtain their UEZ sales tax exemptions savings in rebate form, rather than exempting the sales tax at the point of sale. The goal of this change is to curb fraud and abuse of the exemption, but also to allow new businesses making purchases for initial building or equipping to qualify for the exemption before they become "qualified businesses." If they are not already qualified, businesses must show that they have become qualified since the purchases and show their receipts to receive the rebates. Qualified businesses that are certified by the Director of the Division of Taxation as having had less than \$1,000,000 in annual gross receipts in that business' prior annual tax period will receive the exemptions at the point of sale.

The substitute also leaves subsection b. of Section 34 of P.L.1980, c.105 (C.54:32B-8.22) intact.

FISCAL IMPACT:

The Executive currently projects that restricted exemptions provided in the bill will increase State revenue by \$46 million in fiscal year 2007 without providing information in support of the estimate.

FISCAL NOTE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1983
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: AUGUST 23, 2006

SUMMARY

Synopsis: Concerns sales tax exemptions for goods and materials purchased by qualified businesses in and operations of urban enterprise zones.

Type of Impact: Annually Recurring Revenue Gain to the State General Fund and local Urban Enterprise Zone Authorities.

Agencies Affected: Department of the Treasury;
Local Urban Enterprise Zone Authorities.

Executive Estimate

Fiscal Impact	<u>Fiscal Year 2007</u>	<u>Fiscal Year 2008</u>	<u>Fiscal Year 2009</u>
State Revenue	\$46,000,000 per Fiscal Year		

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2007</u>	<u>Fiscal Year 2008</u>	<u>Fiscal Year 2009</u>
State Revenue	Indeterminate - See Comments Below		
Local Revenue	Indeterminate - See Comments Below		

- The Office of Legislative Services (OLS) can **neither concur nor disagree** with the Executive estimate, given that the Executive has not elaborated on the method and data underlying its estimate and that the OLS has no data enabling it to ascertain the accuracy of the Executive projection.
- The OLS notes that local Urban Enterprise Zone (UEZ) authorities may realize a minimal revenue gain from this bill if some businesses did not seek a reimbursement for the amount of sales tax paid on business purchases in UEZs or if their rebate applications were denied.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 1983 of 2006 modifies the sales and use tax exemption for certain sales of personal property and services to qualified businesses with annual gross receipts of at least \$1 million for use on the businesses' UEZ premises. Specifically, the bill requires these businesses to pay the applicable sales tax at the time of purchase and then to apply for a refund of taxes paid to the New Jersey Division of Taxation. The current procedure of applying the exemption at the time of purchase remains in force only for qualified businesses with annual gross receipts of less than \$1 million.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Without elaborating on its method or data, the Executive projects that this bill would generate \$46 million in annual State General Fund revenues.

In the Governor's Fiscal Year 2007 Budget, the Executive estimated that restructuring the sales and use tax exemption for qualified businesses in UEZs would yield \$100 million in additional proceeds to be deposited in the State General Fund. Three components made up this projection: 1) restricting the exemption to sales of goods and materials used in the construction or expansion of a commercial structure or in the equipping of a business in a UEZ, 2) having businesses apply to the Division of Taxation for a refund of sales taxes paid rather than having the exemption applied directly at the time of purchase, and 3) delaying the refunding of payments eligible for the sales and use tax exemption by one fiscal year.

This bill only includes the shift of having businesses with annual gross receipts of at least \$1 million apply for a refund of sales taxes paid rather than having the exemption applied directly at the time of purchase.

OFFICE OF LEGISLATIVE SERVICES

The OLS can neither concur nor disagree with the Executive estimate, given that the Executive has not elaborated on the method and data underlying its estimate and that the OLS has no data enabling it to ascertain the accuracy of the Executive projection.

The OLS notes that local UEZ authorities may realize a minimal revenue gain from the proposed refunding mechanism for the sales and use tax exemption for certain sales of personal property and services to qualified businesses with annual gross receipts of \$1 million or more for use on the businesses' UEZ premises. That gain would materialize if some businesses acquired business inputs in UEZs at the reduced tax rate but did not seek a reimbursement for the amount of sales tax paid or if the Division of Taxation denied the rebate application. The OLS, however, has no basis upon which to credibly quantify this effect.

Section: Revenue, Finance and Appropriations

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