

# 54:50-39

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 101

**NJSA:** 54:50-39            (Establishes a tax clearance certificate program for awards of certain business assistance and incentives)

**BILL NO:** A5003            (Substituted for S3003)

**SPONSOR(S)** Burzichelli and Vas

**DATE INTRODUCED:** June 14, 2007

**COMMITTEE:**            **ASSEMBLY:** Budget

**SENATE:**

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**            **ASSEMBLY:** June 21, 2007

**SENATE:** June 21, 2007

**DATE OF APPROVAL:** June 28, 2007

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

### A5003

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

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

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

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

### S3003

[SPONSOR'S STATEMENT:](#) (Begins on page 4 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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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

IS 4/10/08

P.L. 2007, CHAPTER 101, *approved June 28, 2007*  
Assembly, No. 5003

1 AN ACT establishing a tax clearance certificate program for awards  
2 of certain business assistance and incentives, supplementing  
3 Chapter 50 of Title 54 of the Revised Statutes.

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

7  
8 1. a. A department or agency of State government, including  
9 independent authorities and instrumentalities of the State, shall, as a  
10 precondition to the award of business assistance or incentive or as a  
11 component of the application for business assistance or incentive as  
12 appropriate, require a person to submit a tax clearance certificate  
13 issued by the director prior to the department or agency making an  
14 award of business assistance or incentive to the person.

15 b. The person applying for business assistance or incentive may  
16 apply to the director for a tax clearance certificate and shall provide  
17 the director such information in such form as the director may  
18 prescribe necessary for the director to determine if the person has  
19 satisfied all requirements for filing those State tax and information  
20 returns and for paying those State taxes for which they have been  
21 liable as taxpayers or as collectors of tax.

22 c. If the director determines that the person has complied with  
23 all requirements for filing tax and information returns and for  
24 paying or remitting required State taxes and fees, the director shall  
25 issue to the person a tax clearance certificate.

26 If the director determines that the person has not filed all  
27 required tax and information returns or has not paid all tax,  
28 penalties, interest, or fees due, the director shall issue a notice of  
29 delinquency or deficiency listing unfiled returns or balances due.  
30 The director may require a person to resolve all delinquencies and  
31 deficiencies before a tax clearance certificate is issued, or upon  
32 review of the total circumstances, the director may issue an interim  
33 tax clearance certificate if the director determines to the director's  
34 satisfaction that the person will resolve all such delinquencies or  
35 deficiencies within the time period specified by the director.

36 The director's issuance of a regular or interim tax clearance  
37 certificate shall not constitute a waiver of authority to demand  
38 resolution of all deficiencies and delinquencies and shall not  
39 prevent further audit or the assessment of additional taxes,  
40 penalties, interest, or fees as may be provided by law. No  
41 additional right to protest or appeal the State tax indebtedness,  
42 filing deficiency, or penalties shall be available to any person  
43 pursuant to this section.

44 d. As used in this section:

1       “Business assistance or incentive” means monetary or financial  
2 assistance in any form, other than a tax credit or tax exemption  
3 granted pursuant to a claim made on a tax return filed with the  
4 Division of Taxation in the Department of the Treasury, including  
5 but not limited to a grant, loan, loan guarantee, or other monetary or  
6 financial benefit awarded to a person by a department or agency of  
7 State government, including independent authorities and  
8 instrumentalities of the State, to assist the person in the conduct or  
9 operation of a business, occupation, trade, or profession in the  
10 State, in connection with the following programs:

11       (1) the business employment incentive program established  
12 pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.);

13       (2) the business retention and relocation assistance program  
14 established pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

15       (3) the customized training services provided pursuant to section  
16 5 of P.L.1992, c.43 (C.34:15D-5);

17       (4) the business, commercial and industrial components of the  
18 clean energy program administered by the Board of Public Utilities;

19       (5) the business grant, loan, and loan guarantee programs  
20 administered by:

21           (a) the Economic Development Authority;

22           (b) the Housing and Mortgage Finance Authority; and

23           (c) the Casino Reinvestment Development Authority;

24       (6) the science and technology grants provided by or through the  
25 New Jersey Commission on Science and Technology; and

26       (7) . any other similar State program that confers a significant  
27 monetary or financial benefit upon a business or businesses, as  
28 prescribed by the State Treasurer pursuant to regulations  
29 promulgated pursuant to the "Administrative Procedure Act,"  
30 P.L.1968, c.410 (C.52:14B-1 et seq.).

