

[First Reprint]

ASSEMBLY, No. 2771

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

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SYNOPSIS

“The New Jersey Social Innovation Act”; establishes social innovation loan pilot program and study commission within EDA.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 23, 2014, with amendments.

(Sponsorship Updated As Of: 6/24/2014)

1 AN ACT establishing a social innovation loan pilot program, and
2 supplementing Title 34 of the 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 “New Jersey
8 Social Innovation Act.”

9

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

12 “Authority” means the New Jersey Economic Development
13 Authority, established pursuant to P.L.1974, c.80 (C.34:1B-1 et
14 seq.).

15 “Eligible organization” means a nonprofit organization that is
16 exempt from federal taxation pursuant to section 501(c)(3) of the
17 federal Internal Revenue Code (26 U.S.C. s.501(c)(3)) ¹or a for-
18 profit organization¹, that has applied for participation in the social
19 innovation loan pilot program established pursuant to section 3 of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 and is selected by the study commission as qualified to receive a
22 loan guarantee from the “social innovation loan fund” established
23 pursuant to section 5 of P.L. , c. (C.) (pending before the
24 Legislature as this bill).

25 “Pilot program” means the social innovation loan pilot program
26 established pursuant to section 3 of P.L. , c. (C.) (pending
27 before the Legislature as this bill).

28 “Social innovation loan fund” or “fund” means the fund
29 established pursuant to section 5 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 “Study commission” means the New Jersey Social Innovation
32 Study Commission established pursuant to section 4 of P.L. ,
33 c. (C.) (pending before the Legislature as this bill).

34

35 3. a. (1) There is established a five-year social innovation loan
36 pilot program within the New Jersey Economic Development
37 Authority to administer and determine the effectiveness of a social
38 innovation loan pilot program. The pilot program shall concern
39 nonprofit health care services with the purpose of encouraging
40 private investment in preventive and early intervention health care
41 to reduce federal, State, and municipal expenditures related to those
42 services. The pilot program shall assess the feasibility of expanding
43 a social innovation loan pilot program Statewide and expanding the
44 scope of social impact loan guarantees, made pursuant to subsection

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 June 23, 2014.

1 b. of this section, beyond the health care sector.

2 b. Under the pilot program established pursuant to subsection
3 a. of this section, the authority shall guarantee loans issued to
4 eligible organizations for the provision of public health care
5 services which generate positive social outcomes and public sector
6 cost savings. Each loan shall be facilitated by the study
7 commission established pursuant to section 4 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) and consist of:

9 (1) A lending agreement between an eligible organization, a
10 lender, and a public sector entity which provides: (a) the eligible
11 organization with direct funding from a lender in exchange for the
12 provision of public health care services; (b) the public sector entity
13 with public health care services in exchange for defined payments
14 to the lender in an amount proportional to the amount of public
15 sector savings generated by the provision of those services; and (c)
16 the lender with loan repayments in exchange for the provision of
17 funding to an eligible organization.

18 (2) A loan guarantee agreement between the authority and all
19 parties to the lending agreement from paragraph (1) of this
20 subsection which shall require the lending agreement to conform to
21 any loan requirements established pursuant to P.L. , c. (C.)
22 (pending before the Legislature as this bill) or by the authority; and

23 (3) An agreement between the authority, the public sector entity
24 making performance payments, the eligible organization, and the
25 lender which agrees to a method of measurement and verification of
26 the public health care services to be performed, how the public
27 sector savings are to be calculated, how the interest rate will be
28 determined, and how funds shall flow between the parties according
29 to each of the agreements made pursuant to this subsection.

30 c. Up to 100 percent of the value of a loan agreement entered
31 into pursuant to subsection b. of this section may be guaranteed by
32 the authority, provided that the total amount in the aggregate of all
33 loans guaranteed under the social innovation loan pilot program
34 established pursuant to P.L. , c. (C.) (pending before the
35 Legislature as this bill) shall not exceed \$15,000,000.

36 d. The authority, in cooperation with the study commission and
37 the Department of Human Services, shall offer to guarantee loans
38 made pursuant to subsection b. of this section utilizing funds from
39 the social innovation loan fund established pursuant to section 5 of
40 P.L. , c. (C.) (pending before the Legislature as this bill) to
41 finance a project undertaken for the purposes of subsection b. of
42 this section. The authority shall consider the following factors:

43 (1) The economic feasibility of the project;

44 (2) The degree to which the project will advance Statewide and
45 regional strategies and objectives;

46 (3) The degree to which the project maximizes the leverage of
47 other State funds; and

