

CHAPTER 112

AN ACT establishing a grant program to stimulate certain capital investment and job creation in New Jersey during a limited period, supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) and making appropriations.

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

C.34:1B-237 Short title.

1. This act shall be known and may be cited as the "InvestNJ Business Grant Program Act."

C.34:1B-238 Definitions relative to the "InvestNJ Business Grant Program Act."

2. As used in this act:

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

"Business" means any entity including, but not limited to a corporation, an S corporation, limited liability corporation, partnership, limited liability partnership, and sole proprietorship, and shall include all entities related by common ownership or control.

"Capital investment" means expenses of at least \$5,000 incurred for the direct use and operation of a business for (1) the site preparation and construction, renovation, improvement, equipping of, or obtaining and installing fixtures and machinery, apparatus or equipment in, a newly constructed, renovated or improved building, structure, facility, or improvement to real property; and (2) obtaining and installing fixtures and machinery, apparatus or equipment in a building, structure, or facility. Provided however, that "capital investment" shall not include soft costs such as financing and design, furniture or decorative items such as artwork or plants, or office equipment if the office equipment is property with a recovery period of less than five years. The recovery period of any property, for purposes of this section, shall be determined as of the date such property is first placed in service or use in this State by the business, determined in accordance with section 168 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.168). "Capital investment" shall also include remediation of a business facility site, but only to the extent the remediation has not received financial assistance from another federal, State or local government funding source.

"Chief Executive Officer" means the Chief Executive Officer of the New Jersey Economic Development Authority.

"Eligible position" means a full-time position filled by an individual whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An eligible position shall include 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 chapter 27 of Title 17B of the New Jersey Statutes. An eligible position shall not include an independent contractor or a consultant.

C.34:1B-239 Invest in New Jersey Business Grant Program.

3. a. There is established the Invest in New Jersey Business Grant Program to be administered by the New Jersey Economic Development Authority. The program shall include an investment grant component to provide an incentive to businesses, during the current national economic crisis, to encourage capital investments by the award of grants of

up to 7 percent of the qualifying capital investment made by a business in New Jersey during a limited period.

b. The Chief Executive Officer shall approve the issuance of a grant to a business that:

(1) has operated continuously for at least two years prior to filing an application for a grant;

(2) employs at least 5 full-time employees; and

(3) makes a capital investment in New Jersey after the effective date of P.L.2008, c.112 (C.34:1B-237 et seq.) but prior to January 1, 2011.

c. A business seeking to participate in the investment grant component shall submit an application in such form as required by the Chief Executive Officer. Such application shall include such information as the officer shall determine is necessary to administer the grant program. All applications shall be submitted prior to January 1, 2011.

d. The Chief Executive Officer shall review and may approve an application for the grant program. The Chief Executive Officer shall issue payment of the grant amount pursuant to a series of scheduled payments as the Chief Executive Officer may determine and subject to the submission of proof by an approved applicant of the expenditures contributing to the capital investment. A grantee that fails to comply with a grant agreement that shall be made as a condition of a grant award shall repay any grant amount received and, if so determined by the Chief Executive Officer, shall pay a penalty not in excess of ten percent of the grant amount.

e. The value of the grant shall be 7 percent of the capital investment provided that no grantee shall receive more than \$1,000,000 pursuant to this section. Provided further, that the sum of grants awarded pursuant to this section shall not exceed \$70,000,000 of which not more than \$20,000,000 shall be allocated for capital investment grants described under paragraph (2) of "capital investment" as defined in section 2 of this act.

f. For the purpose of determining eligibility for a grant pursuant to this section, the authority shall exclude any expenses incurred at a site for which the business is receiving a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.), a business retention and relocation assistance grant pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) or an urban transit hub tax credit pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.), and shall exclude any expenses covered by a retail sales purchase exemption pursuant to section 20 of P.L.1983, c.303 (C.52:27H-79), section 25 of P.L.1980, c.105 (C.54:32B-8.13), section 26 of P.L.1980, c.105 (C.54:32B-8.14), section 28 of P.L.1980, c.105 (C.54:32B-8.16), section 41 of P.L.1980, c.105 (C.54:32B-8.29), section 45 of P.L.1980, c.105 (C.54:32B-8.33), or section 1 of P.L.1981, c.546 (C.54:32B-8.36).

C.34:1B-240 Employment grant component for eligible businesses.

4. a. There is also established under the Invest in New Jersey Business Grant Program to be administered by the New Jersey Economic Development Authority, an employment grant component to provide an incentive to businesses, during the current national economic crisis, to create full-time jobs that are retained for at least one year by the award of a grant of \$3,000 to qualified businesses for each eligible position created.

b. The Chief Executive Officer shall approve the issuance of a grant to a business that:

(1) has operated continuously in this State for at least two years prior to filing an application for a grant;

(2) employs at least 5 full-time employees;

(3) adds an eligible position created in New Jersey after December 1, 2008 and before January 1, 2011, for a period of at least 12 consecutive months in this State; and

(4) the applicant has experienced a net increase in employment of eligible positions in this State during the same 12 consecutive months.

c. A business seeking to participate in the grant program shall submit an application in such form as required by the Chief Executive Officer. Such application shall include such information as the Chief Executive Officer shall determine is necessary to administer the grant program. All applications shall be submitted prior to January 1, 2011.

d. The Chief Executive Officer shall review and may approve an application for the grant program. The Chief Executive Officer shall issue payment of the grant upon the submission of proof by an approved applicant of the employment of an individual in the eligible position during a period of at least 12 consecutive months in this State and proof of the other requirements set forth in subsection b. of this section. Such submission shall be subject to review and audit by the Department of Labor and Workforce Development.

e. The value of the grant shall be \$3,000 for each eligible position, provided that no grantee shall receive more than \$500,000 in grants pursuant to this section. Provided further, that the sum of grants awarded pursuant to this section shall not exceed \$50,000,000.

f. For the purpose of determining eligibility for a grant pursuant to this section, the authority shall not include any position that is included in the calculation of a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.), a business retention and relocation assistance grant pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) or an urban transit hub tax credit pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.).

C.34:1B-241 Rules, regulations.

5. The authority may promulgate rules and regulations necessary for the effective implementation of P.L.2008, c.112 (C.34:1B-237 et seq.). Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the authority may adopt, immediately upon filing with the Office of Administrative Law, such regulations as are necessary to implement the provisions of P.L.2008, c.112 (C.34:1B-237 et seq.), which shall be effective for a period not to exceed 12 months following enactment, and may thereafter be amended, adopted, or readopted by the authority in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Such regulations may include, but shall not be limited to: examples of and the determination of capital investment; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital investments; and the promulgation of procedures and forms necessary to apply for a benefit under P.L.2008, c.112 (C.34:1B-237 et seq.).

6. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-2.1 et al.), there is appropriated from the Long Term Obligation and Capital Expenditure Fund to the New Jersey Economic Development Authority a sum of up to \$400,000 for the purpose of defraying reasonable and necessary administrative expenses incurred in carrying out the provisions of this act, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

7. Notwithstanding the provisions of P.L.2008, c.22 (C.52:9H-2.1 et al.), there are appropriated from the Long Term Obligation and Capital Expenditure Fund to the New

Jersey Economic Development Authority, such sums as are necessary, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury, to effectuate the purposes of this act.

8. This act shall take effect immediately.

Approved December 9, 2008.