SYNOPSIS

Extends application period for certain urban hope projects; permits reconstructed facilities as part of projects; and provides additional retirement benefits for certain PERS and TPAF members in certain urban hope districts.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 23, 2014, with amendments.
AN ACT concerning renaissance school districts, revising various parts of the statutory law, and supplementing P.L.2011, c.176.

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

1. Section 2 of P.L.1969, c.130 (C.18A:24-61.2) is amended to read as follows:
   2. Notwithstanding the provisions of any other law or any debt limitation or requirement for down payment or for referendum or other action by legal voters, refunding bonds may be authorized and issued for the purpose of paying, funding or refunding: any refunded bonds; the cost of retiring the present value of the unfunded accrued liability due and owing by a board of education, as calculated by the system actuary for a date certain upon the request of a board of education, for early retirement incentive benefits granted by the board of education pursuant to P.L.1991, c.231, P.L.1993, c.163, P.L.2003, c.129, and P.L.____, c.____ (pending before the Legislature as this bill); and the cost or expense of issuing refunding bonds including printing, advertising, accounting, financial, legal or other expense in connection therewith. Obligations to be paid, funded or refunded with respect to which an ordinance authorizing the issuance of refunding bonds has been adopted pursuant to this act and not otherwise deductible shall be excluded in calculating the net school debt of a municipality or a district. Refunding bonds shall be authorized (a) in the case of any county or municipality by a refunding bond ordinance enacted in the manner or mode of procedure provided for adoption of a refunding bond ordinance pursuant to the Local Bond Law, constituting chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes, and (b) in the case of a Type II school district by an ordinance (herein called the "refunding bond ordinance") adopted by the board of education of such school district as provided in this chapter. (cf: P.L.2003, c.129, s.12)

2. Section 3 of P.L.2011, c.176 (C.18A:36C-3) is amended to read as follows:
   3. As used in this act:
      "Commissioner" means the Commissioner of Education.
      "Failing district" means: in accordance with data from the Statewide assessment reports issued by the Department of Education (1) in the case of a school district located in a city of the first class, a school district in which at least 40% of the students

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
*Senate SBA committee amendments adopted June 23, 2014.*
scored in the partially proficient range in the language arts and mathematics sections of each State assessment administered in the 2009-2010 school year; and (2) in the case of a school district located in a city of the second class, a school district in which at least 45% of the students scored in the partially proficient range in the language arts and mathematics sections of each State assessment administered in the 2009-2010 school year.

"Per pupil expenditure" means the sum of the budget year equalization aid per pupil, budget year adjustment aid per pupil, and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation.

"School facility” means and includes any structure, building, or facility used wholly or in part for educational purposes by the students of a school district.

"Renaissance school district” is a failing district in which renaissance school projects shall be established.

"Renaissance school project” means a newly-constructed school, or group of schools in an urban campus area, that provides an educational program for students enrolled in grades pre-K through 12 or in a grade range less than pre-K through 12, that is agreed to by the school district, and is operated and managed by a nonprofit entity in a renaissance school district. A school or group of schools may include existing facilities that have undergone substantial reconstruction by the renaissance school project applicant. A substantial reconstruction shall meet all applicable building codes; comply with the Uniform Construction Code enhancements where the health and safety of the building occupants are affected; comply with all “Americans with Disabilities Act of 1990” regulations outlined in the New Jersey Barrier Free Subcode at N.J.A.C.5:23-7 et seq.; and comply with the Uniform Construction Code and other applicable State and federal laws for radon, lead, asbestos, and other contaminants and be subject to the enforcement of such standards by the applicable State or federal agency. The first facility of a renaissance school project shall be a newly-constructed school facility which is designed to house, upon completion, at least 20 percent of the total number of students to be enrolled in the renaissance school project. A renaissance school project may include a dormitory and related facilities as permitted pursuant to section 5 of P.L.2011, c.176 (C.18A:36C-5).

