

Title 34.
Chapter 1B.
Part XI. (New)
Urban Transit
Hub Tax Credit
§§1-3 -
C.34:1B-207 to
34:1B-209

(CORRECTED COPY)

P.L. 2007, CHAPTER 346, *approved January 13, 2008*
Senate No. 3043 (*First Reprint*)

1 **AN ACT** allowing tax credits to certain businesses for certain capital
2 investments in urban transit hubs, supplementing Title 34 of the
3 Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. This act shall be known and may be cited as the “Urban
9 Transit Hub Tax Credit Act.”

10

11 2. As used in this act:

12 “Business” means a corporation that is subject to the tax imposed
13 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
14 corporation that is subject to the tax imposed pursuant to sections 2
15 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
16 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5 , or is a
17 partnership.

18 “Capital investment” in a qualified business facility means
19 expenses incurred after, but before the end of the eighth year after,
20 the effective date of P.L. , c. (C.)(pending before the
21 Legislature as this bill) for: (i) the site preparation and construction,
22 repair, renovation, improvement, equipping, or furnishing of a
23 building, structure, facility or improvement to real property; and (ii)
24 obtaining and installing furnishings and machinery, apparatus or
25 equipment for the operation of a business in a building, structure,
26 facility or improvement to real property.

27 “Commission” means the New Jersey Commerce Commission.

28 “Eligible municipality” means a municipality: (1) which
29 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et.
30 seq.) or which was continued to be a qualified municipality
31 thereunder pursuant to P.L.2007, c.111; and¹ (2) in which 30
32 percent or more of the value of real property is exempt from local
33 property taxation ¹[; and (3) in which the equalized valuation per
34 capita is under \$100,000]¹. The percentage of exempt property
35 shall be calculated by dividing the total exempt value by the sum of
36 the net valuation which is taxable and that which is tax exempt.

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 January 3, 2008.

1 ¹["Equalized valuation" has the meaning provided by section 1
2 of P.L.1978, c.14 (C.52:27D-178).

3 "Equalized valuation per capita" means a municipality's
4 equalized valuation divided by the population of the municipality.]¹

5 "Full-time employee" means a person employed by the business
6 for consideration for at least 35 hours a week, or who renders any
7 other standard of service generally accepted by custom or practice
8 as full-time employment and whose wages are subject to
9 withholding as provided in the "New Jersey Gross Income Tax
10 Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who
11 works for the partnership for at least 35 hours a week, or who
12 renders any other standard of service generally accepted by custom
13 or practice as fulltime employment, and whose distributive share of
14 income, gain, loss, or deduction, or whose guaranteed payments, or
15 any combination thereof, is subject to the payment of estimated
16 taxes, as provided in the "New Jersey Gross Income Tax Act,"
17 N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any
18 person who works as an independent contractor or on a consulting
19 basis for the business.

20 "Partnership" means an entity classified as a partnership for
21 federal income tax purposes.

22 "Qualified business facility" means any building, complex of
23 buildings or structural components of buildings, and all machinery
24 and equipment located within a designated urban transit hub in an
25 eligible municipality, used in connection with the operation of a
26 business.

27 "Urban transit hub" means property located within a 1/2 mile
28 radius surrounding the mid point of a New Jersey Transit
29 Corporation, Port Authority Transit Corporation or Port Authority
30 Trans-Hudson Corporation rail station platform area, delineated by
31 the commission pursuant to subsection e. of section 3 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill). A property
33 which is partially included within the radius shall only be
34 considered part of the hub if over 50 percent of its land area falls
35 within the radius. "Rail station" shall not include any rail station
36 located at an international airport.

37

38 3. a. (1) A business, upon application to and approval from the
39 New Jersey Commerce Commission, shall be allowed a credit of
40 100 percent of its capital investment, made after the effective date
41 of P.L. , c. (C.) (pending before the Legislature as this bill)
42 but prior to its submission of documentation pursuant to subsection
43 c. of this section, in a qualified business facility within an eligible
44 municipality, pursuant to the restrictions and requirements of this
45 section.

