

ASSEMBLY, No. 5407

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 8, 2023

Sponsored by:

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

SYNOPSIS

"State Bank of New Jersey Act."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT creating a State bank and supplementing Title 17 of the
2 Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the "State Bank
8 of New Jersey Act."

9

10 2. The Legislature finds and declares that:

11 a. Access to capital is vitally important for the health, security,
12 and well-being of all individuals and businesses in our State. They
13 are the economic drivers that help New Jersey's commerce run
14 smoothly. The lack of accessible capital, as currently experienced
15 due to the economic downturn, is exacerbating the economic
16 hardships being faced by working families and businesses;

17 b. By creating a State bank, the State is able to direct economic
18 development policy initiatives in a responsive and efficient manner
19 to benefit citizens of New Jersey;

20 c. The mission of the State Bank of New Jersey shall be to
21 promote small businesses, fair educational lending, housing,
22 infrastructure improvements, community development, economic
23 development, commerce, and industry in New Jersey. In this role,
24 the bank shall act as a funding resource in partnership with other
25 financial institutions, economic development groups, and guaranty
26 agencies;

27 d. Accuracy of financial reporting and compliance with all
28 applicable laws and regulations shall be an integral part of the State
29 Bank of New Jersey's overall risk management strategy; and

30 e. It is the intent of the Legislature that State funds and funds
31 of State institutions may be deposited at the State Bank of New
32 Jersey and guaranteed by the State. Other deposits may be accepted
33 from any public source. The State Bank of New Jersey shall be
34 operated to benefit the citizens of New Jersey.

35

36 3. As used in this act:

37 "Board" means the board of directors of the State Bank of New
38 Jersey.

39 "Commissioner" means the Commissioner of Banking and
40 Insurance.

41 "Department" means the Department of Banking and Insurance.

42 "President" means the President of the State Bank of New Jersey.

43 "Public source" means the State of New Jersey, any of its
44 political subdivisions, any authority created by the Legislature of
45 the State of New Jersey and any instrumentality or agency of the
46 State of New Jersey or of any of its political subdivisions.

1 "State Bank of New Jersey," "State bank" or "bank" refers to the
2 State-owned financial institution established pursuant to section 4
3 of this act.

4 "State moneys" or "State funds" mean all moneys or funds
5 belonging to or in the custody of the State under the control of the
6 State Treasurer.

7 "State Treasurer" means the Treasurer of the State of New
8 Jersey.

9
10 4. a. There is established the State Bank of New Jersey.

11 b. Notwithstanding any other law to the contrary, as soon as
12 practicable, the State Treasurer may deposit State moneys in the
13 bank. Any State funds not under the direct control of the State
14 Treasurer may be deposited in the bank by the person in control of
15 these funds.

16 c. All income earned by the bank for its own account on State
17 moneys that are deposited in or invested with the bank to the credit
18 of the State shall be credited to and become a part of the revenues
19 and income of the bank.

20
21 5. a. The State bank may make loans subject to the limitations
22 in this act and any rules adopted by the State Treasurer.

23 b. The bank shall be permitted to charge the same rate of
24 interest and provide for the same terms for a loan or extension of
25 credit as a State-chartered bank, consistent with "The State Bank
26 Parity Act," P.L.1981, c.4 (C.17:13B-1 et seq.), and to exercise any
27 other power or authority permissible to a State-chartered bank.

28 c. The bank shall invest State moneys in any manner that
29 ensures appropriate cash management and may establish a cash
30 management fund, separate from the bank's general fund for
31 investment purposes. The bank shall not make a loan to any board
32 member, the president, or any officer of the bank, including any
33 immediate family member of that person, or any entity with which
34 that person is associated or in which he has an interest.