"Urban campus area” means the area within a 1.5-mile radius of the site of the initial school of a renaissance school project, except that a high school building which is part of the renaissance school project may be located within a two-mile radius of the site of the initial school of a renaissance school project. (cf: P.L.2013, c.149, s.1)

3. Section 4 of P.L.2011, c. 176 (C.18A:36C-4) is amended to read as follows:
4. a. A nonprofit entity, in partnership with the renaissance school district, may submit to the commissioner an application to create a renaissance school project no later than three years following the effective date of [this act] P.L.2011, c.176 (C.18A:36C-1 et seq.); except that in the case of a project to be located in a renaissance school district which is in a municipality that is subject to the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), the application must be submitted no later than four years following the effective date of P.L.2011, c.176 (C.18A:36C-1 et seq.). A nonprofit entity seeking to create a renaissance school project shall have experience in operating a school in a high-risk, low-income urban district. In addition, an entity retained by the nonprofit entity for the purpose of financing or constructing the renaissance school project shall also have appropriate experience.

b. The application shall be in a form prescribed by the commissioner, but at a minimum it shall contain the following:

(1) except as otherwise provided in this paragraph, a resolution adopted in a public meeting by the board of education of the renaissance school district in which the renaissance school project will be located certifying the support of the board for the application. In the case of a district under full or partial State intervention with an advisory board of education, the application shall contain evidence that that State district superintendent or superintendent, as applicable, convened at least three public meetings to discuss the merits of the renaissance school project. The evidence shall include, at a minimum, any written public comments received during those meetings. In the case of these districts, the application shall contain a resolution from the advisory board of education reflecting the board's approval or disapproval of the renaissance school project. While a successful application does not require approval from the advisory board of education, the commissioner, in considering the application, shall give due consideration to any disapproval from the advisory board;

(2) a copy of the amendment to the renaissance school district's long-range facilities plan which has been submitted to the commissioner pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4) that includes the proposed renaissance school project;

(3) the educational goals of the renaissance school project, the curriculum to be offered, and the methods of assessing whether students are meeting the proffered educational goals;

(4) any testing and academic performance standards to be mandated by the renaissance school project beyond those required by State law and regulation;

(5) the admission policy and criteria for evaluating the admission of students to the renaissance school project, which shall comply with the provisions of section 8 of this act;
(6) the age or grade range of students to be enrolled in the renaissance school project;
(7) the total number of students to be enrolled in each grade level of the renaissance school project;
(8) the renaissance school project calendar and school day schedule;
(9) the financial plan for the renaissance school project and the provisions that will be made for auditing pursuant to N.J.S.18A:23-1;
(10) a description of, and address for, the initial school facility in which the renaissance school project will be located and an affirmation that any other school facility or facilities in which the renaissance school project will be located will be in the required urban campus area. For any school facility other than the initial school facility included in the application pursuant to this paragraph, the nonprofit entity shall notify the Commissioner of Education of the location of the facility at least one year prior to the opening of the facility;
(11) documentation that the proposed renaissance school project meets [any] school facility regulations promulgated by the State Board of Education [or the Department of Community Affairs], other than the facilities efficiency standards developed by the Commissioner of Education pursuant to subsection h, of section 4 of P.L.2000, c.72 (C.18A:7G-4) pertaining to the health and safety of the pupils;
(12) documentation of a funding plan to acquire necessary lands and to construct a renaissance school project thereon, including the terms of any financing secured for such purpose;
(13) (Deleted by amendment, P.L.2013, c.149)
(14) identification of the attendance area of the renaissance school project, if the renaissance school project will not be built on land owned by the New Jersey Schools Development Authority or the renaissance school district;
(15) a description of the process employed by the renaissance school district to find and partner with the chosen nonprofit entity to create a renaissance school project. The description shall be sufficient to show that the process employed by the renaissance school district was open, fair, and subject to public input and comment. The description shall, at a minimum, include any requests for proposals issued by the renaissance school district, the number of responses received, and the process and criteria employed by the renaissance school district to select the chosen nonprofit entity among the respondents; and
(16) such other information as the commissioner may require.
(cf: P.L.2013, c.149, s.2)

4. Section 7 of P.L.2011, c.176 (C.18A:36C-7) is amended to read as follows:
7. a. Notwithstanding that a renaissance school project shall be constructed, controlled, operated, and managed by a nonprofit entity, and not the local board of education, it shall be a public school. However nothing contained herein shall restrict a for-profit entity from constructing a renaissance school project, or a renaissance school project from being located on land owned by a for-profit entity. Further, the renaissance school project shall be authorized to retain any business entity, however formed, whose primary purpose is the staffing, operation, and management of elementary schools, middle schools, or high schools in the United States, except as it relates to instructional services.

