

ASSEMBLY, No. 3431

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Assemblywoman AMY H. HANDLIN

District 13 (Monmouth)

Assemblyman ANTHONY M. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Directs New Jersey Transportation Trust Fund Authority to allocate funds according to certain requirements; places annual spending limit on projects; repeals Annual Transportation Capital Program Approval Committee.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/23/2018)

1 AN ACT concerning the New Jersey Transportation Trust Fund
2 Authority, amending and supplementing various sections of law,
3 and repealing section 8 of P.L.2016, c.56.

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

7
8 1. Section 21 of P.L.1984, c.73 (C.27:1B-21) is amended to
9 read as follows:

10 21. a. There is hereby established a separate fund entitled
11 "Special Transportation Fund." This fund shall be maintained by the
12 State Treasurer and may be held in depositories as may be selected
13 by the treasurer and invested and reinvested as other funds in the
14 custody of the treasurer, in the manner provided by law. The
15 commissioner may from time to time (but not more frequently than
16 monthly) certify to the authority an amount necessary to fund
17 payments made, or anticipated to be made by or on behalf of the
18 department, from appropriations established for or made to the
19 department from revenues or other funds of the authority. The
20 commissioner's certification shall be deemed conclusive for
21 purposes of the act. The authority shall, within 15 days of receipt
22 of the certificate, transfer from available funds of the authority to
23 the treasurer for deposit in the Special Transportation Fund the
24 amount certified by the commissioner, provided that all funds
25 transferred shall only be expended by the department by project
26 pursuant to appropriations made from time to time by the
27 Legislature for the purposes of the act.

28 b. The department shall not expend any money except as
29 appropriated by law. Commencing with appropriations for the
30 fiscal years beginning on July 1, 1988, the department shall not
31 expend any funds other than for permitted maintenance except as
32 are appropriated by specific projects identified by a description of
33 the projects, the county or counties within which they are located,
34 and amounts to be expended on each project, in the annual
35 appropriations act. Funds expended for permitted maintenance may
36 be appropriated as one item of appropriation and subject to
37 allocation at the commissioner's discretion.

38 c. No funds appropriated, authorized or expended pursuant to
39 this act shall be used to finance the resurfacing of highways by
40 department personnel, where that resurfacing would require the use
41 of more than 100,000 tons of bituminous concrete for that purpose
42 in any calendar year, except that the commissioner may waive this
43 provision when the commissioner determines the existence of
44 emergency conditions requiring the use of department personnel for

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 the resurfacing of highways, after the department has effectively
2 reached the 100,000 ton limit.

3 d. In order to provide the department with flexibility in
4 administering the specific appropriations by project identified in the
5 annual appropriations act, the commissioner may transfer a part of
6 any item to any other item subject to the approval of the Director of
7 the Division of Budget and Accounting and of the Joint Budget
8 Oversight Committee or its successor. Upon approval of the
9 director and the committee, the transfer shall take effect.

10 e. Any federal funds which become available to the State for
11 transportation projects which have not been appropriated to the
12 department in the annual appropriations act, shall be deemed
13 appropriated to the department and may, subject to approval by the
14 Joint Budget Oversight Committee and the State Treasurer, be
15 expended for any purpose for which such funds are qualified.

16 f. There shall be no appropriations from the revenues and other
17 funds of the authority for regular and routine maintenance of public
18 highways and components thereof, or operational activities of the
19 department unrelated to the implementation of, and indirect costs
20 associated with, the capital program. The commissioner shall
21 include in **his** the commissioner's annual budget request
22 sufficient funding to effectuate the purposes of P.L.2000,
23 c.73 (C.27:1B-21.14 et al.).

24 g. To the extent that salaries or overhead of the department or
25 the New Jersey Transit Corporation are charged to transportation
26 projects, each agency shall keep adequate and truthful personnel
27 records~~[,]~~ and time charts to adequately justify each such charge
28 and shall make those records available to the external auditor to the
29 authority.

