Sponsored by:
Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman CHRISTOPHER P. DEPHILLIPS
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS
Eliminates NJ Schools Development Authority and transfers its school construction responsibilities to EDA.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 1/18/2019)
AN ACT concerning the construction of school facilities projects, revising various parts of the statutory law, and supplementing Title 34 of the Revised Statutes.

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

1. Section 21 of P.L.2007, c.21 (C.18A:7F-63) is amended to read as follows:

21. a. Notwithstanding any provision of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) to the contrary, an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) may include in its annual capital outlay budget and construct one or more school facilities projects if the commissioner, in consultation with the New Jersey Schools Economic Development Authority, approves the inclusion of the project upon a demonstration by the district that its budget includes sufficient funds to finance the project. The commissioner's approval of the inclusion of the school facilities project in the district's annual capital outlay budget may also contain specific conditions including, but not limited to, a requirement that the district follow the design requirements and materials and system standards established by the development authority. A district may also withdraw funds from a capital reserve account for such purpose with the approval of the commissioner.

b. A school facilities project that is not financed and constructed pursuant to subsection a. of this section, shall continue to be financed and constructed in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.).

(cf: P.L.2015, c.257, s.1)

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

3. As used in sections 1 through 30 and 57 through 71 of P.L.2000, c.72 (C.18A:7G-1 et al.) and sections 14 through 17 of P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), unless the context clearly requires a different meaning:

"Area cost allowance" means $138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be established by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance used in determining preliminary eligible costs of school facilities

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.
projects shall be that of the year of application for approval of the project;

“Authority” means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Capital maintenance project" means a school facilities project intended to extend the useful life of a school facility, including upgrades and replacements of building systems, such as structure, enclosure, mechanical, plumbing and electrical systems;

"Commissioner" means the Commissioner of Education;

"Core curriculum content standards" means the standards established pursuant to the provisions of subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46);

"Cost index" means the average annual increase, expressed as a decimal, in actual construction cost factors for the New York City and Philadelphia areas during the second fiscal year preceding the budget year as determined pursuant to regulations promulgated by the [development] authority pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon school bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"Demonstration project" means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

["Development authority" means the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237);]

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.);

"District aid percentage" means the number expressed as a percentage derived from dividing the district's equalization aid
calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53)
as of the date of the commissioner's determination of preliminary
eligible costs by the district's adequacy budget calculated pursuant
to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the
commissioner's determination of preliminary eligible costs;

"Excess costs" means the additional costs, if any, which shall beorne by the district, of a school facilities project which result from
design factors that are not required to meet the facilities efficiency
standards and not approved pursuant to paragraph (1) of subsection
g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized
as community design features included in final eligible costs
pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Facilities efficiency standards" means the standards developed
by the commissioner pursuant to subsection h. of section 4 of
P.L.2000, c.72 (C.18A:7G-4);

"Final eligible costs" means for school facilities projects to be
constructed by the [development] authority, the final eligible costs
of the school facilities project as determined by the commissioner,
in consultation with the [development] authority, pursuant to
section 5 of P.L.2000, c.72 (C.18A:7G-5); for demonstration
projects, the final eligible costs of the project as determined by the
commissioner and reviewed by the [development] authority which
may include the cost of community design features determined by
the commissioner to be an integral part of the school facility and
which do not exceed the facilities efficiency standards, and which
were reviewed by the [development] authority and approved by the
State Treasurer pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);
and for districts other than SDA districts, final eligible costs as
determined pursuant to paragraph (1) of subsection h. of section 5
of P.L.2000, c.72 (C.18A:7G-5);

["Financing authority" means the New Jersey Economic
Development Authority established pursuant to P.L.1974, c.80
(C.34:1B-1 et seq.);]

"FTE" means a full-time equivalent student which shall be
calculated as follows: each student in grades 1 through 12 shall be
counted at 100% of the actual count of students, in the case of
districts which operate a half-day kindergarten program each
kindergarten student shall be counted at 50% of the actual count of
kindergarten students, in the case of districts which operate a full-
day kindergarten program or which currently operate a half-day
kindergarten program but propose to build facilities to house a full-
day kindergarten program each kindergarten student shall be
counted at 100% of the actual count of kindergarten students, and
each preschool student who is enrolled in a full-day preschool
program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54)
shall be counted at 100% of the actual count of preschool students.
In addition, each preschool disabled child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual count of these students in the district;

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8) and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

"Lease purchase payment" means and includes payment of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection (f) of N.J.S.18A:20-4.2 prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Local share" means, in the case of a school facilities project to be constructed by the [development] authority, the total costs less the State share as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the total costs less the State share as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project which shall be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State share as determined pursuant to that section;

"Local unit" means a county, municipality, board of education or any other political subdivision or instrumentality authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law;
"Local unit obligations" means bonds, notes, refunding bonds, refunding notes, lease obligations and all other obligations of a local unit which are issued or entered into for the purpose of paying for all or a portion of the costs of a school facilities project, including moneys payable to the [development] authority; "Long-range facilities plan" means the plan required to be submitted to the commissioner by a district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4); "Maintenance" means expenditures which are approved for repairs and replacements for the purpose of keeping a school facility open and safe for use or in its original condition, including repairs and replacements to a school facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition. Maintenance shall not include capital maintenance or contracted custodial or janitorial services, expenditures for the cleaning of a school facility or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings or equipment, or other expenditures which are not required to maintain the original condition over the school facility's useful life. Approved maintenance expenditures shall be as determined by the commissioner pursuant to regulations to be adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26); "Other allowable costs" means the costs of temporary facilities, site development, acquisition of land or other real property interests necessary to effectuate the school facilities project, fees for the services of design professionals, including architects, engineers, construction managers and other design professionals, legal fees, financing costs and the administrative costs of the [development authority and the financing] authority or the district incurred in connection with the school facilities project; "Other facilities" means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration; "Preliminary eligible costs" means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise provided pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall be deemed to include the costs of construction and other allowable costs; "Redevelopment entity" means a redevelopment entity authorized by a municipal governing body to implement plans and carry out redevelopment projects in the municipality pursuant to the
"Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

"School bonds" means, in the case of a school facilities project which is to be constructed by the [development] authority, a redevelopment entity, or a district under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the local share; and, in the case of a school facilities project which is not to be constructed by the [development] authority or a redevelopment entity, or financed under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the total costs;

"School enrollment" means the number of FTE students other than evening school students, including post-graduate students and post-secondary vocational students, who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities;

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project;

"SDA district" is a district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year;

"Special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"State aid" means State municipal aid and State school aid;

"State debt service aid" means for school bonds issued for school facilities projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not to have a redevelopment entity construct the project or which elect not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), the amount of State aid determined pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or certificates of participation issued for school facilities projects approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid
determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10);

"State municipal aid" means business personal property tax replacement revenues, State urban aid and State revenue sharing, as these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or other similar forms of State aid payable to the local unit and to the extent permitted by federal law, federal moneys appropriated or apportioned to the municipality or county by the State;

"State school aid" means the funds made available to school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the [development] authority as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the State share as determined pursuant to that section;

"Total costs" means, in the case of a school facilities project which is to be constructed by the [development] or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess costs if any; and in the case of a school facilities project which is not to be constructed by the [development] authority or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as determined by the district.

(cf: P.L.2007, c.260, s.39)

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

5. a. The [development] authority shall [undertake and the financing authority shall] construct and finance the school facilities projects of SDA districts.

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

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in this act; provided that any district whose school facilities project is not constructed by the [development] authority shall also be required to comply with the provisions of N.J.S.18A:18A-16.
d. (1) Any district seeking to initiate a school facilities project shall apply to the commissioner for approval of the project. The application may include, but not be limited to: a description of the school facilities project; a schematic drawing of the project or, at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional components of the project; educational specifications detailing the programmatic needs of each proposed space; the number of unhoused students to be housed in the project; the area allowances per FTE student as calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8); and the estimated cost to complete the project as determined by the district.

(2) In the case of an SDA district school facilities project, based upon its educational priority ranking and the Statewide strategic plan established pursuant to subsection m. of this section, the commissioner may authorize the [development] authority to undertake preconstruction activities which may include, but need not be limited to, site identification, investigation, and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition, and acquisition of temporary facilities. Upon receipt of the authorization, the [development] authority may initiate the preconstruction activities required to prepare the application for commissioner approval of the school facilities project.

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

f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1) in the case of a county special services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district, the commissioner shall calculate the preliminary eligible costs to equal the estimated cost as determined by the [development] authority.

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

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

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

(3) To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the projected total district school enrollment if the proposed administrative offices will be housed in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. To
the extent that existing administrative space will continue to be used
for administrative purposes, the space shall be included in the
If the commissioner approves excess facilities efficiency
standards or additional area allowances pursuant to paragraph (1),
(2), or (3) of this subsection, the commissioner shall calculate the
preliminary eligible costs based upon the additional area allowances
or excess facilities efficiency standards pursuant to the formulas set
forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that
the commissioner does not approve the excess facilities efficiency
standards or additional area allowances, the district may either:
modify its submission so that the school facilities project meets the
facilities efficiency standards; or pay for the excess costs.
(4) The commissioner shall approve spaces in excess of, or
inconsistent with, the facilities efficiency standards, hereinafter
referred to as nonconforming spaces, upon a determination by the
district that the spaces are necessary to comply with State or federal
law concerning individuals with disabilities, including that the
spaces are necessary to provide in-district programs and services for
current disabled pupils who are being served in out-of-district
placements or in-district programs and services for the projected
disabled pupil population. A district may apply for additional State
aid for nonconforming spaces that will permit pupils with
disabilities to be educated to the greatest extent possible in the same
buildings or classes with their nondisabled peers. The
nonconforming spaces may: (a) allow for the return of pupils with
disabilities from private facilities; (b) permit the retention of pupils
with disabilities who would otherwise be placed in private facilities;
(c) provide space for regional programs in a host school building
that houses both disabled and nondisabled pupils; and (d) provide
space for the coordination of regional programs by a county special
services school district, educational services commission, jointure
commission, or other agency authorized by law to provide regional
educational services in a school building that houses both disabled
and nondisabled pupils. A district's State support ratio shall be
adjusted to equal the lesser of the sum of its district aid percentage
as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or
100% for any nonconforming spaces approved by the commissioner
pursuant to this paragraph.

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

The appeal shall outline the reasons why the preliminary eligible
costs calculated for the project are inadequate and estimate the
amount of the adjustment which needs to be made to the
preliminary eligible costs. The commissioner shall forward the
appeal information to the [development] authority for its review
and recommendation. If the additional costs are the result of factors
that are within the control of the district or are the result of design
factors that are not required to meet the facilities efficiency
standards, the [development] authority shall recommend to the
commissioner that the preliminary eligible costs be accepted as the
final eligible costs. If the [development] authority determines the
additional costs are not within the control of the district or are the
result of design factors required to meet the facilities efficiency
standards, the [development] authority shall recommend to the
commissioner a final eligible cost based on its experience for
districts with similar characteristics, provided that, notwithstanding
anything to the contrary, the commissioner shall not approve an
adjustment to the preliminary eligible costs which exceeds 10% of
the preliminary eligible costs. The commissioner shall make a
determination on the appeal within 30 days of its receipt. If the
commissioner does not approve an adjustment to the school
facilities project's preliminary eligible costs, the commissioner shall
issue his findings in writing on the reasons for the denial and on
why the preliminary eligible costs as originally calculated are
sufficient.

(2) In the case of an SDA district, the commissioner shall
promptly prepare and submit to the [development] authority a
preliminary project report which shall consist, at a minimum, of the
following information: a complete description of the school
facilities project; the actual location of the project; the total square
footage of the project together with a breakdown of total square
footage by functional component; the preliminary eligible costs of
the project; the project's priority ranking determined pursuant to
subsection m. of this section; any other factors to be considered by
the [development] authority in undertaking the project; and the
name and address of the person from the district to contact in regard
to the project.
Upon receipt by the development authority of the preliminary project report, the development authority, upon consultation with the district, shall prepare detailed plans and specifications and schedules which contain the development authority’s estimated cost and schedule to complete the school facilities project. The development authority shall transmit to the commissioner its recommendations in regard to the project which shall, at a minimum, contain the detailed plans and specifications; whether the school facilities project can be completed within the preliminary eligible costs; and any other factors which the development authority determines should be considered by the commissioner.

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

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

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

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

(c) If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards or approved pursuant to paragraph (1) of subsection g. of this section, the [development] authority shall recommend to the commissioner that the preliminary eligible costs be accepted, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs and specify the excess costs which are to be borne by the district; give final approval to the school facilities project; and issue a final project report to the [development] authority pursuant to subsection j. of this section; provided that the commissioner may approve final eligible costs which are in excess of the preliminary eligible costs if, in his judgment, the action is necessary to meet the educational needs of the district.

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

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

k. For the SDA districts, the State share shall be 100% of the final eligible costs. Except as otherwise provided pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9), for all other districts, the State share shall be an amount equal to the district aid percentage;
except that the State share shall not be less than 40% of the final eligible costs.

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

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

m. (1) Within 90 days of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner shall develop an educational facilities needs assessment for each SDA district. The assessment shall be updated periodically by the commissioner in accordance with the schedule the commissioner deems appropriate for the district; except that each assessment shall at a minimum be updated within five years of the development of the district's most recent prior educational facilities needs assessment. The assessment shall be transmitted to the [development] authority to be used to initiate the planning activities required prior to the establishment of the educational priority ranking of school facilities projects pursuant to paragraph (2) of this subsection.