31       e. The director may charge and collect an application fee from a  
32 person applying for a tax clearance certificate, to reflect the  
33 administrative costs, and may charge and collect a reasonable  
34 service fee for the provision of any expedited services offered.

35       f. In order to better manage the workload of issuing tax  
36 clearance certificates, the director may prescribe a schedule by  
37 which tax clearance certificates will initially be issued for only one  
38 or more of the programs enumerated as business assistance or  
39 incentive, or one or more of the components of one or more of those  
40 programs, and by which tax clearance certificate issuance for other  
41 programs enumerated, or other components of those programs, will  
42 be instituted beginning on dates specified according to the schedule.  
43 In prescribing the schedule the director will give due regard to the  
44 monetary value of the assistance and incentive offered, the timing  
45 of the application process, the number of applicants, and necessary  
46 applicant and program administrator notice for a particular program  
47 or program component. Such a schedule adopted by the director  
48 shall be subject to change by the director, but in any case shall

1 provide for issuance of tax clearance certificates for all enumerated  
2 programs before January 1, 2009.

3 Notwithstanding any provisions of this section to the contrary,  
4 no tax clearance certificate shall be required as a precondition to the  
5 award of business assistance or incentive or as a component of the  
6 application for business assistance or incentive prior to its  
7 program's, or its program's component's, scheduling by the director  
8 pursuant to this subsection.

9 g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-  
10 1 et seq.) to the contrary, the director may adopt immediately upon  
11 filing with the Office of Administrative Law such regulations as the  
12 director deems necessary to implement the provisions of this act,  
13 which shall be effective for a period not to exceed 180 days  
14 following enactment of P.L., c. (C. )(pending before the  
15 Legislature as this bill) and may thereafter be amended, adopted or  
16 readopted by the director in accordance with the requirements of  
17 P.L.1968, c.410.

18

19 2. This act shall take effect immediately but remain inoperative  
20 until July 1, 2007.

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#### STATEMENT

24

25 This bill establishes a tax clearance program for awards of  
26 certain business assistance and incentive programs by the State and  
27 its independent agencies and authorities.

28 Several departments, agencies, and authorities of the State,  
29 including the Department of Labor, the Board of Public Utilities,  
30 and the Economic Development Authority, award grants, loans, and  
31 other forms of assistance to businesses. Unlike individual gross  
32 income tax payers who are subject to the Setoff of Individual  
33 Liability (SOIL) program, most businesses that receive State  
34 assistance are not routinely checked for tax compliance.

35 This bill requires that departments and agencies of State  
36 government, including independent authorities and instrumentalities  
37 of the State, as a precondition to or as a component of the  
38 application process for an the award of "business assistance or  
39 incentive," require the applicant to submit a tax clearance certificate  
40 issued by the director of the Division of Taxation. The bill defines  
41 "business assistance or incentive" as monetary or financial  
42 assistance in any form, other than a tax credit or tax exemption  
43 granted pursuant to a claim made on a tax return filed with the  
44 Division of Taxation in the Department of the Treasury, including  
45 but not limited to a grant, loan, loan guarantee, or other monetary or  
46 financial benefit awarded to a person by a department or agency of  
47 State government, including independent authorities and  
48 instrumentalities of the State, to assist the person in the conduct or

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1 operation of a business, occupation, trade, or profession in the  
2 State, in connection with the following programs:

- 3 (1) the business employment incentive (BEIP) program;  
4 (2) the business retention and relocation assistance (BRAAG)  
5 program;  
6 (3) the Department of Labor's customized training services;  
7 (4) the business, commercial and industrial components of the  
8 clean energy program administered by the Board of Public Utilities;  
9 (5) the business grant, loan, and loan guarantee programs  
10 administered by:

- 11 (a) the Economic Development Authority;  
12 (b) the Housing and Mortgage Finance Authority; and  
13 (c) the Casino Reinvestment Development Authority;  
14 (6) the science and technology grants provided by or through the  
15 New Jersey Commission on Science and Technology; and  
16 (7) any other similar State program that confers a significant  
17 monetary or financial benefit upon a business or businesses, as  
18 prescribed by the State Treasurer pursuant to regulation.