35 d. The bank may:

36 (1) Buy and sell federal funds;

37 (2) Lease, assign, sell, exchange, transfer, convey, grant, pledge,
38 or mortgage all real and personal property, title to which has been
39 acquired in any manner;

40 (3) Acquire real or personal property or property rights by
41 purchase, lease, or the exercise of the right of eminent domain and
42 may construct, remodel, and repair buildings;

43 (4) Receive deposits from any public source and deposit its
44 funds in any bank or other financial institution;

45 (5) Perform all acts and do all things necessary, advisable, or
46 desirable to carry out the powers expressly granted or necessarily
47 implied in this section through or by means of its president,

1 officers, agents, or employees or by contracts with any person, firm,
2 or corporation;

3 (6) Provide loans or other assistance to public or private entities
4 or consortia thereof for the purpose of financing all or a portion of
5 the costs incurred for the planning, acquisition, engineering,
6 construction, reconstruction, repair and rehabilitation of a
7 transportation project;

8 (7) Coordinate with the Higher Education Student Assistance
9 Authority to further access to postsecondary education, whether by
10 loans, grants, scholarships, savings programs, or other means and
11 shall have the authority enumerated in section 1 of P.L.1999, c.46
12 (C.18A:71A-9), as appropriate;

13 (8) Purchase mortgage loans on residential real property
14 originated by financial institutions; and

15 (9) Provide loans or other assistance to small businesses.

16

17 6. a. The State bank shall be governed by a board of directors
18 consisting of 13 members as follows:

19 (1) the State Treasurer, or the State Treasurer's designee, as an
20 ex officio member; and

21 (2) twelve members, who are residents of this State, to be
22 appointed by the Governor with the advice and consent of the
23 Senate, including: one person who shall have experience in bank
24 administration; one person who shall have experience in credit
25 union administration; one person who shall have experience in
26 consumer financial advocacy; one person who shall have experience
27 in public administration; two additional public members; and of the
28 six other persons, two shall be appointed upon the recommendation
29 of the President of the Senate, two shall be appointed upon the
30 recommendation of the Speaker of the General Assembly, one shall
31 be appointed upon the recommendation of the Minority Leader of
32 the Senate, and one shall be appointed upon the recommendation of
33 the Minority Leader of the General Assembly.

34 Each public member of the board shall have demonstrated
35 expertise in at least one of the following areas and be appointed in
36 such a manner as to ensure that the public membership of the board
37 includes individuals who have demonstrated expertise in the
38 following areas:

39 (a) mortgage lending;

40 (b) the financial services industry;

41 (c) bank administration;

42 (d) public administration; and

43 (e) consumer financial advocacy.

44 b. The members of the board shall be reimbursed for any
45 expenses incurred by them in the performance of their duties.

46 c. The members of the board shall serve for a term of four
47 years; except that of the members first appointed, three of the
48 members appointed shall each serve for a period of five years, three

1 shall each serve for a period of four years, three shall each serve for
2 a period of three years; and the remaining three members appointed
3 shall serve for a period of two years.

4 d. Each member of the board shall hold office for the term of
5 his appointment and until his successor has been appointed.
6 Vacancies shall be filled in the same manner as the original
7 appointments were made. A member shall be eligible for
8 reappointment.

9 e. The board shall organize as soon as practicable after the
10 appointment of its members and shall select a chairperson from
11 among its members.

12 f. (1) The board shall appoint a president of the bank to
13 supervise the administrative affairs and general management and
14 operations of the bank.

15 (2) The president shall:

16 (a) be qualified by training and experience to perform the duties
17 of that position;

18 (b) serve as a member of the senior executive or unclassified
19 service and be appointed without regard to the provisions of Title
20 11A of the New Jersey Statutes;

21 (c) attend all meetings of the board; and

22 (d) serve at the pleasure of the board, and receive compensation
23 as determined by the board.

24 (3) With the approval of the board, the president shall:

25 (a) plan, direct, coordinate, and execute the administrative
26 functions of the bank in conformity with the policies and directives
27 of the board;

28 (b) employ professional and clerical staff as necessary to
29 implement the provisions of this act;

30 (c) report to the board on all operations under the president's
31 control and supervision;

32 (d) prepare an annual budget and manage the administrative
33 expenses of the bank; and

34 (e) undertake any other activities necessary to accomplish the
35 purposes of the bank.

36 (4) All employees of the bank, except the president, shall be in
37 the career service of the Civil Service.

38 g. Except for a secretarial or clerical employee, while serving
39 as a member of the board or an employee of the bank, and for a
40 period of two years immediately following that service or
41 employment, a person, any member of his immediate family, any
42 entity with which that person is associated or in which he has an
43 interest, or any partner, officer, director, or employee while he is
44 associated with that entity, shall not be employed by, a consultant
45 to, a member of the board of directors of, affiliated with, or
46 otherwise a representative of, any person or entity that has obtained
47 a loan from, or otherwise has done substantial business with, the
48 bank.

