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*** This section is current through New Jersey 217th Second Annual Session, L. 2017, J.R. 1 ***

Title 34. Labor and Workers' Compensation
Chapter 1B. Business and Industry Promotion
Part IV. New Jersey Local Development Financing Fund Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 34:1B-124 (2017)

§ 34:1B-124. Short title [Business Employment Incentive Program Act]

Sections 1 through 17 of this act shall be known and may be cited as the "Business Employment Incentive Program Act."

HISTORY: L. 1996, c. 26, § 1.

NOTES:

Cross References:

1. Powers, see 34:1B-5.
2. Rules and regulations relative to payment of prevailing wage rate; "authority financial assistance" defined, see 34:1B-5.1.
3. Grant limitations, see 34:1B-118.
4. Definitions relative to business employment incentives, see 34:1B-125.
5. Project requirements, see 34:1B-127.
6. Invest in New Jersey Business Grant Program, see 34:1B-239.
7. Employment grant component for eligible businesses., see 34:1B-240.
8. Limit on combined value of approved credits, see 34:1B-247.
9. Powers of authority relative to bonds, see 34:1B-139.1.
10. Corporation business tax credit for certain film production, digital media content expenses; definitions, see 54:10A-5.39.
11. Tax clearance certificate required for certain awards; incentive, see 54:50-39.

LexisNexis (R) Notes:

Related Statutes & Rules:

ADMINISTRATIVE CODE:

N.J.A.C. 18:2-10.2 (2013), CHAPTER GENERAL POLICIES AND PROCEDURES, Definitions.

N.J.A.C. 18:7-3B.3 (2013), CHAPTER CORPORATION BUSINESS TAX ACT, Eligibility.

N.J.A.C. 18:7-3B.8 (2013), CHAPTER CORPORATION BUSINESS TAX ACT, Credit for qualified digital media content production expenses.

N.J.A.C. 19:30-3.1 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.

N.J.A.C. 19:30-4.1 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.

N.J.A.C. 19:31-9.4 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Restrictions.

N.J.A.C. 19:31-14.2 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.

N.J.A.C. 19:31-16.2 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.

N.J.A.C. 19:31-18.4 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Restrictions.



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N.J. Stat. § 34:1B-125 (2017)

§ 34:1B-125. Definitions relative to business employment incentives

As used in sections 1 through 17 of P.L.1996, c.26 (C.34:1B-124 et seq.) and in sections 9 through 11 of P.L.2003, c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a different meaning clearly appears from the context:

"Advanced computing" means a technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

"Advanced computing company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of advanced computing for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

"Advanced materials company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of advanced materials for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Application year" means the grant year for which an eligible partnership submits the information required under section 8 of P.L.1996, c.26 (C.34:1B-131).

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

"Base years" means the first two complete calendar years following the effective date of an agreement.

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies, and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge.

"Biotechnology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes, or a person, whose headquarters or base of operations is located in New Jersey, engaged in providing services or products necessary for such research, development, production, or provision.

"Bonds" means bonds, notes, or other obligations issued by the authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

"Business" means a corporation; sole proprietorship; partnership; corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners; limited liability company; nonprofit corporation; or any other form of business organization located either within or outside this State. A grant received under P.L.1996, c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter S-Corporation, or other business entity shall be apportioned among the persons to whom the income or profit of the partnership, Subchapter S-Corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

"Business employment incentive agreement" or "agreement" means the written agreement between the authority and a business proposing a project in this State in accordance with the provisions of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms and conditions of a grant to be awarded pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

"Designated industry" means a business engaged in the field of biotechnology, pharmaceuticals, financial services, transportation and logistics, advanced computing, advanced materials, electronic device technology, environmental technology, or medical device technology.

"Director" means the Director of the Division of Taxation.

"Division" means the Division of Taxation in the Department of the Treasury.

"Electronic device technology" means a technology involving microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optoelectrical devices, or data and digital communications and imaging devices.

"Electronic device technology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of electronic device technology for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Eligible partnership" means a partnership or limited liability company that is qualified to receive a grant as established in P.L.1996, c.26 (C.34:1B-124 et seq.).