19 In order to better manage the workload of issuing tax clearance  
20 certificates, the bill authorizes the director to prescribe a schedule  
21 by which tax clearance certificates will be issued on a program by  
22 program basis, but requires the issuance of tax clearance certificates  
23 for all enumerated programs before January 1, 2009.

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27

28 Establishes a tax clearance certificate program for awards of  
29 certain business assistance and incentives.

# ASSEMBLY, No. 5003

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Co-Sponsored by:**

**Senator Turner**

**SYNOPSIS**

Establishes a tax clearance certificate program for awards of certain business assistance and incentives.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/22/2007)**

1 AN ACT establishing a tax clearance certificate program for awards  
2 of certain business assistance and incentives, supplementing  
3 Chapter 50 of Title 54 of the Revised Statutes.

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

7  
8 1. a. A department or agency of State government, including  
9 independent authorities and instrumentalities of the State, shall, as a  
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12 appropriate, require a person to submit a tax clearance certificate  
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15 b. The person applying for business assistance or incentive may  
16 apply to the director for a tax clearance certificate and shall provide  
17 the director such information in such form as the director may  
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19 satisfied all requirements for filing those State tax and information  
20 returns and for paying those State taxes for which they have been  
21 liable as taxpayers or as collectors of tax.

22 c. If the director determines that the person has complied with  
23 all requirements for filing tax and information returns and for  
24 paying or remitting required State taxes and fees, the director shall  
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34 satisfaction that the person will resolve all such delinquencies or  
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36 The director's issuance of a regular or interim tax clearance  
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40 penalties, interest, or fees as may be provided by law. No  
41 additional right to protest or appeal the State tax indebtedness,  
42 filing deficiency, or penalties shall be available to any person  
43 pursuant to this section.

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45 "Business assistance or incentive" means monetary or financial  
46 assistance in any form, other than a tax credit or tax exemption  
47 granted pursuant to a claim made on a tax return filed with the  
48 Division of Taxation in the Department of the Treasury, including



1 but not limited to a grant, loan, loan guarantee, or other monetary or  
2 financial benefit awarded to a person by a department or agency of  
3 State government, including independent authorities and  
4 instrumentalities of the State, to assist the person in the conduct or  
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9 which shall be effective for a period not to exceed 180 days  
10 following enactment of P.L., c. (C. )(pending before the  
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12 readopted by the director in accordance with the requirements of  
13 P.L.1968, c.410.

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15 2. This act shall take effect immediately but remain inoperative  
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#### STATEMENT

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21 This bill establishes a tax clearance program for awards of  
22 certain business assistance and incentive programs by the State and  
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25 including the Department of Labor, the Board of Public Utilities,  
26 and the Economic Development Authority, award grants, loans, and  
27 other forms of assistance to businesses. Unlike individual gross  
28 income tax payers who are subject to the Setoff of Individual  
29 Liability (SOIL) program, most businesses that receive State  
30 assistance are not routinely checked for tax compliance.

31 This bill requires that departments and agencies of State  
32 government, including independent authorities and instrumentalities  
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42 financial benefit awarded to a person by a department or agency of  
43 State government, including independent authorities and  
44 instrumentalities of the State, to assist the person in the conduct or  
45 operation of a business, occupation, trade, or profession in the  
46 State, in connection with the following programs:

47 (1) the business employment incentive (BEIP) program;

- 1       (2) the business retention and relocation assistance (BRAAG)  
2 program;
- 3       (3) the Department of Labor's customized training services;
- 4       (4) the business, commercial and industrial components of the  
5 clean energy program administered by the Board of Public Utilities;
- 6       (5) the business grant, loan, and loan guarantee programs  
7 administered by:
- 8           (a) the Economic Development Authority;
- 9           (b) the Housing and Mortgage Finance Authority; and
- 10          (c) the Casino Reinvestment Development Authority;
- 11       (6) the science and technology grants provided by or through the  
12 New Jersey Commission on Science and Technology; and
- 13       (7) any other similar State program that confers a significant  
14 monetary or financial benefit upon a business or businesses, as  
15 prescribed by the State Treasurer pursuant to regulation.
- 16       In order to better manage the workload of issuing tax clearance  
17 certificates, the bill authorizes the director to prescribe a schedule  
18 by which tax clearance certificates will be issued on a program by  
19 program basis, but requires the issuance of tax clearance certificates  
20 for all enumerated programs before January 1, 2009.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 5003

# STATE OF NEW JERSEY

DATED: JUNE 18, 2007

The Assembly Budget Committee reports favorably Assembly Bill No. 5003.

