## SENATE, No. 3173

# STATE OF NEW JERSEY

### 214th LEGISLATURE

INTRODUCED DECEMBER 15, 2011

Sponsored by: Senator DONALD NORCROSS District 5 (Camden and Gloucester)

#### **SYNOPSIS**

"Urban Hope Act"; provides a process to permit authorized entities to build, operate, and manage "renaissance school projects" as public schools in no more than three indentified failing districts.

#### **CURRENT VERSION OF TEXT**

As introduced.



AN ACT concerning the development of renaissance school projects in failing school districts and supplementing Title 18A of the New Jersey Statutes.

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

1. This act shall be known and may be cited as the "Urban Hope Act."

- 2. The Legislature finds and declares that:
- a. Maintaining a thorough and efficient public school system is among the Legislature's most important responsibilities;
- b. Although New Jersey's per pupil public school expenditures are among the highest in the nation, many of the State's students are failing to achieve the core curriculum content standards;
- c. Many of those students are confined to a number of persistently failing school districts and schools that, year after year, have been unable to convert increased State aid and other resources into improved student achievement, higher graduation rates, or greater student readiness for postsecondary education and gainful employment;
- d. For those school districts and schools, it is necessary to provide local boards of education, parents, students, and teachers with more and better options for addressing their failing schools; and
- e. One such option is to create, on a limited pilot program basis, "renaissance schools" which will be constructed, staffed and operated by nonprofit entities, including existing charter schools, in school districts with high concentrations of at-risk students.

- 3. As used in this act:
- 33 "Commissioner" means the Commissioner of Education.

"Failing district" means: (1) in the case of a school district located in a city of the first class, a school district in which at least 30% of the students scored in the partially proficient range in the language arts and mathematics sections of each State assessment administered in the 2009-2010 school year; and (2) in the case of a school district located in a city of the second class, a school district in which at least 55% of the students scored in the partially proficient range in the language arts and mathematics sections of each State assessment administered in the 2009-2010 school year.

"Per pupil expenditure" means the sum of the budget year equalization aid per pupil, budget year adjustment aid per pupil, and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation.

"School facility" means and includes any structure, building, or facility used wholly or in part for educational purposes by the students of a school district.

"School facilities project" means the planning, acquisition, demolition, new construction, improvement, or capital maintenance of all or any part of one or more school facilities constituting a renaissance school project.

"Renaissance school district" is a failing district in which renaissance school projects shall be established.

"Renaissance school project" means a school, or group of schools in a common campus setting, that provides an educational program for students enrolled in grades K through 12 or in a grade range less than K through 12, that is agreed to by the school district, and is operated and managed by a nonprofit entity, including an approved charter school, in a renaissance school district.

- 4. a. A nonprofit entity, in partnership with the renaissance school district, may submit to the commissioner an application to create a renaissance school project. A nonprofit entity seeking to create a renaissance school project shall have experience in operating a school in a high-risk, low-income urban district.
- b. The application shall be in a form prescribed by the commissioner, but at a minimum it shall contain the following:
- (1) a resolution adopted in a public meeting by the board of education of the renaissance school district in which the renaissance school project will be located certifying the support of the board for the application;
- (2) a resolution adopted by the board of education of the renaissance school district amending the district's long-range facilities plan to include the proposed renaissance school project, and the amendment which has been submitted to the commissioner pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4);
- (3) the educational goals of the renaissance school project, the curriculum to be offered, and the methods of assessing whether students are meeting the proffered educational goals;
- (4) any testing and academic performance standards to be mandated by the renaissance school project beyond those required by State law and regulation;
- (5) the admission policy and criteria for evaluating the admission of students to the renaissance school project, which shall comply with the provisions of section 8 of this act;
- (6) the age or grade range of students to be enrolled in the renaissance school project;
- 44 (7) the total number of students to be enrolled in each grade 45 level of the renaissance school project;
  - (8) the renaissance school project calendar and school day schedule;

- (9) the financial plan for the renaissance school project and the provisions that will be made for auditing pursuant to N.J.S.18A:23-1.
  - (10) a description of, and address for, the school facility or facilities in which the renaissance school project will be located;
  - (11) documentation that the proposed renaissance school project meets the facilities efficiency standards developed by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), and any school facility regulations promulgated by the State Board of Education or the Department of Community Affairs;
  - (12) documentation of the funds available to construct the renaissance school project, including the terms of any financing secured for such purpose;
  - (13) if the renaissance school project includes the acquisition of land, the application shall include, at a minimum: (a) a description of the land to be acquired; (b) the costs of acquisition; (c) the timetable for acquisition; and (d) the plan for financing the acquisition;
  - (14) identification of the attendance area of the renaissance school project, if the renaissance school project will not be built on land owned by the New Jersey Schools Development Authority or the renaissance school district; and
    - (15) such other information as the commissioner may require.

