

SENATE, No. 3043

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED DECEMBER 17, 2007

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

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District 28 (Essex)

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Senator B.Smith

SYNOPSIS

“Urban Transit Hub Tax Credit Act;” allows tax credits to certain businesses for certain capital investments in urban transit hubs.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT allowing tax credits to certain businesses for certain capital
2 investments in urban transit hubs, supplementing Title 34 of the
3 Revised Statutes.

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

7
8 1. This act shall be known and may be cited as the “Urban
9 Transit Hub Tax Credit Act.”

10
11 2. As used in this act:

12 “Business” means a corporation that is subject to the tax imposed
13 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
14 corporation that is subject to the tax imposed pursuant to sections 2
15 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
16 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5 , or is a
17 partnership.

18 “Capital investment” in a qualified business facility means
19 expenses incurred after, but before the end of the eighth year after,
20 the effective date of P.L. , c. (C.)(pending before the Legislature
21 as this bill) for: (i) the site preparation and construction, repair,
22 renovation, improvement, equipping, or furnishing of a building,
23 structure, facility or improvement to real property; and (ii)
24 obtaining and installing furnishings and machinery, apparatus or
25 equipment for the operation of a business in a building, structure,
26 facility or improvement to real property.

27 “Commission” means the New Jersey Commerce Commission.

28 “Eligible municipality” means a municipality: (1) which
29 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et.
30 seq.); (2) in which 30 percent or more of the value of real property
31 is exempt from local property taxation; and (3) in which the
32 equalized valuation per capita is under \$100,000. The percentage
33 of exempt property shall be calculated by dividing the total exempt
34 value by the sum of the net valuation which is taxable and that
35 which is tax exempt.

36 “Equalized valuation” has the meaning provided by section 1 of
37 P.L.1978, c.14 (C.52:27D-178).

38 “Equalized valuation per capita” means a municipality's
39 equalized valuation divided by the population of the municipality.

40 “Full-time employee” means a person employed by the business
41 for consideration for at least 35 hours a week, or who renders any
42 other standard of service generally accepted by custom or practice
43 as full-time employment and whose wages are subject to
44 withholding as provided in the “New Jersey Gross Income Tax
45 Act,” N.J.S.54A:1-1 et seq. or who is a partner of a business who
46 works for the partnership for at least 35 hours a week, or who
47 renders any other standard of service generally accepted by custom
48 or practice as fulltime employment, and whose distributive share of

1 income, gain, loss, or deduction, or whose guaranteed payments, or
2 any combination thereof, is subject to the payment of estimated
3 taxes, as provided in the “New Jersey Gross Income Tax Act,”
4 N.J.S.54A:1-1 et seq. “Full-time employee” shall not include any
5 person who works as an independent contractor or on a consulting
6 basis for the business.

7 “Partnership” means an entity classified as a partnership for
8 federal income tax purposes.

9 “Qualified business facility” means any building, complex of
10 buildings or structural components of buildings, and all machinery
11 and equipment located within a designated urban transit hub in an
12 eligible municipality, used in connection with the operation of a
13 business.

14 “Urban transit hub” means property located within a 1/2 mile
15 radius surrounding the mid point of a New Jersey Transit
16 Corporation, Port Authority Transit Corporation or Port Authority
17 Trans-Hudson Corporation rail station platform area, delineated by
18 the commission pursuant to subsection e. of section 3 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill). A property
20 which is partially included within the radius shall only be
21 considered part of the hub if over 50 percent of its land area falls
22 within the radius. “Rail station” shall not include any rail station
23 located at an international airport.

24

25 3. a. (1) A business, upon application to and approval from the
26 New Jersey Commerce Commission, shall be allowed a credit of
27 100 percent of its capital investment, made after the effective date
28 of P.L. , c. (C.) (pending before the Legislature as this bill)
29 but prior to its submission of documentation pursuant to subsection
30 c. of this section, in a qualified business facility within an eligible
31 municipality, pursuant to the restrictions and requirements of this
32 section.

33 (2) A business, other than a tenant eligible pursuant to
34 paragraph (3) of this subsection, shall make or acquire capital
35 investments totaling not less than \$75,000,000 in a qualified
36 business facility, at which the business shall employ not fewer than
37 250 full-time employees to be eligible for a credit under this
38 section. A business that acquires a qualified business facility shall
39 also be deemed to have acquired the capital investment made or
40 acquired by the seller.