30 h. The commissioner shall annually, on or before January 1 of
31 each fiscal year, report to the Governor and the Legislature how
32 much money was expended in the previous fiscal year for salaries
33 and overhead of the department and the New Jersey Transit
34 Corporation. However, the amount expended from the revenues
35 and other funds of the authority for salaries and overhead of the
36 department and the New Jersey Transit Corporation for the fiscal
37 year beginning July 1, 2006 through the fiscal year beginning July
38 1, 2015 shall not exceed 13 percent of the total funds appropriated
39 from the revenues and other nonfederal funds of the authority for
40 those fiscal years, and shall not exceed \$208,000,000 for the fiscal
41 year beginning July 1, 2016 and each fiscal year thereafter.

42 i. No revenues or other funds of the authority shall be
43 expended for emergency response operations, the review of
44 applications for access permits under the State highway access
45 management code and membership fees or other fees connected
46 with membership in TRANSCOM, the Transportation Operations
47 Coordinating Committee.

1 j. Every project in which revenues or other funds of the
2 authority are expended shall be included on a website created by the
3 authority whose exclusive purpose shall be reporting on the status
4 of State and federal projects and serving as a singular location for
5 State and federal public documentation concerning those projects.
6 The website shall document the status of each project, presented in
7 tabular form outlining the budgeted amount, the amount spent and
8 committed, and the amount necessary to complete each project. The
9 website shall include a chart which compares the planned and actual
10 quarterly and cumulative expenditures for each project. The
11 website shall chronicle actions which have a bearing on the
12 progress of projects, including, but not limited to, awards for legal,
13 insurance, and engineering services, environmental review, public
14 involvement and outreach, property acquisitions, and construction
15 contracts. The website shall also include a description of any action
16 by an external regulatory agency such as the Department of
17 Environmental Protection, or any other party, which occurred
18 during the reporting period that affected the cost or timely
19 completion of any project in any manner. Information concerning
20 each project shall be included and updated, at minimum, once per
21 month.

22 k. There shall be a minimum appropriation from the revenues
23 and other funds of the authority of \$25,000,000 each fiscal year,
24 commencing with the fiscal year beginning July 1, 2016, for the
25 design, construction, reconstruction, rehabilitation, land acquisition,
26 and environmental mitigation of freight rail projects that: are
27 significant to port commerce connectivity; eliminate rail freight
28 missing links to port facilities; or upgrade freight rail trackage to a
29 286,000 pound load carrying capacity. The amount appropriated
30 pursuant to this subsection shall be inclusive of all amounts
31 annually appropriated for the New Jersey Rail Freight Assistance
32 Program.

33 l. Appropriations from the revenues and other funds of the
34 authority may be used to fund transportation projects undertaken
35 through a public-private partnership agreement between the
36 commissioner of the department or the New Jersey Transit
37 Corporation and a private entity, pursuant to sections 2 and 4 of
38 P.L. , c. (C.) (pending before the Legislature as this bill).

39 m. The appropriations from the revenues and other funds of the
40 authority shall prioritize the repair and reconstruction of existing
41 transportation infrastructure in the following order:

42 (1) transportation infrastructure that is structurally deficient or
43 in poor condition to such an extent that it is in need of immediate
44 repair and in imminent risk of being closed to the public;

45 (2) transportation infrastructure that is structurally deficient or
46 in poor condition and is located on heavily traveled public
47 highways, bridges, tunnels, overpasses, underpasses, interchanges,
48 and public transportation routes;

1 (3) all transportation infrastructure that is structurally deficient
2 or in poor condition, but is not included in categories (1) or (2);

3 (4) routine maintenance of public roads, streets, expressways,
4 freeways, parkways, motorways, and boulevards;

5 (5) routine maintenance of bridges, tunnels, overpasses,
6 underpasses, and interchanges;

7 (6) the closing out and completion of public highway projects
8 that have been funded through a budget appropriation in a current or
9 prior annual transportation capital program but construction of the
10 entire project has not been completed as of the date of enactment of
11 P.L. , c. (C.) (pending before the Legislature as this bill);

12 (7) projects related to alleviating congestion on public
13 highways;

14 (8) any types of department projects that are not included in
15 categories (1) through (7), including projects related to freight rail
16 and bicycle and pedestrian traffic; and

17 (9) new passenger rail projects that qualify for matching federal
18 grant funds, pursuant to 49 U.S.C. s.5309, and are estimated to meet
19 or exceed the average farebox recovery ratio for the entire New
20 Jersey Transit Corporation passenger rail system.

