

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2873**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

ADOPTED JUNE 19, 2008

**Sponsored by:**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex and Union)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex and Union)**

**Assemblywoman NELLIE POU**

**District 35 (Bergen and Passaic)**

**Assemblywoman ELEASE EVANS**

**District 35 (Bergen and Passaic)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Co-Sponsored by:**

**Assemblymen Giblin, Burzichelli, Cryan, Senators Rice, Turner,  
Cunningham, Ruiz, Girgenti and Redd**

**SYNOPSIS**

Increases EDA bonding limit for State share of school facilities projects; specifies debt service for these bonds will first be payable from revenues received from gross income tax; establishes priority categories for non-SDA district projects.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Budget Committee.

(Sponsorship Updated As Of: 6/24/2008)

1 AN ACT concerning State support for school facilities projects and  
2 amending and supplementing P.L.2000, c.72.

3

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

6

7 1. Section 1 of P.L.2000, c.72 (C.18A:7G-1) is amended to  
8 read as follows:

9 1. Sections 1 through 30 and 57 through 71 of **[this act]**  
10 P.L.2000, c.72 (C.18A:7G-1 et al.), sections 14 through 17 of  
11 P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), and sections  
12 8 through 11 of P.L. , c. (C. through C. ) (pending before  
13 the Legislature as this bill) shall be known and may be cited as the  
14 "Educational Facilities Construction and Financing Act."  
15 (cf: P.L.2000, c.72, s.1)

16

17 2. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to  
18 read as follows:

19 5. a. The development authority shall undertake and the  
20 financing authority shall finance the school facilities projects of  
21 SDA districts.

22 b. In the case of a district other than an SDA district, State  
23 support for the project shall be determined pursuant to section 9 or  
24 section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as  
25 applicable.

26 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
27 contrary, the procedures for obtaining approval of a school facilities  
28 project shall be as set forth in this act; provided that any district  
29 whose school facilities project is not constructed by the  
30 development authority shall also be required to comply with the  
31 provisions of N.J.S.18A:18A-16.

32 d. (1) Any district seeking to initiate a school facilities project  
33 shall apply to the commissioner for approval of the project. The  
34 application may include, but not be limited to: a description of the  
35 school facilities project; a schematic drawing of the project or, at  
36 the option of the district, preliminary plans and specifications; a  
37 delineation and description of each of the functional components of  
38 the project; educational specifications detailing the programmatic  
39 needs of each proposed space; the number of unhoused students to  
40 be housed in the project; the area allowances per FTE student as  
41 calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8);  
42 and the estimated cost to complete the project as determined by the  
43 district.

44 (2) In the case of an SDA district school facilities project, based

**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.**

1 upon its educational priority ranking and the Statewide strategic  
2 plan established pursuant to subsection m. of this section, the  
3 commissioner may authorize the development authority to  
4 undertake preconstruction activities which may include, but need  
5 not be limited to, site identification, investigation, and acquisition,  
6 feasibility studies, land-related design work, design work, site  
7 remediation, demolition, and acquisition of temporary facilities.  
8 Upon receipt of the authorization, the development authority may  
9 initiate the preconstruction activities required to prepare the  
10 application for commissioner approval of the school facilities  
11 project.

12 e. The commissioner shall review each proposed school  
13 facilities project to determine whether it is consistent with the  
14 district's long-range facilities plan and whether it complies with the  
15 facilities efficiency standards and the area allowances per FTE  
16 student derived from those standards; and in the case of an SDA  
17 district the commissioner shall also review the project's educational  
18 priority ranking and the Statewide strategic plan developed pursuant  
19 to paragraphs (2) and (3) of subsection m. of this section; and in the  
20 case of a district other than an SDA district the commissioner shall  
21 also review the project's priority pursuant to paragraph (4) of  
22 subsection m. of this section. The commissioner shall make a  
23 decision on a district's application within 90 days from the date he  
24 determines that the application is fully and accurately completed  
25 and that all information necessary for a decision has been filed by  
26 the district, or from the date of the last revision made by the district.  
27 If the commissioner is not able to make a decision within 90 days,  
28 he shall notify the district in writing explaining the reason for the  
29 delay and indicating the date on which a decision on the project will  
30 be made, provided that the date shall not be later than 60 days from  
31 the expiration of the original 90 days set forth in this subsection. If  
32 the decision is not made by the subsequent date indicated by the  
33 commissioner, then the project shall be deemed approved and the  
34 preliminary eligible costs for new construction shall be calculated  
35 by using the proposed square footage of the building as the  
36 approved area for unhoused students.

37 f. If the commissioner determines that the school facilities  
38 project complies with the facilities efficiency standards and the  
39 district's long-range facilities plan and does not exceed the area  
40 allowance per FTE student derived from those standards, the  
41 commissioner shall calculate the preliminary eligible costs of the  
42 project pursuant to the formulas set forth in section 7 of P.L.2000,  
43 c.72 (C.18A:7G-7); except that (1) in the case of a county special  
44 services school district or a county vocational school district, the  
45 commissioner shall calculate the preliminary eligible costs to equal  
46 the amount determined by the board of school estimate and  
47 approved by the board of chosen freeholders pursuant to section 14

1 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as  
2 appropriate, and (2) in the case of an SDA district, the  
3 commissioner shall calculate the preliminary eligible costs to equal  
4 the estimated cost as determined by the development authority.

