

ASSEMBLY, No. 5438

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 11, 2023

Sponsored by:
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex)

SYNOPSIS

Clarifies process for administrative appropriations to UEZs; makes appropriation.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning urban enterprise zones, amending P.L.1983,
2 c.303 and P.L.2021, c.197, and making an appropriation.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to
8 read as follows:

9 21. a. (1) Receipts of retail sales, **[**except retail sales of motor
10 vehicles, of alcoholic beverages as defined in the "Alcoholic
11 Beverage Tax Law," R.S.54:41-1 et seq., of cigarettes as defined in
12 the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), of
13 manufacturing machinery, equipment or apparatus, and of energy,**]**
14 made by a seller located in an eligible block group, as defined in
15 subsection a. of section 12 of P.L.2021, c.197 (C.52:27H-99) and
16 provided a UZ-2 certification by the authority from a place of
17 business owned or leased and regularly operated by the seller for
18 the purpose of making retail sales, and located in a designated
19 enterprise zone established pursuant to the "New Jersey Urban
20 Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or a
21 UEZ-impacted business district established prior to the effective
22 date of P.L.2021, c.197 pursuant to section 3 of P.L.2001, c.347
23 (C.52:27H-66.2), **[are]** shall be exempt to the extent of 50 percent
24 of the tax imposed under the "Sales and Use Tax Act," P.L.1966,
25 c.30 (C.54:32B-1 et seq.).

26 (2) As used in this section, the term "retail sales" means all
27 retail sales except retail sales of:

28 (1) motor vehicles;

29 (2) alcoholic beverages as defined in the "Alcoholic Beverage
30 Tax Law," R.S.54:41-1 et seq.;

31 (3) cigarettes as defined in the "Cigarette Tax Act," P.L.1948,
32 c.65 (C.54:40A-1 et seq.);

33 (4) manufacturing machinery, equipment or apparatus;

34 (5) energy;

35 (6) medical cannabis and related supplies sold under the "Jake
36 Honig Compassionate Use Medical Cannabis Act", P.L.2009, c.307
37 (C.24:6I-1 et seq.); and

38 (7) recreational cannabis and related supplies sold under the
39 "New Jersey Cannabis Regulatory, Enforcement Assistance, and
40 Marketplace Modernization Act", P.L. 2021, c.16 (C.24:6I-31 et
41 seq.).

42 b. Any seller, which is a qualified business having a place of
43 business located in a designated enterprise zone or in a designated
44 UEZ-impacted business district, may apply to the UEZ Authority
45 for a UZ-2 certification pursuant to this section provided the seller

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 is located in an eligible block group, as defined in subsection a. of
2 section 12 of P.L.2021, c.197 (C.52:27H-99). The UEZ Authority
3 shall certify a seller if the UEZ Authority shall find that the seller
4 owns or leases and regularly operates a place of business located in
5 the designated enterprise zone or in the designated UEZ-impacted
6 business district for the purpose of making retail sales, that items
7 are regularly exhibited and offered for retail sale at that location,
8 and that the place of business is not utilized primarily for the
9 purpose of catalogue or mail order sales. The certification under
10 this section shall remain in effect during the time the business
11 retains its status as a qualified business meeting the eligibility
12 criteria of section 27 of P.L.1983, c.303 (C.52:27H-86). However,
13 the UEZ Authority may at any time revoke a certification granted
14 pursuant to this section if the UEZ Authority shall determine that
15 the seller no longer complies with the provisions of this section.
16 The Department of the Treasury shall provide to a qualified
17 business a certificate evidencing its UZ-2 certification, which
18 certificate shall indicate the location at which the sales tax
19 exemption provided for in this section is available.

20 c. Notwithstanding the provisions of P.L.1983, c.303
21 (C.52:27H-60 et seq.) to the contrary, except as may otherwise be
22 provided by section 7 of P.L.1983, c.303 (C.52:27H-66), the
23 authority may, in its discretion, determine if the provisions of this
24 section shall apply to any enterprise zone designated after the
25 effective date of P.L.1985, c.142 (C.52:27H-66 et al.); provided,
26 however, that the authority may make such a determination only
27 where the authority finds that the award of an exemption of 50
28 percent of the tax imposed under the "Sales and Use Tax Act,"
29 P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any adverse
30 economic impact upon any other urban enterprise zone.