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

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

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

(4) In the case of a district other than an SDA district, the
commissioner shall establish a priority process for the financing of
school facilities projects based upon the commissioner's
determination of critical need in accordance with priority project
categories developed by the commissioner. The priority project
categories shall include, but not be limited to, health and safety,
overcrowding in the elementary, middle, and high school grade
levels, spaces necessary to provide in-district programs and services
for current disabled students who are being served in out-of-district
placements or in-district programs and services for the projected
disabled student population, and full-day kindergarten facilities in
the case of school districts required to provide full-day preschool

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

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

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

q. The [development] authority shall determine the cause of
any costs of construction which exceed the amount originally
projected by the [development] authority and approved for
financing by the [financing] authority.
4. Section 1 of P.L.2015, c.68 (C.18A:7G-5a) is amended to read as follows:
   1. a. Notwithstanding the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to the contrary, the board of education of a county vocational school district may request a county improvement authority to construct a county vocational school district school facilities project and to issue its bonds to finance the local share of a project that is to be financed under section 15 of P.L.2000, c.72 (C.18A:7G-15), or to finance the total costs of a project that is not to be financed under section 15 of P.L.2000, c.72 (C.18A:7G-15). The bonds of a county improvement authority issued to finance the total costs of a county vocational school district school facilities project that is not to be financed under section 15 of P.L.2000, c.72 (C.18A:7F-15) shall be eligible for State debt service aid in accordance with the formula established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

   b. A county vocational school district may lease its lands or facilities to the county improvement authority which may construct the school facilities project through a design-build contract. Whenever a school facilities project is constructed by a county improvement authority through a design-build contract: (1) The county improvement authority shall follow the procedures established by the rules and regulations of the New Jersey [Schools] Economic Development Authority for the procurement of design-build contracts; (2) The county improvement authority shall follow the design requirements and materials and system standards established by the [development] authority; (3) The provisions of the "Public School Contracts Law," (N.J.S.18A:18A-1 et seq.), and the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), shall not apply; and (4) A county vocational school district shall comply with the procedures for obtaining approval of the project under P.L.2000, c.72 (C.18A:7G-1 et al.), but shall not be required to comply with the provisions of N.J.S.18A:18A-16.

   c. The county improvement authority shall lease the county vocational school district school facilities project to the county which shall then lease it for nominal consideration to the county vocational school district for as long as the county improvement authority bonds or refunding bonds are outstanding. Nothing in this section shall be construed to authorize a county to require a county vocational school district to bear any portion of the cost of the debt service on the county improvement authority bonds issued to fund the county vocational school district school facilities project or on any refunding bonds.
The county lease payments made to the county improvement authority pursuant to subsection c. of this section shall not be subject to any cap on appropriations or on spending or to any tax levy cap. The county lease payments shall be sufficient to pay debt service on the county improvement authority bonds issued to fund the county vocational school district school facilities project or on any refunding bonds, that remains after the application of any State debt service aid paid on those bonds pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9). The county lease payments shall be payable over the life of the bonds.

e. When the bonds issued by a county improvement authority are no longer outstanding, the leases and liens of the county and the county improvement authority shall expire and the county vocational school district school facilities project shall be solely vested in the county vocational school district. The county vocational school district shall be responsible for the operation, maintenance, and improvement of the school facility upon the completion of the school facilities project.

(cf: P.L.2015, c.68, s.1)

5. Section 1 of P.L.2016, c.79 (C.18A:7G-5.2) is amended to read as follows:

1. a. In the case of new school construction undertaken by a district or the [development] authority, in addition to the Best Practices Standards for Schools under Construction or Being Planned for Construction set forth by the Department of Community Affairs, the district or the [development] authority, as applicable, shall provide in the architectural design for the new construction that:

   (1) wherever possible, a building site shall be chosen with adequate space to accommodate bus and vehicular traffic separately and permit additional space for the proper evacuation of occupants;

   (2) wherever possible, bus drop-off/pick-up areas shall be separated from other vehicular drop-off/pick-up areas;

   (3) wherever possible, pedestrian routes shall be separated from vehicular routes, and crossing of the two shall be minimized;

   (4) the number of anterior doors shall be kept to a minimum as necessary to satisfy operational considerations and meet code requirements, and wherever possible exterior door hardware shall be eliminated from doors that are intended only for emergency egress;

   (5) there is a single public entrance to be used during the school day which shall be equipped with a security vestibule with interior doors that must be released by school security or other staff. The district or [development] authority shall give consideration to providing bullet resistant glazing in the interior vestibule doors and windows;
(6) all marked entrances shall conform to a uniform numbering system in order to assist emergency responders in locating particular areas. The principal's office shall have a secondary exit;
(7) interior door locks on spaces that will serve as safe havens during lockdowns shall have a keyless locking mechanism;
(8) new school buildings shall be provided with access control systems which allow for remote locking and unlocking of all building access doors; and
(9) new school buildings shall be designed and built in such a manner that areas intended for public use may be separated and secured from all other areas.

b. In the case of new school construction undertaken by a district or the [development] authority, and in the case of existing school buildings, a district or the [development] authority, as applicable, shall:
   (1) employ the Crime Prevention through Environmental Design principles;
   (2) require security personnel to be in uniform;
   (3) make driveways one way, if possible, that lead to a clearly marked visitor parking area. STOP signs and other traffic calming devices shall be used to keep vehicles at a reasonable speed;
   (4) place bollards along the roadway or curb line in front of the school to prevent vehicles from gaining access to exterior walls, windows, and doors, or in areas of the property where vehicles are prohibited;
   (5) clearly mark the school's main entrance and make it easily visible and recognizable;
   (6) limit the number of doors for access by staff;
   (7) lock exterior doors, and when they are in use for a large entry/exit provide that they are staffed and monitored;
   (8) utilize an access control system with remote unlocking features, an intercom, and fixed cameras at the school's main entrance and for other entrances as funding permits;
   (9) clearly mark all entrances with a numerical sequence to allow for specific response by police, fire, and emergency medical services responders;
   (10) maintain a parking decal or tag system for all staff and students who park on campus in order to easily identify unauthorized vehicles on the property;
   (11) locate enclosures for utilities that are outside a school building away from the building to ensure that they do not provide roof access;
   (12) provide adequate and properly maintained lighting around the buildings and parking lots;
   (13) if funding, staffing, and site approval are possible, provide a guard shack and gate on the school campus as an effective perimeter control;
(14) where the footprint of the school allows, and if funding is available, create secure vestibules at the main entrance of the school building. The exterior door entrance to the school shall allow access by a visitor only to the vestibule and the doors to the remainder of the building shall be locked;

(15) adopt school district policies and procedures to clearly indicate that propping open doors is strictly prohibited, and that students and staff shall not open a door for anyone. All persons seeking entry to the building shall be directed to the main entrance;

(16) use surveillance cameras as a target-hardening tool;

(17) provide a dedicated server and generator for security systems, such as access control and surveillance cameras, in order to secure information and ensure efficient operation in an emergency;

(18) use ballistic or shatter resistant film for glass entrance door sidelights and other vulnerable first floor areas; and

(19) maintain a strict key distribution protocol that requires staff to sign for keys and return them at the end of each school year.

c. The commissioner, in consultation with the [development] authority, may revise the architectural design standards for new school construction established pursuant to subsection a. of this section and the standards for new school construction and existing school buildings established pursuant to subsection b. of this section, to reflect new recommendations or changes in best practices for school security.

(cf: P.L.2016, c.79, s.1)

6. Section 12 of P.L.2000, c.72 (C.18A:7G-12) is amended to read as follows:

12. A district, other than a district under full State intervention, that sought approval pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11) of a school facilities project without excess costs but failed to receive that approval, and within the three years prior to that, sought and failed to receive approval of that school facilities project with or without excess costs, may submit the project to the commissioner and request that the commissioner approve the project and authorize the issuance of school bonds for the local share of the project. Upon receipt of the request, the commissioner shall review the school facilities project and determine whether the project is necessary for the provision of a thorough and efficient system of education in the district. If the commissioner concludes that the project is necessary, the commissioner may approve the project without excess costs and authorize the issuance of school bonds to fund the local share. In addition to the amount of taxes determined by the legal voters of the district at the annual school election, the secretary of the board of education shall certify the amount required for the repayment of the interest and principal of the bonds required to fund the local share amount approved by the
commissioner in the same manner required for interest and debt
redemption charges pursuant to N.J.S.18A:22-33, and the amount so
certified shall be included in the taxes assessed, levied and collected
in the municipality or municipalities comprising the school district
for those purposes.

Any school facilities project authorized pursuant to this section
shall be [undertaken by the development] constructed by the
authority in accordance with an agreement between the
[development] authority and the district. Nothing in this section
shall preclude a school district under full State intervention from
using the process established pursuant to section 2 of P.L.1991,
c.139 (C.18A:7A-46.2) to obtain the approval of the commissioner
to undertake a school facilities project.
(cf: P.L.2007, c.137, s.23)

7. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to
read as follows:

13. a. The [financing] authority shall be responsible for the
issuance of bonds pursuant to section 14 of P.L.2000, c.72
(C.18A:7G-14) and [the development authority shall be
responsible] for the planning, design, construction management,
acquisition, construction, and completion of school facilities
projects. In the case of a capital maintenance project, the
[development] authority may, in its discretion, authorize an SDA
district to undertake the design, acquisition, construction and all
other appropriate actions necessary to complete the capital
maintenance project and shall enter into a grant agreement with the
district for the payment of the State share. The [development]
authority may also authorize an SDA district to undertake the
design, acquisition, construction and all other appropriate actions
necessary to complete any other school facilities project in
accordance with the procedures established pursuant to subsection
e. of this section.

b. The [financing] authority shall undertake the financing of
school facilities projects pursuant to the provisions of this act. The
[financing] authority shall finance the State share of a school
facilities project and may, in its discretion and upon consultation
with the district, finance the local share of the project. In the event
that the [financing] authority finances only the State share of a
project, the [development] authority shall not commence
acquisition or construction of the project until the [development]
authority receives the local share from the district.

c. In order to implement the arrangements established for
school facilities projects which are to be constructed by the
[development] authority and financed pursuant to this section, a
district shall enter into an agreement with the [development]
authority and the commissioner containing the terms and conditions
determined by the parties to be necessary to effectuate the project.

d. Upon completion by the [development] authority of a
school facilities project, the district shall enter into an agreement
with the [development] authority to provide for the maintenance of
the project by the district. In the event that the school facilities
project is constructed by a district, upon the completion of the
project, the district shall submit to the commissioner a plan to
provide for the maintenance of the project by the district. Any
agreement or plan shall contain, in addition to any other terms and
provisions, a requirement for the establishment of a maintenance
reserve fund consistent with the appropriation and withdrawal
requirements for capital reserve accounts established pursuant to
section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of
which shall be as set forth in regulations adopted by the
commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-
26).

e. (1) [Within one year of the effective date of P.L.2007,
c.137 (C.52:18A-235 et al.), the] The commissioner, in consultation
with the [development] authority, shall adopt pursuant to the
seq.), rules and regulations by which the commissioner shall
determine whether an SDA district is eligible to be considered by
the [development] authority to manage a school facilities project or
projects. In making the determination, the commissioner shall
consider the district's fiscal integrity and operations, the district's
performance in each of the five key components of school district
effectiveness under the New Jersey Quality Single Accountability
Continuum (NJQSAC) in accordance with section 10 of P.L.1975,
c.212 (C.18A:7A-10), and other relevant factors.

(2) [Within one year of the effective date of P.L.2007, c.137
(C.52:18A-235 et al.), the] The authority, in
consultation with the commissioner, shall adopt pursuant to the
seq.), rules and regulations by which the [development] authority
shall determine the capacity of an SDA district, deemed eligible by
the commissioner pursuant to paragraph (1) of this subsection, to
manage a school facilities project or projects identified by the
[development] authority. In making the determination, the
[development] authority shall consider the experience of the SDA
district, the size, complexity, and cost of the project, time
constraints, and other relevant factors.

(3) The [development] authority, in consultation with the
commissioner, shall develop and implement training programs,
seminars, or symposia to provide technical assistance to SDA
districts deemed to lack the capacity to manage a school facility
project or projects; except that nothing herein shall be construed to
require the [development] authority or the commissioner to authorize an SDA district to hire additional staff in order to achieve capacity.

(4) If the [development] authority determines to delegate a school facilities project to an SDA district in accordance with paragraph (2) of this subsection, the [development] authority, the commissioner, and the district shall enter into a grant agreement.

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

8. Section 9 of P.L.2008, c.39 (C.18A:7G-13.1) is amended to read as follows:

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

(cf: P.L.2008, c.39, s.9)

9. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to read as follows:

14. Notwithstanding any other provisions of law to the contrary:

a. The [financing] authority shall have the power, pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2007, c.137 (C.52:18A-235 et al.) and P.L. , c. ( pending before the Legislature as this bill) , to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19) for the purposes of: financing all or a portion of the costs of school facilities projects and any costs related to the issuance thereof, including, but not limited to, the administrative, insurance, operating and other expenses of the [financing] authority to undertake the financing, [and the development authority to undertake the] planning, design, and construction of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects and any costs related to the issuance thereof; funding the grants to be made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of the bonds, notes or other obligations issued by the [financing] authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed: $100,000,000 for the State share of costs for county vocational school district school facilities projects;
$6,000,000,000 for the State share of costs for Abbott district school facilities projects; and $2,500,000,000 for the State share of costs for school facilities projects in all other districts. The aggregate principal amount of the bonds, notes or other obligations issued by the [financing] authority as authorized pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed: $2,900,000,000 for the State share of costs of SDA district school facilities projects; and $1,000,000,000 for the State share of costs for school facilities projects in all other districts, $50,000,000 of which shall be allocated for the State share of costs for county vocational school district school facilities projects. This limitation shall not include any bonds, notes or other obligations issued for refunding purposes.