5 g. If the commissioner determines that the school facilities  
6 project is inconsistent with the facilities efficiency standards or  
7 exceeds the area allowances per FTE student derived from those  
8 standards, the commissioner shall notify the district.

9 (1) The commissioner shall approve area allowances in excess  
10 of the area allowances per FTE student derived from the facilities  
11 efficiency standards if the board of education or State district  
12 superintendent, as appropriate, demonstrates that school facilities  
13 needs related to required programs cannot be addressed within the  
14 facilities efficiency standards and that all other proposed spaces are  
15 consistent with those standards. The commissioner shall approve  
16 area allowances in excess of the area allowances per FTE student  
17 derived from the facilities efficiency standards if the additional area  
18 allowances are necessary to accommodate centralized facilities to  
19 be shared among two or more school buildings within the district  
20 and the centralized facilities represent a more cost effective  
21 alternative.

22 (2) The commissioner may waive a facilities efficiency standard  
23 if the board of education or State district superintendent, as  
24 appropriate, demonstrates to the commissioner's satisfaction that the  
25 waiver will not adversely affect the educational adequacy of the  
26 school facility, including the ability to deliver the programs and  
27 services necessary to enable all students to achieve the core  
28 curriculum content standards.

29 (3) To house the district's central administration, a district may  
30 request an adjustment to the approved areas for unhoused students  
31 of 2.17 square feet for each FTE student in the projected total  
32 district school enrollment if the proposed administrative offices will  
33 be housed in a school facility and the district demonstrates either  
34 that the existing central administrative offices are obsolete or that it  
35 is more practical to convert those offices to instructional space. To  
36 the extent that existing administrative space will continue to be used  
37 for administrative purposes, the space shall be included in the  
38 formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

39 If the commissioner approves excess facilities efficiency  
40 standards or additional area allowances pursuant to paragraph (1),  
41 (2), or (3) of this subsection, the commissioner shall calculate the  
42 preliminary eligible costs based upon the additional area allowances  
43 or excess facilities efficiency standards pursuant to the formulas set  
44 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that  
45 the commissioner does not approve the excess facilities efficiency  
46 standards or additional area allowances, the district may either:

1 modify its submission so that the school facilities project meets the  
2 facilities efficiency standards; or pay for the excess costs.

3 (4) The commissioner shall approve spaces in excess of, or  
4 inconsistent with, the facilities efficiency standards, hereinafter  
5 referred to as nonconforming spaces, upon a determination by the  
6 district that the spaces are necessary to comply with State or federal  
7 law concerning individuals with disabilities, including that the  
8 spaces are necessary to provide in-district programs and services for  
9 current disabled pupils who are being served in out-of-district  
10 placements or in-district programs and services for the projected  
11 disabled pupil population. A district may apply for additional State  
12 aid for nonconforming spaces that will permit pupils with  
13 disabilities to be educated to the greatest extent possible in the same  
14 buildings or classes with their nondisabled peers. The  
15 nonconforming spaces may: (a) allow for the return of pupils with  
16 disabilities from private facilities; (b) permit the retention of pupils  
17 with disabilities who would otherwise be placed in private facilities;  
18 (c) provide space for regional programs in a host school building  
19 that houses both disabled and nondisabled pupils; and (d) provide  
20 space for the coordination of regional programs by a county special  
21 services school district, educational services commission, jointure  
22 commission, or other agency authorized by law to provide regional  
23 educational services in a school building that houses both disabled  
24 and nondisabled pupils. A district's State support ratio shall be  
25 adjusted to equal the lesser of the sum of its district aid percentage  
26 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or  
27 100% for any nonconforming spaces approved by the commissioner  
28 pursuant to this paragraph.

29 h. Upon approval of a school facilities project and  
30 determination of the preliminary eligible costs:

31 (1) In the case of a district other than an SDA district, the  
32 commissioner shall notify the district whether the school facilities  
33 project is approved and, if so approved, the preliminary eligible  
34 costs and the excess costs, if any. Following the determination of  
35 preliminary eligible costs and the notification of project approval,  
36 the district may appeal to the commissioner for an increase in those  
37 costs if the detailed plans and specifications completed by a design  
38 professional for the school facilities project indicate that the cost of  
39 constructing that portion of the project which is consistent with the  
40 facilities efficiency standards and does not exceed the area  
41 allowances per FTE student exceeds the preliminary eligible costs  
42 as determined by the commissioner for the project by 10% or more.  
43 The district shall file its appeal within 30 days of the preparation of  
44 the plans and specifications. If the district chooses not to file an  
45 appeal, then the final eligible costs shall equal the preliminary  
46 eligible costs.