b. The costs of a renaissance school project including, but not limited to, the costs of land acquisition, site remediation, site development, design, construction, and any other costs required to place into service the school facility or facilities constituting the renaissance school project shall be at the sole expense of the nonprofit entity. The nonprofit entity may use State funds to pay for a lease, debt service, or mortgage for any facility constructed or otherwise acquired.

c. Notwithstanding the provisions of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), or any other law or regulation to the contrary, there shall be no State share for the costs of a renaissance school project.

d. Notwithstanding the provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or regulation to the contrary, the nonprofit entity or any entity acting in cooperation with a renaissance school project shall not be subject to public bidding for goods and services, and any contracts entered into by the nonprofit entity shall not be deemed public contracts or public works; except that any contract entered into by the nonprofit entity or any entity acting in cooperation with a renaissance school project shall be deemed a public work for the purposes of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), and subject to the applicable provisions of that act.

e. The renaissance school district in which a renaissance school project is located shall pay to the nonprofit entity in 12 equal monthly installments an amount per pupil equal to 95% of the district’s per pupil expenditure. In addition the 12 monthly installments shall include the security categorical aid attributable to the student, a percentage of the district's special education categorical aid equal to the percentage of the district's special education students enrolled in the renaissance school project, and if applicable 100% of preschool education aid. The district shall also pay directly to the renaissance school project any federal funds attributable to the student.

f. Renaissance school projects shall be required to meet the same testing and academic performance standards established by law and regulation for public school students, and shall meet any
additional testing and academic performance standards established by the nonprofit entity and approved by the commissioner.

g. The nonprofit entity shall have complete discretion in naming the renaissance school project. The nonprofit entity may not realize a net profit from its operation of a renaissance school project. A private or parochial school shall not be eligible for renaissance school project status.

h. A nonprofit entity shall operate a renaissance school project in accordance with the contract entered into pursuant to section 6 of this act, the provisions of this act, and the laws and regulations that govern [other public] charter schools which are not inconsistent with this act.

(cf: P.L.2011, c.176, s.7)

5. Section 10 of P.L.2013, c.149 (C.18A:36C-19) is amended to read as follows:

10. [A] Notwithstanding the provisions of any law, rule, or regulation to the contrary, a renaissance school project shall not be subject to the facility efficiency standards developed by the Commissioner of Education pursuant to subsection h. of section 4 of P.L.2000, c. 72 (C.18A:7G-4) or any other public school facility regulations, except those pertaining to the health and safety of the pupils.

(cf: P.L.2013, c.149, s.10)

6. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to read as follows:

2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

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

"Aviation district" means the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport,"

"beach"

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is:

a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5);
a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;
a partnership;
an S corporation;
a limited liability company; or
a non-profit corporation.

If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.

A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for:

a. site acquisition, if purchased within 24 months prior to project application, site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property;
b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property;
c. receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or
d. any of the foregoing.

In addition to the foregoing, in a Garden State Growth Zone, the following qualify as a capital investment: any and all redevelopment and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not
limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of such premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

"Commitment period" means the period of time that is 1.5 times the eligibility period.

"Deep poverty pocket" means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.

"Disaster recovery project" means a project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster which, after utilizing all disaster funds available from federal, State, county, and local funding sources, demonstrates to the satisfaction of the authority that access to additional funding authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), is necessary to complete such redevelopment project, and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing
serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Eligibility period" means the period in which a business may claim a tax credit under the Grow New Jersey Assistance Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow New Jersey Assistance Program and extending thereafter for a term of not more than 10 years, with the term to be determined solely at the discretion of the applicant.

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee.

"Full-time employee" means a person:

a. who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, or

b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or

c. who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and

d. who is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal:

the requirement that employee health benefits are to be provided shall be deemed to be satisfied if such benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement;
full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent;

35 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

For any project located in a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, the authority shall accept a standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery store, or other like retail industry.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).

"Highlands development credit receiving area or redevelopment area" means an area located within a qualified incentive area and designated by the Highlands Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

"Incentive agreement" means the contract between the business and the authority, which sets forth the terms and conditions under which the business shall be eligible to receive the incentives authorized pursuant to the program.