1 h. All meetings of the board shall be subject to the
2 requirements of the "Senator Byron M. Baer Open Public Meetings
3 Act," P.L.1975, c.231 (C.10:4-6 et seq.). In addition to complying
4 with the notice requirements of P.L.1975, c.231, the board shall
5 provide electronic notice of its meetings as defined in section 1 of
6 P.L.2002, c.91 (C.10:4-9.1).

7 i. A member of the board or an employee of the bank shall not
8 be liable in an action for damages to any person for any action
9 taken or recommendation made by the member or employee within
10 the scope of his functions as a member or employee, if the action or
11 recommendation was taken or made without malice. The members
12 of the board shall be indemnified and their defense of any action
13 provided for in the same manner and to the same extent as
14 employees of the State under the "New Jersey Tort Claims Act,"
15 P.L.1972, c.45 (C.59:1-1 et seq.) on account of acts or omissions in
16 the scope of their employment.

17 j. Records maintained by the bank shall be subject to P.L.1963,
18 c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.),
19 commonly referred to as the open public records act, except the
20 commissioner shall promulgate, by regulation, those financial,
21 business, or proprietary records the commissioner deems
22 inappropriate for public disclosure and, therefore, not subject to the
23 open public records act, including financial and commercial
24 information and records supplied by businesses or individuals
25 during application for loans or other State bank services.

26 k. Members of the board and the President of the State bank
27 shall make the same financial disclosures, whether required by law,
28 rule, regulation or Executive Order, including an annual filing of
29 Financial Disclosure Statements, and in the same manner, as are
30 required of the heads of each principal department in the Executive
31 Branch.

32
33 7. The board shall:

34 a. Meet regularly with the management of the State bank to
35 review the bank's operations;

36 b. Make recommendations and directives to the president
37 relating to improved management performance, better customer
38 service, and overall improvement in internal methods, procedures,
39 and operating policies of the bank;

40 c. Make recommendations and directives relating to the
41 establishment of additional objectives for the operation of the bank;
42 and

43 d. Make recommendations and directives to the president
44 concerning the appointment of officers of the bank.

45
46 8. a. The State bank shall be exempt from the payment of all
47 fees and all taxes levied by the State or any of its subdivisions.

1 b. All deposits in the bank shall be guaranteed by the State and
2 shall be exempt from State, county, and municipal taxes.

3 c. The State bank may insure deposits held by the bank with
4 the Federal Deposit Insurance Corporation, as appropriate, and
5 comply with conditions necessary to obtain and maintain such
6 insurance.

7
8 9. a. The commissioner shall examine the State bank in the
9 same manner as a State-chartered financial institution pursuant to
10 section 260 of P.L.1948, c.67 (C.17:9A-260). The bank shall
11 reimburse the department for the costs of an examination. The
12 commissioner may conduct any additional investigation of the bank
13 which may be necessary to ensure the proper operation of the bank.

14 b. The commissioner shall report the examination results, and
15 the results of any necessary investigation, pursuant to this section to
16 the Governor, and to the Legislature pursuant to section 2 of
17 P.L.1991, c.164 (C.52:14-19.1).

18 c. The department shall charge a fee for any examination or
19 investigation sufficient to cover all reasonable expenses of the
20 department associated with the examinations and investigations
21 provided for by this section.

22
23 10. a. The State Auditor shall contract with an independent
24 certified public accounting firm for an annual audit of the State
25 bank in accordance with generally accepted government auditing
26 standards.

27 b. The State Auditor shall contract for an annual audit of the
28 separate programs and funds administered by the bank. The auditor
29 selected shall prepare: (1) an audit report that includes financial
30 statements presented in accordance with the audit and accounting
31 guide for banks and savings institutions issued by the American
32 Institute of Certified Public Accountants; and (2) audited financial
33 statements for inclusion in the comprehensive annual financial
34 report for the State.

35 c. In addition to the audits conducted pursuant to subsections a.
36 and b. of this section, the State Auditor may conduct performance
37 audits of the bank, including the separate programs and funds
38 administered by the bank.