The bill establishes a tax clearance program for awards of certain business assistance and incentive programs by the State and its independent agencies and authorities.

Several departments, agencies, and authorities of the State, including the Department of Labor, the Board of Public Utilities, and the Economic Development Authority, award grants, loans, and other forms of assistance to businesses. Unlike individual gross income tax payers who are subject to the Setoff of Individual Liability (SOIL) program, most businesses that receive State assistance are not routinely checked for tax compliance.

This bill requires that departments and agencies of State government, including independent authorities and instrumentalities of the State, as a precondition to or as a component of the application process for an the award of “business assistance or incentive,” require the applicant to submit a tax clearance certificate issued by the director of the Division of Taxation. The bill defines “business assistance or incentive” as monetary or financial assistance in any form, other than a tax credit or tax exemption granted pursuant to a claim made on a tax return filed with the Division of Taxation in the Department of the Treasury, including but not limited to a grant, loan, loan guarantee, or other monetary or financial benefit awarded to a person by a department or agency of State government, including independent authorities and instrumentalities of the State, to assist the person in the conduct or operation of a business, occupation, trade, or profession in the State, in connection with the following programs:

- (1) the business employment incentive (BEIP) program;
- (2) the business retention and relocation assistance (BRAAG) program;
- (3) the Department of Labor’s customized training services;
- (4) the business, commercial and industrial components of the clean energy program administered by the Board of Public Utilities;
- (5) the business grant, loan, and loan guarantee programs administered by:
  - (a) the Economic Development Authority;
  - (b) the Housing and Mortgage Finance Authority; and

(c) the Casino Reinvestment Development Authority;

(6) the science and technology grants provided by or through the New Jersey Commission on Science and Technology; and

(7) any other similar State program that confers a significant monetary or financial benefit upon a business or businesses, as prescribed by the State Treasurer pursuant to regulation.

To better manage the workload of issuing tax clearance certificates, the bill authorizes the director to prescribe a schedule by which tax clearance certificates will be issued on a program by program basis, but requires the issuance of tax clearance certificates for all enumerated programs before January 1, 2009.

FISCAL IMPACT:

The Executive has not provided fiscal information on its tax clearance certificate initiative. No information is available concerning the increased costs of performing the tax clearances, but the bill allows the Director of the Division of Taxation to charge a fee from a person applying for a tax clearance certificate, to reflect the administrative costs, and the director may charge and collect a reasonable service fee for the provision of any expedited services offered.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 5003**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JULY 9, 2007

**SUMMARY**

**Synopsis:** Establishes a tax clearance certificate program for awards of certain business assistance and incentives.

**Type of Impact:** A recurring revenue gain to the State General Fund.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2008</u></b>	<b><u>Fiscal Year 2009</u></b>	<b><u>Fiscal Year 2010</u></b>
<b>State Cost</b>	Indeterminate - See Comments Below		
<b>State Revenue Gain</b>	Indeterminate - See Comments Below		

- The Office of Legislative Services (OLS) has no basis upon which to credibly estimate the fiscal impact of the legislation, as the agency lacks information on the expected volume of tax clearance certificate applications, the cost of performing a tax clearance, and the amount of outstanding State tax liabilities that could be recovered under the bill.
- The bill authorizes the Division of Taxation in the Department of the Treasury to charge a tax clearance application fee to fully defray the administrative costs of the new program.

**BILL DESCRIPTION**

Assembly Bill No. 5003 of 2007 renders the award of financial business assistance and incentives by the State and its independent agencies and authorities contingent upon the issuance by the Division of Taxation of a tax clearance certificate affirming that an applicant for the award has no outstanding New Jersey tax liability. The bill authorizes the division to operate the certificate program for select business assistance programs until January 1, 2009, after which date the division has to certify every applicant for every business assistance benefit.

The bill allows the division to charge tax clearance certificate aspirants an application fee.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS has no basis upon which to credibly estimate the fiscal impact of the legislation, as the agency lacks information on the expected volume of tax clearance certificate applications, the cost of performing a tax clearance, and the amount of outstanding State tax liabilities that could be recovered under the bill.