"Incentive effective date" means the date the authority issues a tax credit based on documentation submitted by a business pursuant to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247).

"Major rail station" means a railroad station located within a qualified incentive area which provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Mega project" means:

a. a qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:
(1) having a capital investment in excess of $20,000,000, and at
which more than 250 full-time employees of such business are
created or retained, or
(2) at which more than 1,000 full-time employees of such
business are created or retained;
   b. a qualified business facility located in an aviation district
housing a business in the aviation industry, in a Garden State
Growth Zone, or in a priority area housing the United States
headquarters and related facilities of an automobile manufacturer,
either:
   (1) having a capital investment in excess of $20,000,000, and at
which more than 250 full-time employees of such business are
created or retained, or
   (2) at which more than 1,000 full-time employees of such
business are created or retained; or
   c. a qualified business facility located in an urban transit hub
housing a business of any kind, having a capital investment in
excess of $50,000,000, and at which more than 250 full-time
employees of a business are created or retained.
"Minimum environmental and sustainability standards" means
standards established by the authority in accordance with the green
building manual prepared by the Commissioner of Community
Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
regarding the use of renewable energy, energy-efficient technology,
and non-renewable resources in order to reduce environmental
degradation and encourage long-term cost reduction.
"Moderate-income housing" means housing affordable,
according to United States Department of Housing and Urban
Development or other recognized standards for home ownership
and rental costs, and occupied or reserved for occupancy by
households with a gross household income equal to more than 50
percent but less than 80 percent of the median gross household
income for households of the same size within the housing region in
which the housing is located.
"Municipal Revitalization Index" means the 2007 index by the
Office for Planning Advocacy within the Department of State
measuring or ranking municipal distress.
"New full-time job" means an eligible position created by the
business at the qualified business facility that did not previously
exist in this State. For the purposes of determining a number of
new full-time jobs, the eligible positions of an affiliate shall be
considered eligible positions of the business.
"Other eligible area" means the portions of the qualified
incentive area that are not located within a distressed municipality,
or the priority area.
"Partnership" means an entity classified as a partnership for
federal income tax purposes.
"Port district" means the portions of a qualified incentive area that are located within:
1. the port district of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or
2. a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Priority area" means the portions of the qualified incentive area that are not located within a distressed municipality and which:
1. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;
2. intersect with portions of: a deep poverty pocket, a port district, or federally-owned land approved for closure under a federal Base Realignment Closing Commission action;
3. are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or
4. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the "Grow New Jersey Assistance Program" established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244).

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location unless the building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of:
1. a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000
square feet, of which at least 50 percent is occupied by either a full-service supermarket or grocery store; [or]
b. a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219); or
c. a construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) located in a Garden State Growth Zone.
"Qualified incentive area" means:
  a. an aviation district;
b. a port district;
c. a distressed municipality or urban transit hub municipality;
d. an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:
    (a) Planning Area 1 (Metropolitan);
    (b) Planning Area 2 (Suburban); or
    (c) Planning Area 3 (Fringe Planning Area);
    (2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);
    (3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);
    (4) located within a regional growth area, town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
    (5) located within the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area;
    (6) located within a Garden State Growth Zone;
    (7) located within land approved for closure under any federal Base Closure and Realignment Commission action; or
    (8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:
    (a) a designated center under the State Development and Redevelopment Plan;
(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided such expansion otherwise complies with all applicable federal, State, county, and local permits and approvals;

(e) the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or

(f) any area on which an existing tourism destination project is located.

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.).

"Qualified incubator facility" means a commercial building located within a qualified incentive area: which contains 100,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country, or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situate.

"Targeted industry" means any industry identified from time to time by the authority including initially, a transportation, manufacturing, defense, energy, logistics, life sciences, technology, health, and finance business, but excluding a primarily warehouse or distribution business.

"Technology startup company" means a for profit business that has been in operation fewer than five years and is developing or
possesses a proprietary technology or business method of a high-
technology or life science-related product, process, or service which
the business intends to move to commercialization.

"Tourism destination project" means a qualified business facility
that will be among the most visited privately owned or operated
tourism or recreation sites in the State, and which is located within
the qualified incentive area and has been determined by the
authority to be in an area appropriate for development and in need
of economic development incentive assistance.