46 (2) A business, other than a tenant eligible pursuant to
47 paragraph (3) of this subsection, shall make or acquire capital
48 investments totaling not less than \$75,000,000 in a qualified

1 business facility, at which the business shall employ not fewer than
2 250 full-time employees to be eligible for a credit under this
3 section. A business that acquires a qualified business facility shall
4 also be deemed to have acquired the capital investment made or
5 acquired by the seller.

6 (3) A business that is a tenant in a qualified business facility, the
7 owner of which has made or acquired capital investments in the
8 facility totaling not less than \$75,000,000, shall occupy a leased
9 area of the qualified business facility that represents at least
10 \$25,000,000 of the capital investment in the facility at which the
11 tenant business shall employ not fewer than 250 full-time
12 employees to be eligible for a credit under this section. The amount
13 of capital investment in a facility that a leased area represents shall
14 be equal to that percentage of the owner's total capital investment
15 in the facility that the percentage of net leasable area leased by the
16 tenant is of the total net leasable area of the qualified business
17 facility.

18 (4) A business shall not be allowed tax credits under this section
19 if the business participates in a business employment incentive
20 grant relating to the same capital and employees that qualify the
21 business for this credit, or if the business receives assistance
22 pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), or if the business
23 is a licensee as defined pursuant to section 33 of P.L.1977, c.110
24 (C.5:12-33). A business that is allowed a tax credit under this
25 section shall not be eligible for incentives authorized pursuant to
26 P.L.2002, c.43 (C.52:27BBB-1 et seq.).

27 (5) Full-time employment for an accounting or privilege period
28 shall be determined as the average of the monthly full-time
29 employment for the period.

30 (6) The capital investment of the owner of a qualified business
31 facility is that percentage of the capital investment made or
32 acquired by the owner of the building that the percentage of net
33 leasable area of the qualified business facility not leased to tenants
34 is of the total net leasable area of the qualified business facility.

35 b. (1) A business shall apply for the credit within five years
36 after the effective date of P.L. , c. (C.) (pending before the
37 Legislature as this bill), and a business shall submit its
38 documentation for approval of its credit amount within eight years
39 after the effective date of P.L. , c. (C.) (pending before the
40 Legislature as this bill).

41 c. (1) The amount of credit allowed shall, except as otherwise
42 provided, be equal to the capital investment made by the business,
43 or the capital investment represented by the business' leased area,
44 and shall be taken over a 10-year period, at the rate of one-tenth of
45 the total amount of the business' credit for each tax accounting or
46 privilege period of the business, beginning with the tax period in
47 which the business is first approved by the commission as having
48 met the investment capital and employment qualifications, subject

1 to any reduction or disqualification as provided by subsection d. of
2 this section as determined by annual review by the commission. In
3 conducting its annual review, the commission may require a
4 business to submit any information determined by the commission
5 to be necessary and relevant to its review.

6 The credit amount for any tax period ending after the date eight
7 years after the effective date of P.L. , c. (C.) (pending before
8 the Legislature as this bill) during which the documentation of a
9 business' credit amount remains unapproved shall be forfeited,
10 although credit amounts for the remainder of the years of the 10-
11 year credit period shall remain available to it.

12 The amount of credit allowed for a tax period to a business that
13 is a tenant in a qualified business facility shall not exceed the
14 business' total lease payments for occupancy of the qualified
15 business facility for the tax period.

16 (2) A business that is a partnership shall not be allowed a credit
17 under this section directly, but the amount of credit of an owner of a
18 business shall be determined by allocating to each owner of the
19 partnership that proportion of the credit of the business that is equal
20 to the owner of the partnership's share, whether or not distributed,
21 of the total distributive income or gain of the partnership for its tax
22 period ending within or with the owner's tax period, or that
23 proportion that is allocated by an agreement, if any, among the
24 owners of the partnership that has been provided to the Director of
25 the Division of Taxation in the Department of the Treasury by such
26 time and accompanied by such additional information as the
27 director may require.

