

P.L. 2023, CHAPTER 67, *approved June 30, 2023*
Senate, No. 3977 (First Reprint)

1 **AN ACT** establishing a Social Impact Investment Fund,
2 supplementing chapter 18A of Title 52 of the Revised Statutes,
3 and making an appropriation.
4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7
8 1. The Legislature finds and declare that:
9 a. New Jersey residents could meaningfully benefit from
10 expanded access to below-market-rate capital for socially beneficial
11 projects, including support for public infrastructure, affordable
12 housing and neighborhood revitalization, small business lending,
13 ¹early childhood education facilities,¹ and higher education
14 financing.
15 b. Access to capital is vitally important for the health, security,
16 and well-being of all individuals and businesses in this State and the
17 lack of accessible capital exacerbates the economic hardships being
18 faced by working families and businesses.
19 c. Public banking is a model that could expand capital access
20 by leveraging public and private dollars to finance and support
21 sustainable and forward-thinking projects that would benefit the
22 public interest.
23 d. A public banking model could address the unique needs and
24 goals of community banking institutions, small businesses, and
25 emerging and early-stage developers.
26 e. Recognizing the value that a public bank could provide,
27 Governor Murphy issued Executive Order No. 91 of 2019
28 establishing a Public Bank Implementation Board responsible for
29 studying and making recommendations to the Governor regarding
30 the development of a public bank for New Jersey.
31 f. The Social Impact Investment Fund established by P.L. , c.
32 (C.) (pending before the Legislature as this bill), inspired by the
33 work of the Public Bank Implementation Board, will leverage
34 public capital with investments from private sector institutions and
35 individuals to create a lending pool to provide below-market-rate
36 loans and guarantees to achieve positive social impacts.

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:
¹Senate SBA committee amendments adopted June 27, 2023.

1 g. It is the intent of the Legislature that the deployment of State
2 funds through the Social Impact Investment Fund will demonstrate
3 the potential of a public banking model to the benefit the residents
4 of New Jersey.

5
6 2. As used in P.L. , c. (C.) (pending before the
7 Legislature as this bill):

8 “Affordable housing project” means development undertaken for
9 the purpose of creating one or more residential structures, whether
10 in the form of detached units or attached units for separate
11 occupancy, in which a substantial percentage of the housing units
12 are provided for a reasonable income range of low- and moderate-
13 income households, as determined by the New Jersey Housing and
14 Mortgage Finance Agency, including any structures or facilities
15 appurtenant or ancillary thereto.

16 “Financially impaired municipality” means any municipality that
17 at the time of the initiation of a project meets one or more of the
18 following conditions: is eligible to receive aid under the “Special
19 Municipal Aid Act,” P.L.1987, c.75 (C.52:27D-118.24 et seq.); is
20 coextensive with a school district which qualified for designation as
21 a “special needs district” pursuant to the “Quality Education Act of
22 1990,” P.L.1990, c.52 (C.18A:7D-1 et seq.); or is unable to satisfy
23 the credit worthiness standards as set forth in the New Jersey
24 Infrastructure Bank’s credit policy as determined by the New Jersey
25 Infrastructure Bank.

26 “Fund” means the “Social Impact Investment Fund” established
27 pursuant to subsection a. of section 3 of P.L. , c. (C.)
28 (pending before the Legislature as this bill).

29 “Fund manager” means a private professional investment
30 manager selected pursuant to subsection b. of section 3 of P.L. , c.
31 (C.) (pending before the Legislature as this bill) to manage and
32 invest the assets of the Social Impact Investment Fund.

33 “Institutional lender” means any bank or trust company, savings
34 bank, national banking association, savings and loan association,
35 ‘credit union,’ or building and loan association maintaining an
36 office in this State, or any insurance company, community
37 development financial institution certified by the United States
38 Department of the Treasury, or any mortgage banking firm or
39 mortgage banking corporation authorized to transact business in this
40 State.

41 “Letter of understanding” means a notice on a prescribed form
42 from the New Jersey Housing and Mortgage Finance Agency that
43 indicates that the proposed affordable housing project should be
44 considered for a predevelopment loan from the fund. The letter of
45 understanding shall not guarantee or construe that the affordable
46 housing project will receive development financing from the New
47 Jersey Housing and Mortgage Finance Agency.