"Transit oriented development" means a qualified business
facility located within a 1/2-mile radius, or one-mile radius for
projects located in a Garden State Growth Zone, surrounding the
mid-point of a New Jersey Transit Corporation, Port Authority
Transit Corporation, or Port Authority Trans-Hudson Corporation
rail, bus, or ferry station platform area, including all light rail
stations.

"Urban transit hub" means an urban transit hub, as defined in
section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within
an eligible municipality, as defined in section 2 of P.L.2007, c.346
(C.34:1B-208) and also located within a qualified incentive area.

"Urban transit hub municipality" means a municipality: a. which
qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
seq.), or which has continued to be a qualified municipality
thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
or more of the value of real property was exempt from local
property taxation during tax year 2006. The percentage of exempt
property shall be calculated by dividing the total exempt value by
the sum of the net valuation which is taxable and that which is tax
exempt.

(cf: P.L.2013, c.161, s.7)\(^1\)

\(^1\) Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to
read as follows:

3. a. The Grow New Jersey Assistance Program is hereby
established as a program under the jurisdiction of the New Jersey
Economic Development Authority and shall be administered by the
authority. The purpose of the program is to encourage economic
development and job creation and to preserve jobs that currently
exist in New Jersey but which are in danger of being relocated
outside of the State. To implement this purpose, the program may
provide tax credits to eligible businesses for an eligibility period not
to exceed 10 years.

To be eligible for any tax credits pursuant to P.L.2011, c.149
(C.34:1B-242 et al.), a business's chief executive officer or
equivalent officer shall demonstrate to the authority, at the time of
application, that:

1 the business, expressly including its landlord or seller, will
make, acquire, or lease a capital investment equal to, or greater
than, the applicable amount set forth in subsection b. of this section at a qualified business facility at which it will:

(a) retain full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(b) create new full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section; or

(c) in combination, retain full-time jobs and create new full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(2) the qualified business facility shall be constructed in accordance with the minimum environmental and sustainability standards;

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State, equaling at least 110 percent of the requested tax credit allocation amount, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits generated during the first 20 years following the completion of the project, except that for a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority, and except that, for a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject to the provisions of section 24 of P.L.2013 c.161 (C.52:27D-489r) and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention; and

(4) except as provided in subsection f. of this section, the award of tax credits will be a material factor in the business's decision to create or retain the minimum number of new or retained full-time jobs for eligibility under the program.

With respect to the provisions of paragraph (3) of this subsection, in the case of a project located in a Garden State Growth Zone, the authority, in its discretion, may award bonuses in its net positive benefit calculation.

A construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) located in a Garden State Growth Zone shall not be subject to the requirements that the application and award of any
b. The minimum capital investment required to be eligible under this program shall be as follows:

1. for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial premises for continued industrial use by the business, a minimum investment of $20 per square foot of gross leasable area;

2. for the new construction of an industrial premises for industrial use by the business, a minimum investment of $60 per square foot of gross leasable area;

3. for the rehabilitation, improvement, fit-out, or retrofit of an existing non-industrial premises for continued non-industrial use by the business, a minimum investment of $40 per square foot of gross leasable area; and

4. for the new construction of a non-industrial premises for non-industrial use by the business, a minimum investment of $120 per square foot of gross leasable area.

The minimum capital investment required by this subsection shall be reduced by one-third for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

c. The minimum number of new or retained full-time jobs required to be eligible under this program shall be as follows:

1. for a business that is a technology startup company or a manufacturing company, a minimum of 10 new or 25 retained full-time jobs;

2. for a business engaged primarily in a targeted industry other than a technology startup company or a manufacturing company, a minimum of 25 new or 35 retained full-time jobs; and

3. for any other business, a minimum of 35 new or 50 retained full-time jobs.

