LEGISLATION INTRODUCED BY POWERFUL ASSEMBLY BUDGET CHAIR TO EXTEND & AMEND GROW NJ INCENTIVE

SUMMARY OF ASSEMBLY BILL 4730,
INTRODUCED ON NOVEMBER 26, 2018
BY ASSEMBLYWOMAN ELIANA PINTOR MARIN

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- Extends the Grow NJ program (currently set to expire in July 2019) to July 2023
- Revives the expired "Mega Project" feature but it would only apply to a "transformative project of special economic importance as measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry" as determined by NJEDA
- Changes the amount of tax credits for *retained* jobs (currently 50% of the amount of tax credits awarded for *new* jobs) to:
    - 80% for projects in Garden State Growth Zones, Garden State Create Zones, and Urban Transit Hub municipalities
    - 50% for projects in Distressed Municipalities
    - 40% for projects in Other Priority Areas
    - 30% for projects in all Other Eligible Areas
- Reduces the maximum *annual* award amount *per job* to:
    - $12,000 for mega projects and projects in Garden State Growth Zones (currently $15,000)

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- $10,000 for projects in Garden State Create Zones and Urban Transit Hub municipalities (currently $12,000)
- $8,000 for projects in Distressed Municipalities (currently $11,000)
- $7,500 for projects in Other Priority Areas (currently $10,500)
- $5,500 for projects in all Other Eligible Areas (currently $6,000)

NOTE: The annual award amount is still subject to two separate "caps", both of which will be altered:

- Cap on *Annual* Award Amount for *Retained* Jobs: The annual amount of tax credits for each retained job cannot exceed 1/10th of the capital investment divided by the number of retained jobs (currently this cap is divided by the number of retained and new jobs).
- Overall Cap on Total Annual Award Amount: A-4730 expands the "employer withholding tax" cap on the *annual* award amount per project to apply to Mega Projects and projects in Garden State Growth Zones, Garden State Create Zones, Urban Transit Hub municipalities, and Distressed Municipalities. The cap is set at 100% of employer withholding taxes paid in each year. (Currently this cap only applies to Other Priority Areas and all Other Eligible Areas and is set at 90% of employer withholding taxes paid in each year. This percentage remains unchanged in the case of Other Priority Areas and all Other Eligible Areas.) There is an exemption from the cap for projects in any of these areas if the business is in a Targeted Industry and 25% or more of its employees reside in distressed areas.

ADDITIONAL NOTE: The two caps noted above are in addition to the dollar limit on the total *annual* award amount. These limits remain unchanged: $35 Million in Camden and Atlantic City; $30 Million for Mega Projects and Garden State Growth Zone projects; $10 Million for Garden State Create Zone projects and projects in Urban Transit Hub municipalities; $8 Million for projects in Distressed Municipalities; $4 Million in Other Priority Areas; and $2.5 Million in all Other Eligible Areas.

FINAL NOTE: Moreover, for projects seeking an annual award amount in excess of $1,000,000 (currently $4,000,000), the final award amount cannot exceed the amount determined by NJEDA as "necessary to complete the project" regardless of whether the program's formula would result in a higher award amount.

- Increases the "net benefit" test (currently 110% for all project locations) to 120% in Other Priority Areas and 130% in all Other Eligible Areas
- Adds a "small business" concept which:
  - provides a bonus award of $500 per year for new jobs, $250 per year for retained jobs
  - reduces by half the minimum capital investment and the minimum number of jobs for program eligibility
- Eliminates "transit oriented development" bonus for projects near rail, bus or ferry transit stations if located in an Urban Transit Hub municipality other than Camden, Paterson & Trenton (currently available for projects near rail, bus or ferry transit stations in *any* municipality)
- Expands the "capital investment" bonus to "research & development" premises/use (currently limited to industrial premises/use) and increases the required spending amount to obtain this bonus to an amount that is at least 40% (currently 20%) in excess of the minimum required capital investment
- Clarifies the term "full-time employee" to mean a person working 35 hours per week, which must include at least 28 hours per week at the Qualified Business Facility
- Allows a person working for a business as an independent contractor to qualify as a full time employee under certain circumstances
- Permits the concept of a multi-phased project, allowing a business to begin receiving tax credits for a completed portion of a project without having to wait for full project completion

- Permits an add-on project, even if the add-on project is substantively similar to the initially-approved project, as long as the add-on project stands on its own merit under program requirements
- Permits a business to move its facility during the term of the Grow NJ grant to a "like-kind" location elsewhere in NJ (or to a dissimilar location in NJ provided the award is adjusted downward to reflect any inapplicable bonuses or conditions)
- Permits greater subleasing of a project so long as the capital investment and job requirements are maintained in the remaining project premises
- Requires the State of New Jersey to purchase tax credits from a selling business or its transferee for 90 cents on the dollar

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A copy of the legislation can be found here:
https://njleg.state.nj.us/2018/Bills/A5000/4730_I1.HTM

The incentives attorneys at Sills Cummis & Gross will continue to closely monitor this legislation and report on developments on our blogs:

www.RedevelopNJ.com and www.CorporateRealEstateLaw.com

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