

CHAPTER 274

AN ACT concerning the approval of the use of certain bond proceeds for economic growth and development projects, amending P.L.2003, c.166.

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

1. Section 9 of P.L.2003, c.166 (C.34:1B-139.1) is amended to read as follows:

C.34:1B-139.1 Powers of authority relative to bonds.

9. Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to the provisions of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to this act for the purpose of (1) providing funds for the payment, in full or in part, of the grants provided to businesses under sections 1 through 14 of P.L.1996, c.26 (C.34:1B-124 through 34:1B-137); (2) providing funds to be used by the authority only for the purposes enumerated in subsections a. and b. of section 4 of P.L.1992, c.16 (C.34:1B-7.13) for payments to, or for the benefit of, designated industries that have the greatest potential to create eligible positions and promote State development strategies; and (3) and any costs related to the issuance of such bonds. The authority may establish reserve or other funds to further secure bonds and refunding bonds. The bonds shall be in the amount to yield proceeds to fund, all or in part, the payment of grants provided to business under this act, plus additional bonds to pay for the costs of issuance. Notwithstanding anything to the contrary, bonds issued for the purposes of paragraph (2) of this subsection, excluding refunding bonds, may only be issued upon certification by the authority at the time of issuance to the effect that payments for principal and interest on such bonds and any additional costs authorized by that paragraph (2) may not exceed an amount equivalent to the residual withholdings anticipated at the time of issuance of such bonds for the applicable fiscal years.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds, pledge the contract with the State Treasurer, provided for in section 10 of P.L.2003, c.166 (C.34:1B-139.2), or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 10 and 11 of P.L.2003, c.166 (C.34:1B-139.2 and C.34:1B-139.3), which costs may include, but are not limited to, any costs and fees relating to the issuance of the bonds or refunding bonds, annual administrative costs and fees of the authority attributable to the payment of grants issued to businesses under this act, the fees and costs of bond counsel and any other professional fees and costs attributable to the agreements described in subsection c. of this section. The bonds or refunding bonds shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 20 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 10 and 11 of P.L.2003, c.166 (C.34:1B-139.2 and C.34:1B-139.3). The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued pursuant to this act, the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements,

insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. (1) No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer and the Joint Budget Oversight Committee. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

(2) Subsequent to the issuance of bonds for the purposes of paragraph (2) of subsection a. of this section, but prior to the expenditure of the proceeds of the issuance of those bonds for any program, the authority shall provide the Joint Budget Oversight Committee with a detailed description of the program to be funded. No expenditure for such program, shall occur without approval by the committee of that program; provided however, that if the committee fails to consider any program for approval within 14 calendar days from date of receipt of the program description from authority, each such program not considered shall be deemed approved. "Program" for purposes of this section does not include costs of issuance. In addition, the authority shall provide the committee with an itemized, detailed list of persons, businesses or other entities that will receive financing under such approved programs prior to the funding being distributed., including other public entities for the purpose of the public entity making grants, loans or entering into other financial transactions,

When the funds allocated to a public entity for the purpose of the public entity making grants, loans or entering into other financial transactions are subsequently allocated by that other public entity, the entity shall provide to the authority so that the authority can provide to the Joint Budget Oversight Committee an itemized, detailed list of persons, businesses or other entities, that will receive such funds, and the amount that each will so receive.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of bond counsel, financial advisors and experts, placement agents, underwriters, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this act, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to be applied to the payment, in full or in part, for the purposes set forth in subsection a. of this section as directed by the State Treasurer.

h. All bonds or refunding bonds issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment on bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

i. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of this section except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

j. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

2. This act shall take effect immediately and be retroactive to September 2, 2003.

Approved January 14, 2004.