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

b. The [financing] authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.), [and] P.L.2007, c.137 (C.52:18A-235 et al.) ; and P.L. , c. (C. ) (pending before the Legislature as this bill); provided that notwithstanding any other law to the contrary, no resolution adopted by the [financing] authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the [financing] authority and the State Treasurer. The [financing] authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the [financing] authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the [financing] authority for the purposes set forth in this act may be paid by the [financing] authority from amounts it receives from the proceeds of
the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the [financing] authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section.

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

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

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

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

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

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

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

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

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

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

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

f. Bonds and refunding bonds issued by the [financing] authority pursuant to this section shall be special and limited obligations of the [financing] authority payable from, and secured by, funds and moneys determined by the [financing] authority in accordance with this section. Notwithstanding any other provision of law or agreement to the contrary, any bonds and refunding bonds issued by the [financing] authority pursuant to this section shall not be secured by the same property as bonds and refunding bonds issued by the [financing] authority to finance projects other than school facilities projects. Neither the members of the [financing] authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the [financing] authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the [financing] authority shall contain a statement to that effect on their face.

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

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

i. [Upon the issuance by the financing authority of bonds pursuant to this section, other than refunding bonds, the net proceeds of the bonds shall be transferred to the development authority.] (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill) (cf: P.L.2008, c.39, s.4)

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

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

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

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

(cf: P.L.2008, c.39, s.5)

11. Section 16 of P.L.2000, c.72 (C.18A:7G-16) is amended to
read as follows:

16. In addition to the other powers and duties which have been
granted to the financing authority, whenever any local unit
finances the construction or acquisition of a school facilities project
which would otherwise qualify under this act except that the debt
was issued prior to the effective date of this act, the financing
authority may refinance the debt issued by the local unit through the
issuance of bonds secured by repayments of loans made to the local
units and may purchase the work or improvement and lease the
same to the district, subject to the approval of the State Treasurer;
except that the amount of the purchase price for a school facilities
project shall not exceed the original cost. Each loan to a local unit
pursuant to this section shall be evidenced by local unit obligations
and shall be authorized and issued as provided by law.
Notwithstanding the provisions of any law to the contrary, the local
unit obligations may be sold at private sale to the financing
authority at any price, whether or not less than par value, and shall
be subject to redemption prior to maturity at any times and at any
prices as the financing authority and the local unit may agree. All
powers, rights, obligations and duties granted to or imposed upon
the financing authority, districts, State departments and agencies
or others by this act in respect to school facilities projects shall
apply to the same extent with respect to any refinance of debt
pursuant to this section; except that any action otherwise required to
be taken at a particular time in the implementation of a school
facilities project may, when the circumstances require in connection
with a refinance of debt pursuant to this section, be taken with the
same effect as if taken at that particular time. Upon repayment of
the bonds or provision for repayment of bonds issued by the
financing authority to refinance the debt of the local unit, the
school facilities project shall be transferred to the district.

(cf: P.L.2007, c.137, s.27)
12. Section 17 of P.L.2000, c.72 (C.18A:7G-17) is amended to read as follows:

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

In regard to the increase in the amount of bonds authorized to be issued by the [financing] authority pursuant to P.L.2008, c.39 for the State share of costs for school facilities projects, debt service on the bonds or refunding bonds issued or incurred by the [financing] authority pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and any additional costs authorized pursuant to that section shall first be payable from revenues received from the gross income tax pursuant to the "New Jersey Gross Income Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), except for debt service and additional costs for the administrative, insurance, operating, and other expenses of the [financing authority and the development] authority incurred in connection with school facilities projects.

(cf: P.L.2008, c.39, s.6)

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

18. The State Treasurer and the [financing] authority are authorized to enter into one or more contracts to implement the payment arrangement provided for in section 17 of P.L.2000, c.72 (C.18A:7G-17). The contract shall provide for payment by the State Treasurer of the amounts required pursuant to section 17 of P.L.2000, c.72 (C.18A:7G-17) and shall set forth the procedure for the transfer of moneys for the purpose of that payment. The contract shall contain terms and conditions as determined by the parties and shall, where appropriate, contain terms and conditions necessary and desirable to secure any bonds or refunding bonds of the [financing] authority issued or incurred pursuant to this act; provided that notwithstanding any other provision of law or regulation of the [financing] authority to the contrary, the [financing] authority shall be paid only such funds as shall be determined by the contract, and the incurrence of any obligation of
the State under the contract, including any payments to be made
thereunder from the General Fund, shall be subject to and
dependent upon appropriations being made from time to time by the
Legislature for the purposes of this act.
(cf: P.L.2007, c.137, s.29)

14. Section 19 of P.L.2000, c.72 (C.18A:7G-19) is amended to
read as follows:

   19. a. The [financing] authority may make and contract to
make loans to local units in accordance with and subject to the
provisions of this act to finance all or any portion of the cost of a
school facilities project which the local unit may lawfully undertake
or acquire and for which the local unit is authorized by law to
borrow money; or to refund obligations of the local unit which were
issued to provide funds to pay for the cost of a school facilities
project. The loans may be made subject to the terms and conditions
the [financing] authority determines to be consistent with the
purposes of this act. Each loan by the [financing] authority and the
terms and conditions thereof shall be subject to approval by the
State Treasurer.

   b. Each loan to a local unit shall be evidenced by local unit
obligations and shall be authorized and issued as provided by law.
Notwithstanding the provisions of any other law to the contrary, the
local unit obligations may be sold at private sale to the [financing]
authority at any price, whether or not less than par value, and shall
be subject to redemption prior to maturity at any times and at any
prices as the [financing] authority and the local unit may agree.
Each loan to a local unit and the local unit obligations issued to
evidence the loan shall bear interest at a rate or rates per annum,
including zero interest, and shall be repaid in whole or in part, as
the [financing] authority and the local unit may agree, with the
approval of the State Treasurer.
(cf: P.L.2007, c.137, s.30)

15. Section 20 of P.L.2000, c.72 (C.18A:7G-20) is amended to
read as follows:

   20. A local unit may purchase, lease, rent, sublease or otherwise
acquire any school facilities project or any space within a project
and pay the amounts as may be agreed upon between the local unit
and the [development] authority as the purchase price, rent or other
charge therefor; provided that the terms and conditions of the
agreement between the [development] authority and the local unit
relating to the purchase, lease, rental or sublease shall be subject to
the approval of the State Treasurer.
(cf: P.L.2007, c.137, s.31)
16. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to read as follows:

21. a. In the event that a local unit has failed or is unable to pay to the [financing authority or the development] authority in full when due any local unit obligations issued by the local unit to the [financing] authority, including, but not limited to, any lease or sublease obligations, or any other moneys owed by the district to the [financing] authority, to assure the continued operation and solvency of the authority, the State Treasurer shall pay directly to the [financing] authority an amount sufficient to satisfy the deficiency from State aid payable to the local unit; provided that if the local unit is a school district, the State aid shall not include any State aid which may otherwise be restricted pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). As used in this section, local unit obligations include the principal or interest on local unit obligations or payment pursuant to a lease or sublease of a school facilities project to a local unit, including the subrogation of the [financing] authority to the right of the holders of those obligations, any fees or charges payable to the [financing] authority, and any amounts payable by a local unit under a service contract or other contractual arrangement the payments under which are pledged to secure any local unit obligations issued to the [financing] authority by another local unit.

b. If the [financing] authority requires, and if there has been a failure or inability of a local unit to pay its local unit obligations to the [financing] authority for a period of 30 days, the chairman or the executive director of the [financing] authority shall certify to the State Treasurer, with written notice to the fiscal officer of the local unit, the amount remaining unpaid, and the State Treasurer shall pay that amount to the [financing] authority; or if the right to receive those payments has been pledged or assigned to a trustee for the benefit of the holders of bonds or refunding bonds of the [financing] authority, to that trustee, out of the State aid payable to the local unit, until the amount so certified has been paid. Notwithstanding any provision of this act to the contrary, the State Treasurer's obligation to pay the [financing] authority pursuant to this section shall not extend beyond the amount of State aid payable to the local unit.

c. The amount paid to the [financing] authority pursuant to this section shall be deducted from the appropriation or apportionment of State aid payable to the local unit and shall not obligate the State to make, nor entitle the local unit to receive, any additional appropriation or apportionment. The obligation of the State Treasurer to make payments to the [financing] authority or trustee and the right of the [financing] authority or trustee to receive those payments shall be subject and subordinate to the
rights of holders of qualified bonds issued prior to the effective date
of this act pursuant to P.L.1976, c.38 (C.40A:3-1 et seq.) and
(cf: P.L.2007, c.260, s.47)

17. Section 22 of P.L.2000, c.72 (C.18A:7G-22) is amended to
read as follows:

22. a. The [financing authority and the development] authority
shall have the power to accept and use any funds appropriated and
paid by the State to the [financing authority and the development]
authority for the purposes for which the appropriations are made.
The [financing authority and the development] authority shall have
the power to apply for and receive and accept appropriations or
grants of property, money, services or reimbursements for money
previously spent and other assistance offered or made available to it
by or from any person, government agency, public authority or any
public or private entity whatever for any lawful corporate purpose
of the [financing authority or the development] authority, including, without limitation, grants, appropriations or
reimbursements from the federal government, and to apply and
negotiate for the same upon such terms and conditions as may be
required by any person, government agency, authority or entity as
the [financing authority or the development] authority may
determine to be necessary, convenient or desirable.

b. The [development] authority and the State Treasurer may
establish a financial incentive program for the purpose of promoting
donations to school facilities projects. Any entity which makes a
donation approved by the State Treasurer to the preliminary eligible
costs of a school facilities project shall receive an incentive
payment pursuant to the provisions of this subsection. The amount
of the incentive payment shall equal 50% of the fair market value of
the donation but shall not in any one year exceed one-half of the
amount of taxes paid or otherwise due from the donor pursuant to
Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), as applicable, for
the tax year in which the donation is made. The fair market value of
a non-cash donation shall be determined by the State Treasurer. The
carry-forward for incentive payments shall not be inconsistent with
that allowed by P.L.1976, c.47 (C.54A:1-1 et seq.) in the case of a
donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.)
in the case of a donation by a corporation.

All incentive payments made pursuant to this section shall be
funded by and shall be subject to annual appropriations for this
purpose, and shall in no way rely upon funds raised by the issuance
of bonds for school facilities projects.
(cf: P.L.2007, c.137, s.33)
18. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to read as follows:

23. a. Not less than the prevailing wage rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in the performance of construction contracts in connection with any school facilities project that is undertaken by the [development] authority, a redevelopment entity, or a district and any contractor who violates the provisions of this subsection shall be prohibited from subsequently bidding on any State or district contract.

b. Registration fees collected pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and administrative costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the Department of Labor and Workforce Development.

(cf: P.L.2007, c.137, s.34)

19. Section 24 of P.L.2000, c.72 (C.18A:7G-24) is amended to read as follows:

24. The [development] authority, in consultation with the State Treasurer[, the financing authority,] and the commissioner, shall biannually submit to the Governor, the Joint Budget Oversight Committee, the President of the Senate and the Speaker of the General Assembly a report on the school facilities construction program established pursuant to the provisions of this act. The report shall be submitted no later than June 1 and December 1 of each year and shall include, but not be limited to, the following information for the prior six-month period: the number of school facilities projects approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); the number of projects undertaken and funded by the [development] authority; the information on construction contracts required to be compiled pursuant to section 1 of P.L.2010, c.96 (C.18A:7G-24.1); the aggregate principal amount of bonds, notes or other obligations issued by the [financing] authority for the State share of construction and renovation of school facilities and whether there is a need to adjust the aggregate principal amount of bonds, notes or other obligations authorized for issuance pursuant to subsection a. of section 14 of P.L.2000, c.72 (C.18A:7G-14); the number of approved projects which exceeded the facilities efficiency standards, the components of those projects which exceeded the standards, and the amount of construction by individual districts and Statewide estimated to have exceeded the standards; and recommendations for changes in the school facilities construction program established pursuant to this act which have been
formulated as a result of its experience with the program or through collaboration with program stakeholders.

In addition, the biannual report shall include a comparison of the costs of school facilities projects undertaken and funded by the [development] authority to similar school facilities projects constructed in the New York City Metropolitan Statistical Area and the Philadelphia Metropolitan Statistical Area as defined by the United States Department of Labor. The [development] authority shall include in the report an explanation of the methodology used in making the comparison.

(cf: P.L.2010, c.96, s.2)

20. Section 1 of P.L.2010, c.96 (C.18A:7G-24.1) is amended to read as follows:

1. Notwithstanding any provision of law, rule, or regulation to the contrary, the [New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237)] authority shall biannually compile information for inclusion in the biannual report required to be submitted by the [development] authority pursuant to section 24 of P.L.2000, c.72 (C.18A:7G-24) on the number of school facilities project construction contracts entered into between the [development] authority and minority and women contractors during the prior six-month period covered in the report. The information shall include the total value of the contracts and the percentage that those contracts represent of all school facilities project contracts entered into between the [development] authority and contractors in the prior six-month period.