31 d. Notwithstanding any other provision of law to the contrary,
32 the gross amount of all revenues received from the taxation of retail
33 sales to which the exemption under this section applies, except for
34 amounts credited to the Property Tax Reform Account in the
35 Property Tax Relief Fund pursuant to paragraph 7 of Section I of
36 Article VIII of the New Jersey Constitution, shall be deposited
37 immediately upon collection by the Department of the Treasury into
38 the enterprise zone assistance fund created pursuant to section 29 of
39 P.L.1983, c.303 (C.52:27H-88); provided, however, tax collected at
40 the site of a redevelopment project which is the subject of a
41 redemption agreement with the State pursuant to section 3 of
42 P.L.1996, c.124 (C.13:1E-116.3) shall be credited to the Municipal
43 Landfill Closure and Remediation Fund pursuant to subsection b. of
44 section 6 of P.L.1996, c.124 (C.13:1E-116.6) and tax revenues on
45 retail sales of cannabis items shall be credited to the Cannabis
46 Regulatory, Enforcement Assistance, and Marketplace
47 Modernization Fund and the Underage Deterrence and Prevention

1 Account pursuant to subsection a. of section 41 of P.L.2021, c.16
2 (C.24:6I-50).

3 (cf: P.L.2021, c.197, s.9)

4
5 2. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to
6 read as follows:

7 29. a. (1) There is created an enterprise zone assistance fund to
8 be held by the State Treasurer, which shall be the repository for all
9 moneys required to be deposited therein under section **11** of
10 P.L.2021, c.197 (C.52:27H-98) **21** of P.L.1983, c.303 (C.52:27H-
11 80), as amended by this act, P.L. , c. (pending before the
12 Legislature as this bill), or moneys appropriated annually to the
13 fund. All moneys **deposited** in the fund shall be held and
14 disbursed in **the amounts** accordance with this section and section
15 11 of P.L.2021, c.197 (C.52:27H-98) as necessary to fulfill the
16 purposes of this section and subject to the requirements hereinafter
17 prescribed. The State Treasurer may invest and reinvest any moneys
18 in the fund, or any portion thereof, to strengthen capital structures,
19 leverage additional debt capital, and increase lending and investing
20 in economically disadvantaged communities, and in any other
21 manner that advances the goals of the Urban Enterprise Zone
22 program, including, but not limited to legal obligations of the
23 United States or of the State or of any political subdivision thereof
24 or government-sponsored enterprises. Any income from, interest on,
25 or increment to moneys so invested or reinvested shall be included
26 in the fund.

27 **Notwithstanding the provisions of section 11 of P.L.2021, c.197**
28 **(C.52:27H-98) or any other provision of law to the contrary, the**
29 The amount **to be deposited** in the enterprise zone assistance
30 fund, which shall be available to fulfill the purposes of this section,
31 shall be as follows:

32 (a) In the first five State fiscal years next following the effective
33 date of P.L.2021, c.197, 100 percent of the amount determined
34 pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be
35 **deposited in the enterprise zone assistance fund** available to
36 fulfill the purposes of this section;

37 (b) In the sixth State fiscal year next following the effective date
38 of P.L.2021, c.197, 95 percent of the amount determined pursuant
39 to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be **deposited**
40 **in the enterprise zone assistance fund** available to fulfill the
41 purposes of this section and five percent of such amount shall be
42 deposited in the General Fund;

43 (c) In the seventh State fiscal year next following the effective
44 date of P.L.2021, c.197, 90 percent of the amount determined
45 pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be
46 **deposited in the enterprise zone assistance fund** available to

1 fulfill the purposes of this section and 10 percent of such amount
2 shall be deposited in the General Fund;

3 (d) In the eighth State fiscal year next following the effective
4 date of P.L.2021, c.197, 85 percent of the amount determined
5 pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be
6 **【deposited in the enterprise zone assistance fund】** available to
7 fulfill the purposes of this section and 15 percent of such amount
8 shall be deposited in the General Fund;

9 (e) In the ninth State fiscal year next following the effective
10 date of P.L.2021, c.197, 80 percent of the amount determined
11 pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be
12 **【deposited in the enterprise zone assistance fund】** available to
13 fulfill the purposes of this section and 20 percent of such amount
14 shall be deposited in the General Fund; and

15 (f) In the 10th State fiscal year next following the effective date
16 of P.L.2021, c.197, 75 percent of the amount determined pursuant
17 to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be **【deposited**
18 **in the enterprise zone assistance fund】** available to fulfill the
19 purposes of this section and 25 percent of such amount shall be
20 deposited in the General Fund.