The OLS notes that the bill authorizes the Division of Taxation to charge a tax clearance application fee to fully defray the administrative costs of the additional work requirement. The bill's net fiscal impact would therefore equal the amount of tax owed that would be recovered under the program. Since the bill does not require a tax clearance certificate program for all business assistance programs until January 1, 2009, however, the OLS expects the program's full potential revenue gain not to materialize until the second half of fiscal year 2009, assuming that the division would not transition to a comprehensive program at an earlier date.

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

# SENATE, No. 3003

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

**Sponsored by:**  
**Senator SHIRLEY K. TURNER**  
**District 15 (Mercer)**

### **SYNOPSIS**

Establishes a tax clearance certificate program for awards of certain business assistance and incentives.

### **CURRENT VERSION OF TEXT**

As introduced.





S3003 TURNER

2

1 AN ACT establishing a tax clearance certificate program for awards  
2 of certain business assistance and incentives, supplementing  
3 Chapter 50 of Title 54 of the Revised Statutes.

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

7  
8 1. a. A department or agency of State government, including  
9 independent authorities and instrumentalities of the State, shall, as a  
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11 component of the application for business assistance or incentive as  
12 appropriate, require a person to submit a tax clearance certificate  
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14 award of business assistance or incentive to the person.

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16 apply to the director for a tax clearance certificate and shall provide  
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20 returns and for paying those State taxes for which they have been  
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23 all requirements for filing tax and information returns and for  
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25 issue to the person a tax clearance certificate.

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33 tax clearance certificate if the director determines to the director's  
34 satisfaction that the person will resolve all such delinquencies or  
35 deficiencies within the time period specified by the director.

36 The director's issuance of a regular or interim tax clearance  
37 certificate shall not constitute a waiver of authority to demand  
38 resolution of all deficiencies and delinquencies and shall not  
39 prevent further audit or the assessment of additional taxes,  
40 penalties, interest, or fees as may be provided by law. No  
41 additional right to protest or appeal the State tax indebtedness,  
42 filing deficiency, or penalties shall be available to any person  
43 pursuant to this section.

44 d. As used in this section:

45 "Business assistance or incentive" means monetary or financial  
46 assistance in any form, other than a tax credit or tax exemption  
47 granted pursuant to a claim made on a tax return filed with the  
48 Division of Taxation in the Department of the Treasury, including

**S3003 TURNER**

1 but not limited to a grant, loan, loan guarantee, or other monetary or  
2 financial benefit awarded to a person by a department or agency of  
3 State government, including independent authorities and  
4 instrumentalities of the State, to assist the person in the conduct or  
5 operation of a business, occupation, trade, or profession in the  
6 State, in connection with the following programs:

7 (1) the business employment incentive program established  
8 pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.);

9 (2) the business retention and relocation assistance program  
10 established pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

11 (3) the customized training services provided pursuant to section  
12 5 of P.L.1992, c.43 (C.34:15D-5);

13 (4) the business, commercial and industrial components of the  
14 clean energy program administered by the Board of Public Utilities;

15 (5) the business grant, loan, and loan guarantee programs  
16 administered by:

17 (a) the Economic Development Authority;

18 (b) the Housing and Mortgage Finance Authority; and

19 (c) the Casino Reinvestment Development Authority;

20 (6) the science and technology grants provided by or through the  
21 New Jersey Commission on Science and Technology; and

22 (7) any other similar State program that confers a significant  
23 monetary or financial benefit upon a business or businesses, as  
24 prescribed by the State Treasurer pursuant to regulations  
25 promulgated pursuant to the "Administrative Procedure Act,"  
26 P.L.1968, c.410 (C.52:14B-1 et seq.).

27 e. The director may charge and collect an application fee from a  
28 person applying for a tax clearance certificate, to reflect the  
29 administrative costs, and may charge and collect a reasonable  
30 service fee for the provision of any expedited services offered.

31 f. In order to better manage the workload of issuing tax  
32 clearance certificates, the director may prescribe a schedule by  
33 which tax clearance certificates will initially be issued for only one  
34 or more of the programs enumerated as business assistance or  
35 incentive, or one or more of the components of one or more of those  
36 programs, and by which tax clearance certificate issuance for other  
37 programs enumerated, or other components of those programs, will  
38 be instituted beginning on dates specified according to the schedule.  
39 In prescribing the schedule the director will give due regard to the  
40 monetary value of the assistance and incentive offered, the timing  
41 of the application process, the number of applicants, and necessary  
42 applicant and program administrator notice for a particular program  
43 or program component. Such a schedule adopted by the director  
44 shall be subject to change by the director, but in any case shall  
45 provide for issuance of tax clearance certificates for all enumerated  
46 programs before January 1, 2009.