(cf: P.L.2010, c.96, s.1)

21. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to read as follows:

26. a. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of sections 1 through 12 and 57 and 58 and 64 of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.); 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 rules and regulations as the commissioner deems necessary to implement the provisions of sections 1 through 12 and 57 and 58 and 64 of this act which shall be effective for a period not to exceed 12 months. Determinations made by the commissioner pursuant to this act and the rules and regulations adopted by the commissioner to implement this act shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division.
of the Superior Court. The regulations shall thereafter be amended, 
adopted or re-adopted by the State Board of Education in 
accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et 
seq.).

b. The [development] authority shall adopt, pursuant to the 
seq.), rules and regulations necessary to implement the provisions 
(C.52:18A-235 et al.) and P.L., c. (C.) (pending before the 
Legislature as this bill) that apply to the [development] authority; 
except that notwithstanding any provision of P.L.1968, c.410 
(C.52:14B-1 et seq.) to the contrary, the [development] authority 
may adopt immediately upon filing with the Office of 
Administrative Law, such rules and regulations as the 
[development] authority deems necessary which shall be effective 
for a period not to exceed 12 months and shall thereafter be 
amended, adopted or re-adopted by the authority, in accordance 
with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

The rules and regulations promulgated by the New Jersey 
Schools [Construction Corporation] Development Authority 
pursuant to the provisions of [P.L.2000, c.72 (C.18A:7G-1 et al.)] 
P.L.2007, c.137 (C.52:18A-235 et al.) shall remain in full force and 
effect unless subsequently revised by the [development] authority 
following the enactment of [P.L.2007, c.137 (C.52:18A-235 et al.)] 
P.L., c. (C.) (pending before the Legislature as this bill).

c. Any regulations adopted to implement this act shall include 
provisions to ensure that all programs necessary to comply with 
(cf: P.L.2007, c.137, s.36)

22. Section 27 of P.L.2000, c.72 (C.18A:7G-27) is amended to 
read as follows:

27. All property of the [development authority and the 
financing] authority shall be exempt from levy and sale by virtue of 
an execution and no execution or other judicial process shall issue 
against the same nor shall any judgment against the [development 
authority or the financing] authority be a charge or lien upon its 
property; provided that nothing herein contained shall apply to or 
limit the rights of the holder of any bonds, notes or other 
obligations to pursue any remedy for the enforcement of any pledge 
or lien given by the [development authority or the financing] 
authority on or with respect to any project, school facilities project, 
or any revenues or other moneys. 
(cf: P.L.2007, c.137, s.37)

23. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to 
read as follows:
59. The [development] authority shall establish a process for
the prequalification of contractors that desire to bid on school
facilities projects. A contractor shall not be permitted to bid on such
a school facilities project unless the contractor has been
prequalified pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).
The prequalification process shall apply to general contractors,
construction managers, and contractors including those in the
following areas:

1. plumbing and gas fitting and all work and materials kindred
thereto;
2. steam and hot water heating and ventilating apparatus, steam
power plants and all work and materials kindred thereto;
3. (3) electrical work; and
4. (4) structural steel and miscellaneous iron work and materials.
The prequalification process established by the New Jersey
Schools [Construction Corporation] Development Authority
pursuant to the provisions of [P.L.2000, c.72 (C.18A:7G-1 et al.)]
P.L.2007, c.137 (C.52:18A-235 et al.) shall remain in full force and
effect unless subsequently revised by the [development] authority
following the enactment of [P.L.2007, c.137 (C.52:18A-235 et al.)]
P.L. , c. (C. ) (pending before the Legislature as this bill).
(cf: P.L.2007, c.137, s.38)

24. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to
read as follows:

60. a. The prequalification process shall include a requirement
that the contractor proposing to submit bids on a school facilities
project submit a statement under oath on a form designated by the
[development] authority. The form shall fully describe and
establish the financial ability, responsibility, plant and equipment,
organization, ownership, relationships and prior experience of the
prospective bidder and any other pertinent and material facts as may
be deemed necessary by the [development] authority. The
submission shall include:

1. A certified, audited financial statement or compilation of
financial statements or other documentation of financial status
acceptable to the [development] authority;
2. Proof of any contractor or trade license required by law for
any trade or specialty area in which the contractor is seeking
prequalification and a statement as to whether any contractor or
trade license has been revoked;
3. A statement as to bonding capacity, which shall be from a
surety authorized to issue bid, performance and payment bonds in
the State of New Jersey in accordance with N.J.S.2A:44-143
through N.J.S.2A:44-147 to the contractor, and shall indicate
aggregate bonding limits;
A list of the names and titles of all individuals who own 10% or more of any class of stock in the corporation or are a 10% or more partner in the firm. If any of the aforementioned stockholders or partners is itself a corporation, or a partnership, that entity shall also provide the information specified herein; disclosure of any judgments, convictions or criminal indictments for any conduct constituting a crime under local, State or federal law; disclosure of any unsatisfied judgments, injunctions or liens obtained by a governmental agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any government agency; disclosure of any determination for violations of federal, State or local laws, rules or regulations, including health laws, unemployment insurance or workers’ compensation coverage or claim requirements, the "Employee Retirement Income Security Act of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws, environmental laws, safety laws, licensing laws and antitrust laws; disclosure of any federal, State or local debarments, non-responsibility findings or denials of prequalification; disclosure of any bankruptcy filings or proceedings; a statement as to past performance, which shall give an accurate and complete record of work completed in the past five years by the contractor giving the names of the projects, type of work, location, contract price, bid and final contract amount paid and the names of the owner and of the architect or engineer in charge for the owner. This statement shall also disclose any labor problems experienced, any failure to complete a contract on schedule, any penalties, judgments, orders or liens imposed by reason of any contract undertaken within the five-year period and whether the contractor has been defaulted for cause on any project as determined by an unappealed or nonappealable decision. This statement shall also indicate the status of any litigation pending against the potential bidder. The contractor shall be required to attach to this statement all performance evaluations in his possession for any work performed by the contractor on any public or private projects; a statement as to organization, which shall demonstrate the adequacy of such organization to undertake a school facilities project. This statement shall include the resumes of the management and professional staff; a statement setting forth the contractor’s equipment inventory and technical resources; and a statement on staffing capabilities, including labor sources, staffing plans, turnover rates, and any use of registered apprenticeship programs and journeyman training programs.
b. After the receipt of the submission provided for in subsection a. of this section, the [development] authority may verify information provided in the contractor's submission, including applicable license and certificate requirements, federal or State debarments and violations of law. The [development] authority may also conduct random inquiries or surveys of the contractor's prior customers.

c. Based upon the submission provided for in subsection a. of this section the [development] authority shall assign a contractor the following classification and limits for the purpose of determining the types of projects for which a contractor is entitled to bid:

   (1) a trade or work classification; and
   (2) an aggregate rating limit.

To effectuate these requirements of the prequalification process, the [development] authority shall develop rules and regulations for assigning classifications and aggregate limits.

d. The classification shall be made and an immediate notice thereof shall be sent to the contractor by registered or certified mail or other legally valid methods.

e. The [development] authority shall establish procedures to permit contractors to challenge a classification made pursuant to this section.

f. The prequalification submission shall include an affidavit which acknowledges receipt of information regarding the appropriate federal Bureau of Apprenticeship and Training apprenticeship laws and regulations as adopted by the State and information regarding the county apprenticeship coordinators and the federal Bureau of Apprenticeship and Training.

g. The [development] authority shall maintain a registry of all contractors prequalified to bid on school facilities projects. The registry shall include the classification of the bidder and aggregate building limit.

(cf: P.L.2007, c.137, s.39)

25. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to read as follows:

   61. a. A contractor's prequalification classification shall be valid for 24 months. A contractor shall be reclassified after the 24-month period in order to remain eligible to bid on school facilities projects.
   b. Any material changes relevant to the prequalification process shall be reported by the contractor to the [development] authority in writing within 10 days. Based on the information provided, the [development] authority may change the classification or revoke prequalification for cause.

(cf: P.L.2007, c.137, s.40)
26. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to read as follows:

62. a. A mandatory uniform performance evaluation shall be conducted on all school facilities projects undertaken by the [development] authority. The evaluation shall, at a minimum, include cost, schedule adherence and quality.

b. A contractor shall be notified of a performance evaluation. The contractor shall be afforded an opportunity to respond to an adverse evaluation.

c. The contractor performance evaluations shall be utilized in reviewing bid submissions.

(cf: P.L.2007, c.137, s.41)

27. Section 66 of P.L.2000, c.72 (C.18A:7G-40) is amended to read as follows:

66. A contractor who has been prequalified as a bidder on school facilities projects in accordance with the process established by the [development] authority pursuant to section 59 of P.L.2000, c.72 (C.18A:7G-33) shall not be required to undergo any other prequalification process to bid on a school facilities project.

(cf: P.L.2007, c.137, s.42)

28. Section 1 of P.L.2009, c.225 (C.18A:7G-41.1) is amended to read as follows:

1. a. As used in this section:

"affiliate" means any firm or person having an overt or covert relationship such that any one of them directly or indirectly controls or has power to control another;

"firm" or "person" means any natural person, association, company, contractor, corporation, joint stock company, limited liability company, partnership, sole proprietorship, or other business entity, including their assignees, lessees, receivers, or trustees.

b. The New Jersey [Schools] Economic Development Authority shall not restrict the ability of a firm or person that holds a valid classification or a valid prequalification, as applicable, issued by the Division of Property Management and Construction in the Department of the Treasury from competing for contracts or other work in any of the construction categories or trades or specific professional disciplines for which the firm or person holds a classification or prequalification.

Nothing in this section shall be construed to prohibit the [development] authority from requiring the prequalification of a firm or person by the [development] authority in accordance with the provisions of section 59 of P.L.2000, c.72 (C.18A:7G-33).

c. Notwithstanding any provision of subsection b. of this section to the contrary, a firm or person or an affiliate thereof shall not serve as a general contractor or as a subcontractor or as a
subconsultant on an authority project for which the firm or person
serves as the construction manager.
(cf: P.L.2009, c.225, s.1)

29. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to
read as follows:
71. a. In the case of any school facilities project which has a
State share of 100%, the [development] authority may require the
use of wrap-up insurance coverage for the project and shall
establish the terms and requirements for any such coverage.
b. For any school facilities project which has a State share of
less than 100%, the district may elect to purchase wrap-up
insurance coverage for the school facilities project. A district may
purchase the coverage on its own or may enter into a joint
purchasing agreement with one or more other districts to purchase
coverage.
c. As used in this section, "wrap-up insurance coverage" means
a single insurance and loss control program for all parties involved
in the school facilities project, including the owners, administrators,
contractors and all tiers of subcontractors, which is controlled and
authorized by the owner or financing administrator and applicable
to defined construction work sites. Wrap-up insurance coverage
may include, but not be limited to, workers' compensation and
employers' liability, commercial general liability, umbrella/excess
liability, builder's risk, architects' and engineers' errors and
omissions, liability, environmental liability, and force majeure.
(cf: P.L.2007, c.137, s.43)

30. Section 14 of P.L.2007, c.137 (C.18A:7G-45) is amended to
read as follows:
14. a. In the event that the [development] authority funds 100%
of the cost of the acquisition of land for the construction of a school
facilities project and as a result of the construction of that project a
school building located in the district and the land upon which the
school building is situate are no longer necessary for educational
purposes, title to the land together with the school building on the
land shall be conveyed to and shall vest in the New Jersey
Schools Economic Development Authority [established pursuant
to section 3 of P.L.2007, c.137 (C.52:18A-237)] when it is
determined by the [development] authority that such conveyance is
in the best interest of the [development] authority. The district
shall execute any documents including, but not limited to, a deed of
conveyance necessary to accomplish the transfer of title.
b. The [development] authority may retain or sell the land and
buildings on that land acquired pursuant to subsection a. of this
section. In the event the [development] authority elects to sell, it
shall use a competitive process. The proceeds of that sale shall be
applied to the costs of school facilities projects of the district.

c. The transfer of title pursuant to subsection a. of this section
shall occur in accordance with a schedule determined by the
[development] authority. The schedule may provide that the
transfer occur prior to the completion of the construction of the new
school facilities project if the [development] authority deems it
necessary in order to complete additional school facilities projects
within the district.

(cf: P.L.2007, c.137, s.14)

31. Section 15 of P.L.2007, c.137 (C.18A:7G-46) is amended to
read as follows:

15. If land is necessary to be acquired in connection with a
school facilities project in an SDA district, the board of education
of the district and the governing body of the municipality in which
the district is situate shall jointly submit to the commissioner and to
the [development] authority a complete inventory of all district-
and municipal-owned land located in the municipality. The
inventory shall include a map of the district showing the location of
each of the identified parcels of land. The board of education and
giving body of the municipality shall provide an analysis of
why any district- or municipal-owned land is not suitable as a site
for a school facilities project identified in the district's long-range
facilities plan. The inventory shall be updated as needed in
connection with any subsequent school facilities projects for which
it is necessary to acquire land.

(cf: P.L.2007, c.260, s.48)

32. Section 16 of P.L.2007, c.137 (C.18A:7G-47) is amended to
read as follows:

16. a. Whenever the board of education of an SDA district
submits to the New Jersey [Schools] Economic Development
Authority [established pursuant to P.L.2007, c.137 (C.52:18A-235
et al.)] information on a proposed preferred site for the construction
of a school facilities project, the [development] authority shall file
a copy of a map, plan or report indicating the proposed preferred
site with the county clerk of the county within which the site is
located and with the municipal clerk, planning board, and building
inspector of the municipality within which the site is located.

b. Whenever a map, plan, or report indicating a proposed
preferred site for the construction of an SDA district school
facilities project is filed by the [development] authority pursuant to
subsection a. of this section, any municipal approving authority
before granting any site plan approval, building permit, or approval
of a subdivision plat, or exercising any other approval power with
respect to the development or improvement of any lot, tract, or
parcel of land which is located wholly or partially within the proposed preferred site shall refer the site plan, application for a building permit or subdivision plat or any other application for proposed development or improvement to the [development authority for review and recommendation as to the effect of the proposed development or improvement upon the construction of the school facilities project.

c. A municipal approving authority shall not issue any site plan approval or building permit or approve a subdivision plat or exercise any other approval power with respect to the development or improvement of the lot, tract, or parcel of land without the recommendation of the [development authority until 45 days following referral to the [development authority pursuant to subsection b. of this section. Within that 45-day period, the [development authority may:

(1) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land of probable intention to acquire the whole or any part thereof, and no further action shall be taken by the approving authority for a further period of 180 days following receipt of notice from the [development authority. If within the 180-day period the [development authority has not acquired, agreed to acquire, or commenced an action to condemn the property, the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law; or

(2) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land that the [development authority has no objection to the granting of the permit or approval for which application has been made. Upon receipt of the notice the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law.