1 The appeal shall outline the reasons why the preliminary eligible  
2 costs calculated for the project are inadequate and estimate the  
3 amount of the adjustment which needs to be made to the  
4 preliminary eligible costs. The commissioner shall forward the  
5 appeal information to the development authority for its review and  
6 recommendation. If the additional costs are the result of factors  
7 that are within the control of the district or are the result of design  
8 factors that are not required to meet the facilities efficiency  
9 standards, the development authority shall recommend to the  
10 commissioner that the preliminary eligible costs be accepted as the  
11 final eligible costs. If the development authority determines the  
12 additional costs are not within the control of the district or are the  
13 result of design factors required to meet the facilities efficiency  
14 standards, the development authority shall recommend to the  
15 commissioner a final eligible cost based on its experience for  
16 districts with similar characteristics, provided that, notwithstanding  
17 anything to the contrary, the commissioner shall not approve an  
18 adjustment to the preliminary eligible costs which exceeds 10% of  
19 the preliminary eligible costs. The commissioner shall make a  
20 determination on the appeal within 30 days of its receipt. If the  
21 commissioner does not approve an adjustment to the school  
22 facilities project's preliminary eligible costs, the commissioner shall  
23 issue his findings in writing on the reasons for the denial and on  
24 why the preliminary eligible costs as originally calculated are  
25 sufficient.

26 (2) In the case of an SDA district, the commissioner shall  
27 promptly prepare and submit to the development authority a  
28 preliminary project report which shall consist, at a minimum, of the  
29 following information: a complete description of the school  
30 facilities project; the actual location of the project; the total square  
31 footage of the project together with a breakdown of total square  
32 footage by functional component; the preliminary eligible costs of  
33 the project; the project's priority ranking determined pursuant to  
34 subsection m. of this section; any other factors to be considered by  
35 the development authority in undertaking the project; and the name  
36 and address of the person from the district to contact in regard to  
37 the project.

38 i. Upon receipt by the development authority of the  
39 preliminary project report, the development authority, upon  
40 consultation with the district, shall prepare detailed plans and  
41 specifications and schedules which contain the development  
42 authority's estimated cost and schedule to complete the school  
43 facilities project. The development authority shall transmit to the  
44 commissioner its recommendations in regard to the project which  
45 shall, at a minimum, contain the detailed plans and specifications;  
46 whether the school facilities project can be completed within the  
47 preliminary eligible costs; and any other factors which the

1 development authority determines should be considered by the  
2 commissioner.

3 (1) In the event that the development authority determines that  
4 the school facilities project can be completed within the preliminary  
5 eligible costs: the final eligible costs shall be deemed to equal the  
6 preliminary eligible costs; the commissioner shall be deemed to  
7 have given final approval to the project; and the preliminary project  
8 report shall be deemed to be the final project report delivered to the  
9 development authority pursuant to subsection j. of this section.

10 (2) In the event that the development authority determines that  
11 the school facilities project cannot be completed within the  
12 preliminary eligible costs, prior to the submission of its  
13 recommendations to the commissioner, the development authority  
14 shall, in consultation with the district and the commissioner,  
15 determine whether changes can be made in the project which will  
16 result in a reduction in costs while at the same time meeting the  
17 facilities efficiency standards approved by the commissioner.

18 (a) If the development authority determines that changes in the  
19 school facilities project are possible so that the project can be  
20 accomplished within the scope of the preliminary eligible costs  
21 while still meeting the facilities efficiency standards, the  
22 development authority shall so advise the commissioner, whereupon  
23 the commissioner shall: calculate the final eligible costs to equal the  
24 preliminary eligible costs; give final approval to the project with the  
25 changes noted; and issue a final project report to the development  
26 authority pursuant to subsection j. of this section.

27 (b) If the development authority determines that it is not  
28 possible to make changes in the school facilities project so that it  
29 can be completed within the preliminary eligible costs either  
30 because the additional costs are the result of factors outside the  
31 control of the district or the additional costs are required to meet the  
32 facilities efficiency standards, the development authority shall  
33 recommend to the commissioner that the preliminary eligible costs  
34 be increased accordingly, whereupon the commissioner shall:  
35 calculate the final eligible costs to equal the sum of the preliminary  
36 eligible costs plus the increase recommended by the development  
37 authority; give final approval to the project; and issue a final project  
38 report to the development authority pursuant to subsection j. of this  
39 section.

40 (c) If the additional costs are the result of factors that are within  
41 the control of the district or are the result of design factors that are  
42 not required to meet the facilities efficiency standards or approved  
43 pursuant to paragraph (1) of subsection g. of this section, the  
44 development authority shall recommend to the commissioner that  
45 the preliminary eligible costs be accepted, whereupon the  
46 commissioner shall: calculate the final eligible costs to equal the  
47 preliminary eligible costs and specify the excess costs which are to

1 be borne by the district; give final approval to the school facilities  
2 project; and issue a final project report to the development authority  
3 pursuant to subsection j. of this section; provided that the  
4 commissioner may approve final eligible costs which are in excess  
5 of the preliminary eligible costs if, in his judgment, the action is  
6 necessary to meet the educational needs of the district.