41 (3) A business that is a tenant in a qualified business facility, the
42 owner of which has made or acquired capital investments in the
43 facility totaling not less than \$75,000,000, shall occupy a leased
44 area of the qualified business facility that represents at least
45 \$25,000,000 of the capital investment in the facility at which the
46 tenant business shall employ not fewer than 250 full-time
47 employees to be eligible for a credit under this section. The amount
48 of capital investment in a facility that a leased area represents shall

1 be equal to that percentage of the owner's total capital investment
2 in the facility that the percentage of net leasable area leased by the
3 tenant is of the total net leasable area of the qualified business
4 facility.

5 (4) A business shall not be allowed tax credits under this section
6 if the business participates in a business employment incentive
7 grant relating to the same capital and employees that qualify the
8 business for this credit, or if the business receives assistance
9 pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), or if the business
10 is a licensee as defined pursuant to section 33 of P.L.1977, c.110
11 (C.5:12-33). A business that is allowed a tax credit under this
12 section shall not be eligible for incentives authorized pursuant to
13 P.L.2002, c.43 (C.52:27BBB-1 et seq.).

14 (5) Full-time employment for an accounting or privilege period
15 shall be determined as the average of the monthly full-time
16 employment for the period.

17 (6) The capital investment of the owner of a qualified business
18 facility is that percentage of the capital investment made or
19 acquired by the owner of the building that the percentage of net
20 leasable area of the qualified business facility not leased to tenants
21 is of the total net leasable area of the qualified business facility.

22 b. (1) A business shall apply for the credit within five years
23 after the effective date of P.L. , c. (C.) (pending before the
24 Legislature as this bill), and a business shall submit its
25 documentation for approval of its credit amount within eight years
26 after the effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill).

28 c. (1) The amount of credit allowed shall, except as otherwise
29 provided, be equal to the capital investment made by the business,
30 or the capital investment represented by the business' leased area,
31 and shall be taken over a 10-year period, at the rate of one-tenth of
32 the total amount of the business' credit for each tax accounting or
33 privilege period of the business, beginning with the tax period in
34 which the business is first approved by the commission as having
35 met the investment capital and employment qualifications, subject
36 to any reduction or disqualification as provided by subsection d. of
37 this section as determined by annual review by the commission. In
38 conducting its annual review, the commission may require a
39 business to submit any information determined by the commission
40 to be necessary and relevant to its review.

41 The credit amount for any tax period ending after the date eight
42 years after the effective date of P.L. , c. (C.) (pending before
43 the Legislature as this bill) during which the documentation of a
44 business' credit amount remains unapproved shall be forfeited,
45 although credit amounts for the remainder of the years of the 10-
46 year credit period shall remain available to it.

47 The amount of credit allowed for a tax period to a business that
48 is a tenant in a qualified business facility shall not exceed the

1 business' total lease payments for occupancy of the qualified
2 business facility for the tax period.

3 (2) A business that is a partnership shall not be allowed a credit
4 under this section directly, but the amount of credit of an owner of a
5 business shall be determined by allocating to each owner of the
6 partnership that proportion of the credit of the business that is equal
7 to the owner of the partnership's share, whether or not distributed,
8 of the total distributive income or gain of the partnership for its tax
9 period ending within or with the owner's tax period, or that
10 proportion that is allocated by an agreement, if any, among the
11 owners of the partnership that has been provided to the Director of
12 the Division of Taxation in the Department of the Treasury by such
13 time and accompanied by such additional information as the
14 director may require.

15 (3) The amount of credit allowed may be applied against the tax
16 liability otherwise due pursuant to section 5 of P.L.1945, c.162
17 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
18 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950,
19 c.231 (C.17:32-15), pursuant to N.J.S.17B:23-5, or pursuant to the
20 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

21 d. (1) If, in any tax period, fewer than 200 full-time employees
22 of the business at the qualified business facility are employed in
23 new full-time positions, the amount of the credit otherwise
24 determined pursuant to final calculation of the award of tax credits
25 pursuant to subsection c. of this section shall be reduced by 20
26 percent for that tax period and each subsequent tax period until the
27 first period for which documentation demonstrating the restoration
28 of the 200 full-time employees employed in new full-time positions
29 at the qualified business facility has been reviewed and approved by
30 the commission, for which tax period and each subsequent tax
31 period the full amount of the credit shall be allowed; provided,
32 however, that there shall be no reduction if a business relocates to
33 an urban transit hub from another location or locations in the same
34 municipality. For the purposes of this paragraph, a "new full-time
35 position" means a position created by the business at the qualified
36 business facility that did not previously exist in this State.