21 (cf: P.L.2016, c.56, s.4)

22
23 2. (New section) a. The commissioner of the department, with
24 the approval of the State Treasurer and in consultation with the New
25 Jersey Transportation Trust Fund Authority, may enter into a
26 public-private partnership agreement with a private entity to
27 provide for the construction and maintenance of transportation
28 projects in this State.

29 b. As used in this section, "public-private partnership
30 agreement" means an agreement made for the purpose of permitting
31 a private entity to assume financial and administrative responsibility
32 for the development, construction, reconstruction, repair, alteration,
33 improvement, extension, operation, or maintenance, or any
34 combination thereof, of a transportation project of, or for the benefit
35 of, the department.

36
37 3. The commissioner shall promulgate, in accordance with the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.54:14B-1 et
39 seq.), rules and regulations as may be necessary to effectuate the
40 purposes of section 2 of P.L. , c. (C.) (pending before the
41 Legislature as this bill).

42
43 4. (New section) a. The corporation, with the approval of the
44 State Treasurer and in consultation with the New Jersey
45 Transportation Trust Fund Authority, may enter into a public-
46 private partnership agreement with a private entity to provide for
47 the construction and maintenance of transportation projects in this
48 State.

1 b. As used in this section, “public-private partnership
2 agreement” means an agreement made for the purpose of permitting
3 a private entity to assume financial and administrative responsibility
4 for the development, construction, reconstruction, repair, alteration,
5 improvement, extension, operation, or maintenance, or any
6 combination thereof, of a transportation project of, or for the benefit
7 of, the corporation.

8
9 5. The board shall promulgate, in accordance with the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.54:14B-1 et
11 seq.), rules and regulations as may be necessary to effectuate the
12 purposes of section 4 of P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14
15 6. Section 8 of P.L.1987, c.460 (C.27:1B-21.1) is amended to
16 read as follows:

17 8. a. Commencing with the reports of the commissioner,
18 which shall include the Transportation Master Plan, Statewide
19 Capital Investment Strategy, Annual Transportation Capital
20 Program, Transportation Trust Fund Authority Financial Plan, and
21 Five-Year Capital Plan, as may be amended, required to be
22 submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on
23 or before March 1, 2006 and on each succeeding March 1 thereafter
24 through March 1, 2015, the annual amount so reported by the
25 commissioner for proposed projects shall not exceed
26 \$1,600,000,000 exclusive of federal funds, and beginning with the
27 reports due March 1, 2016, and on each succeeding March 1
28 thereafter through March 1, 2023, the amount so reported by the
29 commissioner for proposed projects shall not exceed an aggregate
30 \$16,000,000,000 over that eight year period.

31 b. For the fiscal year beginning on July 1, 2006 and for each
32 fiscal year thereafter through the fiscal year beginning on July 1,
33 2011, the total annual amount authorized to be appropriated from
34 the revenues and other nonfederal funds of the New Jersey
35 Transportation Trust Fund Authority for the projects listed in the
36 appropriations act pursuant to section 21 of P.L.1984,
37 c.73 (C.27:1B-21) shall not exceed \$1,600,000,000, all amounts
38 exclusive of federal funds. The total amount authorized to be
39 appropriated from the revenues and other nonfederal funds of the
40 New Jersey Transportation Trust Fund Authority for the projects
41 listed in the appropriations act pursuant to section 21 of P.L.1984,
42 c.73 (C.27:1B-21) shall not exceed: \$1,247,000,000 for the fiscal
43 year beginning on July 1, 2012; \$1,224,000,000 for the fiscal year
44 beginning on July 1, 2013; \$1,225,000,000 for the fiscal year
45 beginning on July 1, 2014; and \$1,247,000,000 for the fiscal year
46 beginning on July 1, 2015. The total amount authorized to be
47 appropriated from the revenues and other nonfederal funds of the
48 New Jersey Transportation Trust Fund Authority for the projects

1 listed in the appropriations act pursuant to section 21 of P.L.1984,
2 c.73 (C.27:1B-21) shall not exceed **【an aggregate \$16,000,000,000**
3 **in total for the fiscal years beginning on July 1, 2016 through the**
4 **fiscal year beginning on July 1, 2023】** \$2 billion per fiscal year in
5 the fiscal year beginning July 1, 2016 through the fiscal year
6 beginning on July 1, 2023.