(cf: P.L.2007, c.260, s.49)

33. Section 2 of P.L.2018, c.90 (C.18A:18A-60) is amended to read as follows:

2. a. As used in this section:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Bundling" means the use of a solicitation for multiple projects in one single contract, through a public-private partnership project delivery method, the result of which restricts competition.

"Project" shall have the same meaning as provided in section 3 of P.L.2000, c.72 (C.18A:7G-3) for school facilities project, and shall include any infrastructure or facility used or to be used by the public or in support of a public purpose or activity.
"Public-private partnership agreement" means an agreement entered into by a school district and a private entity pursuant to this section for the purpose of permitting a private entity to assume full financial and administrative responsibility for the development, construction, reconstruction, repair, alteration, improvement, extension, operation, and maintenance of a school facilities project of, or for the benefit of, the school district.

"School district" shall have the same meaning as provided in section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local school district, regional school district, or county special services school district or county vocational school established and operating under the provisions of Title 18A of the New Jersey Statutes that can demonstrate to the satisfaction of the Commissioner of Education and the Chief Executive Officer of the [Schools] Economic Development Authority that a school facility is necessary due to overcrowding or is in need of replacement. The term "school district" shall include a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.)

b. (1) A school district may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for a project of, or for the benefit of, the school district, provided that the project is financed in whole by the private entity.

(2) A public-private partnership agreement may include an agreement under which a school district and a private entity enter into a lease of a revenue-producing public building, structure, or facility in exchange for up-front or structured financing by the private entity for the project. Under the lease agreement, the private entity shall be responsible for the management, operation, and maintenance of the building, structure, or facility. The private entity shall receive some or all, as per the agreement, of the revenue generated by the building, structure, or facility, and shall operate the building, structure, or facility in accordance with school district standards. At the end of the lease term, subsequent revenue generated by the building, structure, or facility, along with management, operation, and maintenance responsibility, shall revert to the school district. A lease agreement entered into pursuant to this section shall be limited in duration to a term of not more than 30 years. A lease agreement shall be subject to all applicable provisions of current law governing leases by a school district not inconsistent with the provisions of this section.

(3) Bundling of projects shall be prohibited under this section.

c. (1) A private entity that assumes financial and administrative responsibility for a project pursuant to this section shall not be subject to, unless otherwise set forth herein, the procurement and contracting requirements of all statutes applicable to the school
district at which the project is completed, including, but not limited to, the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

(2) For the purposes of facilitating the financing of a project pursuant to this section, a public entity may become the owner or lessee of the project or the lessee of the land, or both, may become the lessee of a building, structure, or facility to which the school district holds title, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the school district pursuant to a solicitation of proposals or qualifications from at least two private entities. For the purposes of this subsection, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under "The New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

(3) Prior to the commencement of work on a project, the private entity shall establish a construction account and appoint a third-party financial institution, who shall be prequalified by the State Treasurer to act as a collateral agent and manage the construction account. The construction account shall include the funding, financial instruments, or both, that shall be used to fully capitalize and fund the project, and the collateral agent shall maintain a full accounting of the funds and instruments in the account. The funds and instruments in the construction account shall be held in trust for the benefit of the contractor, construction manager, and design-build team involved in the project. The funds and instruments in the construction account shall not be the property of the private entity unless all amounts due to the construction account beneficiaries are paid in full. The construction account shall not be designated for more than one project.

d. Each worker employed in the construction, rehabilitation, or building maintenance services of facilities by a private entity that has entered into a public-private partnership agreement with a school district pursuant to this section shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

e. (1) All building construction projects under a public-private partnership agreement entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
seq.), and shall be in a manner that to the greatest extent possible
enhances employment opportunities for individuals residing in the
county of the project's location. The general contractor,
construction manager, design-build team, or subcontractor for a
construction project proposed in accordance with this paragraph
shall be registered pursuant to the provisions of P.L.1999, c.238
(C.34:11-56.48 et seq.), and shall be classified by the Division of
Property Management and Construction, or shall be prequalified by
the Department of Transportation, as appropriate, to perform work
on a public-private partnership project.

(2) All projects proposed in accordance with this section shall
be submitted to the State Treasurer, in consultation with the
Department of Education[ , Schools Development Authority, ] and
the New Jersey Economic Development Authority, for a review and
approval in accordance with subsection f. of this section prior to the
execution of the public-private partnership agreement and, when
practicable, are encouraged to adhere to the Leadership in Energy
and Environmental Design Green Building Rating System as
adopted by the United States Green Building Council, the Green
Globes Program adopted by the Green Building Initiative, or a
comparable nationally recognized, accepted, and appropriate
sustainable development rating system.

(3) The general contractor, construction manager, or design-
build team shall be required to post a performance bond to ensure
the completion of the project and a payment bond guaranteeing
prompt payment of moneys due in accordance with and conforming
to the requirements of N.J.S.2A:44-143 et seq.

(4) Prior to being submitted to the State Treasurer for review
and approval, all projects proposed in accordance with this section
shall be subject to a public hearing, the record of which shall have
been kept open for a period of seven days following the conclusion
of the hearing, after the ranking of proposals takes place pursuant to
paragraph (5) of subsection j. of this section. The school district
shall provide notice of the public hearing no less than 14 days prior
to the date of the hearing. The notice shall prominently state the
purpose and nature of the proposed project, and shall be published
on the official Internet website of the school district and in at least
one or more newspapers with Statewide circulation.

(5) Prior to entering into a public-private partnership, the
school district must determine: (i) the benefits to be realized by the
project, (ii) the cost of the project if it is developed by the public
sector supported by comparisons to comparable projects, (iii) the
maximum public contribution that the school district will allow
under the public-private partnership, (iv) a comparison of the
financial and non-financial benefits of the public-private
partnership compared to other options including the public sector
option, (v) a list of risks, liabilities and responsibilities to be
transferred to the private entity and those to be retained by the
school district, and (vi) if the project has a high, medium or low
level of project delivery risk and how the public is protected from
these risks.

(6) Prior to entering into a public-private partnership, the
school district at a public hearing shall find that the project is in the
best interest of the public by finding that (i) it will cost less than the
public sector option, or if it costs more there are factors that warrant
the additional expense (ii) there is a public need for the project and
the project is consistent with existing long-term plans, (iii) there are
specific significant benefits to the project, (iv) there are specific
significant benefits to using the public-private partnership instead
of other options including No-Build (v) the private development
will result in timely and efficient development and operation and (vi)
the risks, liabilities and responsibilities transferred to the
private entity provide sufficient benefits to warrant not using other
means of procurement.

f. (1) All projects proposed in accordance with this section
shall be submitted to the State Treasurer for review and approval,
which shall be conducted in consultation with the Commissioner of
the Department of Education and the Chief Executive Officer of the
[Schools] Economic Development Authority. The Commissioner
of the Department of Education shall determine if a project is
subject to voter approval pursuant to N.J.S.[A.] 18A:24-10. If a
project is subject to voter approval, such approval is required prior
to progressing thru the procurement process. The projects are
encouraged, when practicable, to adhere to the green building
manual prepared by the Commissioner of Community Affairs
pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).

(2) All projects proposed in accordance with this section that
have a transportation component or impact the transportation
infrastructure shall be submitted to the Department of
Transportation. The State Treasurer shall consult with the
Department of Transportation in making its final determination.

(3) (a) In order for an application to be complete and considered
by the State Treasurer, the application shall include, but not be
limited to: (i) a full description of the proposed public-private
partnership agreement between the school district and the private
developer, including all information obtained by and findings of the
school district pursuant to paragraphs (4) and (5) of subsection (e)
of this section; (ii) a full description of the project, including a
description of any agreement for the lease of a revenue-producing
facility related to the project; (iii) the estimated costs and financial
documentation for the project showing the underlying financial
models and assumptions that determined the estimated costs. The
financial documentation must include at least three different
projected estimated costs showing scenarios in which materially
different economic circumstances are assumed and an explanation
for how the estimated costs were determined based on the three
scenarios; (iv) a timetable for completion of the construction of the project; (v) an analysis of all available funding options for the project, including an analysis of the financial viability and advisability of such project, along with evidence of the public benefit in advancing the project as a public-private partnership; (vi) a record of the public hearing held pursuant to paragraph (4) of subsection e. of this section, which shall have been kept open for a period of seven days following the conclusion of the hearing; (vii) any other requirements that the State Treasurer deems appropriate or necessary. The application shall also include a resolution by the school district's governing body of its intent to enter into a public-private partnership agreement pursuant to this section.

(b) As part of the estimated costs and financial documentation for the project, the application shall contain a long-range maintenance plan and a long-range maintenance bond and shall specify the expenditures that qualify as an appropriate investment in maintenance. The long-range maintenance plan shall be approved by the State Treasurer pursuant to regulations promulgated by the State Treasurer that reflect national building maintenance standards and other appropriate building maintenance benchmarks.

(4) The State Treasurer, in consultation with the authority, the Commissioner of the Department of Education, and the Chief Executive Officer of the Schools Development Authority, shall review all completed applications, and request additional information as is needed to make a complete assessment of the project. No public-private partnership agreement shall be executed until approval has been granted by the State Treasurer. Prior to a final decision by the State Treasurer on the application, the authority, and the Department of Education, and the Schools Development Authority shall be afforded the opportunity to provide comments on the application that they deem appropriate, and the State Treasurer shall consider any comments submitted by the authority, and the Department of Education, and the Schools Development Authority with respect to the application. The State Treasurer will find that: (i) the school district's assumptions regarding the project's scope, its benefits, its risks and the cost of the public sector option were fully and reasonably developed (ii) the design of the project is feasible; (iii) the experience and qualifications of the private entity; (iv) the financial plan is sound; (v) the long-range maintenance plan is adequate to protect the investment; (vi) the project is in the best interest of the public, using the criteria in paragraph (6) of subsection e. of this section; (vii) a resolution by the school district's governing body of its intent to enter into a public-private partnership agreement for the project has been received; and (viii) the term sheet for any proposed procurement contains all necessary elements.
(5) The State Treasurer, in consultation with the Commissioner of the Department of Education and Chief Executive Officer of the Schools Economic Development Authority, may promulgate any rules and regulations necessary to implement this subsection, including, but not limited to, provisions for fees to cover administrative costs, and for the determination of minimum school district standards for the operation of the project, and for the qualification for professional services, construction contracting, and other relevant qualifications.

g. A project with an expenditure of under $50 million developed under a public-private partnership agreement shall include a requirement that precludes contractors from engaging in the project if the contractor has contributed to the private entity's financing of the project in an amount of more than 10% of the project's financing costs.

h. The power of eminent domain shall not be delegated to any private entity under the provisions of P.L.2018, c.90 (C.40A:11-52 et al.); however, a school district may dedicate any property interest, including improvements, and tangible personal property of the school district for public use in a qualifying project if the school district finds that so doing will serve the public purpose of the project by minimizing the cost of the project to the school district or reducing the delivery time of a project.

i. Any public-private partnership agreement, if appropriate, shall include provisions affirming that the agreement and any work performed under the agreement are subject to the provisions of the "Construction Industry Independent Contractor Act." P.L.2007, c.114 (C.34:20-1 et seq.). Any public-private partnership agreement will also include, at a minimum: (i) the term of the agreement, (ii) the total project cost, (iii) a completion date guarantee, (iv) a provision for damages if the private entity fails to meet the completion date and (v) a maximum rate of return to the private entity and a provision for the distribution of excess earnings to the local government unit or to the private party for debt reduction.

j. (1) A private entity seeking to enter into a public-private partnership agreement with the school district shall be qualified by the school district as part of the procurement process, provided such process ensures that the private entity and its subcontractors and consultants, where relevant, meet at least the minimum qualifications standards promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, Department of Education, Schools Development Authority, and such other school district standards for qualification for professional services, construction contracting, and other qualifications applicable to the project, prior to submitting a proposal under the procurement process.

(2) A request for qualifications for a public-private partnership agreement shall be advertised at least 45 days prior to the
anticipated date of receipt. The advertisement of the request for qualifications shall be published on the official Internet website of the school district and at least one or more newspapers with Statewide circulation.

(3) After the school district determines the qualified respondents utilizing, at minimum, the qualification standards promulgated by the State Treasurer, the school district shall issue a request for proposals to each qualified respondent no less than 45 days prior to the date established for submission of the proposals. The request for proposals shall include relevant technical submissions, documents, and the evaluation criteria to be used in the selection of the designated respondent. The evaluation criteria shall be, at minimum, criteria promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, and the Department of Education, and Schools Development Authority.

(4) The school district may accept unsolicited proposals from private entities for public-private partnership agreements. If the school district receives an unsolicited proposal and determines that it meets the standards of this section, the school district shall publish a notice of the receipt of the proposal on the Internet site of the school district and through advertisement in at least one or more newspapers with Statewide circulation. The school district shall also provide notice of the proposal at its next scheduled public meeting and to the State Treasurer. To qualify as an unsolicited proposal, the unsolicited proposal must at a minimum include a description of the public-private project, the estimated construction and life-cycle costs, a timeline for development, proposed plan of financing, including projected revenues, public or private, debt, equity investment, description of how the project meets needs identified in existing plans, the permits and approvals needed to develop the project from local, state and federal agencies and a projected schedule for obtaining such permits and approvals, a statement of risks, liabilities and responsibilities to be assumed by the private entity. The notice shall provide that the school district will accept, for 120 days after the initial date of publication, proposals meeting the standards of this section from other private entities for eligible projects that satisfy the same basic purpose and need. A copy of the notice shall be mailed to each municipal and county local government body in the geographic area affected by the proposal.