The minimum number of new or retained full-time jobs required by this subsection shall be reduced by one-quarter for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) that any existing full-time jobs are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the
authority and that the representations contained therein are accurate, provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and provided further that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) in a Garden State Growth Zone shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment or, in the event construction commenced prior to the application for tax credits being filed, a material factor to the business's ability to complete the project. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or with respect to a construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) in a Garden State Growth Zone, the business's assertion that the provision of tax credits under the program is a
material factor in the business decision to make a capital
investment, or in the event construction commenced prior to the
application for tax credits being filed, a material factor to the
business’s ability to complete the project, before a business may be
awarded any tax credits under this section.

e. A project that consists solely of point-of-final-purchase
retail facilities shall not be eligible for a grant of tax credits. If a
project consists of both point-of-final-purchase retail facilities and
non-retail facilities, only the portion of the project consisting of
non-retail facilities shall be eligible for a grant of tax credits. In a
Garden State Growth Zone or the Atlantic City Tourism District as
established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
regulated by the Casino Reinvestment Development Authority, up
to 7.5 percent of retail facilities included in a mixed use project
shall be eligible for a grant of tax credits along with the non-retail
facilities. If a warehouse facility is part of a point-of-final-purchase
retail facility and supplies only that facility, the warehouse facility
shall not be eligible for a grant of tax credits. For the purposes of
this section, a retail facility of at least 150,000 square feet, of which
at least 50 percent is occupied by a full-service supermarket or
grocery store, located in a Garden State Growth Zone which
qualified under the "Municipal Rehabilitation and Economic
Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism
destination project in the Atlantic City Tourism District as
established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or
catalog distribution centers shall not be considered point-of-final-
purchase retail facilities.

f. (1) The authority may determine as eligible for tax credits
under the program any business that is required to respond to a
request for proposals and to fulfill a contract with the federal
government although the business's chief executive officer or
equivalent officer has not demonstrated to the authority that the
award of tax credits will be a material factor in the business's
decision to retain the minimum number of retained full-time jobs, as
otherwise required by this section. The authority may, in its
discretion, consider the economic benefit of the retained jobs
servicing the contract in conducting a net benefit analysis required
by paragraph (4) of subsection a. of this section. For the purposes
of this subsection, "retained full-time jobs" includes jobs that are at
risk of being eliminated. Applications to the authority for eligibility
under the program pursuant to the criteria set forth in this
subsection shall be completed by December 31, 2013. Submission
of a proposal to the federal government prior to authority approval
shall not disqualify a business from the program.

(2) The authority may determine as eligible for tax credits under
the program a construction project under section 3 of P.L.2011,
c.176 (C.18A:36C-3) located in a Garden State Growth Zone. The
project shall not be subject to the requirements that the application
and award of any tax credits, grants, or other benefits provided under P.L.2011, c.149 (C.34:1B-242 et al.) be provided prior to the commencement of the construction project.

g. Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.

(cf: P.L.2013, c.161, s.8)]

8. (New section) Notwithstanding the provisions of subsection e. of section 7 of P.L.2011, c.176 (C.18A:36C-7) to the contrary, if after approval, a renaissance school project is located in a temporary facility pending completion of the newly constructed facility or substantially reconstructed facility, the renaissance school project shall be funded pursuant to subsection b. of section 12 of P.L.1995, c.426 (C.18A:36A-12) until it has obtained final site plan approval for the newly constructed facility or begun construction on the facility to be substantially reconstructed, provided that a renaissance school project shall not be located in a temporary facility for more than three years.

9. (New section) a. An employee of a school district under the Teachers' Pension and Annuity Fund (TPAF) or Public Employees' Retirement System (PERS) that elects to provide the benefits authorized under this section who:

is at least 50 years of age and has at least 25 years, or at least 60 years of age and has at least 20 but less than 25 years, of service credit under the PERS or the TPAF;

files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to subsection c. of this section; and

retires under the retirement system within two months after the effective date of the resolution,

other than a veteran who retires on a special veteran's retirement, shall receive an additional three years of service credit under PERS or TPAF. If a member of the PERS or TPAF is under age 55 at the time of retirement, the member's retirement allowance shall not be reduced.

For a member of the PERS or the TPAF who is at least age 60 with at least 20 but less than 25 years of service credit, the employer shall pay an additional pension of $500 per month in each of the 24 months following the date of retirement, except that the additional pension shall not be paid to any member who upon retirement is eligible for fully paid health care benefits under section 3 of P.L.1987, c.384 (C.52:14-17.32f) or section 2 of P.L.1992, c.126 (C.52:14-17.32f1).

An employee who meets the age and service credit requirements and retires on a special veteran's retirement under the PERS or TPAF shall receive an additional pension under the retirement
system in the amount of 3/55 of the compensation upon which the
retirement allowance is based.