- 1 (4) The factors listed in paragraph (1) of subsection e. of section
2 4 of P.L. , c. (C.) (pending before the Legislature as this
3 bill).
- 4 e. A lender or nonprofit ¹**or for-profit**¹ organization seeking
5 to participate in the social innovation loan pilot program shall
6 submit an application in such form as the authority shall require.
7 The application shall include any information the authority shall
8 determine is necessary in consideration of the provisions of
9 P.L.2011, c.123 (52:14B-21.1 et seq.).
- 10 f. A loan guarantee agreement entered into pursuant to
11 subsection b. of this section shall provide that any loan guaranteed
12 by the authority shall: (1) be for a loan having a fair effective
13 interest rate as determined by the authority; and (2) contain other
14 terms and conditions considered appropriate by the authority that
15 are consistent with the purposes of P.L. , c. (C.) (pending
16 before the Legislature as this bill) and with rules and regulations
17 promulgated by the authority to implement P.L. , c. (C.)
18 (pending before the Legislature as this bill).
- 19 g. (1) Consistent with federal law, rule, or regulation, each
20 eligible organization that receives a loan guarantee under P.L. ,
21 c. (C.) (pending before the Legislature as this bill) shall
22 undergo an audit, at the organization's own expense, at least once
23 every two calendar years. The authority shall designate an auditor
24 to conduct the audit.
- 25 (2) If an audit is performed under a requirement of federal law,
26 rule, or regulation, the authority shall waive the audit required in
27 this subsection with respect to all issues addressed by the federally
28 required audit report. However, the authority may require an audit
29 of matters that are not, in the authority's judgment, addressed by the
30 federally required report including, but not limited to, measurement
31 and verification of health care intervention activities, and public
32 sector savings.
- 33 h. A loan guarantee agreement made pursuant to subsection b.
34 of this section shall provide that any loan guarantee issued by the
35 authority shall be voided if the terms and conditions of the
36 agreement are violated by any party to that loan securitization
37 agreement.
- 38 i. The authority shall solicit grants from interested public or
39 private sources for the establishment and administration of the pilot
40 program and study commission as well as the capitalization of the
41 "social innovation loan fund" established pursuant to section 5 of
42 P.L. , c. (C.) (pending before the Legislature as this bill).
- 43 j. The pilot program shall expire on the ¹**30th**¹ 30th¹ day
44 following the closing of all loans guaranteed pursuant to P.L. ,
45 c. (C.) (pending before the Legislature as this bill).
- 46 4. a. The authority shall oversee a study commission, entitled
47 the "New Jersey Social Innovation Study Commission," established
48 for the duration of the pilot program.

1 b. The membership and size of the study commission shall be
2 determined by the authority. The authority may consider a variety
3 of professionals, including health care, lending, and social finance
4 experts, for membership on the study commission. The study
5 commission shall organize as soon as practicable after the
6 appointment of the study commission members, shall select a
7 chairperson from among its membership, and shall appoint a
8 secretary who need not be a member of the commission. At least
9 one member of the study commission shall be a representative of
10 the Department of Human Services, one member shall be a
11 representative of the Department of Health, and one member shall
12 be the Director of the Office of Faith Based Initiatives in the
13 Department of State. All members of the study commission shall
14 serve for term concurrent with the effective period of the pilot
15 program.

16 c. Any vacancy in the membership of the study commission
17 shall be filled in the same manner in which the original appointment
18 was made.

19 d. The study commission may request the assistance and
20 services of employees of any other State department, board, bureau,
21 commission, task force, or agency as it may require and as may be
22 available. Members of the study commission shall serve without
23 compensation, but shall be entitled to employ stenographic and
24 clerical assistance and incur traveling and other miscellaneous
25 expenses as the study commission may deem necessary in order to
26 perform its duties, within the limits of the funds made available to
27 the study commission for its purposes. The study commission may
28 meet at the call of its chairperson at the times and in the places the
29 study commission may deem appropriate and necessary to fulfill its
30 duties, and may conduct public hearings at a place or places as the
31 study commission shall designate. The study commission shall
32 conduct its meetings in accordance with the "Senator Byron M.
33 Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et
34 seq.).

35 e. It shall be the duty of the study commission to aid the
36 authority in the administration of the social innovation loan pilot
37 program and to issue annual reports detailing the progress of the
38 pilot program. Specifically, the study commission, in cooperation
39 with the authority and the Department of Human Services shall:

40 (1) Identify the nonprofit ¹~~and for-profit~~¹ organizations that
41 will be eligible to receive loan guarantees from the authority. The
42 study commission shall make this determination taking several
43 factors into consideration which shall include, but not be limited to,
44 the size and identity of the target population that benefits from the
45 nonprofit ¹~~or for-profit~~¹ organization service provider, the
46 projected financial value of the improvements as a result of the
47 social innovation loan investments, including projected public
48 sector savings, ability to repay the loan in full, the ease of the