"Eligible position" is a new full-time position created by a business in New Jersey or transferred from another state by the business under the terms and conditions set forth in P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in subsequent years of a grant. In determining if positions are eligible positions, the authority shall give greater consideration to positions that average at least 1.5 times the minimum hourly wage during the term of an agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.). For grants awarded on or after July 1, 2003, eligible position includes only a position for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Title 17B of the New Jersey Statutes. An "eligible position" shall also include all current and future partners or members of a partnership or limited liability company created by a business in New Jersey or transferred from another state by the business pursuant to the conditions set forth in P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in subsequent years of a grant. An "eligible position" shall also include a position occupied by a resident of this State whose position is relocated to this State from another state but who does not qualify as a "new employee" because prior to relocation the resident's wages or the resident's distributive share of income from a gain, from a loss or deduction, or the resident's guaranteed payments or any combination thereof, prior to the relocation, were not subject to income taxes imposed by the state or municipality in which the position was previously located. An "eligible position" shall also include a position occupied by a resident of another State whose position is relocated to this State but whose income is not subject to the New Jersey gross income tax pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible position" shall not include any position located within New Jersey, which, within a period either three months prior to the business application for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.) or six months after the date of application, ceases to exist or be located within New Jersey.

"Employment incentive" means the amount of a grant, either in cash or in tax credits, determined pursuant to subsection a. of section 6 of P.L.1996, c.26 (C.34:1B-129).

"Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, or the development of alternative energy sources.

"Environmental technology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of environmental technology for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Estimated tax" means an amount calculated for a partner in an eligible position equal to 6.37 percent of the lesser of: a. the amount of the partner's net income from the eligible partnership that is sourced to New Jersey as reflected in Column B of the partner's Schedule NJK-1 of the application year less the amount of the partner's net income from the eligible partnership that is sourced to New Jersey as reflected in column B of the partner's Schedule NJK-1 in the foundation year; or b. the net of all items of partnership income upon which tax has been paid as reflected on the partner's New Jersey Gross Income Tax return in the application year.

"Foundation year" means the year immediately prior to the creation of the eligible position.

"Full-time employee" means a person who is employed 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, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and who is determined by the authority to be employed in a permanent position according to criteria it develops, or who is a partner of an eligible partnership, 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. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

"Grant" means a business employment incentive grant as established in P.L.1996, c.26 (C.34:1B-124 et seq.).

"Medical device technology" means a technology involving any medical equipment or product, other than a pharmaceutical product, that has therapeutic value, diagnostic value, or both, and is regulated by the federal Food and Drug Administration.

"Medical device technology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of medical device technology for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Net income from the eligible partnership" means the net combination of a partner's distributive share of the eligible partnership's income, gain, loss, deduction, or guaranteed payments.

"New employee" means a full-time employee first employed in an eligible position on the project which is the subject of an agreement or who is a partner of an eligible partnership, 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.; except that a New Jersey resident whose position is relocated to this State shall not be classified as a "new employee" unless the employee's wages, or the employee's distributive share of income from a gain, from a loss or deduction, or the employee's guaranteed payments or any combination thereof, prior to the relocation, were subject to income taxes imposed by the state or municipality in which the position was previously located. "New employee" may also include an employee rehired or called back from a layoff during or following the base years to a vacant position previously held by that employee or to a new position established during or following the base years. "New employee" shall not include any employee who was previously employed in New Jersey by the business or by a related person as defined in section 2 of P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the business, which is the subject of an agreement, unless the employee's position at the employee's previous employer is filled by a new employee. "New employee" also shall not include a child, grandchild, parent, or spouse of an individual associated with the business who has direct or indirect ownership of at least 15 percent of the profits, capital, or value of the business. New employee shall also include an employee whose position is relocated to this State but whose income is not subject to the New Jersey gross income tax pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

"Partner" means a person who is entitled to either a distributive share of a partnership's income, gain, loss, or deduction, or guaranteed payments, or any combination thereof, by virtue of holding an interest in the partnership. "Part-

ner" also includes a person who is a member of a limited liability company which is treated as a partnership, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

"Refunding Bonds" means bonds, notes or other obligations issued to refinance bonds, notes or other obligations previously issued by the authority pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et seq.).