- 5. The commissioner may not approve more than four renaissance school projects in any one renaissance school district. Nothing in this act shall prohibit a renaissance school project that provides an educational program for a grade range less than K through 12 from expanding grade levels after the approval by the commissioner of the initial application.
- In reviewing and judging applications for renaissance school projects, the factors considered by the commissioner may include, but not be limited to:
- a. The likelihood that the renaissance school project will improve academic achievement in the renaissance school district;
- b. The strength of the support for the renaissance school project from the school district, board of education, and parents;
  - c. The facilities plan for the renaissance school project;
- d. Geographic diversity and diversity of school type, elementary school, middle school, and high school, among the proposed renaissance school projects; and
  - e. Any other factors deemed significant by the commissioner.

 6. The nonprofit entity and the board of education of the renaissance school district in which the renaissance school project will be located shall enter into a contract setting forth the terms and conditions for the renaissance school project including, but not

limited to, the operation, management, and funding of the renaissance school project. The contract shall be submitted to the commissioner for approval.

- 7. a. Notwithstanding that a renaissance school project shall be constructed, controlled, operated, and managed by a nonprofit entity, and not the local board of education, it shall be a public school. However nothing contained herein shall restrict a for-profit entity from constructing a renaissance school project, or a renaissance school project from being located on land owned by a for-profit entity. Further, the renaissance school project shall be authorized to retain any business entity, however formed, whose primary purpose is the staffing, operation, and management of elementary schools, middle schools, or high schools in the United States, except as it relates to instructional services.
- b. The costs of a renaissance school project including, but not limited to, the costs of land acquisition, site remediation, site development, design, construction, and any other costs required to place into service the school facility or facilities constituting the renaissance school project shall be at the sole expense of the nonprofit entity. The nonprofit entity may use State funds to pay for a lease, debt service, or mortgage for any facility constructed or otherwise acquired.
- c. Notwithstanding the provisions of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), or any other law or regulation to the contrary, there shall be no State share for the costs of a renaissance school project.
- d. Notwithstanding the provisions of the "Public School Contracts Law," P.L.1977, c.114 (C.18A:18A-1 et seq.), or any other law or regulation to the contrary, the nonprofit entity or any entity acting in cooperation with a renaissance school project shall not be subject to public bidding for goods and services, and any contracts entered into by the nonprofit entity shall not be deemed public contracts or public works; except that any contract entered into by the nonprofit entity or any entity acting in cooperation with a renaissance school project shall be deemed a public work for the purposes of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), and subject to the applicable provisions of that act.
- e. The renaissance school district in which a renaissance school project is located shall pay to the nonprofit entity in 12 equal monthly installments an amount per pupil equal to 95% of the district's per pupil expenditure. In addition the 12 monthly installments shall include the security categorical aid attributable to the student, a percentage of the district's special education categorical aid equal to the percentage of the district's special education students enrolled in the renaissance school project, and if

applicable 100% of preschool education aid. The district shall also pay directly to the renaissance school project any federal funds attributable to the student.

- f. Renaissance school projects shall be required to meet the same testing and academic performance standards established by law and regulation for public school students, and shall meet any additional testing and academic performance standards established by the nonprofit entity and approved by the commissioner.
- g. The nonprofit entity shall have complete discretion in naming the renaissance school project. The nonprofit entity may not realize a net profit from its operation of a renaissance school project. A private or parochial school shall not be eligible for renaissance school project status.
- h. A nonprofit entity shall operate a renaissance school project in accordance with the contract entered into pursuant to section 6 of this act, the provisions of this act, and the laws and regulations that govern other public schools which are not inconsistent with this act.

