

ASSEMBLY, No. 4908

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 17, 2019

Sponsored by:

Assemblywoman PATRICIA EGAN JONES

District 5 (Camden and Gloucester)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

Co-Sponsored by:

Assemblyman DiMaio

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/19/2019)

A4908 JONES, DEPHILLIPS

2

1 AN ACT concerning the construction of school facilities projects,
2 revising various parts of the statutory law, and supplementing
3 Title 34 of the Revised Statutes.

4

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

7

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

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

26 b. A school facilities project that is not financed and
27 constructed pursuant to subsection a. of this section, shall continue
28 to be financed and constructed in accordance with the provisions of
29 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
30 235 et al.).
31 (cf: P.L.2015, c.257, s.1)

32

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

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

39 "Area cost allowance" means \$138 per square foot for the school
40 year 2000-2001 and shall be inflated by an appropriate cost index
41 for the 2001-2002 school year. For the 2002-2003 school year and
42 subsequent school years, the area cost allowance shall be
43 established by the commissioner pursuant to subsection h. of
44 section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance
45 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.

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

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

6 "Capital maintenance project" means a school facilities project
7 intended to extend the useful life of a school facility, including up-
8 grades and replacements of building systems, such as structure,
9 enclosure, mechanical, plumbing and electrical systems;

10 "Commissioner" means the Commissioner of Education;

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

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

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

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

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

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

47 "District aid percentage" means the number expressed as a
48 percentage derived from dividing the district's equalization aid

1 calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53)
2 as of the date of the commissioner's determination of preliminary
3 eligible costs by the district's adequacy budget calculated pursuant
4 to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the
5 commissioner's determination of preliminary eligible costs;

6 "Excess costs" means the additional costs, if any, which shall be
7 borne by the district, of a school facilities project which result from
8 design factors that are not required to meet the facilities efficiency
9 standards and not approved pursuant to paragraph (1) of subsection
10 g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized
11 as community design features included in final eligible costs
12 pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-
13 6);

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

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

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

35 "FTE" means a full-time equivalent student which shall be
36 calculated as follows: each student in grades 1 through 12 shall be
37 counted at 100% of the actual count of students, in the case of
38 districts which operate a half-day kindergarten program each
39 kindergarten student shall be counted at 50% of the actual count of
40 kindergarten students, in the case of districts which operate a full-
41 day kindergarten program or which currently operate a half-day
42 kindergarten program but propose to build facilities to house a full-
43 day kindergarten program each kindergarten student shall be
44 counted at 100% of the actual count of kindergarten students, and
45 each preschool student who is enrolled in a full-day preschool
46 program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54)
47 shall be counted at 100% of the actual count of preschool students.

1 In addition, each preschool disabled child who is entitled to receive
2 a full-time program pursuant to N.J.S.18A:46-6 shall be counted at
3 100% of the actual count of these students in the district;

4 "Functional capacity" means the number of students that can be
5 housed in a building in order to have sufficient space for it to be
6 educationally adequate for the delivery of programs and services
7 necessary for student achievement of the core curriculum content
8 standards. Functional capacity is determined by dividing the
9 existing gross square footage of a school building by the minimum
10 area allowance per FTE student pursuant to subsection b. of section
11 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students
12 contained therein. The difference between the projected enrollment
13 determined pursuant to subsection a. of section 8 of P.L.2000, c.72
14 (C.18A:7G-8) and the functional capacity is the unhoused students
15 that are the basis upon which the additional costs of space to
16 provide educationally adequate facilities for the entire projected
17 enrollment are determined. The existing gross square footage for
18 the purposes of defining functional capacity is exclusive of existing
19 spaces that are not contained in the facilities efficiency standards
20 but which are used to deliver programs and services aligned to the
21 core curriculum content standards, used to provide support services
22 directly to students, or other existing spaces that the district can
23 demonstrate would be structurally or fiscally impractical to convert
24 to other uses contained in the facilities efficiency standards;