1 “Predevelopment loan” means a loan for required expenses, other
2 than administrative and construction, that are incurred by qualifying
3 affordable housing developers in the process of, and prior to,
4 securing long-term financing for construction, conversion,
5 preservation, or rehabilitation of an affordable housing project, and
6 that are recoverable once long-term financing is obtained. The
7 purposes for which predevelopment loans may be made include, but
8 are not limited to, the costs of, or the costs associated with: land
9 purchase or options to buy land; options or deposits to buy or
10 preserve existing government-assisted rental housing for the
11 purpose of preserving the affordability of the units; professional
12 services such as architectural, engineering, or legal services; permit
13 or application fees; environmental remediation costs; and bonding,
14 site preparation, related water or sewer development, or material
15 expenses. In addition, the loans may be made for the purpose of
16 extending the time for exercising an option or extending the time
17 period for repayment of an advance previously obtained. These
18 loan funds may be deposited in banks as compensating balances to
19 establish lines of credit for qualifying affordable housing
20 developers.

21 “Qualifying affordable housing developer” means any person,
22 firm, company, corporation, urban renewal entity, or association of
23 persons that has participated in and completed a New Jersey
24 Housing and Mortgage Finance Agency approved emerging
25 developer training and certification program and to which the
26 agency has provided a letter of understanding.

27 “Special purpose vehicle” means an entity that is administered
28 pursuant to an agreement between the State Treasurer and fund
29 manager that is formed solely for the purpose of investing in the
30 purposes enumerated in section 4 of P.L. , c. (C.) (pending
31 before the Legislature as this bill).

32

33 3. a. The State Treasurer shall establish and maintain in the
34 General Fund a separate, non-lapsing fund to be known as the
35 Social Impact Investment Fund to carry out the purposes
36 enumerated in section 4 of P.L. , c. (C.) (pending before the
37 Legislature as this bill). The State Treasurer shall credit the fund
38 with:

39 (1) moneys appropriated by the Legislature for the purpose of
40 the fund;

41 (2) distributions from payments or repayments made to the fund;

42 (3) earnings received, if any, from the investment or
43 reinvestment of money credited to the fund; and

44 (4) any money which, from time to time, may otherwise become
45 available for the purposes of the fund.

46 b. For the purposes of administering the fund, the State
47 Treasurer shall have the power to:

1 (1) select, through an open and competitive process in
2 consultation with other state agencies including but not limited to
3 the New Jersey Infrastructure Bank, the Economic Development
4 Authority, and the New Jersey Housing and Mortgage Finance
5 Agency, one or more fund managers, and any other entities to create
6 and manage one or more special purpose vehicles;

7 (2) enter into agreements with a fund manager necessary for the
8 formation and management of a special purpose vehicle on terms
9 and conditions as the State Treasurer determines to be reasonable,
10 including, but not limited to, fees and operating expenses payable to
11 the fund manager and other entities and a requirement for the fund
12 manager to provide the State Treasurer with information required to
13 complete the report required by section 5 of P.L. , c. (C.)
14 (pending before the Legislature as this bill);

15 (3) monitor and audit a fund manager and any other entities by
16 audits or other reports;

17 (4) invest monies from the fund in one or more special purpose
18 vehicles developed, managed, and maintained by a fund manager
19 pursuant to paragraph (1) of this subsection; and

20 (5) adopt rules and regulations governing the use and
21 application of fund proceeds.

22 c. Subject to the terms of an agreements to be entered between
23 the State Treasurer and a fund manager or a special purpose vehicle,
24 as applicable, a fund manager or special purpose vehicle shall:

25 (1) create one or more special purpose vehicles, which shall be
26 funded by an initial \$20,000,000 investment from the Social Impact
27 Investment Fund and any additional funds which may become
28 available;

29 (2) make loans to institutional lenders and enter into agreements
30 with institutional lenders that receive money from the fund, which
31 agreements shall, at a minimum, require an institutional lender to
32 use the moneys for the purposes set forth in section 4 of
33 P.L. , c. (C.) (pending before the Legislature as this bill)
34 and to provide the fund manager with information as required to
35 complete the report required by section 5 of P.L. , c. (C.)
36 (pending before the Legislature as this bill);

37 (3) purchase participation in loans from institutional lenders that
38 advance the purposes set forth in section 4 of P.L. , c. (C.)
39 (pending before the Legislature as this bill);

40 (4) sell loans made pursuant to paragraph (2) of this subsection
41 or loan participations to enhance liquidity, interest rate risk
42 management, capital and earnings, and to serve the credit needs of
43 borrowers; and

44 (5) raise private capital of at least a 1:1 ratio for every public
45 dollar invested net of the fund manager's operating expenses and
46 fees, by utilizing the fund manager's own funds or by drawing on
47 private capital including, but not limited to, direct investments or
48 coordinated co-investments.