- 8. a. In the case of a renaissance school project built on land owned by the New Jersey Schools Development Authority or the renaissance school district, students residing in the attendance area established by the renaissance school district for that property shall be automatically enrolled in the renaissance school project. The parent or guardian of the student may determine not to enroll the student in the renaissance school project, and in that case the student shall be eligible for enrollment in another school in the renaissance school district. If spaces remain available in the renaissance school project, students shall be selected for the remaining spaces through a lottery system. The first lottery shall include students who attend a public school in the renaissance school district but reside outside the attendance area of the renaissance school. If space remains available, a second lottery shall be conducted that may include students who reside outside of the renaissance school district.
- b. In the case of a renaissance school project which is not built on land owned by the New Jersey Schools Development Authority or the renaissance school district, preference for enrollment in the renaissance school project shall be given to students who reside in the attendance area identified in the application submitted by the nonprofit entity and approved by the commissioner for the renaissance school project. In no case may an attendance area include an area outside of the renaissance school district. If spaces remain available in the renaissance school project, then the renaissance school project may select students for the remaining spaces through a lottery system.

In developing and executing its selection process, the nonprofit entity shall not discriminate on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, proficiency in the English language, or any other basis that would be illegal if used by a school district. A nonprofit entity may, however, limit admission to a particular grade level or levels consistent with its organizational document.

- 9. a. The employees of a renaissance school project shall not be deemed to be members of the bargaining unit of the renaissance school district.
- b. In hiring its employees for a renaissance school project, a nonprofit entity shall be subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). A nonprofit entity shall not set a teacher salary lower than the minimum teacher salary specified pursuant to section 7 of P.L.1985, c.321 (C.18A:29-5.6).
- c. All principals, administrators, classroom teachers, and professional support staff hired by a nonprofit entity to work in a renaissance school project shall hold appropriate New Jersey certifications and shall possess all the tenure rights as employees of a board of education of a school district as provided in Title 18A and other laws and regulations.

10. a. The renaissance school project shall be authorized for 10 years from the date of opening, subject to periodic reviews by the commissioner. The renaissance school project shall be automatically renewed for additional five year periods provided there is not a breach of the agreement that outlines the terms and conditions of the renaissance school project.

Every ten years, prior to granting a renewal, the commissioner shall conduct a comprehensive review of the renaissance school project. Renewal shall be presumed where the renaissance school project's average percent of students proficient on the New Jersey Assessment of Skills and Knowledge, if the school includes any grades from three to eight, or on the New Jersey High School Proficiency Assessment, if the school includes grades 11 and 12, exceed the average percent of students proficient for the renaissance school district in which it is located in like grades by 15 percent or more in language arts literacy, mathematics, or both after five years, and 25 percent or more in language arts literacy, mathematics, or both after ten years, or achieves the State-level proficiency standards during that period.

b. The commissioner shall periodically assess whether each renaissance school project is meeting its goals and improving student achievement. In order to facilitate the commissioner's review, each renaissance school project shall submit an annual report to the commissioner in the form prescribed by the commissioner. The report shall be received annually by August 1 and shall be made publicly available immediately thereafter, including on the Department of Education's website.

#### S3173 NORCROSS

- c. The commissioner shall have on-going access to the records and facilities of the renaissance school project and the nonprofit entity to ensure that the renaissance school project is in compliance with its organizational document and with State laws and regulations.
- d. Five years following the date of the opening of the first renaissance school project, a review of the efficacy of the program shall be conducted by an independent education researcher or research organization selected by the commissioner, with the approval of the State Board of Education. The independent review shall be funded by the Department of Education. The review shall include interviews with staff, parents, and resident district representatives, and a fiscal and educational assessment. commissioner shall report the results of the review to the Governor, the State Board of Education, and to the Legislature as provided pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and, in addition, the Governor shall report on the efficacy of the renaissance school projects in educating students and whether additional renaissance school districts should be authorized and, if so, how many. The commissioner shall also recommend any changes to this act deemed appropriate based on experience with the renaissance school projects and the independent review.

11. a. Notwithstanding the provisions of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), or any other law or regulation to the contrary, when an entity seeks to build a renaissance school project on land owned by the New Jersey Schools Development Authority, the authority may convey the land by ground lease or fee simple title to either the renaissance school district or the entity if the authority determines conveyance to be in the best interests of the State, provided that such conveyance, whether by ground lease or fee simple title shall (1) contain a restriction that the land be used solely for a school or it shall revert to the authority; and (2) be for such consideration and on such terms as the authority determines to be in the best interests of the State.

of a conveyance by the authority to a renaissance school district pursuant to this section, the renaissance school district is authorized to enter into a sub-lease of the property to the entity as required to effectuate the renaissance school project. The sub-lease shall be submitted to the commissioner for his review and approval. The sub-lease shall contain a restriction that the lend be used solely for

b. Notwithstanding any other law to the contrary, in the event

sub-lease shall contain a restriction that the land be used solely for

the renaissance school project or it shall revert to the school district.