21 (2) The State Treasurer shall maintain separate accounts for
22 each enterprise zone designated under P.L.1983, c.303 (C.52:27H-
23 60 et seq.) that is in good standing with the UEZ Authority in
24 accordance with rules adopted by the UEZ Authority, and one in the
25 authority's name for the administration of the Urban Enterprise
26 Zone program, and for providing grants, including planning grants,
27 investments, loans or other guaranties related to qualified assistance
28 fund expenses. The State Treasurer shall credit to each account an
29 amount of the moneys deposited in the fund and available to fulfill
30 the purposes of this section, which amount shall be determined by a
31 weighted formula that applies 50 percent weight to a zone
32 municipality's number of commercial and industrial parcels as
33 recorded by the municipal tax assessor, its Municipal Revitalization
34 Index Distress Score, as determined by the Department of
35 Community Affairs, and the average number of unemployed
36 persons in the municipality according to data provided by the New
37 Jersey Department of Labor and Workforce Development, and 50
38 percent weight to the gross taxable sales in the municipality subject
39 to reduced sales tax pursuant to section 21 of P.L.1983, c.303
40 (C.52:27H-80), as determined by the State Treasurer. The data used
41 in the formula, developed under this section, shall be the most
42 recent data that has been made available by the Department of
43 Community Affairs, the Department of Labor and Workforce
44 Development, and the State Treasurer. When funds are received by
45 a qualifying municipality pursuant to this subsection, the funds shall
46 be placed in a new trust or, for a qualifying municipality that has a
47 trust for an enterprise zone on the effective date of P.L.2021, c.197,
48 in the existing trust. The Division of Local Government Services in

1 the Department of Community Affairs shall promulgate regulations,
2 policies, or procedures as necessary to implement the provisions of
3 this section.

4 (3) **【**From the amounts allocated to the zone assistance fund in
5 each State fiscal year pursuant to section 11 of P.L.2021, c.197
6 (C.52:27H-98), there shall be deposited annually to the account in
7 the authority's name, \$2,500,000 beginning**】** Beginning in State
8 Fiscal Year 2022, \$2,500,000 shall be appropriated annually from
9 the account in the authority's name for the administration of the
10 Urban Enterprise Zone program, and for providing grants,
11 investments, loans, or other guaranties related to qualified
12 assistance fund expenses. This amount shall be adjusted annually
13 by the percentage change in the 12-month Consumer Price Index
14 from June 30 to July 1.

15 (4) The State Treasurer shall promulgate the rules and
16 regulations necessary to govern the administration of the fund for
17 the purposes of this section, which shall include, but not be limited
18 to, regulations requiring the establishment of separate bank
19 accounts for funds credited to the enterprise zone account of each
20 municipality from the enterprise zone assistance fund, commonly
21 known as "first generation funds," and funds generated from the
22 repayments of loans to individuals and businesses from the
23 enterprise zone account of each municipality and the proceeds from
24 the sale of properties and equipment acquired through the enterprise
25 zone program, commonly known as "second generation funds," and
26 the review, compilation, and monitoring of second generation fund
27 quarterly reports submitted by each enterprise zone.

28 Any individual, including an individual who is not directly
29 employed by a municipality, with the authority to administer,
30 allocate or approve the use of zone assistance funds is subject to the
31 "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et
32 seq.), unless the individual is a State employee or a special State
33 officer.

34 b. The enterprise zone assistance fund shall be used for the
35 purpose of assisting qualifying municipalities in which enterprise
36 zones are designated in undertaking economic development projects
37 in designated enterprise zones by funding qualified assistance fund
38 expenses. However, a municipality shall not appropriate or expend;
39 more than 25 percent of the amount annually credited to its
40 enterprise zone assistance fund for public safety purposes, as
41 described **【**pursuant to**】** in paragraph (4) of subsection m. of section
42 3 of P.L.1983, c.303 (C.52:27H-62); or more than 10 percent of the
43 amount annually credited to its enterprise zone assistance fund for
44 administrative expenses.

45 c. The governing body of a qualifying municipality in which an
46 enterprise zone is designated and the zone development corporation
47 created or designated by the municipality for that enterprise zone
48 may, by resolution jointly adopted after public hearing, propose to

1 undertake an economic development project in the enterprise zone,
2 and to fund that project from moneys deposited in the enterprise
3 zone assistance fund and credited to the account maintained by the
4 State Treasurer for the enterprise zone.

