

[First Reprint]

ASSEMBLY, No. 5438

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 11, 2023

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Quijano

SYNOPSIS

Clarifies process for administrative appropriations to UEZs.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 4, 2024,
with amendments.



(Sponsorship Updated As Of: 1/8/2024)

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

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 ¹【Beverage
30 Tax Law,】 beverage tax law,"¹ 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 ¹【related supplies】 cannabis products¹
36 sold under the "Jake Honig Compassionate Use Medical Cannabis
37 Act ¹【,】,"¹ P.L.2009, c.307 (C.24:6I-1 et seq.); and

38 (7) recreational cannabis and ¹【related supplies】 cannabis
39 products¹ sold under the "New Jersey Cannabis Regulatory,
40 Enforcement Assistance, and Marketplace Modernization Act ¹【,】
41 ,¹ P.L. 2021, c.16 (C.24:6I-31 et 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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted January 4, 2024.

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

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

32 d. Notwithstanding any other provision of law to the contrary,
33 the gross amount of all revenues received from the taxation of retail
34 sales to which the exemption under this section applies, except for
35 amounts credited to the Property Tax Reform Account in the
36 Property Tax Relief Fund pursuant to paragraph 7 of Section I of
37 Article VIII of the New Jersey Constitution, shall be deposited
38 immediately upon collection by the Department of the Treasury into
39 the enterprise zone assistance fund created pursuant to section 29 of
40 P.L.1983, c.303 (C.52:27H-88); provided, however, tax collected at
41 the site of a redevelopment project which is the subject of a
42 redevelopment agreement with the State pursuant to section 3 of
43 P.L.1996, c.124 (C.13:1E-116.3) shall be credited to the Municipal
44 Landfill Closure and Remediation Fund pursuant to subsection b. of
45 section 6 of P.L.1996, c.124 (C.13:1E-116.6) and tax revenues on
46 retail sales of cannabis items shall be credited to the Cannabis
47 Regulatory, Enforcement Assistance, and Marketplace
48 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), **1**or **1**and moneys appropriated annually
13 to the 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 ¹, ¹ 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 ¹**【P】**¹ P.L.2021, c.197 (C.52:27H-98)
12 shall be **【deposited in the enterprise zone assistance fund】** available
13 to 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 ^{1,1} or other guaranties related to qualified
28 assistance fund expenses. The State Treasurer shall credit to each
29 account an amount of the moneys deposited in the fund and
30 available to fulfill the purposes of this section, which amount shall
31 be determined by a weighted formula that applies 50 percent weight
32 to a zone municipality's number of commercial and industrial
33 parcels as recorded by the municipal tax assessor, its Municipal
34 Revitalization Index Distress Score, as determined by the
35 Department of Community Affairs, and the average number of
36 unemployed persons in the municipality according to data provided
37 by the New Jersey Department of Labor and Workforce
38 Development, and 50 percent weight to the gross taxable sales in
39 the municipality subject to reduced sales tax pursuant to section 21
40 of P.L.1983, c.303 (C.52:27H-80), as determined by the State
41 Treasurer. The data used in the formula, developed under this
42 section, shall be the most recent data that has been made available
43 by the Department of Community Affairs, the Department of Labor
44 and Workforce Development, and the State Treasurer. When funds
45 are received by a qualifying municipality pursuant to this
46 subsection, the funds shall be placed in a new trust or, for a
47 qualifying municipality that has a trust for an enterprise zone on the

1 effective date of P.L.2021, c.197, in the existing trust. The Division
2 of Local Government Services in the Department of Community
3 Affairs shall promulgate regulations, policies, or procedures as
4 necessary to implement the provisions of this section.

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

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

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

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

46 c. The governing body of a qualifying municipality in which an
47 enterprise zone is designated and the zone development corporation
48 created or designated by the municipality for that enterprise zone

1 may, by resolution jointly adopted after public hearing, propose to
2 undertake an economic development project in the enterprise zone,
3 and to fund that project from moneys deposited in the enterprise
4 zone assistance fund and credited to the account maintained by the
5 State Treasurer for the enterprise zone.

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

8 (1) A description of the proposed project;

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

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

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

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

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

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

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

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

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

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

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

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

45 j. At the end of a State fiscal year, the Department of
46 Community Affairs shall review an enterprise zone's expenditures
47 of funds received from the zone assistance fund. If the department
48 finds that an enterprise zone expended such funds in a manner

1 inconsistent with the provisions of P.L.1983, c.303 (C.52:27H-60 et
2 seq.) and P.L.2021, c.197, then the enterprise zone shall repay such
3 funds to the department through the forfeiture of future zone
4 assistance fund disbursements. The department shall withhold
5 future funding from the enterprise zone until the enterprise zone
6 enters into and complies with a corrective action plan developed by
7 the department.

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

16 (cf: P.L.2021, c.197, s.10)

17

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

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

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

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

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

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

34 (cf: P.L.2021, c.197, s.11)

35

36 ¹[4. There is appropriated \$82,500,000 from the General Fund
37 to the enterprise zone assistance fund created pursuant to section 29
38 of P.L.1983, c.303 (C.52:27H-88) for the purposes of that fund, and
39 for the uses prescribed in section 29 of P.L.1983, c.303 (C.52:27H-
40 88).]¹

41

42 ¹[5.]^{4.1} This act shall take effect ¹[immediately] at the
43 beginning of the next reporting period following 30 days after
44 enactment¹.