39 d. The State Auditor shall report the results of the audits to the
40 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
41 c.164 (C.52:14-19.1).

42 e. The bank or its separate programs and funds shall pay the
43 costs of the audits conducted pursuant to this section.

44
45 11. a. By December 1st of each year, the State Treasurer shall
46 make an annual report to the Governor, and to the Legislature
47 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the

1 affairs of the bank. The report may include any recommendations
2 that would improve the affairs of the bank.

3 b. Immediately following the close of each calendar month, the
4 State Treasurer shall prepare a report as to the state of the general
5 fund, any cash management fund, the bank, and every other fund
6 under control of the State Treasurer itemized as to:

7 (1) The amount in the fund at the close of business at the end of
8 the preceding month;

9 (2) The amount of revenue deposited or transferred to the credit
10 of each fund during the current month;

11 (3) The amount of withdrawals or transfers from each fund
12 during the current month; and

13 (4) The amount on hand in each fund at the close of business at
14 the end of the current month.

15 The report required pursuant to this subsection shall be made
16 available on the Department of the Treasury website.

17
18 12. The State Treasurer and the commissioner, pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), and in consultation with each other, shall each adopt such
21 rules and regulations as may be necessary to effectuate the purposes
22 of this act.

23
24 13. This act shall take effect on the 90th day following
25 enactment.

26 27 28 STATEMENT

29
30 This bill, the "State Bank of New Jersey Act," creates the State
31 Bank of New Jersey. The bill authorizes the creation of a board of
32 directors to oversee the bank and the State Treasurer or any other
33 person in control of State funds to deposit State moneys in the bank.
34 The bill provides that all income earned by the bank for its own
35 account on State moneys that are deposited in or invested with the
36 bank to the credit of the State are to be credited to and become a
37 part of the revenues and income of the bank.

38 The bill permits the bank to make loans subject to the limitations
39 of the act and any rules adopted by the State Treasurer. The bill
40 also provides that the State bank is permitted to charge the same
41 rate of interest, provide for the same terms for a loan or extension
42 of credit, and to exercise any other power or authority permissible
43 to a State-chartered bank.

44 Under the bill, the bank is required to invest State moneys in any
45 manner that ensures appropriate cash management. The bank is
46 prohibited from making a loan to any board member, the president,
47 or any officer of the bank, including any immediate family member

1 of that person, or any entity with which that person is associated or
2 in which he has an interest.

3 The bill also provides that the bank may:

4 (1) Buy and sell federal funds;

5 (2) Lease, assign, sell, exchange, transfer, convey, grant, pledge,
6 or mortgage all real and personal property, title to which has been
7 acquired in any manner;

8 (3) Acquire real or personal property or property rights by
9 purchase, lease, or the exercise of the right of eminent domain and
10 may construct, remodel, and repair buildings;

11 (4) Receive deposits from any public source and deposit its
12 funds in any bank or other financial institution;

13 (5) Perform all acts and do all things necessary, advisable, or
14 desirable to carry out the powers expressly granted or necessarily
15 implied in the bill through or by means of its president, officers,
16 agents, or employees or by contracts with any person, firm, or
17 corporation;

18 (6) Provide loans or other assistance for transportation projects;

19 (7) Coordinate with the Higher Education Student Assistance
20 Authority to further access to postsecondary education, whether by
21 loans, grants, scholarships, savings programs, or other means and
22 shall have the authority enumerated in section 1 of P.L.1999, c.46
23 (C.18A:71A-9), as appropriate;

24 (8) Purchase mortgage loans on residential real property
25 originated by financial institutions; and

26 (9) Provide loans or other assistance to small businesses.

27 The bill creates a 13 member board of directors to govern the
28 bank. The board consists of:

29 (1) the State Treasurer, or the State Treasurer's designee, as an
30 ex officio member; and

31 (2) twelve members, who are residents of this State, to be
32 appointed by the Governor with the advice and consent of the
33 Senate, including: one person who shall have experience in bank
34 administration; one person who shall have experience in credit
35 union administration; one person who shall have experience in
36 consumer financial advocacy; one person who shall have experience
37 in public administration; two additional public members; and of the
38 six other persons, two shall be appointed upon the recommendation
39 of the President of the Senate, two shall be appointed upon the
40 recommendation of the Speaker of the General Assembly, one shall
41 be appointed upon the recommendation of the Minority Leader of
42 the Senate, and one shall be appointed upon the recommendation of
43 the Minority Leader of the General Assembly.