(5) After the proposal or proposals have been received, and any public notification period has expired, the school district shall rank the proposals in order of preference. In ranking the proposals, the school district shall rely upon, at minimum, the evaluation criteria promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, and the Department of Education, and Schools Development Authority. In addition, the
local school district may consider factors that include, but may not be limited to, professional qualifications, general business terms, innovative engineering, architectural services, or cost-reduction terms, finance plans, and the need for school district funds to deliver the project and discharge the agreement. The private entity selected shall comply with all laws and regulations required by the State government entity, including but not limited to section 1 of P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975, c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25.24-2), P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-51 et al.), Executive Order No. 117 of 2008, Executive Order No. 118 of 2008, Executive Order No. 189, prior to executing the public private partnership agreement. If only one proposal is received, the school district shall negotiate in good faith and, if not satisfied with the results of the negotiations, the school district may, at its sole discretion, terminate negotiations.

(6) The school district may require, upon receipt of one or more proposals, that the private entity assume responsibility for all costs incurred by the school district before execution of the public-private partnership agreement, including costs of retaining independent experts to review, analyze, and advise the school district with respect to the proposal.

(7) The school district shall set aside one percent of each project and remit it the Public-Private Partnership Review fund established pursuant to section 8 of P.L.2018, c.90 (C.52:18A-260), for purposes of plan review and analysis required under the bill.

(8) Nothing in this section shall be construed as or deemed a waiver of the sovereign immunity of the State, the local government unit or an affected locality or public entity or any officer or employee thereof with respect to the participation in or approval of all or any part of the public-private project. (cf: P.L.2018, c.90, s.2)

34. N.J.S.18A:22-39 is amended to read as follows:

18A:22-39. Whenever the undertaking of any capital project or projects to be paid for from the proceeds of an issue or issue of bonds is submitted to the voters of a type II district at an annual or special school election for their approval or disapproval, the board shall frame and adopt by a recorded roll call majority vote of its full membership the question or questions to be submitted so that each project is submitted in a separate question, or all or any number of them are submitted in one question, which shall state the project or projects so submitted and the amounts to be raised for each of the projects so separately submitted or for each or for all of the projects so jointly submitted, as the case may be, but any proposal for the purchase of land shall be sufficient to authorize the taking and condemning of such land. If the project is to be constructed by the New Jersey School Economic Development Authority or a
redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the local share and shall disclose the final eligible costs of the project as approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and in the case of a demonstration project pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6), and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs. If the school facilities project is not to be constructed by the New Jersey Schools Economic Development Authority or a redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the total costs of the project, shall disclose State debt service aid for the project and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs of the project. When a project is framed in more than one question, a summary shall be included in the explanatory statement which accompanies the questions that includes the total costs of the project, total State debt service aid, and, if applicable, the amount of the costs of the project which are in addition to the final eligible costs of the project, and any individual question containing costs in addition to the final eligible costs shall include the amount of those additional costs. The statement of additional costs in any ballot question and in any explanatory statement that accompanies a ballot question shall describe the additional costs as follows: "This project includes $(insert amount) for school facility construction elements in addition to the facilities efficiency standards developed by the Commissioner of Education."

(cf: P.L.2007, c.137, s.50)

35. Section 4 of P.L.2011, c.176 (C.18A:36C-4) is amended to read as follows:

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 no later than three years following the effective date of P.L.2011, c.176 (C.18A:36C-1 et seq.); except that in the case of a project to be located in a renaissance school district which is in a municipality that is subject to the "Municipal Rehabilitation and Economic Recovery Act." P.L.2002, c.43 (C.52:27BBB-1 et al.), the application must be submitted no later than four years following the effective date of P.L.2011, c.176 (C.18A:36C-1 et seq.). 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. In addition, an entity retained by the nonprofit entity for the purpose
of financing or constructing the renaissance school project shall also have appropriate experience.

b. The application shall be in a form prescribed by the commissioner, but at a minimum it shall contain the following:

(1) except as otherwise provided in this paragraph, 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. In the case of a district under full or partial State intervention with an advisory board of education, the application shall contain evidence that that State district superintendent or superintendent, as applicable, convened at least three public meetings to discuss the merits of the renaissance school project. The evidence shall include, at a minimum, any written public comments received during those meetings. In the case of these districts, the application shall contain a resolution from the advisory board of education reflecting the board's approval or disapproval of the renaissance school project. While a successful application does not require approval from the advisory board of education, the commissioner, in considering the application, shall give due consideration to any disapproval from the advisory board;

(2) a copy of the amendment to the renaissance school district's long-range facilities plan which has been submitted to the commissioner pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4) that includes the proposed renaissance school project;

(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;

(7) the total number of students to be enrolled in each grade 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 initial school facility in which the renaissance school project will be located and an affirmation that any other school facility or facilities in which the renaissance school project will be located will be in the required urban campus area. For any school facility other than the initial
school facility included in the application pursuant to this paragraph, the nonprofit entity shall notify the Commissioner of Education of the location of the facility at least one year prior to the opening of the facility;
(11) documentation that the proposed renaissance school project meets school facility regulations promulgated by the State Board of Education pertaining to the health and safety of the pupils;
(12) documentation of a funding plan to acquire necessary lands and to construct a renaissance school project thereon, including the terms of any financing secured for such purpose;
(13) (Deleted by amendment, P.L.2013, c.149)
(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 Economic Development Authority or the renaissance school district;
(15) a description of the process employed by the renaissance school district to find and partner with the chosen nonprofit entity to create a renaissance school project. The description shall be sufficient to show that the process employed by the renaissance school district was open, fair, and subject to public input and comment. The description shall, at a minimum, include any requests for proposals issued by the renaissance school district, the number of responses received, and the process and criteria employed by the renaissance school district to select the chosen nonprofit entity among the respondents; and
(16) such other information as the commissioner may require.
(cf: P.L.2014, c.61, s.2)

36. Section 8 of P.L.2011, c.176 (C.18A:36C-8) is amended to read as follows:

8. a. (1) In the case of a renaissance school project built on land owned by the New Jersey Schools Economic 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, except as otherwise provided in paragraph (2) of this subsection. 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 reside in the renaissance school district but 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.
(2) A renaissance school project built on land owned by the New Jersey Economic Development Authority or the renaissance school district, shall allow any student who was enrolled in the renaissance school project in the immediately preceding school year to enroll in the renaissance school project in the appropriate grade unless the appropriate grade is not offered; and if a grade is at capacity, a student enrolled in the immediately preceding school year shall have priority for enrollment in that grade over a student who would otherwise be eligible for initial enrollment in the renaissance school project automatically based on the fact that he resides in the attendance area established by the renaissance school project for that property.

b. (1) In the case of a renaissance school project which is not built on land owned by the New Jersey Economic 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. The first lottery shall include students who reside in the renaissance school district but outside the attendance area identified in the application approved by the commissioner for the renaissance school project. If space remains available, a second lottery shall be conducted that may include students who reside outside of the renaissance school district.

(2) A renaissance school project which is not built on land owned by the New Jersey Economic Development Authority or the renaissance school district shall allow any student who was enrolled in the renaissance school project in the immediately preceding school year to enroll in the renaissance school project in the appropriate grade unless the appropriate grade is not offered.

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 person with a disability, 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.

(cf: P.L.2017, c.131, s.29)

37. Section 11 of P.L.2011, c.176 (C.18A:36C-11) is amended to read as follows:
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] Economic 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.

b. Notwithstanding any other law to the contrary, in the event 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 land be used solely for the renaissance school project or it shall revert to the school district. (cf: P.L.2011, c.176, s.11)

38. Section 2 of P.L.1974, c.80 (C.34:1B-2) is amended to read as follows:

2. The Legislature hereby finds and determines that:
   a. Department of Labor and Workforce Development statistics of recent years indicate a continuing decline in manufacturing employment within the State, which is a contributing factor to the drastic unemployment existing within the State, which far exceeds the national average, thus adversely affecting the economy of the State and the prosperity, safety, health and general welfare of its inhabitants and their standard of living; that there is an urgent need to protect and enhance the quality of the natural environment and to reduce, abate and prevent environmental pollution derived from the operation of industry, utilities and commerce within the State; and that the availability of financial assistance and suitable facilities are important inducements to new and varied employment promoting enterprises to locate in the State, to existing enterprises to remain and expand in the State, and to industry, utilities and commerce to reduce, abate and prevent environmental pollution.
   b. The provision of buildings, structures and other facilities to increase opportunity for employment in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State is in the public interest and it is a public purpose for the State to induce and to accelerate opportunity for employment in such enterprises.
c. In order to aid in supplying these needs and to assist in the immediate reduction of unemployment and to provide sufficient employment for the citizens of the State in the future, it is necessary and in the public interest to aid and encourage the immediate commencement of new construction projects of all types, to induce and facilitate the acquisition and installation at an accelerated rate of such devices, equipment and facilities as may be required to reduce, abate and prevent environmental pollution by industry, utilities and commerce.

d. The availability of financial assistance by the State will reduce present unemployment and improve future employment opportunities by encouraging and inducing the undertaking of such construction projects, the location, retaining or expanding of employment promoting enterprises within the State, and the accelerated acquisition and installation of energy saving improvements and pollution control devices, equipment and facilities.

e. In many municipalities in our State substantial and persistent unemployment exists; and many existing residential, industrial, commercial and manufacturing facilities within such municipalities are either obsolete, inefficient, dilapidated or are located without regard to the master plans of such municipalities; and the obsolescence and abandonment of existing facilities will increase with further technological advances, the provision of modern, efficient facilities in other states and the difficulty which many municipalities have in attracting new facilities; and that many existing and planned employment promoting facilities are far from or not easily accessible to the places of residence of substantial numbers of unemployed and underemployed persons.

f. By virtue of their architectural and cultural heritage, their positions as principal centers of communication and transportation and their concentration of productive and energy efficient facilities, many municipalities are capable of ameliorating the conditions of deterioration which impede sound community growth and development; and that building a proper balance of housing, industrial and commercial facilities and increasing the attractiveness of such municipalities to persons of all income levels is essential to restoring such municipalities as desirable places to live, work, shop and enjoy life's amenities; that the accomplishment of these objectives is beyond remedy solely by the regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the powers provided herein, and that the exercise of the powers herein provided is critical to continuing the process of revitalizing such municipalities and will serve an urgent public use and purpose.

The Legislature further determines that in order to aid in remedying the aforesaid conditions and to further and implement the purposes of this act, that there shall be created a body politic
and corporate having the powers, duties and functions provided in this act; and that the authority and powers conferred under this act, and the expenditure of moneys pursuant thereto constitute a serving of a valid public purpose; and that the enactment of the provisions hereinafter set forth is in the public interest and for the public benefit and good, and is hereby so declared to be as a matter of express legislative determination.

The Legislature further finds and determines that:

g. It is essential that this and future generations of young people be given the fullest opportunity to learn and develop their intellectual capacities; that institutions of public elementary and secondary education within the State be provided with the appropriate additional means required to assist these young citizens in achieving the required levels of learning and the complete development of their intellectual abilities; and that the resources of the State be employed to meet the tremendous demand for public elementary and secondary educational opportunities.

h. Public elementary and secondary educational facilities are an integral part of the effort in this State to provide educational opportunities; it is the purpose of P.L.2000, c.72 (C.18A:7G-1 et al.) [and] P.L.2007, c.137 (C.52:18A-235 et al.) and P.L.____, c.____ (C._______) (pending before the Legislature as this bill) to provide a measure of assistance and an alternative method of financing to enable school districts to provide the facilities which are so critically needed; the inventory of public elementary and secondary school buildings and the equipment and capital resources currently available are aging, both chronologically and technologically; and the current funding at the federal, State, and local levels and the current mechanisms for construction of these capital projects are inadequate to meet the demonstrated need for school facilities, and these inadequacies necessitate additional sources of funding and the coordination of construction activities at the State level to meet those needs.

i. While the credit status of New Jersey's school districts is sound, it can be economically more reasonable to finance the costs of developing the educational infrastructure of the State's public elementary and secondary schools by providing for the funding of capital projects through the issuance of bonds, notes or other obligations by the New Jersey Economic Development Authority, to be retired through annual payments made by the State subject to appropriation by the State Legislature, and to provide for the use of the proceeds of those bonds, notes or other obligations to pay for educational infrastructure projects; and such a structure would substantially reduce the costs of financing and provide for a more efficient use of the funds available for the development of the educational infrastructure.

The New Jersey Economic Development Authority also has substantial and significant experience in undertaking major capital
construction projects, has a system of internal controls and procedures to ensure the integrity of construction activities, and is therefore the appropriate entity to undertake the planning, design, construction, and operation of educational infrastructure projects.

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

(cf: P.L.2007, c.137, s.51)

39. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as follows:

3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.), P.L.1992, c.16 (C.34:1B-7.10 et al.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), [and] P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the Legislature as this bill), unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority, created by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Bonds" means bonds or other obligations issued by the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and refunding bonds issued by the authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) [and] P.L.2007, c.137 (C.52:18A-235 et al.) , and P.L. , c. (C. ) (pending before the Legislature as this bill).

"Cost" means the cost of the acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility including water transmission facilities, or other improvement; the cost of machinery and equipment; the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of energy saving improvements or pollution control devices, equipment or facilities; the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or useful and convenient for any project or school facilities project or in connection therewith; discount on bonds; cost of issuance of bonds; engineering and inspection costs; costs of financial, legal, professional and other estimates and advice; organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be necessary or incident to the financing, acquisition, construction or completion of any project or school facilities project or part thereof, and also such provision for reserves for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine.
"County" means any county of any class.
"County solid waste facility" means a solid waste facility that is designated by a public authority or county in its adopted district solid waste management plan as approved by the department prior to November 10, 1997 as the in-county facility to which solid waste generated within the boundaries of the county is transported for final disposal, or transfer for transportation to an offsite solid waste facility or designated out-of-district disposal site for disposal, as appropriate, pursuant to interdistrict or intradistrict waste flow orders issued by the department, regardless of whether the county solid waste facility was acquired, constructed, operated, abandoned or canceled.