37 (2) If, in any tax period, the business reduces the total number
38 of full-time employees in its Statewide workforce by more than 10
39 percent from the number of full-time employees in its Statewide
40 workforce in the last tax accounting or privilege period prior to the
41 effective date of P.L. , c. (C.) (pending before the Legislature
42 as this bill), or in the last tax accounting or privilege period prior to
43 the credit amount approval under this section, whichever is greater,
44 then the business shall forfeit its credit amount for that tax period
45 and each subsequent tax period, until the first tax period for which
46 documentation demonstrating the restoration of the business'
47 Statewide workforce to the threshold levels required by this
48 paragraph has been reviewed and approved by the commission, for

1 which tax period and each subsequent tax period the full amount of
2 the credit shall be allowed.

3 (3) If, in any tax period, the number of full-time employees
4 employed by the business at the qualified business facility located
5 in an urban transit hub within an eligible municipality drops below
6 250 then the business shall forfeit its credit amount for that tax
7 period and each subsequent tax period, until the first tax period for
8 which documentation demonstrating the restoration of the number
9 of full-time employees employed by the business at the qualified
10 business facility to 250 has been reviewed and approved by the
11 commission, for which tax period and each subsequent tax period
12 the full amount of the credit shall be allowed.

13 (4) (i) If the qualified business facility is sold in whole or in part
14 during the 10-year eligibility period the new owner shall not acquire
15 the capital investment of the seller and the seller shall forfeit all
16 credits for the tax period in which the sale occurs and all subsequent
17 tax periods, provided however that any credits of tenants shall
18 remain unaffected.

19 (ii) If a tenant subleases its tenancy in whole or in part during the
20 10-year eligibility period the new tenant shall not acquire the credit
21 of the sublessor, and the sublessor tenant shall forfeit all credits for
22 the tax period of its sublease and all subsequent tax periods.

23 e. The Executive Director of the New Jersey Commerce
24 Commission, in consultation with the Director of the Division of
25 Taxation in the Department of the Treasury, shall adopt rules in
26 accordance with the "Administrative Procedure Act," P.L.1968,
27 c.410 (C.52:14B-1 et seq.) as are necessary to implement this act,
28 including but not limited to: examples of and the determination of
29 capital investment; the enumeration of eligible municipalities;
30 specific delineation of urban transit hubs; the determination of the
31 limits, if any, on the expense or type of furnishings that may
32 constitute capital improvements; the promulgation of procedures
33 and forms necessary to apply for a credit; and provisions for credit
34 applicants to be charged an initial application fee, and ongoing
35 service fees, to cover the administrative costs related to the credit.

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37 4. This act shall take effect immediately.

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STATEMENT

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42 This bill establishes a tax credit program for capital investment
43 and increased employment in targeted urban rail transit hubs to
44 catalyze economic development in those transit hubs.

45 The program is limited to municipalities that are eligible for
46 urban aid, that have at least 30 percent of their real property value
47 exempt from property taxes, whose "property base wealth"
48 measured as equalized valuation per capita is under \$100,000 per

1 capita, and that have a specified commuter rail station. The bill
2 directs the New Jersey Commerce Commission to designate areas in
3 a one-half mile radius around the rail stations (not including rail
4 stations at international airports) as an “urban transit hub”
5 qualifying for investment incentives.

6 A business that makes \$75,000,000 of qualified capital
7 investment in a business facility in an urban transit hub and
8 employs at least 250 persons at that facility (subject to some
9 standards that assure these are increases in Statewide employment)
10 may qualify for tax credits equal to 100 percent of the qualified
11 capital investment that may be applied against corporation business
12 tax, insurance premiums tax or gross income tax liability. Annually
13 for ten years the taxpayer may utilize a credit equal to 10 percent of
14 the qualified capital investment.

15 A tenant in these qualified business facilities may also be
16 allowed credits, if the tenant occupies space in a qualified business
17 facility that proportionally represents at least \$25,000,000 of the
18 capital investment in the facility and employs at least 250 persons
19 in that facility.