44 The board is required to appoint a president of the bank to
45 supervise the administrative affairs and general management and
46 operations of the bank. The bill provides that the president of the
47 bank is to serve at the pleasure of the board and receive such
48 compensation as the board shall determine.

1 With the approval of the board, the president is charged with:

2 (1) planning, directing, coordinating, and executing the
3 administrative functions of the bank in conformity with the policies
4 and directives of the board;

5 (2) employing professional and clerical staff as necessary to
6 implement the provisions of the bill;

7 (3) reporting to the board on all operations under the president's
8 control and supervision;

9 (4) preparing an annual budget and managing the administrative
10 expenses of the bank; and

11 (5) undertaking any other activities necessary to accomplish the
12 purposes of the bank.

13 The bill provides that all employees of the bank, except the
14 president, are to be in the career service of the Civil Service. All
15 meetings of the board are subject to the open public meetings act
16 and, except as provided by the Commissioner of Banking and
17 Insurance, records maintained by the bank shall be subject to the
18 open public records act.

19 The bill includes post-employment restrictions on members of
20 the board or employees of the bank. Except for a secretarial or
21 clerical employee, while serving as a member of the board or an
22 employee of the bank, and for a period of two years immediately
23 following such service or employment, a person, any member of his
24 immediate family, any entity with which that person is associated or
25 in which he has an interest, or any partner, officer, director, or
26 employee while he is associated with that entity, shall not be
27 employed by, a consultant to, a member of the board of directors of,
28 affiliated with, or otherwise a representative of, any person or entity
29 that has obtained a loan from, or has otherwise done substantial
30 business with, the bank.

31 The bill also provides that members of the board and the
32 President of the State bank shall make the same financial
33 disclosures, whether required by law, rule, regulation or Executive
34 Order, including an annual filing of Financial Disclosure Statements,
35 and in the same manner, as are required of the heads of each
36 principal department in the Executive Branch.

37 The bill requires the board to meet regularly with the
38 management of the bank to review the bank's operations and make
39 recommendations to the president on the operations of the bank.

40 The bill also provides that the State bank is exempt from the
41 payment of all fees and all taxes levied by the State or any of its
42 subdivisions. In addition, all deposits in the bank are guaranteed by
43 the State and are exempt from State, county, and municipal taxes.

44 Under the bill, the Commissioner of Banking and Insurance is
45 required to examine the State bank in the same manner as a State-
46 chartered financial institution and may conduct any additional
47 investigation of the bank which may be necessary to ensure the
48 proper operation of the bank, at the bank's cost. The commissioner

1 shall report the examination results, and the results of any necessary
2 investigation, to the Governor and to the Legislature.

3 In addition, the State Auditor shall contract with an independent
4 certified public accounting firm for an annual audit of the bank in
5 accordance with generally accepted government auditing standards.
6 The State Auditor is required to contract for an annual audit of the
7 separate programs and funds administered by the bank. The auditor
8 selected shall prepare an audit report that includes financial
9 statements presented in accordance with the audit and accounting
10 guide for banks and savings institutions issued by the American
11 Institute of Certified Public Accountants. The auditor also shall
12 prepare audited financial statements for inclusion in the
13 comprehensive annual financial report for the State. The State
14 Auditor may conduct performance audits of the bank, including the
15 separate programs and funds administered by the bank. The auditor
16 shall report the results of the audits to the Governor and to the
17 Legislature. The bank or its separate programs and funds shall pay
18 the costs of the audits.

19 The bill also provides that, by December 1st of each year, the
20 State Treasurer shall make an annual report to the Governor, and to
21 the Legislature on the affairs of the bank. The report may include
22 any recommendations that would improve the affairs of the bank.
23 Additionally, immediately following the close of each calendar
24 month, the State Treasurer shall prepare a report as to the State of
25 the general fund, the bank, and every other fund under the State
26 Treasurer's control. The monthly report is to be made available on
27 the Department of the Treasury website.