7 (d) For a school facilities project undertaken by the  
8 development authority, the development authority shall be  
9 responsible for any costs of construction, but only from the  
10 proceeds of bonds issued by the financing authority pursuant to  
11 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
12 235 et al.), which exceed the amount originally projected by the  
13 development authority and approved for financing by the  
14 development authority, provided that the excess is the result of an  
15 underestimate of labor or materials costs by the development  
16 authority. After receipt by the development authority of the final  
17 project report, the district shall be responsible only for the costs  
18 associated with changes, if any, made at the request of the district to  
19 the scope of the school facilities project.

20 j. The development authority shall not commence the  
21 construction of a school facilities project unless the commissioner  
22 transmits to the development authority a final project report and the  
23 district complies with the approval requirements for the local share,  
24 if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11).  
25 The final project report shall contain all of the information  
26 contained in the preliminary project report and, in addition, shall  
27 contain: the final eligible costs; the excess costs, if any; the total  
28 costs which equals the final eligible costs plus excess costs, if any;  
29 the State share; and the local share.

30 k. For the SDA districts, the State share shall be 100% of the  
31 final eligible costs. For all other districts, the State share shall be  
32 an amount equal to **[115% of]** the district aid percentage; except  
33 that the State share shall not be less than 40% of the final eligible  
34 costs.

35 If any district which is included in district factor group A or B,  
36 other than an SDA district, is having difficulty financing the local  
37 share of a school facilities project, the district may apply to the  
38 commissioner to receive 100% State support for the project and the  
39 commissioner may request the approval of the Legislature to  
40 increase the State share of the project to 100%.

41 l. The local share for school facilities projects constructed by  
42 the authority or a redevelopment entity shall equal the final eligible  
43 costs plus any excess costs less the State share.

44 m. (1) Within 90 days of the effective date of P.L.2007, c.137  
45 (C.52:18A-235 et al.), the commissioner shall develop an  
46 educational facilities needs assessment for each SDA district. The  
47 assessment shall be updated periodically by the commissioner in

1 accordance with the schedule the commissioner deems appropriate  
2 for the district; except that each assessment shall at a minimum be  
3 updated within five years of the development of the district's most  
4 recent prior educational facilities needs assessment. The  
5 assessment shall be transmitted to the development authority to be  
6 used to initiate the planning activities required prior to the  
7 establishment of the educational priority ranking of school facilities  
8 projects pursuant to paragraph (2) of this subsection.

9 (2) Following the approval of an SDA district's long-range  
10 facilities plan or of an amendment to that plan, but prior to  
11 authorization of preconstruction activities for a school facilities  
12 project included in the plan or amendment, the commissioner shall  
13 establish, in consultation with the SDA district, an educational  
14 priority ranking of all school facilities projects in the SDA district  
15 based upon the commissioner's determination of critical need in  
16 accordance with priority project categories developed by the  
17 commissioner. The priority project categories shall include, but not  
18 be limited to, health and safety, overcrowding in the early  
19 childhood, elementary, middle, and high school grade levels, spaces  
20 necessary to provide in-district programs and services for current  
21 disabled students who are being served in out-of-district placements  
22 or in-district programs and services for the projected disabled  
23 student population, rehabilitation, and educational adequacy.

24 (3) Upon the commissioner's determination of the educational  
25 priority ranking of school facilities projects in SDA districts  
26 pursuant to paragraph (2) of this subsection, the development  
27 authority, in consultation with the commissioner, the SDA districts,  
28 and the governing bodies of the municipalities in which the SDA  
29 districts are situate, shall establish a Statewide strategic plan to be  
30 used in the sequencing of SDA district school facilities projects  
31 based upon the projects' educational priority rankings and issues  
32 which impact the development authority's ability to complete the  
33 projects including, but not limited to, the construction schedule and  
34 other appropriate factors. The development authority shall revise  
35 the Statewide strategic plan and the sequencing of SDA district  
36 school facilities projects in accordance with that plan no less than  
37 once every five years.

38 Any amendment to an SDA district's long-range facilities plan  
39 that is submitted to the commissioner in the period between the  
40 five-year updates of the long-range facilities plan shall be  
41 considered by the development authority, in consultation with the  
42 commissioner, for incorporation into the Statewide strategic plan.  
43 In making a determination on whether or not to amend the  
44 Statewide strategic plan, the development authority shall consider  
45 the cost of the amendment, the impact of the amendment upon the  
46 school development plans for other districts, and other appropriate  
47 factors.

1       (4) In the case of a district other than an SDA district, the  
2 commissioner shall establish a priority process for the financing of  
3 school facilities projects based upon the commissioner's  
4 determination of critical need in accordance with priority project  
5 categories developed by the commissioner. The priority project  
6 categories shall include, but not be limited to, health and safety,  
7 overcrowding in the elementary, middle, and high school grade  
8 levels, spaces necessary to provide in-district programs and services  
9 for current disabled students who are being served in out-of-district  
10 placements or in-district programs and services for the projected  
11 disabled student population, and full-day kindergarten facilities in  
12 the case of school districts required to provide full-day preschool  
13 pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

14       n. The provisions of the "Public School Contracts Law,"  
15 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities  
16 project constructed by a district but shall not be applicable to  
17 projects constructed by the development authority or a  
18 redevelopment entity pursuant to the provisions of this act.