"Residual withholdings" means for any period of time, the excess of the estimated cumulative withholdings for all executed agreements eligible for payments under P.L.1996, c.26 (C.34:1B-124 et seq.) over the cumulative anticipated grant amounts.

"Schedule NJK-1" means Schedule NJK-1 as the form existed for taxable year 1997.

"Withholdings" means the amount withheld by a business from the wages of new employees or estimated taxes paid by, or on behalf of, partners that are new employees, or any combination thereof, pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and, if the new employee is an employee whose position has moved to New Jersey but whose income is not subject to the New Jersey gross income tax pursuant to N.J.S.54A:1-1 et seq., the amount of withholding that would occur if the employee were to move to New Jersey.

HISTORY: L. 1996, c. 26, § 2; amended 1998, c. 33, § 1, eff. June 30, 1998; 2003, c. 166, § 1, eff. Sept. 2, 2003; 2015, c. 194, § 1, eff. Jan. 11, 2016.

NOTES:

Amendment Notes

2015 amendment, by Chapter 194, substituted "P.L.1996, c.26 (C.34:1B-124 et seq.)" for "this act" throughout the section; substituted "section 4 of P.L.1974, c.80 (C.34:1B-4)" for "P.L.1974, c.80 (C.34:1B-1 et seq.)" in the definition of "Authority"; deleted the former definition of "Department", which read: "'Department' means the New Jersey Commerce and Economic Growth Commission"; inserted "the 'New Jersey Gross Income Tax Act,'" in the sixth sentence of the definition of "Eligible position" and the final sentence of the definition of "New employee"; in the definition of "Employment incentive", inserted "either in cash or in tax credits" and substituted "P.L.1996, c.26 (C.34:1B-129)" for "this act"; redesignated former items (i) and (ii) as a. and b. in the definition of "Estimated tax"; inserted the commas following "to the business" and "agreement" in the third sentence of the definition of "New employee"; and made related and stylistic changes.

Cross References:

Appropriation capped by new revenues, see 34:1B-139.

LexisNexis (R) Notes:

NJ ICLE:

Commercial Real Estate Transactions in New Jersey 12.2 Assistance for Projects Involving Job Growth or Retention



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N.J. Stat. § 34:1B-126 (2017)

§ 34:1B-126. Business Employment Incentive Program established

There is established the Business Employment Incentive Program to be administered by the New Jersey Economic Development Authority. In order to foster job creation in this State, the authority may enter into agreements with businesses to provide business employment incentive grants in accordance with the provisions of this act if it finds that:

- a. The project proposed by the business will create, during the term of the agreement, a net increase in employment by the business and its related persons, as defined in section 2 of P.L.1993, c. 170 (C. 54:10A-5.5), in the State as provided in section 4 of this act;
- b. The project is economically sound and will benefit the people of New Jersey by increasing opportunities for employment and by strengthening New Jersey's economy; and
- c. The authority determines that the receipt of the business employment incentive grant will be a material factor in the business' decision to go forward with the project.

HISTORY: L. 1996, c. 26, § 3.

NOTES:

Cross References:

Definitions relative to public contracts with private entities, see 52:18-42.

LexisNexis (R) Notes:

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Commercial Real Estate Transactions in New Jersey 12.2 Assistance for Projects Involving Job Growth or Retention



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N.J. Stat. § 34:1B-127 (2017)

§ 34:1B-127. Project requirements.

a. A business may apply to the authority for a grant for any project which:

(1) Will create at least 25 eligible positions in the base years; or

(2) Will create at least 10 eligible positions in the base years if the business is an advanced computing company, an advanced materials company, a biotechnology company, an electronic device technology company, an environmental technology company, or a medical device technology company.

b. In the case of a business which is a landlord, the business may apply to the authority for a grant for any project in which at least 25 eligible positions are created in the base years.

c. A project which consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.). 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, and only the withholdings from new employees which are employed in the portion of the project which represents non-retail facilities shall be used to determine the amount of the grant. 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. For the purposes of P.L.1996, c.26 (C.34:1B-124 et seq.), catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

d. (1) If an application under P.L.1996, c.26 (C.34:1B-124 et seq.) has been received by the authority prior to the effective date [Sept. 18, 2013] of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and, to the extent that there remains sufficient appropriations for grant issuance, then the authority is authorized to consider the application and to make a grant to an eligible applicant, provided that the authority shall take final action on that grant no later than December 31, 2013.