- 1 measurability of the outcomes, and an analysis of impacts beyond
2 financial savings and returns, such as social outcomes;
- 3 (2) Assist the authority in soliciting donations from
4 philanthropic organizations and other private sources to capitalize
5 the loan fund;
- 6 (3) Negotiate contract terms and conditions between social
7 innovation loan recipients and any public entity for whom the
8 recipient is performing health care intervention services, including
9 the development of metrics to project and measure both financial
10 and social outcomes, and the identification of independent third
11 parties to measure and evaluate outcomes;
- 12 (4) Determine whether an independent intermediary with
13 expertise in the areas of social finance and health care should be
14 retained to: (a) assist the study commission in the performance of
15 its duties under this section; or to (b) perform the measurement and
16 verification activities required in the agreements entered into
17 pursuant to paragraph (3) of subsection b. of section 3 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill), and to
19 identify appropriate independent intermediaries to recommend to
20 the authority if the study commission determines that intermediary
21 services should be retained; and
- 22 (5) Any other purposes related to the pilot program for which
23 the authority requests assistance.
- 24 f. Not later than one year following the effective date of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), and
26 annually for four years thereafter, the study commission shall
27 submit to the Governor and, pursuant to section 2 of P.L.1991,
28 c.164 (C.52:14-19.1), to the Legislature, a report containing a study
29 and evaluation of the pilot program. The report shall include, but
30 not be limited to, a description of any eligible organizations funded
31 by the social innovation loans, State, federal, and municipal
32 financial savings related to the issuance of social innovation loans,
33 including Medicaid savings, the expected loan performance and
34 projected payment schedule, the number of people serviced by the
35 eligible organization, a comparison of the population serviced by
36 the eligible organization and a similarly situated control group, and
37 any community impact related to the pilot program.
- 38 g. The study commission shall submit its fifth and final report
39 to the Governor and, pursuant to section 2 of P.L.1991, c.164
40 (C.52:14-19.1), to the Legislature, within 90 days of the expiration
41 date of the pilot program, including any recommendations for
42 legislative action it deems appropriate. The study commission's
43 final report shall include, but not be limited to, an analysis of the
44 feasibility of implementing a permanent social innovation loan
45 program Statewide, sectors outside of non-profit health care in
46 which social lending could be successfully applied, the estimated
47 costs for the creation and administration of the permanent social
48 innovation loan program, projected State, federal, and municipal

1 savings from administering the permanent program, a calculation of
2 the loan performance realized from the pilot program, a calculation
3 of the State, federal, and municipal savings accrued through the
4 pilot program, and an analysis of non-financial outcomes, such as
5 community impact and preventive results. The study commission
6 shall expire on the 30th day after the date of the issuance of its final
7 report, or upon the expiration of the pilot program, whichever
8 occurs later.

9
10 5. a. To implement the social innovation loan pilot program,
11 the authority shall establish and maintain a special non-lapsing,
12 revolving fund called the “social innovation loan fund” which may
13 be credited with:

14 (1) moneys appropriated by the State for the purpose of the
15 fund;

16 (2) moneys received by the authority from any public or private
17 donations to guarantee the loans issued pursuant to section 3 of
18 P.L. , c. (C.) (pending before the Legislature as this bill);

19 (3) any moneys as may be available to the authority from grants
20 or other forms of assistance established to support health care
21 intervention activities by the authority or by other State agencies or
22 authorities; and

23 (4) moneys received from eligible organizations in the form of
24 any applicable fees.

25 b. Loan funds may be used by the authority for the following
26 purposes:

27 (1) guaranteeing loans issued pursuant to subsection b. of
28 section 3 of P.L. , c. (C.) (pending before the Legislature
29 as this bill);

30 (2) reasonable and necessary expenses incurred by the authority
31 related to the administration of the social innovation loan pilot
32 program and the study commission; and

33 (3) administrative expenses for the provision of loan guarantees
34 issued pursuant to subsection b. of section 3 of P.L. , c. (C.)
35 (pending before the Legislature as this bill).

36 c. The amount of loans guaranteed by the authority pursuant to
37 subsection b. of section 3 of P.L. , c. (C.) (pending before
38 the Legislature as this bill) shall not exceed \$3,000,000 per year or
39 \$15,000,000 in the aggregate over five years, as determined by the
40 authority.

41 d. The authority shall not issue a loan guarantee in an amount
42 greater than the available and uncommitted moneys in the loan
43 fund.

44 e. The authority may charge fees in connection with
45 applications for participation in the social innovation loan pilot
46 program as it deems reasonable to cover authority expenses in
47 administering the pilot program and issuing loan guarantees.

1 6. The authority shall appoint a director to manage the
2 activities associated with the “social innovation loan fund”
3 established pursuant to section 5 of P.L. , c. (C.) (pending
4 before the Legislature as this bill). The director shall receive
5 compensation as determined by the authority.

6
7 7. The authority shall issue a report six months after the
8 effective date of P.L. , c. (C.) (pending before the Legislature
9 as this bill), and annually thereafter not later than September 15, to
10 the Governor and, pursuant to section 2 of P.L.1991, c.164
11 (C.52:14-19.1), to the Legislature concerning the financing of the
12 pilot program as described in section 5 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), undertaken with
14 monies from the “social innovation loan fund.” The initial report
15 and each annual report required under this section shall include a
16 description of the pilot program funded by loans issued to eligible
17 organizations and a detailed analysis of the consideration given to
18 the factors set forth in subsection d. of section 3 of P.L. , c. (C.)
19 (pending before the Legislature as this bill).

20
21 8. The authority shall adopt, pursuant to the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or
23 regulations necessary to effectuate the purposes of this act.

24
25 9. This act shall take effect on the first day of the fourth month
26 following the date of enactment, but the authority may take such
27 anticipatory administrative action in advance thereof as shall be
28 necessary for the implementation of this act.