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

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

44 "Local unit" means a county, municipality, board of education or
45 any other political subdivision or instrumentality authorized to
46 construct, operate and maintain a school facilities project and to
47 borrow money for those purposes pursuant to law;

1 "Local unit obligations" means bonds, notes, refunding bonds,
2 refunding notes, lease obligations and all other obligations of a
3 local unit which are issued or entered into for the purpose of paying
4 for all or a portion of the costs of a school facilities project,
5 including moneys payable to the [development] authority;

6 "Long-range facilities plan" means the plan required to be
7 submitted to the commissioner by a district pursuant to section 4 of
8 P.L.2000, c.72 (C.18A:7G-4);

9 "Maintenance" means expenditures which are approved for
10 repairs and replacements for the purpose of keeping a school
11 facility open and safe for use or in its original condition, including
12 repairs and replacements to a school facility's heating, lighting,
13 ventilation, security and other fixtures to keep the facility or
14 fixtures in effective working condition. Maintenance shall not
15 include capital maintenance or contracted custodial or janitorial
16 services, expenditures for the cleaning of a school facility or its
17 fixtures, the care and upkeep of grounds or parking lots, and the
18 cleaning of, or repairs and replacements to, movable furnishings or
19 equipment, or other expenditures which are not required to maintain
20 the original condition over the school facility's useful life.
21 Approved maintenance expenditures shall be as determined by the
22 commissioner pursuant to regulations to be adopted by the
23 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-
24 26);

25 "Other allowable costs" means the costs of temporary facilities,
26 site development, acquisition of land or other real property interests
27 necessary to effectuate the school facilities project, fees for the
28 services of design professionals, including architects, engineers,
29 construction managers and other design professionals, legal fees,
30 financing costs and the administrative costs of the [development
31 authority and the financing] authority or the district incurred in
32 connection with the school facilities project;

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

39 "Preliminary eligible costs" means the initial eligible costs of a
40 school facilities project as calculated pursuant to the formulas set
41 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise
42 provided pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and
43 which shall be deemed to include the costs of construction and other
44 allowable costs;

45 "Redevelopment entity" means a redevelopment entity
46 authorized by a municipal governing body to implement plans and
47 carry out redevelopment projects in the municipality pursuant to the

1 "Local Redevelopment and Housing Law," P.L.1992, c.79
2 (C.40A:12A-1 et al.);

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

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

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

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

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

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

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

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

1 determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-
2 10);

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

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

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

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

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

31

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

34 5. a. The **【development】** authority shall **【undertake and the**
35 **financing authority shall】** construct and finance the school facilities
36 projects of SDA districts.

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

41 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
42 contrary, the procedures for obtaining approval of a school facilities
43 project shall be as set forth in this act; provided that any district
44 whose school facilities project is not constructed by the
45 **【development】** authority shall also be required to comply with the
46 provisions of N.J.S.18A:18A-16.

1 d. (1) Any district seeking to initiate a school facilities project
2 shall apply to the commissioner for approval of the project. The
3 application may include, but not be limited to: a description of the
4 school facilities project; a schematic drawing of the project or, at
5 the option of the district, preliminary plans and specifications; a
6 delineation and description of each of the functional components of
7 the project; educational specifications detailing the programmatic
8 needs of each proposed space; the number of unhoused students to
9 be housed in the project; the area allowances per FTE student as
10 calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8);
11 and the estimated cost to complete the project as determined by the
12 district.

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

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

1 by using the proposed square footage of the building as the
2 approved area for unhoused students.

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

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

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

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

42 (3) To house the district's central administration, a district may
43 request an adjustment to the approved areas for unhoused students
44 of 2.17 square feet for each FTE student in the projected total
45 district school enrollment if the proposed administrative offices will
46 be housed in a school facility and the district demonstrates either
47 that the existing central administrative offices are obsolete or that it
48 is more practical to convert those offices to instructional space. To

1 the extent that existing administrative space will continue to be used
2 for administrative purposes, the space shall be included in the
3 formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

4 If the commissioner approves excess facilities efficiency
5 standards or additional area allowances pursuant to paragraph (1),
6 (2), or (3) of this subsection, the commissioner shall calculate the
7 preliminary eligible costs based upon the additional area allowances
8 or excess facilities efficiency standards pursuant to the formulas set
9 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that
10 the commissioner does not approve the excess facilities efficiency
11 standards or additional area allowances, the district may either:
12 modify its submission so that the school facilities project meets the
13 facilities efficiency standards; or pay for the excess costs.

