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Business Incentives Overhaul Signed into Law in New Jersey; Boosts Rewards for Job Creation, Economic Development

Client Advisories

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New Jersey Governor Chris Christie today signed into law far-reaching economic and job development legislation designed to streamline state economic development incentives and make them more generous and easier for businesses to obtain. The Governor's enactment of the New Jersey Economic Opportunity Act (A3680) comes at the end of a winding legislative path that included multiple legislative amendments, as well as a conditional veto by the Governor earlier in this month. Every commercial and residential developer, as well as any business entity looking to move or expand its operations in New Jersey should immediately familiarize itself with the opportunities presented under this new law.

The enacted version of the 80-plus page law streamlines five pre-existing incentive programs administered by the New Jersey Economic Development Authority ("NJEDA"), which have been utilized to issue more than $2 billion in tax incentives since 2010. The law loosens eligibility criteria for the incentives, greatly expands their geographic reach, and in some instances, eliminates caps that have limited participation in some of the State's most attractive incentive programs. The NJEDA will introduce regulations this fall to implement the new provisions of this legislation.

The law phases out the current Business Retention and Relocation Assistance Program (BRRAG), the Business Employment Incentive Program (BEIP), and the Urban Transit Hub Tax Credit Program (UTH) by year end. However, it frees up an additional $100 million in UTH and GROW tax incentives until that time. Beginning in 2014, in their place, the more recently created Grow New Jersey Growth Grant Program (GROW) and the Economic Redevelopment and Growth Grant Program (ERG) would expand until sun-setting in 2019.

Qualifying for GROW and ERG incentives will not only become easier under the formulaic

adjustments made under this legislation, but the incentives provided, especially in targeted areas and industries, will become more generous to compete with neighboring states. In particular, there will be no cap on the amount of tax credits permitted under the GROW program, but a new $600 million cap will be established for residential projects qualifying under the ERG program. No cap, however, will be established for non-residential projects qualifying under ERG.

Eligibility thresholds for capital investment and job creation are also reduced by one-third and one-quarter respectively in all counties south of I-195, for which $250 million of the $600 million residential ERG cap will also be earmarked. The law also creates new Garden State Growth Zones in Camden, Passaic, Paterson and Trenton to further incentivize job creation and capital investment with bonus credits and more flexible eligibility criteria for projects in New Jersey's poorest cities.

The legislation also provides additional incentives for the development of qualified wind energy facilities, expands the deadline for the submission of public-private partnership (P3) agreements for the development of higher education facilities for another two years, provide incentives for disaster recovery projects, i.e., projects on properties impacted by Superstorm Sandy, establishes special incentives for an aviation district (the Atlantic City Airport), and loosens rules for the qualification of employees eligible for the receipt of special tax credits at the ports, in Atlantic City, distressed cities and certain rural planning areas.

The Governor's conditional veto, the recommendations of which were uniformly adopted upon final passage by the Legislature, eliminated prevailing wage requirements for maintenance workers on projects receiving tax credits, while pre-existing regulations applying to construction trades remain in place. The Governor's conditional veto also removed provisions from the legislation seeking to incentivize certain hospital reuse and redevelopment projects. Conditions required under the enacted law requiring 20% affordable housing set asides for incentivized residential projects remained over the objections of one of the law's prime sponsors, who is seeking to introduce separate legislation to eliminate this requirement.

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