The additional retirement benefit under this section is applicable
only to the employment with the employer that elects to provide the
benefits authorized under this section and from which the employee
retires to receive the benefit and the compensation for that
employment.

The school district shall be responsible for the full cost of health
care benefits in retirement provided under section 3 of P.L.1987,
c.384 (C.52:14-17.32f) and section 2 of P.L.1992, c.126 (C.52:14-
17.32f1) for each employee who is eligible for such benefits and
retiring under the provisions of this section for a period of three
years following the employee's retirement, except that each
employee retiring under this section who would have had to
contribute to the cost of health care benefits coverage pursuant to
subsection b. of section 40 of P.L.2011, c.78 (C.52:14-17.28d) and
section 77 of P.L.2011, c.78 (C.52:14-17.28e) upon retirement shall
be required to make that contribution after retirement under this
section if eligible for such coverage.

b. For an employee of a school district under the PERS or
TPAF that elects to provide the benefits authorized under this
section who:

   is at least 60 years of age and has at least 10, but less than 20,
   years of service credit under the PERS or the TPAF;

   files an application to retire within one month after the effective
date of the resolution adopted by the governing body of the
employee's employer pursuant to subsection c. of this section; and

   retires under the retirement system within two months after the
effective date of the resolution, the employer shall pay an additional
pension of $500 per month in each of the 24 months following the
date of retirement.

c. An employer may elect to provide the benefits under this
section by the adoption of a resolution by the governing body,
which is to be effective on July 1, within one year of the effective
date of this section and the filing of a certified copy of the
resolution with the Director of the Division of Pensions and
Benefits within three business days after its adoption. The
governing body may elect to provide the benefits under this section
one time only and the effective date of the resolution shall fall
within the 15-month period following the effective date of this
section. The employer shall submit to the director any information
necessary to provide the benefits or to determine the liability for
them.

d. The actuaries for the PERS and TPAF shall determine the
liability of the retirement systems for the additional service credit or
pensions provided under this section and for the early retirement of
employees in accordance with the tables of actuarial assumptions
adopted by the board of trustees of the retirement systems.
For PERS, this liability shall be paid by the employer in level annual payments over a period of 15 years as provided for the unfunded accrued liability of the retirement system under section 24 of P.L.1954, c.84 (C.43:15A-24).

For TPAF, this liability shall be paid by the employer in level annual payments over a period of 15 years as provided for the unfunded accrued liability of the retirement system under N.J.S.18A:66-18.

The retirement systems shall annually certify to each employer the contributions due to the contingent reserve fund for the liability under this section. The contributions certified by the retirement systems shall be paid by the employer to the retirement systems on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 30 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the thirtieth day.

The employer shall pay the cost of the actuarial work to determine the additional liability of the retirement systems for the benefits under this section and that cost shall be included in the initial contribution required from the employer.

e. An employee who receives a benefit under this section shall forfeit all tenure rights.

f. When the needs of a school board require the services of an employee who elects to retire and receive a benefit under this section, the school board may delay, with the consent of the employee, the effective retirement date of the employee until the first day of any calendar month after the second month after the effective date of the resolution adopted by the governing body of the employer pursuant to subsection c. this section but not later than one year after that two-month period. A delay in the effective retirement date of an employee shall not extend the dates set forth in sections a. and b. of this section to qualify for benefits under this section.

For a member of the PERS or TPAF whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member if the member's surviving beneficiary requests in writing to the board of trustees of the retirement system that the retirement be effective under the option settlement selected by the member, or under Option 3 if the member did not select an option.

g. An employee purchasing service credit on or after the effective date of this section to qualify for a benefit under this section may purchase a portion of the credit that the employee is eligible to purchase.
h. For the purposes of this section:

“School district” means a "failing district" "renaissance school district" as defined in section 3 of P.L.2011, c.176 (C.18A:36C-3). which is in a municipality that is subject to the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.).

i. Prior to the end of the one-year period following the effective date of this section, as appropriate, each employer covered by the provisions of this section shall meet and consult with the representatives of the bargaining unit or units representing the employees who would be eligible for benefits under this section.

j. The Director of the Division of Pensions and Benefits may promulgate rules and regulations that the director deems necessary for the effective implementation of this section.

10. This act shall take effect immediately.