14 (4) The commissioner shall approve spaces in excess of, or
15 inconsistent with, the facilities efficiency standards, hereinafter
16 referred to as nonconforming spaces, upon a determination by the
17 district that the spaces are necessary to comply with State or federal
18 law concerning individuals with disabilities, including that the
19 spaces are necessary to provide in-district programs and services for
20 current disabled pupils who are being served in out-of-district
21 placements or in-district programs and services for the projected
22 disabled pupil population. A district may apply for additional State
23 aid for nonconforming spaces that will permit pupils with
24 disabilities to be educated to the greatest extent possible in the same
25 buildings or classes with their nondisabled peers. The
26 nonconforming spaces may: (a) allow for the return of pupils with
27 disabilities from private facilities; (b) permit the retention of pupils
28 with disabilities who would otherwise be placed in private facilities;
29 (c) provide space for regional programs in a host school building
30 that houses both disabled and nondisabled pupils; and (d) provide
31 space for the coordination of regional programs by a county special
32 services school district, educational services commission, jointure
33 commission, or other agency authorized by law to provide regional
34 educational services in a school building that houses both disabled
35 and nondisabled pupils. A district's State support ratio shall be
36 adjusted to equal the lesser of the sum of its district aid percentage
37 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or
38 100% for any nonconforming spaces approved by the commissioner
39 pursuant to this paragraph.

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

42 (1) In the case of a district other than an SDA district, the
43 commissioner shall notify the district whether the school facilities
44 project is approved and, if so approved, the preliminary eligible
45 costs and the excess costs, if any. Following the determination of
46 preliminary eligible costs and the notification of project approval,
47 the district may appeal to the commissioner for an increase in those
48 costs if the detailed plans and specifications completed by a design

1 professional for the school facilities project indicate that the cost of
2 constructing that portion of the project which is consistent with the
3 facilities efficiency standards and does not exceed the area
4 allowances per FTE student exceeds the preliminary eligible costs
5 as determined by the commissioner for the project by 10% or more.
6 The district shall file its appeal within 30 days of the preparation of
7 the plans and specifications. If the district chooses not to file an
8 appeal, then the final eligible costs shall equal the preliminary
9 eligible costs.

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

35 (2) In the case of an SDA district, the commissioner shall
36 promptly prepare and submit to the **【development】** authority a
37 preliminary project report which shall consist, at a minimum, of the
38 following information: a complete description of the school
39 facilities project; the actual location of the project; the total square
40 footage of the project together with a breakdown of total square
41 footage by functional component; the preliminary eligible costs of
42 the project; the project's priority ranking determined pursuant to
43 subsection m. of this section; any other factors to be considered by
44 the **【development】** authority in undertaking the project; and the
45 name and address of the person from the district to contact in regard
46 to the project.

1 i. Upon receipt by the **【development】** authority of the
2 preliminary project report, the **【development】** authority, upon
3 consultation with the district, shall prepare detailed plans and
4 specifications and schedules which contain the **【development】**
5 authority's estimated cost and schedule to complete the school
6 facilities project. The **【development】** authority shall transmit to the
7 commissioner its recommendations in regard to the project which
8 shall, at a minimum, contain the detailed plans and specifications;
9 whether the school facilities project can be completed within the
10 preliminary eligible costs; and any other factors which the
11 **【development】** authority determines should be considered by the
12 commissioner.