28 (3) The amount of credit allowed may be applied against the tax
29 liability otherwise due pursuant to section 5 of P.L.1945, c.162
30 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
31 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950,
32 c.231 (C.17:32-15), pursuant to N.J.S.17B:23-5, or pursuant to the
33 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

34 d. (1) If, in any tax period, fewer than 200 full-time employees
35 of the business at the qualified business facility are employed in
36 new full-time positions, the amount of the credit otherwise
37 determined pursuant to final calculation of the award of tax credits
38 pursuant to subsection c. of this section shall be reduced by 20
39 percent for that tax period and each subsequent tax period until the
40 first period for which documentation demonstrating the restoration
41 of the 200 full-time employees employed in new full-time positions
42 at the qualified business facility has been reviewed and approved by
43 the commission, for which tax period and each subsequent tax
44 period the full amount of the credit shall be allowed; provided,
45 however, that there shall be no reduction if a business relocates to
46 an urban transit hub from another location or locations in the same
47 municipality. For the purposes of this paragraph, a "new full-time

1 position” means a position created by the business at the qualified
2 business facility that did not previously exist in this State.

3 (2) If, in any tax period, the business reduces the total number
4 of full-time employees in its Statewide workforce by more than 10
5 percent from the number of full-time employees in its Statewide
6 workforce in the last tax accounting or privilege period prior to the
7 effective date of P.L. , c. (C.) (pending before the Legislature
8 as this bill), or in the last tax accounting or privilege period prior to
9 the credit amount approval under this section, whichever is greater,
10 then the business shall forfeit its credit amount for that tax period
11 and each subsequent tax period, until the first tax period for which
12 documentation demonstrating the restoration of the business’
13 Statewide workforce to the threshold levels required by this
14 paragraph has been reviewed and approved by the commission, for
15 which tax period and each subsequent tax period the full amount of
16 the credit shall be allowed.

17 (3) If, in any tax period, the number of full-time employees
18 employed by the business at the qualified business facility located
19 in an urban transit hub within an eligible municipality drops below
20 250 then the business shall forfeit its credit amount for that tax
21 period and each subsequent tax period, until the first tax period for
22 which documentation demonstrating the restoration of the number
23 of full-time employees employed by the business at the qualified
24 business facility to 250 has been reviewed and approved by the
25 commission, for which tax period and each subsequent tax period
26 the full amount of the credit shall be allowed.

27 (4) (i) If the qualified business facility is sold in whole or in part
28 during the 10-year eligibility period the new owner shall not acquire
29 the capital investment of the seller and the seller shall forfeit all
30 credits for the tax period in which the sale occurs and all subsequent
31 tax periods, provided however that any credits of tenants shall
32 remain unaffected.

33 (ii) If a tenant subleases its tenancy in whole or in part during the
34 10-year eligibility period the new tenant shall not acquire the credit
35 of the sublessor, and the sublessor tenant shall forfeit all credits for
36 the tax period of its sublease and all subsequent tax periods.

37 e. The Executive Director of the New Jersey Commerce
38 Commission, in consultation with the Director of the Division of
39 Taxation in the Department of the Treasury, shall adopt rules in
40 accordance with the "Administrative Procedure Act," P.L.1968,
41 c.410 (C.52:14B-1 et seq.) as are necessary to implement this act,
42 including but not limited to: examples of and the determination of
43 capital investment; the enumeration of eligible municipalities;
44 specific delineation of urban transit hubs; the determination of the
45 limits, if any, on the expense or type of furnishings that may
46 constitute capital improvements; the promulgation of procedures
47 and forms necessary to apply for a credit; and provisions for credit

1 applicants to be charged an initial application fee, and ongoing
2 service fees, to cover the administrative costs related to the credit.

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4 4. This act shall take effect immediately.

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9 "Urban Transit Hub Tax Credit Act;" allows tax credits to certain
10 businesses for certain capital investments in urban transit hubs.