19       o. In the case of a school facilities project of a district other  
20 than an SDA district, any proceeds of school bonds issued by the  
21 district for the purpose of funding the project which remain unspent  
22 upon completion of the project shall be used by the district to  
23 reduce the outstanding principal amount of the school bonds.

24       p. Upon completion by the development authority of a school  
25 facilities project, if the cost of construction and completion of the  
26 project is less than the total costs, the district shall be entitled to  
27 receive a portion of the local share based on a pro rata share of the  
28 difference based on the ratio of the State share to the local share.

29       q. The development authority shall determine the cause of any  
30 costs of construction which exceed the amount originally projected  
31 by the development authority and approved for financing by the  
32 financing authority.

33       r. (Deleted by amendment, P.L.2007, c.137).

34       s. (Deleted by amendment, P.L.2007, c.137).

35 (cf: P.L.2007, c.260, s.41)

36  
37       3. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to  
38 read as follows:

39       9. a. State debt service aid for capital investment in school  
40 facilities for a district other than an SDA district which elects not to  
41 finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-  
42 15), shall be distributed upon a determination of preliminary  
43 eligible costs by the commissioner, according to the following  
44 formula:

45       Aid is the sum of A for each issuance of school bonds issued for  
46 a school facilities project approved by the commissioner after the  
47 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

1 where

2  $A = B \times AC/P \times [(DAP \times 1.15)] \underline{DAP} \times M$ , with  $AC/P = 1$

3 whenever  $AC/P$  would otherwise yield a number greater than one,

4 and where:

5  $B$  is the district's debt service for the individual issuance for the  
6 fiscal year;

7  $AC$  is the preliminary eligible costs determined pursuant to  
8 section 7 of P.L.2000, c.72 (C.18A:7G-7);

9  $P$  is the principal of the individual issuance plus any other  
10 funding sources approved for the school facilities project;

11  $DAP$  is the district's district aid percentage as defined pursuant to  
12 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where  $[(DAP \times$   
13  $1.15)] \underline{DAP}$  shall not be less than 40%; and

14  $M$  is a factor representing the degree to which a district has  
15 fulfilled maintenance requirements for a school facilities project  
16 determined pursuant to subsection b. of this section.

17 For county special services school districts,  $DAP$  shall be that of  
18 the county vocational school district in the same county.

19 b. The maintenance factor ( $M$ ) shall be 1.0 except when one of  
20 the following conditions applies, in which case the maintenance  
21 factor shall be as specified:

22 (1) Effective ten years from the date of the enactment of  
23 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid  
24 for reconstruction, remodeling, alteration, modernization,  
25 renovation or repair, or for an addition to a school facility, shall be  
26 zero for all school facilities projects for which the district fails to  
27 demonstrate over the ten years preceding issuance a net investment  
28 in maintenance of the related school facility of at least 2% of the  
29 replacement cost of the school facility, determined pursuant to  
30 subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the  
31 area cost allowance of the year ten years preceding the year in  
32 which the school bonds are issued.

33 (2) For new construction, additions, and school facilities aided  
34 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)  
35 supported by financing issued for projects approved by the  
36 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-  
37 1 et al.), beginning in the fourth year after occupancy of the school  
38 facility, the maintenance factor shall be reduced according to the  
39 following schedule for all school facilities projects for which the  
40 district fails to demonstrate in the prior fiscal year an investment in  
41 maintenance of the related school facility of at least two-tenths of  
42 1% of the replacement cost of the school facility, determined  
43 pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-  
44 7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%



1 18 and C.18A:7G-19) for the purposes of: financing all or a portion  
2 of the costs of school facilities projects and any costs related to the  
3 issuance thereof, including, but not limited to, the administrative,  
4 insurance, operating and other expenses of the financing authority  
5 to undertake the financing, and the development authority to  
6 undertake the planning, design, and construction of school facilities  
7 projects; lending moneys to local units to pay the costs of all or a  
8 portion of school facilities projects and any costs related to the  
9 issuance thereof; funding the grants to be made pursuant to section  
10 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition  
11 of school facilities projects to permit the refinancing of debt by the  
12 district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16).  
13 The aggregate principal amount of the bonds, notes or other  
14 obligations issued by the financing authority as authorized pursuant  
15 to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed:  
16 \$100,000,000 for the State share of costs for county vocational  
17 school district school facilities projects; \$6,000,000,000 for the  
18 State share of costs for Abbott district school facilities projects; and  
19 \$2,500,000,000 for the State share of costs for school facilities  
20 projects in all other districts. The aggregate principal amount of the  
21 bonds, notes or other obligations issued by the financing authority  
22 as authorized pursuant to P.L. , c. (C. ) (pending before the  
23 Legislature as this bill) shall not exceed: \$2,900,000,000 for the  
24 State share of costs of SDA district school facilities projects; and  
25 \$1,000,000,000 for the State share of costs for school facilities  
26 projects in all other districts, \$50,000,000 of which shall be  
27 allocated for the State share of costs for county vocational school  
28 district school facilities projects. This limitation shall not include  
29 any bonds, notes or other obligations issued for refunding purposes.