47 Notwithstanding any provisions of this section to the contrary,  
48 no tax clearance certificate shall be required as a precondition to the

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1 award of business assistance or incentive or as a component of the  
2 application for business assistance or incentive prior to its  
3 program's, or its program's component's, scheduling by the director  
4 pursuant to this subsection.

5 g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-  
6 1 et seq.) to the contrary, the director may adopt immediately upon  
7 filing with the Office of Administrative Law such regulations as the  
8 director deems necessary to implement the provisions of this act,  
9 which shall be effective for a period not to exceed 180 days  
10 following enactment of P.L., c. (C. )(pending before the  
11 Legislature as this bill) and may thereafter be amended, adopted or  
12 readopted by the director in accordance with the requirements of  
13 P.L.1968, c.410.

14

15 2. This act shall take effect immediately but remain inoperative  
16 until July 1, 2007.

17

18

19

**STATEMENT**

20

21 This bill establishes a tax clearance program for awards of  
22 certain business assistance and incentive programs by the State and  
23 its independent agencies and authorities.

24 Several departments, agencies, and authorities of the State,  
25 including the Department of Labor, the Board of Public Utilities,  
26 and the Economic Development Authority, award grants, loans, and  
27 other forms of assistance to businesses. Unlike individual gross  
28 income tax payers who are subject to the Setoff of Individual  
29 Liability (SOIL) program, most businesses that receive State  
30 assistance are not routinely checked for tax compliance.

31 This bill requires that departments and agencies of State  
32 government, including independent authorities and instrumentalities  
33 of the State, as a precondition to or as a component of the  
34 application process for an the award of "business assistance or  
35 incentive," require the applicant to submit a tax clearance certificate  
36 issued by the director of the Division of Taxation. The bill defines  
37 "business assistance or incentive" as monetary or financial  
38 assistance in any form, other than a tax credit or tax exemption  
39 granted pursuant to a claim made on a tax return filed with the  
40 Division of Taxation in the Department of the Treasury, including  
41 but not limited to a grant, loan, loan guarantee, or other monetary or  
42 financial benefit awarded to a person by a department or agency of  
43 State government, including independent authorities and  
44 instrumentalities of the State, to assist the person in the conduct or  
45 operation of a business, occupation, trade, or profession in the  
46 State, in connection with the following programs:

47 (1) the business employment incentive (BEIP) program;

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- 1       (2) the business retention and relocation assistance (BRAAG)  
2 program;
- 3       (3) the Department of Labor’s customized training services;
- 4       (4) the business, commercial and industrial components of the  
5 clean energy program administered by the Board of Public Utilities;
- 6       (5) the business grant, loan, and loan guarantee programs  
7 administered by:
- 8           (a) the Economic Development Authority;
- 9           (b) the Housing and Mortgage Finance Authority; and
- 10          (c) the Casino Reinvestment Development Authority;
- 11       (6) the science and technology grants provided by or through the  
12 New Jersey Commission on Science and Technology; and
- 13       (7) any other similar State program that confers a significant  
14 monetary or financial benefit upon a business or businesses, as  
15 prescribed by the State Treasurer pursuant to regulation.
- 16       In order to better manage the workload of issuing tax clearance  
17 certificates, the bill authorizes the director top prescribe a schedule  
18 by which tax clearance certificates will be issued on a program by  
19 program basis, but requires the issuance of tax clearance certificates  
20 for all enumerated programs before January 1, 2009.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 3003

# STATE OF NEW JERSEY

DATED: JUNE 18, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3003.

Senate Bill No. 3003 establishes a tax clearance program for awards of certain business assistance and incentive programs by the State and its independent agencies and authorities.

Several departments, agencies, and authorities of the State, including the Department of Labor and Workforce Development, the New Jersey Board of Public Utilities, and the New Jersey Economic Development Authority, award grants, loans, and other forms of assistance to businesses. Unlike individual gross income tax payers who are subject to the Setoff of Individual Liability (SOIL) program, most businesses that receive State assistance are not routinely checked for tax compliance.