7 c. (Deleted by amendment, P.L.1991, c.40**【.】**)

8 d. (Deleted by amendment, P.L.1992, c.10)**【.】**

9 e. The State Auditor shall provide for a unified annual audit of
10 expenditures from the "Special Transportation Fund," established
11 by section 21 of P.L.1984, c.73 (C.27:1B-21), in order to determine
12 that these funds are expended for costs eligible for funding from the
13 authority and in a manner consistent with appropriations made by
14 the Legislature. The findings of such audits shall be transmitted to
15 the presiding officer of each House of the Legislature, and to the
16 Chair of the Senate Budget and Appropriations Committee, the
17 Senate Transportation Committee, the Assembly Appropriations
18 Committee, and the Assembly Transportation and Independent
19 Authorities Committee or their successors.

20 f. The State Auditor shall review bond issuances of the
21 authority and report to the Joint Budget Oversight Committee and
22 to the members of the Senate Budget and Appropriations
23 Committee and the Assembly Appropriations Committee, or their
24 successors, on the status of the bonds of the authority and projects
25 financed from the proceeds of the bonds. The report shall include
26 the investment status of all unexpended bond proceeds and provide
27 a description of any bond issues expected during a fiscal year,
28 including type of issue, estimated amount of bonds to be issued and
29 the expected month of sale.

30 (cf: P.L.2016, c.56, s.5)

31
32 7. Section 8 of P.L.2016, c.56 (C.27:1B-22.5) is repealed.

33
34 8. This act shall take effect immediately.

35 36 37 STATEMENT

38
39 This bill amends existing law to require the New Jersey
40 Transportation Trust Fund Authority (TTFA) to allocate funds to
41 fund transportation projects undertaken through a public-private
42 partnership agreement with the New Jersey Department of
43 Transportation or the New Jersey Transit Corporation (NJT) and a
44 private entity.

45 The bill requires TTFA funds to be prioritized to repair existing
46 transportation infrastructure in the following order: 1)
47 transportation infrastructure that is structurally deficient or in poor
48 condition to such an extent that it is in need of immediate repair and

1 in imminent risk of being closed to the public; 2) transportation
2 infrastructure that is structurally deficient or in poor condition and
3 is located on heavily traveled public highways, bridges, tunnels,
4 overpasses, underpasses, interchanges, and public transportation
5 routes; 3) all transportation infrastructure that is structurally
6 deficient or in poor condition, but is not included in categories 1) or
7 2); 4) routine maintenance of public roads, streets, expressways,
8 freeways, parkways, motorways, and boulevards; 5) routine
9 maintenance of bridges, tunnels, overpasses, underpasses, and
10 interchanges; 6) the closing out and completion of public highway
11 projects that have been funded through a budget appropriation in a
12 current or prior annual transportation capital program but
13 construction of the entire project has not been completed as of the
14 date of enactment of this bill; 7) projects related to alleviating
15 congestion on public highways; 8) any types of department projects
16 that are not included in categories 1) through 7), including projects
17 related to freight rail and bicycle and pedestrian traffic; and 9) new
18 passenger rail projects that qualify for matching federal funds and
19 are estimated to meet or exceed the average farebox recovery ratio
20 for the entire New Jersey Transit Corporation passenger rail system.

21 The bill also limits the amount authorized for transportation
22 projects to \$2 billion annually between fiscal years 2017 and 2024
23 and repeals the provisions of law establishing the Annual
24 Transportation Capital Program Approval Committee.