30 The financing authority may establish reserve funds to further  
31 secure bonds and refunding bonds issued pursuant to this section  
32 and may issue bonds to pay for the administrative, insurance and  
33 operating costs of the financing authority and the development  
34 authority in carrying out the provisions of this act. In addition to its  
35 bonds and refunding bonds, the financing authority shall have the  
36 power to issue subordinated indebtedness, which shall be  
37 subordinate in lien to the lien of any or all of its bonds or refunding  
38 bonds as the financing authority may determine.

39 b. The financing authority shall issue the bonds or refunding  
40 bonds in such manner as it shall determine in accordance with the  
41 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
42 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);  
43 provided that notwithstanding any other law to the contrary, no  
44 resolution adopted by the financing authority authorizing the  
45 issuance of bonds or refunding bonds pursuant to this section shall  
46 be adopted or otherwise made effective without the approval in  
47 writing of the State Treasurer; and refunding bonds issued to refund

1 bonds issued pursuant to this section shall be issued on such terms  
2 and conditions as may be determined by the financing authority and  
3 the State Treasurer. The financing authority may, in any resolution  
4 authorizing the issuance of bonds or refunding bonds issued  
5 pursuant to this section, pledge the contract with the State Treasurer  
6 provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-  
7 18), or any part thereof, or may pledge all or any part of the  
8 repayments of loans made to local units pursuant to section 19 of  
9 P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the  
10 bonds or refunding bonds, and covenant as to the use and  
11 disposition of money available to the financing authority for  
12 payment of the bonds and refunding bonds. All costs associated  
13 with the issuance of bonds and refunding bonds by the financing  
14 authority for the purposes set forth in this act may be paid by the  
15 financing authority from amounts it receives from the proceeds of  
16 the bonds or refunding bonds, and from amounts it receives  
17 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-  
18 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but  
19 shall not be limited to, any costs relating to the issuance of the  
20 bonds or refunding bonds, administrative costs of the financing  
21 authority attributable to the making and administering of loans and  
22 grants to fund school facilities projects, and costs attributable to the  
23 agreements entered into pursuant to subsection d. of this section.

24 c. Each issue of bonds or refunding bonds of the financing  
25 authority shall be special obligations of the financing authority  
26 payable out of particular revenues, receipts or funds, subject only to  
27 any agreements with the holders of bonds or refunding bonds, and  
28 may be secured by other sources of revenue, including, but not  
29 limited to, one or more of the following:

30 (1) Pledge of the revenues and other receipts to be derived from  
31 the payment of local unit obligations and any other payment made  
32 to the financing authority pursuant to agreements with any local  
33 unit, or a pledge or assignment of any local unit obligations, and the  
34 rights and interest of the financing authority therein;

35 (2) Pledge of rentals, receipts and other revenues to be derived  
36 from leases or other contractual arrangements with any person or  
37 entity, public or private, including one or more local units, or a  
38 pledge or assignment of those leases or other contractual  
39 arrangements and the rights and interests of the financing authority  
40 therein;

41 (3) Pledge of all moneys, funds, accounts, securities and other  
42 funds, including the proceeds of the bonds;

43 (4) Pledge of the receipts to be derived from payments of State  
44 aid to the financing authority pursuant to section 21 of P.L.2000,  
45 c.72 (C.18A:7G-21);

46 (5) Pledge of the contract or contracts with the State Treasurer  
47 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

1 (6) Pledge of any sums remitted to the local unit by donation  
2 from any person or entity, public or private, subject to the approval  
3 of the State Treasurer;

4 (7) A mortgage on all or any part of the property, real or  
5 personal, comprising a school facilities project then owned or  
6 thereafter to be acquired, or a pledge or assignment of mortgages  
7 made to the financing authority by any person or entity, public or  
8 private, including one or more local units and rights and interests of  
9 the financing authority therein; and

10 (8) The receipt of any grants, reimbursements or other payments  
11 from the federal government.

12 d. The resolution authorizing the issuance of bonds or  
13 refunding bonds pursuant to this section may also provide for the  
14 financing authority to enter into any revolving credit agreement,  
15 agreement establishing a line of credit or letter of credit,  
16 reimbursement agreement, interest rate exchange agreement,  
17 currency exchange agreement, interest rate floor or cap, options,  
18 puts or calls to hedge payment, currency, rate, spread or similar  
19 exposure or similar agreements, float agreements, forward  
20 agreements, insurance contracts, surety bonds, commitments to  
21 purchase or sell bonds, purchase or sale agreements, or  
22 commitments or other contracts or agreements and other security  
23 agreements approved by the financing authority in connection with  
24 the issuance of the bonds or refunding bonds pursuant to this  
25 section. In addition, the financing authority may, in anticipation of  
26 the issuance of the bonds or the receipt of appropriations, grants,  
27 reimbursements or other funds, including, without limitation, grants  
28 from the federal government for school facilities projects, issue  
29 notes, the principal of or interest on which, or both, shall be payable  
30 out of the proceeds of notes, bonds or other obligations of the  
31 financing authority or appropriations, grants, reimbursements or  
32 other funds or revenues of the financing authority.