This bill requires that departments and agencies of State government, including independent authorities and instrumentalities of the State, as a precondition to or as a component of the application process for an award of “business assistance or incentive,” require the applicant to submit a tax clearance certificate issued by the Director of the Division of Taxation. The bill defines “business assistance or incentive” as monetary or financial assistance in any form, other than a tax credit or tax exemption granted pursuant to a claim made on a tax return filed with the Division of Taxation in the Department of the Treasury, including but not limited to a grant, loan, loan guarantee, or other monetary or financial benefit awarded to a person by a department or agency of State government, including independent authorities and instrumentalities of the State, to assist the person in the conduct or operation of a business, occupation, trade, or profession in the State, in connection with the following programs:

- (1) the business employment incentive (BEIP) program;
- (2) the business retention and relocation assistance (BRAAG) program;
- (3) the Department of Labor and Workforce Development’s customized training services;
- (4) the business, commercial and industrial components of the clean energy program administered by the Board of Public Utilities;
- (5) the business grant, loan, and loan guarantee programs administered by:

- (a) the Economic Development Authority;
  - (b) the New Jersey Housing and Mortgage Finance Authority;
- and
- (c) the Casino Reinvestment Development Authority;
  - (6) the science and technology grants provided by or through the New Jersey Commission on Science and Technology; and
  - (7) any other similar State program that confers a significant monetary or financial benefit upon a business or businesses, as prescribed by the State Treasurer pursuant to regulation.

To better manage the workload of issuing tax clearance certificates, the bill authorizes the director to prescribe a schedule by which tax clearance certificates will be issued on a program by program basis, but requires the issuance of tax clearance certificates for all enumerated programs before January 1, 2009.

FISCAL IMPACT:

The Executive has not provided fiscal information on its tax clearance certificate initiative. No information is available concerning the increased costs of performing the tax clearances, but the bill allows the Director of the Division of Taxation to charge a fee from a person applying for a tax clearance certificate, to reflect the administrative costs, and the director may charge and collect a reasonable service fee for the provision of any expedited services offered.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3003**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JULY 9, 2007

**SUMMARY**

**Synopsis:** Establishes a tax clearance certificate program for awards of certain business assistance and incentives.

**Type of Impact:** A recurring revenue gain to the State General Fund.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2008</u></b>	<b><u>Fiscal Year 2009</u></b>	<b><u>Fiscal Year 2010</u></b>
<b>State Cost</b>	Indeterminate - See Comments Below		
<b>State Revenue Gain</b>	Indeterminate - See Comments Below		

- The Office of Legislative Services (OLS) has no basis upon which to credibly estimate the fiscal impact of the legislation, as the agency lacks information on the expected volume of tax clearance certificate applications, the cost of performing a tax clearance, and the amount of outstanding State tax liabilities that could be recovered under the bill.
- The bill authorizes the Division of Taxation in the Department of the Treasury to charge a tax clearance application fee to fully defray the administrative costs of the new program.

**BILL DESCRIPTION**

Senate Bill No. 3003 of 2007 renders the award of financial business assistance and incentives by the State and its independent agencies and authorities contingent upon the issuance by the Division of Taxation of a tax clearance certificate affirming that an applicant for the award has no outstanding New Jersey tax liability. The bill authorizes the division to operate the certificate program for select business assistance programs until January 1, 2009, after which date the division has to certify every applicant for every business assistance benefit.

The bill allows the division to charge tax clearance certificate aspirants an application fee.

**FISCAL ANALYSIS*****EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS has no basis upon which to credibly estimate the fiscal impact of the legislation, as the agency lacks information on the expected volume of tax clearance certificate applications, the cost of performing a tax clearance, and the amount of outstanding State tax liabilities that could be recovered under the bill.

The OLS notes that the bill authorizes the Division of Taxation to charge a tax clearance application fee to fully defray the administrative costs of the additional work requirement. The bill's net fiscal impact would therefore equal the amount of tax owed that would be recovered under the program. Since the bill does not require a tax clearance certificate program for all business assistance programs until January 1, 2009, however, the OLS expects the program's full potential revenue gain not to materialize until the second half of fiscal year 2009, assuming that the division would not transition to a comprehensive program at an earlier date.

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.