13 (1) In the event that the **【development】** authority determines
14 that the school facilities project can be completed within the
15 preliminary eligible costs: the final eligible costs shall be deemed to
16 equal the preliminary eligible costs; the commissioner shall be
17 deemed to have given final approval to the project; and the
18 preliminary project report shall be deemed to be the final project
19 report delivered to the **【development】** authority pursuant to
20 subsection j. of this section.

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

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

40 (b) If the **【development】** authority determines that it is not
41 possible to make changes in the school facilities project so that it
42 can be completed within the preliminary eligible costs either
43 because the additional costs are the result of factors outside the
44 control of the district or the additional costs are required to meet the
45 facilities efficiency standards, the **【development】** authority shall
46 recommend to the commissioner that the preliminary eligible costs
47 be increased accordingly, whereupon the commissioner shall:

1 calculate the final eligible costs to equal the sum of the preliminary
2 eligible costs plus the increase recommended by the **【development】**
3 authority; give final approval to the project; and issue a final project
4 report to the **【development】** authority pursuant to subsection j. of
5 this section.

6 (c) If the additional costs are the result of factors that are within
7 the control of the district or are the result of design factors that are
8 not required to meet the facilities efficiency standards or approved
9 pursuant to paragraph (1) of subsection g. of this section, the
10 **【development】** authority shall recommend to the commissioner
11 that the preliminary eligible costs be accepted, whereupon the
12 commissioner shall: calculate the final eligible costs to equal the
13 preliminary eligible costs and specify the excess costs which are to
14 be borne by the district; give final approval to the school facilities
15 project; and issue a final project report to the **【development】**
16 authority pursuant to subsection j. of this section; provided that the
17 commissioner may approve final eligible costs which are in excess
18 of the preliminary eligible costs if, in his judgment, the action is
19 necessary to meet the educational needs of the district.

20 (d) For a school facilities project **【undertaken】** constructed by
21 the **【development】** authority, the **【development】** authority shall be
22 responsible for any costs of construction, but only from the
23 proceeds of bonds issued by the **【financing】** authority pursuant to
24 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
25 235 et al.), which exceed the amount originally projected by the
26 **【development】** authority and approved for financing by the
27 **【development】** authority, provided that the excess is the result of an
28 underestimate of labor or materials costs by the **【development】**
29 authority. After receipt by the **【development】** authority of the final
30 project report, the district shall be responsible only for the costs
31 associated with changes, if any, made at the request of the district to
32 the scope of the school facilities project.

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

43 k. For the SDA districts, the State share shall be 100% of the
44 final eligible costs. Except as otherwise provided pursuant to
45 section 9 of P.L.2000, c.72 (C.18A:7G-9) , for all other districts, the
46 State share shall be an amount equal to the district aid percentage;

1 except that the State share shall not be less than 40% of the final
2 eligible costs.

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

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

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

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

39 (3) Upon the commissioner's determination of the educational
40 priority ranking of school facilities projects in SDA districts
41 pursuant to paragraph (2) of this subsection, the **【development】**
42 authority, in consultation with the commissioner, the SDA districts,
43 and the governing bodies of the municipalities in which the SDA
44 districts are situate, shall establish a Statewide strategic plan to be
45 used in the sequencing of SDA district school facilities projects
46 based upon the projects' educational priority rankings and issues
47 which impact the **【development】** authority's ability to complete the
48 projects including, but not limited to, the construction schedule and

1 other appropriate factors. The **【development】** authority shall revise
2 the Statewide strategic plan and the sequencing of SDA district
3 school facilities projects in accordance with that plan no less than
4 once every five years.

5 Any amendment to an SDA district's long-range facilities plan
6 that is submitted to the commissioner in the period between the
7 five-year updates of the long-range facilities plan shall be
8 considered by the **【development】** authority, in consultation with the
9 commissioner, for incorporation into the Statewide strategic plan.
10 In making a determination on whether or not to amend the
11 Statewide strategic plan, the **【development】** authority shall consider
12 the cost of the amendment, the impact of the amendment upon the
13 school development plans for other districts, and other appropriate
14 factors.