33 e. The financing authority is authorized to engage, subject to  
34 the approval of the State Treasurer and in such manner as the State  
35 Treasurer shall determine, the services of financial advisors and  
36 experts, placement agents, underwriters, appraisers, and other  
37 advisors, consultants and agents as may be necessary to effectuate  
38 the financing of school facilities projects.

39 f. Bonds and refunding bonds issued by the financing authority  
40 pursuant to this section shall be special and limited obligations of  
41 the financing authority payable from, and secured by, funds and  
42 moneys determined by the financing authority in accordance with  
43 this section. Notwithstanding any other provision of law or  
44 agreement to the contrary, any bonds and refunding bonds issued by  
45 the financing authority pursuant to this section shall not be secured  
46 by the same property as bonds and refunding bonds issued by the  
47 financing authority to finance projects other than school facilities

1 projects. Neither the members of the financing authority nor any  
2 other person executing the bonds or refunding bonds shall be  
3 personally liable with respect to payment of interest and principal  
4 on these bonds or refunding bonds. Bonds or refunding bonds  
5 issued pursuant to this section shall not be a debt or liability of the  
6 State or any agency or instrumentality thereof, except as otherwise  
7 provided by this subsection, either legal, moral or otherwise, and  
8 nothing contained in this act shall be construed to authorize the  
9 financing authority to incur any indebtedness on behalf of or in any  
10 way to obligate the State or any political subdivision thereof, and  
11 all bonds and refunding bonds issued by the financing authority  
12 shall contain a statement to that effect on their face.

13 g. The State hereby pledges and covenants with the holders of  
14 any bonds or refunding bonds issued pursuant to this act that it will  
15 not limit or alter the rights or powers vested in the financing  
16 authority by this act, nor limit or alter the rights or powers of the  
17 State Treasurer in any manner which would jeopardize the interest  
18 of the holders or any trustee of the holders, or inhibit or prevent  
19 performance or fulfillment by the financing authority or the State  
20 Treasurer with respect to the terms of any agreement made with the  
21 holders of the bonds or refunding bonds or agreements made  
22 pursuant to subsection d. of this section; except that the failure of  
23 the Legislature to appropriate moneys for any purpose of this act  
24 shall not be deemed a violation of this section.

25 h. The financing authority and the development authority may  
26 charge to and collect from local units, districts, the State and any  
27 other person, any fees and charges in connection with the financing  
28 authority's or development authority's actions undertaken with  
29 respect to school facilities projects, including, but not limited to,  
30 fees and charges for the financing authority's administrative,  
31 organization, insurance, operating and other expenses incident to  
32 the financing of school facilities projects, and the development  
33 authority's administrative, organization, insurance, operating,  
34 planning, design, construction management, acquisition,  
35 construction, completion and placing into service and maintenance  
36 of school facilities projects. Notwithstanding any provision of this  
37 act to the contrary, no SDA district shall be responsible for the  
38 payment of any fees and charges related to the development  
39 authority's operating expenses.

40 i. Upon the issuance by the financing authority of bonds  
41 pursuant to this section, other than refunding bonds, the net  
42 proceeds of the bonds shall be transferred to the development  
43 authority.

44 (cf: P.L. 2007, c.260, s.45)

45

46 5. Section 15 of P.L.2000, c.72 (C.18A:7G-15) is amended to  
47 read as follows:

1       15. a. In the case of a district other than an SDA district, for any  
2 project approved by the commissioner after the effective date of this  
3 act, the district may elect to receive a one-time grant for the State  
4 share of the project in accordance with the provisions of subsection  
5 b. of this section rather than annual debt service aid under section 9  
6 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the  
7 district shall equal the product of the project's final eligible costs  
8 and **[115% of]** the district aid percentage or 40%, whichever is  
9 greater.

10       b. The commissioner shall establish a process for the annual  
11 allocation of grant funding. Under that process, the commissioner  
12 shall annually notify districts of the date on which the  
13 commissioner shall begin to receive applications for grant funding.  
14 A district shall have 90 days from that date to submit an application  
15 to the commissioner. The commissioner shall make a decision on a  
16 district's application within 90 days of the submission of all such  
17 applications and shall allocate the grant funding in accordance with  
18 the priority process established pursuant to paragraph (4) of  
19 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

20       c. The development authority shall provide grant funding for the  
21 State's share of the final eligible costs of a school facilities project  
22 pursuant to an agreement between the district and the development  
23 authority which shall, in addition to other terms and conditions, set  
24 forth the terms of disbursement of the State share. The funding of  
25 the State share shall not commence until the district secures  
26 financing for the local share.