(2) A business shall apply for a grant under the Business Employment Incentive Program prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit its documentation for approval of a grant no later than 90 calendar days after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(3) If a business has submitted an application under P.L.1996, c.26 (C.34:1B-124 et seq.) and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted by a business for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

HISTORY: L. 1996, c. 26, § 4; amended 2003, c. 166, § 2, eff. Sept. 2, 2003; 2013, c. 161, § 3, eff. Sept. 18, 2013.

NOTES:

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Amendment Note:

2013 amendment, by Chapter 161, substituted "P.L.1996, c.26 (C.34:1B-124 et seq.)" for "this act" in the first and last sentences of c.; and added d.

LexisNexis (R) Notes:

NJ ICLE:

Commercial Real Estate Transactions in New Jersey 12.2 Assistance for Projects Involving Job Growth or Retention



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N.J. Stat. § 34:1B-128 (2017)

§ 34:1B-128. Grant application

A business shall apply to the authority for a grant on a form prescribed by the authority which shall include:

- a.** The name of the business, the proposed location of the project, and the type of activity which will be engaged in at the project site;
- b.** The names and addresses of the principals or management of the business, and the nature of the form of business organization under which it is operated;
- c.** The most recent financial statement of the business;
- d.** The number of eligible positions proposed to be created during the base years and thereafter; and
- e.** An estimate of the total withholdings.

HISTORY: L. 1996, c. 26, § 5; amended 2003, c. 166, § 3, eff. Sept. 2, 2003.



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N.J. Stat. § 34:1B-129 (2017)

Legislative Alert: LEXSEE 2017 N.J. ALS 12 -- See section 1.

§ 34:1B-129. Employment incentive grant criteria; tax credit transfer certificate.

a. The amount of the employment incentive awarded as a grant by the authority shall either be awarded in cash or as a tax credit. In each case, the amount of the grant shall be not less than 10 percent and not more than 50 percent of the withholdings of the business, or not less than 10 percent and not more than 30 percent of the estimated tax of the partners of an eligible partnership whether paid directly by the partner or by the eligible partnership on behalf of the partner's account, or any combination thereof, and shall be subject to the provisions of sections 10 and 11 of P.L.1996, c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate amount of the employment incentive grant awarded pursuant to a business employment incentive agreement entered into on or after July 1, 2003 exceed an average of \$ 50,000 for all new employees over the term of the grant. The employment incentive shall be based on criteria developed by the authority after considering the following:

- (1) The number of eligible positions to be created;
- (2) The expected duration of those positions;
- (3) The type of contribution the business can make to the long-term growth of the State's economy;
- (4) The amount of other financial assistance the business will receive from the State for the project;
- (5) The total dollar investment the business is making in the project;
- (6) Whether the business is a designated industry;
- (7) Impact of the business on State tax revenues; and
- (8) Such other related factors determined by the authority.

b. A business may be eligible to be awarded a grant, either in cash or in tax credits, of up to 80 percent of the withholdings of the business or up to 50 percent of the estimated tax of the partners of an eligible partnership if the grant promotes smart growth and the goals, strategies, and policies of the State Development and Redevelopment Plan, established pursuant to section 5 of P.L.1985, c.398 (C.52:18A-200), as determined by and based upon criteria promulgated by the authority following consultation with the Office of State Planning in the Department of State.

c. The term of the grant shall not exceed 10 years.

d. At the discretion of the authority, the grant may apply to new employees or partners in eligible positions created during the base years, and during the remainder of the term of the grant.

e. Within 180 days of the date of enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), a business that was approved for a grant prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), may direct the authority to convert the grant

to a tax credit against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), 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. The direction to convert the grant to a tax credit shall be irrevocable. An approved tax credit shall be issued in the manner and for the amounts as follows and may only be applied in the tax period for which they are issued and shall not be carried forward:

(1) For grants accrued but not paid during calendar years 2008 through 2013, the tax credit shall be equal to an approved amount and shall be issued in five installments over a five-year period beginning in the 2017 tax accounting or privilege period of the business or tax credit transferee in the following percentages: in year one, five percent of the accrued amount; in year two, 20 percent of the accrued amount; in year three, 25 percent of the accrued amount; in year four, 25 percent of the accrued amount; in year five, 25 percent of the accrued amount. To the extent any amount in this paragraph has not been approved by the authority by the commencement of State fiscal year 2017, the aggregate tax credit that would have been issued in State fiscal year 2017 shall be issued in the year the amount is approved and the five-year period shall commence in that fiscal year;

(2) For a grant accrued but not paid during calendar year 2014, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(3) For a grant accrued but not paid during calendar year 2015, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(4) For a grant accrued but not paid during calendar year 2016, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(5) For a grant accrued but not paid during calendar year 2017, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(6) For a grant accrued but not paid during calendar year 2018, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(7) For a grant accrued but not paid during calendar year 2019, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(8) For a grant accrued but not paid during calendar year 2020, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(9) For a grant accrued but not paid during calendar year 2021, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(10) For a grant accrued but not paid during calendar year 2022, the tax credit shall be equal to any approved amount and shall be paid in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(11) For a grant accrued but not paid during calendar year 2023, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(12) For a grant accrued but not paid during calendar year 2024, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee; and

(13) For a grant accrued but not paid during calendar year 2025, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee.

f. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and payments. If the credit exceeds the amount of tax liability otherwise due from a business that pays taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), that amount of excess shall be an overpayment for the purposes of R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

g. A business that does not pay taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), 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 may apply to the executive director of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the business from the executive director of the authority, may be sold or assigned, in full or in part, in an amount not less than \$ 100,000, or the amount of the refundable tax credit issued if less than \$ 100,000, of tax credits to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), 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. The tax credit transfer certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same privileges, limitations, and conditions that apply to the use of the credit by the business that originally applied for and was allowed the tax credit, including treating the amount of excess as an overpayment under subsection f. of this section. The tax credit transferee may not transfer its tax credit to any other party.

HISTORY: L. 1996, c. 26, § 6; amended 1998, c. 33, § 2, eff. June 30, 1998; 2003, c. 166, § 4, eff. Sept. 2, 2003; 2015, c. 194, § 2, eff. Jan. 11, 2016; 2016, c. 9, § 1, eff. June 30, 2016.

NOTES:

Effective Dates

Section 2 of L. 2016, c. 9 provides: "This act shall take effect immediately; provided, however, that section 1 shall apply retroactively to January 11, 2016." Chapter 9, L. 2016, was approved on June 30, 2016.

Amendment Notes

2015 amendment, by Chapter 194, in the introductory language of a., added "by the authority shall either be awarded in cash or as a tax credit" in the first sentence, in the second sentence, inserted "the amount of the grant" and substituted " P.L.1996, c.26 (C.34:1B-133 and C.34:1B-134)" for "this act"; in b., inserted "either in cash or in tax credits", inserted the comma following "State Development and Redevelopment Plan", inserted the comma following "c.398 (C.52:18A-200)", and substituted "Office of State Planning in the Department of State" for "Department of Community Affairs, Office of Smart Growth"; added e. through g.; and made related and stylistic changes.

2016 amendment, by Chapter 9, in the first sentence of e.(1), substituted "five percent" for "30 percent", "20 percent" for "30 percent", "25 percent" for "20 percent" following "in year three", and "25 percent" for "10 percent" twice following "in year four" and "in year five."

Cross References:

Grant limitations, see 34:1B-134.

LexisNexis (R) Notes:

NJ ICLE:

Commercial Real Estate Transactions in New Jersey 12.2 Assistance for Projects Involving Job Growth or Retention



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N.J. Stat. § 34:1B-130 (2017)

§ 34:1B-130. Incentive agreement

The business employment incentive agreement shall include, but shall not be limited to, the following:

- a. A detailed description of the proposed project which will result in job creation, and the number of new employees to be hired in the base years;
- b. The term of the grant, and the first year for which the grant may be claimed;
- c. The new employees whose positions are subjects of the grant, pursuant to subsection c. of section 6 of this act;
- d. A requirement that the applicant maintain the project at a location in New Jersey for at least 1.5 times the number of years of the term of the grant, with at least the number of eligible positions as required by section 4 of this act;
- e. The employment incentive, as determined pursuant to subsection a. of section 6 of this act;
- f. A method for determining the number of new employees who are employed during a grant year;
- g. A method for the business to report annually to the authority the number of new employees for which the grant is to be made;
- h. A requirement that the business report to the authority annually the aggregate amount of withholdings during the grant year;
- i. A provision permitting an audit of the payroll records of the business by the authority from time to time, as the authority deems necessary;
- j. A provision which permits the authority to amend an agreement pursuant to section 9 of this act;
- k. A provision which requires the business to maintain operations at the project location or another location approved by the authority for at least 1.5 times the term of the grant, and a provision to permit the authority to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term; and
- l. A provision establishing the conditions under which the grant agreement may be terminated and grant funds recaptured by the authority.

HISTORY: L. 1996, c. 26, § 7.

NOTES:

LexisNexis (R) Notes:

NJ ICLE:

Commercial Real Estate Transactions in New Jersey 12.2 Assistance for Projects Involving Job Growth or Retention



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N.J. Stat. § 34:1B-131 (2017)

§ 34:1B-131. Submission of NJ tax return, other information; audit

a. No later than March 1 of each year, for the preceding grant year, every business which is awarded a grant under this act shall submit to the authority a copy of its applicable New Jersey tax return within 30 days of filing showing business income and withholdings as a condition of its continuation in the grant program, together with an annual payroll report showing (1) the eligible positions which were created during the base years and (2) the new eligible positions created during each subsequent year of the grant. Should any business which is awarded a grant under this act fail to submit to the authority a copy of its annual payroll report or submit its annual payroll report without the information required by (1) and (2) above, any grant payment to be received by any such business shall be forfeited for the applicable reporting year unless the Executive Director of the authority determines that there are extenuating circumstances excusing the timely filing required herein.

b. The division may require by regulation any information which it deems necessary to effectuate the provisions of this act.

c. The authority may cause an audit of any business receiving a grant to be conducted at any time.

HISTORY: L. 1996, c. 26, § 8; amended 2003, c. 166, § 5, eff. Sept. 2, 2003.

NOTES:

Cross References:

Definitions relative to business employment incentives, see 34:1B-125.



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N.J. Stat. § 34:1B-132 (2017)

§ 34:1B-132. Failure of business to comply, circumstances

a. If the business receiving a grant fails to meet or comply with any condition or requirement set forth in a grant agreement or in rules and regulations of the authority or the division, the authority may amend the agreement to reduce the amount of the employment incentive or the term of the grant agreement. The reduction of the employment incentive shall be applicable to the grant year immediately following the grant year in which the authority amends the agreement.

b. If a business fails to maintain employment at the levels stipulated in the agreement or otherwise fails to comply with any condition of the grant agreement for any two consecutive years, the authority may terminate the agreement.

HISTORY: L. 1996, c. 26, § 9.

NOTES:

LexisNexis (R) Notes:

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N.J. Stat. § 34:1B-133 (2017)

§ 34:1B-133. Disbursement conditions

No amount shall be disbursed to a recipient business as a grant under this act in any year until the State Treasurer has certified that the amount of withholdings or estimated taxes of partners, or any combination thereof, received in that year by the division from the business or the partners of the business equals or exceeds the amount of the grant.

HISTORY: L. 1996, c. 26, § 10; amended 1998, c. 33, § 3, eff. June 30, 1998.



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N.J. Stat. § 34:1B-134 (2017)

§ 34:1B-134. Grant limitations

a. A business that is receiving a business relocation grant pursuant to the provisions of P.L. 1996, c. 25 (C. 34:1B-112 et seq.) shall not be eligible to receive a grant under this act except upon the approval of the State Treasurer.

b. A business that is receiving any other grant by operation of State law shall not receive an amount as a grant pursuant to this act which, when combined with such other grants, exceeds the total of 50% of its withholdings or 30% of its estimated tax, or any combination thereof paid, except upon the approval of the State Treasurer. Amounts received as grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L. 1992, c. 43 (C. 34:15D-1 et seq.) shall be excluded from the calculation of the total amount permitted under this subsection.

c. A business that qualifies under subsection b. of section 6 of P.L. 1996, c. 26 (C. 34:1B-129) for a grant of up to 80% of its withholdings or up to 50% of its estimated tax and is receiving any other grant by operation of State law shall not receive an amount as a grant pursuant to this act which, when combined with such other grants, exceeds the total of up to 80% of its withholdings or 50% of the estimated tax, or any combination thereof paid except upon approval of the State Treasurer. Amounts received as grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L. 1992, c. 43 (C. 34:15D-1 et seq.) shall be excluded from the calculation of the total amount permitted under this subsection.