12. Whenever any board of education shall by resolution determine that any tract of land is no longer desirable or necessary for school purposes it may authorize the conveyance thereof, for a

1 nominal consideration, to a renaissance school project established 2 pursuant to P.L., c. (C.) (pending before the Legislature as this 3 bill). The president and secretary of the board shall be authorized 4 to execute and deliver a conveyance for the same in the name and 5 under the seal of the board, which conveyance shall be subject to a 6 condition providing that the land shall be used by the renaissance 7 school project for school purposes, and in the event that the 8 property shall cease to be used for those purposes, the property shall 9 thereupon revert to and the title thereof shall vest in the board of 10 education making the conveyance thereof hereunder.

11 12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

3637

38 39

40

41

42

43 44

45

13. a. Notwithstanding the provisions of N.J.S.18A:24-10 or any other section of law to the contrary, under the pilot program the board of education of a Type II school district without a board of school estimate may issue bonds without the approval of the voters of the district in order to finance the construction of a renaissance school project. In the case of a Type I district or a Type II district with a board of school estimate, notwithstanding the provisions of N.J.S.18A:24-11, N.J.S.18A:24-12, or any other section of law to the contrary, such bonds may be issued by the municipality without the approval of the board of school estimate or the adoption of a municipal ordinance as applicable. In the case of a school district under full State intervention or partial State intervention in which the governance component of school district effectiveness has not been returned to the district, notwithstanding the provisions of P.L.1991, c.139 (C.18A:7A-46.1 et seq.) or any other section of law to the contrary, such bonds may be issued without the approval of the capital projects review board.

The issuance of the bonds shall be approved by the board of education of the renaissance school district, or the State district superintendent in the case of a school district under full State intervention or partial State intervention in which the governance component has not been returned to the district. The approval shall be evidenced by the adoption of a resolution by the board of education in a public meeting upon an affirmative vote of two-thirds of its full membership certifying the support of the board for the issuance of the bonds, or if the school district is under full or partial State intervention and the governance component has not been returned to the district, a certification, affidavit, or other sworn statement signed by the State district superintendent supporting the issuance.

- b. Notwithstanding the provisions of any other law to the contrary, a county or county improvement authority may issue bonds in order to finance the construction of a renaissance school project.
- c. Notwithstanding the provisions of N.J.S.18A:22-20,
   N.J.S.18A:22-30, or any other section of law to the contrary, the
   principal and interest payments on the bonds issued pursuant to this

#### S3173 NORCROSS

- section shall be paid by the board of trustees of the renaissance school. The board of education, the State district superintendent, the municipality, the county, or the county improvement authority, as applicable, shall enter into an agreement with the board of trustees of the renaissance school for the payment of the principal and interest. The agreement shall include the total amount of bonded indebtedness to be repaid, the schedule of required debt service payments, and the amount of each individual payment. The commissioner shall approve any agreement entered into pursuant to this section prior to the issuance of the bonds.
  - d. Bonds issued by a school district, municipality, or county to finance a renaissance school project pursuant to this section, shall be entitled to the benefits of the "New Jersey School Bond Reserve Act," P.L.1980, c.72 (C.18A:56-17 et seq.).
  - e. The provisions of P.L.1969, c.130 (C.18A:24-61.1 et seq.) shall be applicable to bonds issued pursuant to this section.
  - f. In the event the authorization to operate a renaissance school project is terminated or expires for any reason, title to the renaissance school project shall revert to the board of education of the renaissance school district and any bonds issued to finance the project shall be eligible for State debt service aid.

14. The Commissioner of Education, pursuant to the "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall adopt regulations to effectuate the purposes of this act; except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 12 months and may, thereafter, be amended, adopted, or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

15. This act shall take effect immediately.

#### **STATEMENT**

The bill is entitled the "Urban Hope Act." The bill authorizes the designation of three failing school districts as renaissance school districts. A "failing district" is defined in the bill as: (1) in the case of a school district located in a city of the first class, a school district in which at least 30% of the students scored in the partially proficient range in the language arts and mathematics sections of each State assessment administered in the 2009-2010 school year; and (2) in the case of a school district located in a city

of the second class, a school district in which at least 55% of the students scored in the partially proficient range in the language arts and mathematics sections of each State assessment administered in the 2009-2010 school year. Under this definition, the Newark School District, the Jersey City School District, and the Camden School District would be "failing districts."