"Department" means the Department of Environmental Protection.

"Development property" means any real or personal property, interest therein, improvements thereon, appurtenances thereto and air or other rights in connection therewith, including land, buildings, plants, structures, systems, works, machinery and equipment acquired or to be acquired by purchase, gift or otherwise by the authority within an urban growth zone.

"Person" means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, or other legal entities, including public or governmental bodies, as well as natural persons. "Person" shall include the plural as well as the singular.

"Pollution control project" means any device, equipment, improvement, structure or facility, or any land and any building, structure, facility or other improvement thereon, or any combination thereof, whether or not in existence or under construction, or the refinancing thereof in order to facilitate improvements or additions thereto or upgrading thereof, and all real and personal property deemed necessary thereto, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, thermal pollution control facility, radiation contamination control facility, wastewater collection system, wastewater treatment works, sewage treatment works system, sewage treatment system or solid waste facility or site; provided that the authority shall have received from the Commissioner of the State Department of Environmental Protection or the commissioner's duly authorized representative a certificate stating the opinion that, based upon information, facts and circumstances available to the State Department of Environmental Protection and any other pertinent data, (1) the pollution control facilities do not conflict with, overlap or duplicate any other planned or existing pollution control facilities undertaken or planned by another public agency or authority within any political
subdivision, and (2) the facilities, as designed, will be a pollution
control project as defined in the provisions of P.L.1974, c.80
(C.34:1B-1 et seq.) and are in furtherance of the purpose of abating
or controlling pollution.

"Project" means: (1) (a) acquisition, construction, reconstruction,
repair, alteration, improvement and extension of any building,
structure, facility, including water transmission facilities or other
improvement, whether or not in existence or under construction, (b)
purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or
provision of utilities, access roads and other appurtenant facilities;
and (2) (a) the acquisition, financing, or refinancing of inventory,
raw materials, supplies, work in process, or stock in trade, or (b) the
financing, refinancing or consolidation of secured or unsecured
debt, borrowings, or obligations, or (c) the provision of financing
for any other expense incurred in the ordinary course of business;
all of which are to be used or occupied by any person in any
enterprise promoting employment, either for the manufacturing,
processing or assembly of materials or products, or for research or
office purposes, including, but not limited to, medical and other
professional facilities, or for industrial, recreational, hotel or motel
facilities, public utility and warehousing, or for commercial and
service purposes, including, but not limited to, retail outlets, retail
shopping centers, restaurant and retail food outlets, and any and all
other employment promoting enterprises, including, but not limited
to, motion picture and television studios and facilities and
commercial fishing facilities, commercial facilities for recreational
fishermen, fishing vessels, aquaculture facilities and marketing
facilities for fish and fish products and (d) acquisition of an equity
interest in, including capital stock of, any corporation; or any
combination of the above, which the authority determines will: (i)
tend to maintain or provide gainful employment opportunities
within and for the people of the State, or (ii) aid, assist and
encourage the economic development or redevelopment of any
political subdivision of the State, or (iii) maintain or increase the
tax base of the State or of any political subdivision of the State, or
(iv) maintain or diversify and expand employment promoting
enterprises within the State; and (3) the cost of acquisition,
construction, reconstruction, repair, alteration, improvement and
extension of an energy saving improvement or pollution control
project which the authority determines will tend to reduce the
consumption in a building devoted to industrial or commercial
purposes, or in an office building, of nonrenewable sources of
energy or to reduce, abate or prevent environmental pollution
within the State; and (4) the acquisition, construction,
reconstruction, repair, alteration, improvement, extension,
development, financing or refinancing of infrastructure, including
parking facilities or structures, and transportation facilities or
improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i) reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if determined by the authority as necessary and in the public interest to maintain employment and the tax base of any political subdivision and will facilitate improvements thereto or the completion thereof, and (ii) development property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). Project shall not include a school facilities project.

"Public authority" means a municipal or county utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control financing authority created pursuant to the "New Jersey Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that has issued solid waste facility bonds or that has been designated by the county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21) to supervise the implementation of the district solid waste management plan.

"Revenues" means receipts, fees, rentals or other payments to be received on account of lease, mortgage, conditional sale, or sale, and payments and any other income derived from the lease, sale or other disposition of a project, moneys in such reserve and insurance funds or accounts or other funds and accounts, and income from the investment thereof, established in connection with the issuance of bonds or notes for a project or projects, and fees, charges or other moneys to be received by the authority in respect of projects or school facilities projects and contracts with persons.

"Resolution" means any resolution adopted or trust agreement executed by the authority, pursuant to which bonds of the authority are authorized to be issued.
"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for source separated recyclable materials or source separated food waste collected by livestock producers approved by the State Department of Agriculture to collect, prepare and feed such wastes to livestock on their own farms.

"Solid waste disposal" means the storage, treatment, utilization, processing, or final disposal of solid waste.

"Solid waste facility bonds" means the bonds, notes or other evidences of financial indebtedness issued by, or on behalf of, any public authority or county related to the planning, design, acquisition, construction, renovation, installation, operation or management of a county solid waste facility.

"Solid waste facilities" means, and includes, the plants, structures and other real and personal property acquired, constructed or operated by, or on behalf of, any county or public authority pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, including co-composting facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Energy saving improvement" means the construction, purchase and installation in a building devoted to industrial or commercial purposes of any of the following, designed to reduce the amount of energy from nonrenewable sources needed for heating and cooling that building: insulation, replacement burners, replacement high efficiency heating and air conditioning units, including modular boilers and furnaces, water heaters, central air conditioners with or without heat recovery to make hot water for industrial or commercial purposes or in office buildings, and any solar heating or cooling system improvement, including any system which captures solar radiation to heat a fluid which passes over or through the collector element of that system and then transfers that fluid to a point within the system where the heat is withdrawn from the fluid for direct usage or storage. These systems shall include, but not necessarily be limited to, systems incorporating flat plate, evacuated tube or focusing solar collectors. The foregoing list shall not be construed to be exhaustive, and shall not serve to exclude other improvements consistent with the legislative intent of the provisions of P.L.1983, c.282.

"Urban growth zone" means any area within a municipality receiving State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) or a municipality certified by the
Commissioner of Community Affairs to qualify under such law in every respect except population, which area has been so designated pursuant to an ordinance of the governing body of such municipality.

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a school district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.).

"Local unit" means a county, municipality, board of education or any other political entity authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law.

"Other facilities" means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration.

"Refunding bonds" means bonds, notes or other obligations issued to refinance bonds previously issued by the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.) [and] P.L.2007, c.137 (C.52:18A-235 et al.) [and] P.L. [pending before the Legislature as this bill].

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project.

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings, and facilities such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities.

(cf: P.L.2009, c.57, s.1)

40. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

5. The authority shall have the following powers:
a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project or school facilities project; provided, however, that the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project in qualifying municipalities as defined under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project or the school facilities project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project and any project financed pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

g. To sell, convey or lease to any person all or any portion of a project or school facilities project, for such consideration and upon such terms as the authority may determine to be reasonable;


i. To grant options to purchase or renew a lease for any of its projects or school facilities projects on such terms as the authority may determine to be reasonable;
j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), [and] P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the Legislature as this bill), with the terms and conditions thereof;

k. In connection with any action undertaken by the authority in the performance of its duties and any application for assistance or commitments therefor and modifications thereof, to require and collect such fees and charges as the authority shall determine to be reasonable, including but not limited to fees and charges for the authority's administrative, organizational, insurance, operating, legal, and other expenses;


m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), [and] sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), and P.L. , c. (C. ) (pending before the Legislature as this bill);

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sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), and P.L., c. (C.____) (pending before the Legislature as
this bill):
q. To extend credit or make loans to any person for the
planning, designing, acquiring, constructing, reconstructing,
improving, equipping and furnishing of a project or school facilities
project, which credits or loans may be secured by loan and security
agreements, mortgages, leases and any other instruments, upon such
terms and conditions as the authority shall deem reasonable,
including provision for the establishment and maintenance of
reserve and insurance funds, and to require the inclusion in any
mortgage, lease, contract, loan and security agreement or other
instrument, of such provisions for the construction, use, operation
and maintenance and financing of a project or school facilities
project as the authority may deem necessary or desirable;
  r. To guarantee up to 90% of the amount of a loan to a person,
if the proceeds of the loan are to be applied to the purchase and
installation, in a building devoted to industrial or commercial
purposes, or in an office building, of an energy improvement
system;
s. To employ consulting engineers, architects, attorneys, real
estate counselors, appraisers, and such other consultants and
employees as may be required in the judgment of the authority or
the redevelopment utility to carry out the purposes of P.L.1974,
c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), and P.L., c. (C.____) (pending before the Legislature as
this bill), and to fix and pay their compensation from funds
available to the redevelopment utility therefor, all without regard to
the provisions of Title 11A of the New Jersey Statutes;
t. To do and perform any acts and things authorized by
P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
(C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), and P.L., c. (C.____) (pending before the Legislature as
this bill), under, through or by means of its own officers, agents and
employees, or by contract with any person;
u. To procure insurance against any losses in connection with
its property, operations or assets in such amounts and from such
insurers as it deems desirable;
v. To do any and all things necessary or convenient to carry out
its purposes and exercise the powers given and granted in P.L.1974,

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To construct school facilities projects and to enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the authority or the redevelopment utility to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), [and] P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the Legislature as this bill), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts, [The New Jersey Schools Development Authority,] any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), [and] sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) and P.L. , c. (C. ) (pending before the Legislature as this bill):

aa. (Deleted by amendment, P.L.2007, c.137);

bb. To make and contract to make loans or leases and to make grants to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other
obligations issued or to be issued by local units to evidence the
loans or leases, all in accordance with the provisions of P.L.2000,
al.), and P.L. , c. (C. ) (pending before the Legislature as
this bill):
cc. Subject to any agreement with holders of its bonds issued to
finance a project or school facilities project, obtain as security or to
provide liquidity for payment of all or any part of the principal of
and interest and premium on the bonds of the authority or for the
purchase upon tender or otherwise of the bonds, lines of credit,
letters of credit, reimbursement agreements, interest rate exchange
agreements, currency exchange agreements, interest rate floors or
caps, options, puts or calls to hedge payment, currency, rate, spread
or similar exposure or similar agreements, float agreements,
forward agreements, insurance contract, surety bond, commitment
to purchase or sell bonds, purchase or sale agreement, or
commitments or other contracts or agreements, and other security
agreements or instruments in any amounts and upon any terms as
the authority may determine and pay any fees and expenses required
in connection therewith;

dd. To charge to and collect from local units, the State and any
other person, any fees and charges in connection with the
authority's actions undertaken with respect to school facilities
projects, including, but not limited to, fees and charges for the
authority's administrative, organization, insurance, operating and
other expenses incident to the financing, construction, and placing
into service and maintenance of school facilities projects;

e. To make loans to refinance solid waste facility bonds
through the issuance of bonds or other obligations and the execution
of any agreements with counties or public authorities to effect the
refunding or rescheduling of solid waste facility bonds, or otherwise
provide for the payment of all or a portion of any series of solid
waste facility bonds. Any county or public authority refunding or
rescheduling its solid waste facility bonds pursuant to this
subsection shall provide for the payment of not less than fifty
percent of the aggregate debt service for the refunded or
rescheduled debt of the particular county or public authority for the
duration of the loan; except that, whenever the solid waste facility
bonds to be refinanced were issued by a public authority and the
county solid waste facility was utilized as a regional county solid
waste facility, as designated in the respective adopted district solid
waste management plans of the participating counties as approved
by the department prior to November 10, 1997, and the utilization
of the facility was established pursuant to tonnage obligations set
forth in their respective interdistrict agreements, the public
authority refunding or rescheduling its solid waste facility bonds
pursuant to this subsection shall provide for the payment of a
percentage of the aggregate debt service for the refunded or
rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time;

ff. To pool loans for any local government units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units;

gg. To finance projects approved by the board, provide staff support to the board, oversee and monitor progress on the part of the board in carrying out the revitalization, economic development and restoration projects authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities pursuant thereto;

hh. To offer financial assistance to qualified film production companies as provided in the "New Jersey Film Production Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); [and]

ii. To finance or develop private or public parking facilities or structures, which may include the use of solar photovoltaic equipment, in municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and to provide appropriate assistance, including but not limited to, extensions of credit, loans, and guarantees, to municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and their agencies and instrumentalities or to private entities whose projects are located in those municipalities, in order to facilitate the financing and development of parking facilities or structures in such municipalities. The authority may serve as the
issuing agent of bonds to finance the undertaking of a project for
the purposes of this subsection; and

jj. To enter into leases, rental, or other disposition of a real
property interest in and of any school facilities project to or from
any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.),
(pending before the Legislature as this bill).
(cf: P.L.2010, c.28, s.3)

41. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
read as follows:

1. The New Jersey Economic Development Authority shall
adopt rules and regulations requiring that not less than the
prevailing wage rate be paid to workers employed in the
performance of any construction contract, including contracts for
millwork fabrication, undertaken in connection with authority
financial assistance or any of its projects, those projects which it
undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or
school facilities projects, or undertaken to fulfill any condition of
receiving authority financial assistance, including the performance
of any contract to construct, renovate or otherwise prepare a facility
for operations which are necessary for the receipt of authority
financial assistance, unless the work performed under the contract is
performed on a facility owned by a landlord of the entity receiving
the assistance and less than 55% of the facility is leased by the
entity at the time of the contract and under any agreement to
subsequently lease the facility. The prevailing wage rate shall be
the rate determined by the Commissioner of Labor and Workforce
Development pursuant to the provisions of P.L.1963, c.150
(C.34:11-56.25 et seq.). For the purposes of this section, "authority
financial assistance" means any loan, loan guarantee, grant,
incentive, tax exemption or other financial assistance that is
approved, funded, authorized, administered or provided by the
authority to any entity and is provided before, during or after
completion of a project, including but not limited to, all authority
financial assistance received by the entity pursuant to the "Business
et al.) that enables the entity to engage in a construction contract,
but this section shall not be construed as requiring the payment of
the prevailing wage for construction commencing more than two
years after an entity has executed with the authority a commitment
letter regarding authority financial assistance and the first payment
or other provision of the assistance is received.
(cf: P.L.2007, c.245)

42. Section 4 of P.L.1979, c.303 (C.34:1B-5.4) is amended to
read as follows:
4. a. The New Jersey Economic Development Authority shall adopt rules and regulations to establish an affirmative action program for the hiring of minority workers employed in the performance of construction contracts undertaken in connection with any of its projects or school facilities projects, and to expand the business opportunities of socially and economically disadvantaged contractors and vendors seeking to provide materials and services for those contracts, consistent with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and the authority shall provide for the proper enforcement and administration of such rules and regulations.