27 (cf: P.L. 2007, c.260, s.46)

28  
29       6. Section 17 of P.L.2000, c.72 (C.18A:7G-17) is amended to  
30 read as follows:

31       17. In each fiscal year the State Treasurer shall pay from the  
32 General Fund to the financing authority, in accordance with a  
33 contract between the State Treasurer and the financing authority as  
34 authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18),  
35 an amount equal to the debt service amount due to be paid in the  
36 State fiscal year on the bonds or refunding bonds of the financing  
37 authority issued or incurred pursuant to section 14 of P.L.2000, c.72  
38 (C.18A:7G-14) and any additional costs authorized pursuant to that  
39 section; provided that all such payments from the General Fund  
40 shall be subject to and dependent upon appropriations being made  
41 from time to time by the Legislature for those purposes, and  
42 provided further that all payments shall be used only to pay for the  
43 costs of school facilities projects and the costs of financing those  
44 projects.

45       In regard to the increase in the amount of bonds authorized to be  
46 issued by the financing authority pursuant to P.L. , c. (pending  
47 before the Legislature as this bill) for the State share of costs for

1 school facilities projects, debt service on the bonds or refunding  
2 bonds issued or incurred by the financing authority pursuant to  
3 section 14 of P.L.2000, c.72 (C.18A:7G-14) and any additional  
4 costs authorized pursuant to that section shall first be payable from  
5 revenues received from the gross income tax pursuant to the "New  
6 Jersey Gross Income Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.),  
7 except for debt service and additional costs for the administrative,  
8 insurance, operating, and other expenses of the financing authority  
9 and the development authority incurred in connection with school  
10 facilities projects.

11 (cf: P.L.2007, c.137, s.28)

12

13 7. Section 54 of P.L.2000, c.72 (C.34:1B-5.9) is amended to  
14 read as follows:

15 54. Notwithstanding the provisions of any law to the contrary,  
16 any bonds issued pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or  
17 P.L.2007, c.137 (C.52:18A-235 et al.) or P.L. , c. (C. )  
18 (pending before the Legislature as this bill) shall be fully negotiable  
19 within the meaning and for all purposes of Title 12A of the New  
20 Jersey Statutes, and each holder or owner of such a bond or other  
21 obligation, or of any coupon appurtenant thereto, by accepting the  
22 bond or coupon shall be conclusively deemed to have agreed that  
23 the bond or coupon is and shall be fully negotiable within the  
24 meaning and for all purposes of Title 12A.

25 (cf: P.L. 2007, c.137, s.57)

26

27 8. (New section) The school facilities projects of a county  
28 vocational school district that did not receive State support for its  
29 projects from the \$100,000,000 of bond proceeds originally  
30 allocated for the State share of county vocational school district  
31 school facilities projects pursuant to section 14 of P.L.2000, c.72  
32 (C.18A:7G-14) shall receive priority in the allocation of the bond  
33 proceeds authorized for the State share of county vocational school  
34 district school facilities projects pursuant to P.L. , c. (C. )  
35 (pending before the Legislature as this bill) provided that the county  
36 vocational school district demonstrates to the commissioner the  
37 need for the school facilities projects.

38

39 9. (New section) The development authority, in consultation  
40 with the State Comptroller, shall cause an audit to be conducted of a  
41 school facilities project financed pursuant to P.L.2000, c.72  
42 (C.18A:7G-1 et al.) which has a State share that exceeds  
43 \$10,000,000. This provision shall not be construed to limit the  
44 authority of the development authority or the State Comptroller to  
45 conduct audits of other school facilities projects as provided by law.

1       10. (New section) The development authority, in consultation  
2 with the commissioner and program stakeholders, shall conduct a  
3 study on the potential cost savings in the school construction  
4 program in SDA and other school districts that could be realized  
5 through the use of standardized design elements, components, and  
6 construction materials. The study shall include, but not be limited  
7 to, consideration of the opportunities to save design time, facilitate  
8 construction inspections, and ensure maintenance protocol ease  
9 through:

10       a. utilization of standard building details including, but not  
11 limited to, gymnasias, media centers, and cafeterias;

12       b. use of bulk supply agreements with original manufacturers;  
13 and,

14       c. use of consistent preventive maintenance protocols to ensure  
15 maximum efficiency and lifespan of building components and  
16 systems.

17       The development authority shall submit the report on or before  
18 April 1, 2009 to the Governor, the Joint Budget Oversight  
19 Committee, the President of the Senate, the Speaker of the General  
20 Assembly, and the commissioner.

21  
22       11. (New section) Notwithstanding any provision of P.L.1968,  
23 c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may  
24 adopt, immediately upon filing with the Office of Administrative  
25 Law, such rules and regulations as the commissioner deems  
26 necessary to implement the process for the allocation of grant  
27 funding as established pursuant to subsection b. of section 15 of  
28 P.L.2000, c.72 (C.18A:7G-15) which shall be effective for a period  
29 not to exceed 12 months. The regulations shall thereafter be  
30 amended, adopted, or readopted by the State Board of Education in  
31 accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et  
32 seq.).

33  
34       12. This act shall take effect immediately.