LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3415
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: OCTOBER 4, 2024

SUMMARY

Synopsis:	Establishes "Energy Infrastructure Public-Private Partnerships Program"; amends law concerning NJ Infrastructure Bank; and authorizes certain energy contracts under "Public School Contracts Law" and "Local Public Contracts Law" up to 25 years.
Type of Impact:	Annual State expenditure increase from the General Fund.
Agencies Affected:	New Jersey Infrastructure Bank; Department of Law and Public Safety.

Office of Legislative Services Estimate

Fiscal Impact	**Year 1**	**Subsequent Years**
State Expenditure Increase	$1.2 million	At least $600,000

- The Office of Legislative Services (OLS) estimates initial startup administrative costs to create the Energy Infrastructure Public-Private Partnership Program (Energy P3 Program) in the New Jersey Infrastructure Bank would be approximately $1.2 million. This estimate includes additional work by existing staff at the Infrastructure Bank and the Attorney General's Office, as well as the use of outside consultants and attorneys.

- The estimated annual administrative costs of the program in subsequent years would be approximately $600,000; however, the OLS notes the total annual program costs could be higher.

- However, the true extent of future expenditure increases would be determined by the Infrastructure Bank, which is authorized to issue bonds, and request future legislative appropriations, to support the program.

BILL DESCRIPTION

The bill would create the Energy P3 Program and an Energy Infrastructure Financing Program within the New Jersey Infrastructure Bank, which is in, but not of, the Department of the Treasury. The Energy P3 Program would execute a comprehensive Statewide policy for public-private partnership agreements that would facilitate the development of energy-related projects and would provide for the development, promotion, coordination, oversight, and approval of public-private partnership agreements for energy-related projects. The Energy Infrastructure Financing Program would provide loans and other forms of financial assistance to eligible entities that are parties to public-private partnership agreements to develop and finance energy-related projects pursuant to the bill.

Public entities that would qualify to receive financial assistance under the bill would include the State, its subdivisions, and any department, agency, commission, authority, board, or instrumentality thereof, a county, a municipality, a board of education, a State college or university, a county college, a private not-for-profit higher education institution, a regional or municipal utility authority, a quasi-State agency, a State-created corporation, and a private not-for-profit hospital licensed by the Department of Health pursuant to the Health Care Facilities Planning Act.

Eligible projects would be required to be partially owned or leased by a qualified public entity and would include: (1) energy efficient appliances, lighting, heating, ventilation, and air conditioning systems, motors, building controls, and other energy conservation measures; (2) Class I and Class II renewable energy sources; (3) building and transportation-related decarbonization measures including electric vehicle infrastructure; (4) smart metering and smart grid technologies; (5) distributed electric generation resources; (6) district energy systems; (7) renewable natural gas and hydrogen production facilities; (8) geothermal energy systems; and (9) biogas, biomass, and waste-to-energy technologies.

The bill would provide the Infrastructure Bank with the authority to issue bonds to fund the program, as well as to use State and federal appropriations. Bonds for energy-related projects would have a maximum duration of 25 years. The bill would require the Infrastructure Bank to develop and maintain a project priority list, known as the Energy Project Priority List, which would then require legislative approval in the form of a supplemental appropriations bill, before projects could receive funding. This process would be similar to the process for the drinking water, wastewater, transportation, and hazard mitigation programs currently operated by the Infrastructure Bank.

The bill creates an interim financing program for energy-related projects and establishes an Energy Loan Origination Fee Fund similar to the existing interim financing programs and fee funds for environmental and transportation projects. The bill limits the total amount expended by the Infrastructure Bank for administrative and operating expenses, from the Energy Loan Origination Fee Fund, to $8 million annually.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive has not submitted a formal fiscal note on this bill, but the administrative cost estimates below were provided to the OLS by the New Jersey Infrastructure Bank upon request and serve as the basis for the OLS cost estimate.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates initial startup administrative costs to create the Energy P3 Program in the Infrastructure Bank would be approximately $1.2 million. This estimate includes additional work by existing staff at the Infrastructure Bank and the Attorney General's Office, as well as the use of outside consultants and attorneys. The estimated annual administrative costs of the program in subsequent years would be approximately $600,000; however, the OLS notes the total annual program costs could be higher. The bill limits the total amount expended by the Infrastructure Bank for administrative and operating expenses, from the Energy Loan Origination Fee Fund, to $8 million annually.

However, the true extent of future expenditure increases would be determined by the Infrastructure Bank, which is authorized to issue bonds, and request future legislative appropriations, to support the program. The amount of funding that would be requested is difficult to predict, since existing Infrastructure Bank programs are supported by federal appropriations, bond revenues, and the Transportation Trust Fund, which derives from the motor fuel tax, the petroleum products gross receipts tax, and other taxes. This bill would not establish any such dedicated stream of revenue for the Energy P3 Program. However, for reference, in FY 2023, the Infrastructure Bank issued around $134 million in loans for drinking water and wastewater projects, and around $17 million in loans for transportation projects, according to its 2023 Financial Report.

The OLS notes that the issuance of funding for energy-related projects under the program is subject to future legislative appropriations acts. Thus, the bill itself does not mandate such increased expenditures. In addition, the issuance of bonds by the Infrastructure Bank is subject to approval by the Governor and the State Treasurer, and requires notification to the Legislature.

Once operational, the program would create a complex system of relations between private companies, which would be responsible for carrying out each energy-related project, and eligible public entities, which would receive loans from the Infrastructure Bank and would retain an ownership or leasehold interest in the land or property upon which the energy-related project is developed. Furthermore, the bill would create certain exemptions from property taxation, State and municipal special assessments, and requirements for payments in lieu of taxes for energy-related projects that participate in the program. This could lead to several fiscal implications for the State, including increased indebtedness if the Infrastructure Bank were to issue bonds to fund the program, and for local governments, including reduced property tax collections if an energy-related project were to qualify for a property tax exemption under the program.

Section: *Environment, Agriculture, Energy, and Natural Resources*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).