1 d. The agreement between the State Treasurer and fund manager
2 shall include terms governing the dissolution of the fund.

3 e. Notwithstanding any other provision of law to the contrary,
4 financial information received by the State Treasurer from a special
5 purpose vehicle, to the extent that material or data consists of trade
6 secrets, proprietary or commercial information, or information that
7 may give other competitors an advantage, is confidential and shall
8 not constitute a public record under P.L.1963, c. 73 (C. 47:1A-1 et
9 seq.), or a government record subject to access pursuant to
10 P.L.2001, c.404, and shall not otherwise be open to the public for
11 inspection.

12 4. Following the selection of a fund manager, the State
13 Treasurer shall invest moneys appropriated to the Social Impact
14 Investment Fund in one or more special purpose vehicles
15 developed, managed, and maintained by the fund manager pursuant
16 to paragraph (1) of subsection b. of section 3 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).
18 Permissible uses of fund capital invested in a special purpose
19 vehicle shall be as follows:

20 a. to facilitate the financing of water and transportation
21 infrastructure components of redevelopment projects in financially
22 impaired municipalities through the provision of limited guarantees,
23 debt reserve fund collateral, or subordinated loans for the
24 municipalities. Any funds provided for the purposes of this
25 subsection shall be transferred to the New Jersey Infrastructure
26 Bank for purposes in accordance with the provisions of P.L.1985,
27 c.334 (C.58:11B-1 et seq.) and shall be subject to the terms of an
28 agreement between the special purpose vehicle and the New Jersey
29 Infrastructure Bank. The agreement shall, at a minimum, set forth
30 the various lien positions and the rights and liabilities of each entity
31 and its impacts on the other creditors. Repayment of the amount
32 transferred from the special purpose vehicle and any special
33 purpose vehicle funds, net of returns on private capital investment,
34 no longer needed to act as support for the purposes of this section
35 shall be returned to the Social Impact Investment Fund.
36 Notwithstanding the provisions of section 23 of P.L.1985, c.334
37 (C.58:11B-23) or any other law to the contrary, moneys received by
38 the New Jersey Infrastructure Bank pursuant to
39 P.L. , c. (C.) (pending before the Legislature as this bill)
40 may be expended consistent with the provisions of
41 P.L. , c. (C.) (pending before the Legislature as this bill);

42 **'[and]'**

43 b. to provide predevelopment loans, in consultation with the
44 New Jersey Housing and Mortgage Finance Agency, to qualifying
45 affordable housing developers that are seeking to participate in Low
46 Income Housing Tax Credit supported development under the
47 Unified Application for New Jersey Housing and Mortgage Finance
48 Agency Multifamily Rental Housing Production Programs ¹; and

1 c. to facilitate the financing of construction and maintenance of
2 early childhood education facilities, for children age zero through
3 pre-K, in financially impaired municipalities, as determined by the
4 Division of Early Childhood Education in the Department of
5 Education¹.

6
7 5. On or before June 30 of the second year following the
8 effective date of P.L. , c. (C.) (pending before the
9 Legislature as this bill), the State Treasurer, in consultation with the
10 New Jersey Infrastructure Bank and New Jersey Housing and
11 Mortgage Finance Agency, shall prepare and submit a written report
12 regarding the use of funds appropriated to the Social Impact
13 Investment Fund. This report shall be submitted to the Governor
14 and, pursuant to section 3 of P.L.1991, c.164 (C.52:14-19.1), to the
15 Legislature.

16
17 6. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-
18 1 et seq.) to the contrary, the State Treasurer, in consultation with
19 the New Jersey Infrastructure Bank and New Jersey Housing and
20 Mortgage Finance Agency, may adopt, immediately upon filing
21 with the Office of Administrative Law, regulations the State
22 Treasurer deems necessary to implement the provisions of P.L. ,
23 c. (C.) (pending before the Legislature as this bill), which
24 regulations shall be effective for a period not to exceed 365 days
25 and may, thereafter, be amended, adopted, or readopted by the State
26 Treasurer, in consultation with the New Jersey Infrastructure Bank
27 and New Jersey Housing and Mortgage Finance Agency, in
28 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
29 et seq.).

30
31 7. There is appropriated from the General Fund to the Social
32 Impact Investment Fund, established in subsection a. of section 3 of
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 \$20,000,000 to effectuate the purposes of P.L. , c. (C.)
35 (pending before the Legislature as this bill).

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37 8. This act shall take effect immediately.

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41
42 Establishes Social Impact Investment Fund; appropriates \$20
43 million.