5 The proposal so adopted shall set forth a plan for the project and
6 shall include:

7 (1) A description of the proposed project;

8 (2) An estimate of the total project costs, and an estimate of the
9 amounts of funding necessary annually from the enterprise zone
10 account;

11 (3) A statement of any other revenue sources to be used to
12 finance the project;

13 (4) A statement of the time necessary to complete the project;

14 (5) A statement of the manner in which the proposed project
15 furthers the municipality's policy and intentions for addressing
16 economic development in the enterprise zone as set forth in the
17 zone development plan approved by the authority; and

18 (6) A description of the financial and programmatic controls and
19 reporting mechanisms to be used to guarantee that the funds will be
20 spent in accordance with the plan and that the project will
21 accomplish its purpose.

22 As used in this section, "project" means an activity that satisfies
23 the requirements of a qualified assistance fund expense, as that term
24 is defined in subsection m. of section 3 of P.L.1983, c.303
25 (C.52:27H-62), and which will lead to the creation of new jobs and
26 increased economic activity within the zone.

27 d. (Deleted by amendment, P.L.2021, c.197)

28 e. (Deleted by amendment, P.L.2021, c.197)

29 f. (Deleted by amendment, P.L.2021, c.197)

30 g. (Deleted by amendment, P.L.2021, c.197)

31 h. At the end of a State fiscal year, if a municipality has not
32 encumbered a portion of its allocation, such amount may be carried
33 forward to the next State fiscal year and the State fiscal year
34 thereafter. If at the end of the third State fiscal year any of those
35 unencumbered funds remain, then the funds shall be transferred to
36 the UEZ Authority's account in the enterprise zone assistance fund.

37 i. At the end of a State fiscal year, if a municipality has not
38 expended or otherwise committed a portion of its encumbered
39 funds, then such amount may be carried forward to the next three
40 succeeding State fiscal years. If at the end of the third State fiscal
41 year any unexpended funds remain, then the funds shall be
42 transferred to the UEZ Authority's account in the enterprise zone
43 assistance fund.

44 j. At the end of a State fiscal year, the Department of
45 Community Affairs shall review an enterprise zone's expenditures
46 of funds received from the zone assistance fund. If the department
47 finds that an enterprise zone expended such funds in a manner
48 inconsistent with the provisions of P.L.1983, c.303 (C.52:27H-60 et

1 seq.) and P.L.2021, c.197, then the enterprise zone shall repay such
2 funds to the department through the forfeiture of future zone
3 assistance fund disbursements. The department shall withhold
4 future funding from the enterprise zone until the enterprise zone
5 enters into and complies with a corrective action plan developed by
6 the department.

7 k. If in a State fiscal year the amount allocated to the enterprise
8 zone assistance fund is less than the amount required to be allocated
9 to fulfill the purposes of this section pursuant to section 11 of
10 P.L.2021, c.197 (C.52:27H-98) and paragraph (1) of subsection a.
11 of this section, the Legislature shall appropriate to the enterprise
12 zone assistance fund the amount that was not allocated in such State
13 fiscal year in a succeeding State fiscal year along with the funds
14 required to be allocated in that State fiscal year.
15 (cf: P.L.2021, c.197, s.10)

16
17 3. Section 11 of P.L.2021, c.197 (C.52:27H-98) is amended to
18 read as follows:

19 11. a. The combined State tax expenditures in State Fiscal Year
20 2022 for the Urban Enterprise Zone Special Sales Tax Rate and
21 Urban Enterprise Zone Exempt Business Purchases, as expressed in
22 the Fiscal Year 2022 State of New Jersey Tax Expenditure Report,
23 shall be the "ZAF base fund amount."

24 In State Fiscal Year 2023, the amount to be appropriated to the
25 enterprise zone assistance fund and made available to fulfill the
26 purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-88)
27 shall be determined as follows: The State Treasurer, in consultation
28 with the UEZ Authority, shall determine the combined State tax
29 expenditures for the Urban Enterprise Zone Special Sales Tax Rate
30 and Urban Enterprise Zone Exempt Business Purchases in the six-
31 month period beginning January 1, 2022 and ending June 30, 2022.
32 The combined State tax expenditures for the Urban Enterprise Zone
33 Special Sales Tax Rate and Urban Enterprise Zone Exempt
34 Business Purchases for the six-month period beginning January 1,
35 2022 and ending June 30, 2022, shall be multiplied by two and then
36 subtracted from the ZAF base fund amount. The difference shall be
37 the amount to be appropriated to the enterprise zone assistance fund
38 and made available to fulfill the purposes set forth in section 29 of
39 P.L.1983, c.303 (C.52:27H-88) in State Fiscal Year 2023
40 **[appropriation to the enterprise zone assistance fund]**.