HISTORY: L. 1996, c. 26, § 11; amended 1998, c. 33, § 4, eff. June 30, 1998; 2003, c. 166, § 6, eff. Sept. 2, 2003.



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N.J. Stat. § 34:1B-135 (2017)

§ 34:1B-135. Implementation, study

The department shall conduct a study to determine the minimum funding level required to implement the Business Employment Incentive Program successfully. Major consideration shall be given to the rate of return for each job created as a result of business employment incentive grants.

HISTORY: L. 1996, c. 26, § 12.



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N.J. Stat. § 34:1B-136 (2017)

§ 34:1B-136. Fees

The authority shall establish an application fee for a grant application and service fees payable by each business which is a grant recipient to pay the costs of the administration of the program.

HISTORY: L. 1996, c. 26, § 13.



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N.J. Stat. § 34:1B-137 (2017)

§ 34:1B-137. Rules

The New Jersey Economic Development Authority, after consultation with the Department and the Division of Taxation, shall in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules necessary to implement the provisions of the Business Employment Incentive Program not related to the collection or determination of taxes and tax withholding. The rules shall provide for the recipients of business employment incentive grants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the program. The Director of the Division of Taxation is authorized to promulgate those rules necessary to effectuate the tax related provisions of the Business Employment Incentive Program.

HISTORY: L. 1996, c. 26, § 14; amended 2003, c. 166, § 7, eff. Sept. 2, 2003.

NOTES:

LexisNexis (R) Notes:

Related Statutes & Rules:

ADMINISTRATIVE CODE:

N.J.A.C. 19:31-10.7 (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Application procedures.



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N.J. Stat. § 34:1B-137.1 (2017)

§ 34:1B-137.1. Rules, regulations

Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Executive Director of the New Jersey Economic Development Authority may adopt immediately upon filing with the Office of Administrative Law such rules and regulations as the executive director determines to be necessary and appropriate to effectuate the purposes of P.L.2015, c.194 (C.34:1B-137.1 et al.), which rules and regulations shall be effective for a period not to exceed 360 calendar days following the effective date of P.L.2015, c.194 (C.34:1B-137.1 et al.) and may thereafter be amended, adopted, or readopted by the executive director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

HISTORY:

History.

L. 2015, c. 194, § 4, eff. Jan. 11, 2016.



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N.J. Stat. § 34:1B-138 (2017)

§ 34:1B-138. Annual report

The authority shall submit a report on the Business Employment Incentive Program to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on or before October 31 of each year. The report shall include information on the number of agreements entered into during the preceding fiscal year, a description of the project under each agreement, the number of jobs created, new income tax revenue received from withholdings, amounts awarded as grants and an update on the status of projects under agreement before the preceding fiscal year.

HISTORY: L. 1996, c. 26, § 15; amended 2003, c. 166, § 8, eff. Sept. 2, 2003; 2015, c. 194, § 3, eff. Jan. 11, 2016.

NOTES:

Amendment Notes

2015 amendment, by Chapter 194, in the first sentence, substituted "authority" for "New Jersey Commerce and Economic Growth Commission" and "and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature" for "President of the Senate, and Speaker of the General Assembly."



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N.J. Stat. § 34:1B-139 (2017)

§ 34:1B-139. Appropriation capped by new revenues

There is appropriated to the New Jersey Economic Development Authority from the General Fund such sums as may be necessary to fund the Business Employment Incentive Program established by this act, the amount of which shall not exceed the total amount of revenues received as withholdings, as defined in section 2 of P.L.1996, c.26 (C.34:1B-125) from all businesses receiving grants pursuant to this act, as certified by the Director of the Division of Taxation.

HISTORY: L. 1996, c. 26, § 17.