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

(cf: P.L.2007, c.137, s.55)

43. Section 50 of P.L.2000, c.72 (C.34:1B-5.5) is amended to read as follows:

50. In the exercise of powers granted by P.L.2000, c.72 (C.18A:7G-1 et al.) [and] P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the Legislature as this bill) in connection with any school facilities project, any and all claims, damages, losses, liabilities or costs that the authority may incur shall be payable only from the amounts made available to the authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) [and], P.L.2007, c.137 (C.52:18A-235 et al.) , and P.L. , c. (C. ) (pending before the Legislature as this bill). In connection with any agreement or contract entered into by the authority relating to any school facilities project, there shall be no recovery against the authority for punitive or consequential damages arising out of contract nor shall there be any recovery against the authority for claims based upon implied warranties or upon contracts implied in law.

(cf: P.L.2007, c.137, s.56)

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

54. Notwithstanding the provisions of any law to the contrary, any bonds issued pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) or P.L.2008, c.39 (C.18A:7G-14.1 et al.) or P.L. , c. (C. ) (pending before the Legislature as this bill) shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting the bond or coupon shall be conclusively deemed to have agreed that the bond or coupon is and shall be fully negotiable within the meaning and for all purposes of Title 12A.

(cf: P.L.2008, c.39, s.7)
45. Section 15 of P.L.1974, c.80 (C.34:1B-15) is amended to read as follows:
15. The exercise of the powers granted by this act, P.L.2000, c.72 (C.18A:7G-1 et al.), [and] P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. , (C. ) (pending before the Legislature as his bill) shall constitute the performance of an essential governmental function and the authority shall not be required to pay any taxes or assessments upon or in respect of a project or school facilities project, or any property or moneys of the authority, and the authority, its projects and school facilities projects, property and moneys and any bonds and notes issued under the provisions of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), [and] P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. , (C. ) (pending before the Legislature as his bill), their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance and estate taxes and by any political subdivision of the State; provided, that any person occupying a project whether as lessee, vendee or otherwise shall, as long as title thereto shall remain in the authority, pay to the political subdivision in which such project is located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made and neither the authority nor its projects, properties, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. If and to the extent the proceedings under which the bonds authorized to be issued under the provisions of this act so provide, the authority may agree to cooperate with such person occupying a project, in connection with any administrative or judicial proceedings for determining the validity or amount of such payments and may agree to appoint or designate and reserve the right in and for such person to take all action which the authority may lawfully take in respect of such payments and all matters relating thereto, provided such person shall bear and pay all costs and expenses of the authority thereby incurred at the request of such person or by reason of any such action taken by such person in behalf of the authority. If such person occupying a project has paid the amounts in lieu of taxes required by this section to be paid such person shall not be required to pay any such taxes as to which a payment in lieu thereof has been made to the State or to any political subdivision, any other statute to the contrary notwithstanding. (cf: P.L.2007, c.137, s.58)

46. Section 8 of P.L.2018, c.90 (C.52:18A-260) is amended to read as follows:
8. a. There is hereby established in the Department of the Treasury the Public-Private Partnership Review Fund. The purpose of the fund will be to support financial and administrative review functions associated with the Public-Private Partnership plan review by the State Treasurer, along with the New Jersey Economic Development Authority, the Department of Community Affairs, the Department of Education, [the Schools Development Authority,] and the Department of Transportation, established by P.L.2018, c.90 (C.40A:11-52 et al.).

b. Notwithstanding the provisions of any law or regulation to the contrary, upon entering into any public-private partnership agreement which is backed, in whole or in part, by New Jersey Economic Development Authority bonds pursuant to P.L.2018, c.90 (C.40A:11-52 et al.), a public entity shall remit one percent of the portion of the revenue established under the agreement to the Department of the Treasury to be placed in the Public-Private Partnership Review Fund.

c. The State Treasurer, in coordination with any relevant agency, including the New Jersey Economic Development Authority, Department of Transportation, and Department of Community Affairs, shall provide, and make available to the public on the Internet, an annual report, not later than December 31, 2019 and each year after that year, a list of all projects reviewed and the percentage and amount of funds withheld and provided to the fund pursuant to this section. (cf: P.L.2018, c.90, s.8)

47. (New section) a. No municipality shall modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, alteration or improvement of any school facilities project of the authority, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform the work in any other or different manner than that provided by the drawings, plans and specifications, nor to require that any person, firm or corporation obtain any other or additional authority, approval, permit or certificate from the municipality in relation to the work being done, and the doing of the work by any person, firm or corporation in accordance with the terms of the drawings, plans, specifications or contracts shall not subject the person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in the contracts or incidental to the proper enforcement thereof; nor shall any municipality require the authority or any person, firm, partnership or corporation which leases or purchases the school facilities project for lease or purchase to a State agency, to obtain any other or additional authority, approval, permit, certificate or certificate of occupancy
from the municipality as a condition of owning, using, maintaining, operating or occupying any school facilities project acquired, constructed, reconstructed, rehabilitated, altered or improved by the authority or by any subsidiary thereof. The foregoing provisions shall not preclude any municipality from exercising the right of inspection for the purpose of requiring compliance by any school facilities project with local requirements for operation and maintenance affecting the health, safety and welfare of the occupants thereof, provided that the compliance does not require changes, modifications or additions to the original construction of the school facilities project.

b. Each municipality in which any school facilities project of the authority is located shall provide for the school facilities project, whether then owned by the authority, any subsidiary, any State agency or any person, firm, partnership or corporation, police, fire, sanitation, health protection and other municipal services of the same character and to the same extent as those provided for other residents of the municipality.

c. In carrying out any school facilities project, the authority may enter into contractual agreements with local government agencies with respect to the furnishing of any community, municipal or public facilities or services necessary or desirable for the school facilities project, and any local government agency may enter into these contractual agreements with the authority and do all things necessary to carry out its obligations.

48. (New section) a. In undertaking any school facilities projects where the cost of construction, reconstruction, rehabilitation or improvement will exceed $25,000, the authority may prepare, or cause to be prepared, separate plans and specifications for: (1) the plumbing and gas fitting and all work and materials kindred thereto, (2) the steam and hot water heating and ventilating apparatus, steam power plants and all work and materials kindred thereto, (3) the electrical work, (4) structural steel and miscellaneous iron work and materials, and (5) all general construction, which shall include all other work and materials required to complete the building.

b. The authority shall advertise and receive (1) separate bids for each of the branches of work specified in subsection a. of this section; or (2) bids for all the work and materials required to complete the school facilities project to be included in a single overall contract, in which case there shall be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract for the furnishing of any of the work and materials specified in branches (1) through (4) in subsection a. of this section; or (3) both.

c. Contracts shall be awarded as follows: (1) if bids are received in accordance with paragraph (1) of subsection b. of this
section, the authority shall determine the responsible bidder for each branch whose bid, conforming to the invitation for bids, will be most advantageous to the authority, price and other factors considered; (2) if bids are received in accordance with paragraph (2) of subsection b. of this section, the authority shall determine the responsible bidder for the single overall contract whose bid, conforming to the invitation for bids, will be the most advantageous to the authority, price and other factors considered; or (3) if bids are received in accordance with paragraph (3) of subsection b. of this section, the authority shall award separate contracts for each branch of work specified in subsection a. of this section if the sum total of the amounts bid by the responsible bidders for each branch, as determined pursuant to paragraph (1) of this subsection, is less than the amount bid by the responsible bidder for all of the work and materials, as determined pursuant to paragraph (2) of this subsection; but if the sum total of the amounts bid by the responsible bidder for each branch, as determined pursuant to paragraph (1) of this subsection is not less than the amount bid by the responsible bidder for all of the work and materials, as determined pursuant to paragraph (2) of this subsection, the authority shall award a single overall contract to the responsible bidder for all of the work and materials as determined pursuant to paragraph (2) of this subsection.

d. For the purposes of this section, "other factors" means the evaluation by the authority of the ability of the single contractor or the abilities of the multiple contractors to complete the contract in accordance with its requirements and includes requirements relating to the experience and qualifications of the contractor or contractors and their key personnel in projects of similar type and complexity; the performance of the contractor or contractors on prior contracts with the authority or the State; the experience and capability of the contractor or contractors and their key personnel in respect to any special technologies, techniques or expertise that the project may require; the contractor's understanding of the means and methods needed to complete the project on time and within budget; the timetable to complete the project; the contractor's plan for quality assurance and control; and other similar types of factors. The "other factors" to be considered in evaluating bids and the weights assigned to price and these "other factors" shall be determined by the authority prior to the advertisement for bids for school facilities projects. In its evaluation of bids, the consideration given to price by the authority shall be at least equal to the consideration given to the combination of all "other factors."

e. The authority shall require from all contractors to which it awards contracts pursuant to P.L. , c. (C. ) (now pending before the Legislature as this bill), the delivery of a payment performance bond issued in accordance with N.J.S.2A:44-143 et seq.
f. The authority shall adopt regulations to implement this section which shall include, but not be limited to, the procedural requirements for: (1) the evaluation and weighting of price and "other factors" in the awarding of contracts; and (2) the appealing of a prequalification classification and rating, a bid rejection and a contract award recommendation.

g. Each evaluation committee selected by the authority to review and evaluate bids shall, at a minimum, contain a representative from the district in which the school facilities project is located if such district elects to participate.

49. (New section) a. If the authority shall find it necessary in connection with the undertaking of any school facilities project to change the location of any portion of any public highway or road, it may contract with any government agency, or public or private corporation which may have jurisdiction over the public highway or road to cause the public highway or road to be constructed at such locations as the authority shall deem most favorable. The cost of the reconstruction and any damage incurred in changing the location of the highway shall be ascertained and paid by the authority as part of the cost of the school facilities project. Any public highway affected by the construction of any school facilities project may be vacated or relocated by the authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the authority as a part of the cost of the school facilities project. In all undertakings authorized by this subsection, the authority shall consult and obtain the approval of the Commissioner of Transportation.

b. The authority and its authorized agents and employees may enter upon any lands, waters and premises for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, all in accordance with due process of law, and this entry shall not be deemed a trespass nor shall an entry for this purpose be deemed an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for any actual damages resulting to the lands, waters and premises as a result of these activities.

c. The authority shall have the power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, herein called "public utility facilities," or any public utility as defined in R.S.48:2-13, in, on, along, over or under any school facilities project. Whenever the authority shall determine that it is necessary that any public utility facilities which now are, or hereafter may be, located in, on, along, over or under any school
facilities project shall be relocated in the school facilities project, or
should be removed from the school facilities project, the public
utility owning or operating the facilities shall relocate or remove
them in accordance with the order of the authority. The cost and
expenses of the relocation or removal, including the cost of
installing the facilities in a new location or new locations, and the
cost of any lands, or any rights or interests in lands, and any other
rights, acquired to accomplish the relocation or removal, shall be
ascertained and paid by the authority as a part of the cost of the
school facilities project. In case of any relocation or removal of
facilities, the public utility owning or operating them, its successors
or assigns, may maintain and operate the facilities, with the
necessary appurtenances, in the new location or new locations, for
as long a period, and upon the same terms and conditions, as it had
the right to maintain and operate the facilities in their former
location or locations. In all undertakings authorized by this
subsection the authority shall consult and obtain the approval of the
Board of Public Utilities.

50. (New section) a. The New Jersey Schools Development
Authority established pursuant to section 3 of P.L.2007, c.137
(C.52:18A-237) is abolished and all its functions, powers, duties,
and employees are transferred to the New Jersey Economic
Development Authority.
b. Whenever, in any law, rule, regulation, order, contract,
document, judicial or administrative proceeding or otherwise,
reference is made to the New Jersey Schools Development
Authority, the same shall mean and refer to the New Jersey
Economic Development Authority.
c. This transfer shall be subject to the provisions of the “State
Agency Transfer Act,” P.L.1971, c.375 (C.52:14D-1 et seq.).

51. The following sections are repealed:
Sections 1 through 13 of P.L.2007, c.137 (C.52:18A-235 through

52. Sections 33 and 46 shall take effect on February 10, 2019,
and the remainder of this act shall take effect immediately.

STATEMENT

This bill revises the school construction program established
under the “Educational Facilities Construction and Financing Act,”
(EFCFA) P.L.2000, c.72 (C.18A:7G-1 et al.). The bill will abolish
the New Jersey Schools Development Authority (SDA), which was
created pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) as a new
State authority responsible for the construction of schools in the
former Abbott districts. Under P.L.2007, c.137, the New Jersey Economic Development Authority (EDA) retained its responsibility for the financing of school construction projects. This bill transfers all the functions, powers, duties, and employees of the SDA to the EDA. The bill thereby consolidates all the construction and financing authority for school facilities projects in a single State authority, the EDA.