41 Beginning in State Fiscal Year 2024, and in each State fiscal
42 year thereafter, the amount to be appropriated to the enterprise zone
43 assistance fund and made available to fulfill the purposes set forth
44 in section 29 of P.L.1983, c.303 (C.52:27H-88) shall be determined
45 as follows: After January 1 but prior to June 30, the State Treasurer,
46 in consultation with the UEZ Authority, shall develop a
47 methodology to compare the combined State tax expenditures for
48 the Urban Enterprise Zone Special Sales Tax Rate and Urban

1 Enterprise Zone Exempt Business Purchases in the prior State fiscal
2 year with the ZAF base fund amount to calculate the savings
3 achieved by P.L.2021, c.197. The savings determined shall be the
4 amount appropriated to the enterprise zone assistance fund to fulfill
5 the purposes set forth in section 29 of P.L.1983, c.303 (C.52:27H-
6 88) for the State fiscal year.

7 b. Notwithstanding the provisions of subsection a. of this
8 section, for State Fiscal Year 2023 and thereafter, the amount
9 appropriated to the enterprise zone assistance fund and made
10 available to fulfill the purposes set forth in section 29 of P.L.1983,
11 c.303 (C.52:27H-88) shall not exceed \$82,500,000, and in Fiscal
12 Year 2024, and in each year thereafter, \$82,500,000 as adjusted
13 annually based on the percentage change in the 12-month Consumer
14 Price Index from June 30 to July 1 of each year, and shall be no less
15 than \$60,000,000. Should the balance of the enterprise zone
16 assistance fund be in excess of the amount appropriated annually to
17 fulfill the purposes set forth in section 29 of P.L.1983, c.303
18 (C.52:27H-88), such excess amount shall be deposited in the
19 General Fund. If the application of the formulas set forth in
20 subsection a. of this section will result in an appropriation to the
21 enterprise zone assistance fund that is less than \$60,000,000 and
22 made available to fulfill the purposes set forth in section 29 of
23 P.L.1983, c.303 (C.52:27H-88) in any State fiscal year, then the
24 State Treasurer, in consultation with the UEZ Authority, shall
25 impose a limit on the receipts from retail sales of tangible personal
26 property and sales of services to a qualified business that are
27 exempt from the sales and use tax pursuant to section 20 of
28 P.L.1983, c.303 (C.52:27H-79); provided, however, that no less
29 than the receipts from the first \$50,000 of retail sales of tangible
30 personal property and sales of services to a qualified business shall
31 be exempt from the sales and use tax in accordance with section 20
32 of P.L.1983, c.303 (C.52:27H-79).
33 (cf: P.L.2021, c.197, s.11)

34
35 4. There is appropriated \$82,500,000 from the General Fund to
36 the enterprise zone assistance fund created pursuant to section 29 of
37 P.L.1983, c.303 (C.52:27H-88) for the purposes of that fund, and
38 for the uses prescribed in section 29 of P.L.1983, c.303 (C.52:27H-
39 88).

40
41 5. This act shall take effect immediately.
42
43

44 STATEMENT

45
46 This bill would clarify the process for appropriating revenue
47 under the State Urban Enterprise Zone (UEZ) Program for use
48 within the UEZs. The bill is designed to overcome administrative

- 1 issues identified during attempts to implement provisions of a
2 recent amendment (P.L.2021, c.197) to the "New Jersey Urban
3 Enterprise Zones Act," (NJUEZA) P.L.1983, c.303 (C.52:27H-60 et
4 seq.). Specifically, this bill would:
- 5 • provide that revenues collected in UEZs from retail sales
6 subject to the 50% sales tax exemption would be deposited
7 in the Zone Assistance Fund (ZAF);
 - 8 • modify NJUEZA language to provide that UEZ revenue will
9 flow directly to the ZAF;
 - 10 • resolve issues encountered due to a provision of the FY2022
11 Appropriations Act, and appropriate \$82.5 million to the
12 ZAF;
 - 13 • provide that sales of medical and recreational cannabis, and
14 related supplies, are excluded from the term "retail sales" as
15 used in the NJUEZA and, similar to alcoholic beverages and
16 other goods and services, would not be eligible for a
17 reduction in sales tax under the NJUEZA; and
 - 18 • make certain technical changes.