Under the provisions of the bill, one or more nonprofit entities, with the approval of the board of education, may apply to the commissioner to create up to a total of four renaissance school projects in a renaissance school district. A renaissance school project is defined as a school, or group of schools in a common campus setting, that provides an educational program for students enrolled in grades K through 12 or in a grade range less than K through 12, that is agreed to by the school district, and is operated and managed by a nonprofit entity, including an approved charter school, in a renaissance school district.

The bill provides that the costs of a renaissance school project, including the costs of land acquisition, site remediation, site development, design, construction, and any other costs required to place into service the school facility or facilities constituting the renaissance school projects, would be the sole expense of the nonprofit entity. However, the nonprofit entity may use State funds to pay for a lease, debt service, or mortgage for any facility constructed or otherwise acquired.

If an entity seeks to build a school facility on land owned by the Schools Development Authority, the bill provides that the authority may convey the land to either the renaissance school district or the entity. The conveyance must (1) contain a restriction that the land must be used solely for a school or it will revert to the authority; and (2) be for such consideration and on such terms as the authority determines to be in the best interests of the State.

Under the provisions of the bill, whenever a board of education determines that any tract of land is no longer desirable or necessary for school purposes it may authorize the conveyance, for a nominal consideration, to a renaissance school project. If the property ceases to be used for school purposes by the renaissance school project, the property would revert to the board of education.

Under the provisions of the bill, the renaissance school district would pay annually to the nonprofit entity an amount per pupil equal to 95% of the district's per pupil total expenditure. "Per pupil expenditure" is defined as the sum of the budget year equalization aid per pupil, budget year adjustment aid per pupil, and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation. The renaissance school district would also pay to the renaissance school project the security categorical aid attributable to the student, a percentage of the district's special education categorical aid equal to the percentage of the district's special education students enrolled in the renaissance

school project, and if applicable 100% of preschool education aid.

The district would also pay directly to the renaissance school project any federal funds attributable to the student.

All principals, administrators, classroom teachers, and professional support staff must hold the appropriate certifications.

The bill states that a renaissance school project is a public school. The bill further provides that nothing contained in the bill, however, would restrict a for-profit entity from constructing a renaissance school project, or a renaissance school project from being located on land owned by a for-profit entity. The bill also provides that the renaissance school project is authorized to retain any business entity whose primary purpose is the staffing, operation, and management of schools in the United States, except as it relates to instructional services.

Under the provisions of the bill, a nonprofit entity or any entity acting in cooperation with the renaissance school project is not subject to the public bidding requirements for goods and services and any contract entered into by the nonprofit entity is deemed not to be a public contract or a public work. The bill states, however, that a contract entered into by the nonprofit entity or any entity acting in cooperation with the renaissance school project is a public work for the purposes of the "New Jersey Prevailing Wage Act" and subject to the applicable provisions of that act.

A renaissance school project approved under the provisions of the bill, would be authorized for 10 years. The commissioner must annually assess whether each renaissance school project is meeting certain goals and improving student achievement. In order to facilitate this assessment, each renaissance school project, through its nonprofit entity, must submit an annual report to the commissioner.

Five years following the date of the opening of the first renaissance school project, a review of the efficacy of the program must be conducted by an independent education researcher or research organization. The costs of the independent review will be borne by the department. The commissioner must report the results of the review. He must also report on the efficacy of the schools in educating students and whether additional renaissance school districts should be authorized and, if so, how many.

The bill authorizes the board of education of a Type II school district to issue bonds without voter approval to finance the construction of a renaissance school project. In the case of a Type II district with a board of school estimate or a Type I district, bonds may be issued without the approval of the board of school estimate or the adoption of a municipal ordinance, as applicable. The bill also authorizes a county or county improvement authority to issue bonds to finance the construction of a renaissance school project. These bonds would not be supported through local tax levy, but rather the board of education, the State district superintendent, the

### S3173 NORCROSS

13

municipality, the county, or the county improvement authority, as applicable, would enter into an agreement with the board of trustees of the renaissance school project for the payment of the principal and interest on the bonds in accordance with a schedule of payments to be made by the renaissance school project. The commissioner would have to approve each such agreement.

7

8

9

10

1112

Bonds issued by a school district, municipality, or county to finance a renaissance school project will be entitled to the benefits of the "New Jersey School Bond Reserve Act." The school bond reserve is pledged by law to secure payments of principal and interest due on bonds issued for school purposes in the event of the inability of the issuer to make payment.