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

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

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

38 p. Upon completion by the **【development】** authority of a
39 school facilities project, if the cost of construction and completion
40 of the project is less than the total costs, the district shall be entitled
41 to receive a portion of the local share based on a pro rata share of
42 the difference based on the ratio of the State share to the local
43 share.

44 q. The **【development】** authority shall determine the cause of
45 any costs of construction which exceed the amount originally
46 projected by the **【development】** authority and approved for
47 financing by the **【financing】** authority.

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

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

3 (cf: P.L.2009, c.185, s.1)

4

5 4. Section 1 of P.L.2015, c.68 (C.18A:7G-5a) is amended to
6 read as follows:

7 1. a. Notwithstanding the provisions of P.L.2000, c.72
8 (C.18A:7G-1 et al.) or any other section of law to the contrary, the
9 board of education of a county vocational school district may
10 request a county improvement authority to construct a county
11 vocational school district school facilities project and to issue its
12 bonds to finance the local share of a project that is to be financed
13 under section 15 of P.L.2000, c.72 (C.18A:7G-15), or to finance the
14 total costs of a project that is not to be financed under section 15 of
15 P.L.2000, c.72 (C.18A:7G-15). The bonds of a county
16 improvement authority issued to finance the total costs of a county
17 vocational school district school facilities project that is not to be
18 financed under section 15 of P.L.2000, c.72 (C.18A:7F-15) shall be
19 eligible for State debt service aid in accordance with the formula
20 established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

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

39 c. The county improvement authority shall lease the county
40 vocational school district school facilities project to the county
41 which shall then lease it for nominal consideration to the county
42 vocational school district for as long as the county improvement
43 authority bonds or refunding bonds are outstanding. Nothing in this
44 section shall be construed to authorize a county to require a county
45 vocational school district to bear any portion of the cost of the debt
46 service on the county improvement authority bonds issued to fund
47 the county vocational school district school facilities project or on
48 any refunding bonds.

1 d. The county lease payments made to the county improvement
2 authority pursuant to subsection c. of this section shall not be
3 subject to any cap on appropriations or on spending or to any tax
4 levy cap. The county lease payments shall be sufficient to pay debt
5 service on the county improvement authority bonds issued to fund
6 the county vocational school district school facilities project or on
7 any refunding bonds, that remains after the application of any State
8 debt service aid paid on those bonds pursuant to section 9 of
9 P.L.2000, c.72 (C.18A:7G-9). The county lease payments shall be
10 payable over the life of the bonds.

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

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

20

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

23 1. a. In the case of new school construction undertaken by a
24 district or the **【development】** authority, in addition to the Best
25 Practices Standards for Schools under Construction or Being
26 Planned for Construction set forth by the Department of Community
27 Affairs, the district or the **【development】** authority, as applicable,
28 shall provide in the architectural design for the new construction
29 that:

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

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

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

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

42 (5) there is a single public entrance to be used during the school
43 day which shall be equipped with a security vestibule with interior
44 doors that must be released by school security or other staff. The
45 district or **【development】** authority shall give consideration to
46 providing bullet resistant glazing in the interior vestibule doors and
47 windows;

- 1 (6) all marked entrances shall conform to a uniform numbering
- 2 system in order to assist emergency responders in locating
- 3 particular areas. The principal's office shall have a secondary exit;
- 4 (7) interior door locks on spaces that will serve as safe havens
- 5 during lockdowns shall have a keyless locking mechanism;
- 6 (8) new school buildings shall be provided with access control
- 7 systems which allow for remote locking and unlocking of all
- 8 building access doors; and
- 9 (9) new school buildings shall be designed and built in such a
- 10 manner that areas intended for public use may be separated and
- 11 secured from all other areas.
- 12 b. In the case of new school construction undertaken by a
- 13 district or the **【development】** authority, and in the case of existing
- 14 school buildings, a district or the **【development】** authority, as
- 15 applicable, shall:
 - 16 (1) employ the Crime Prevention through Environmental Design
 - 17 principles;
 - 18 (2) require security personnel to be in uniform;
 - 19 (3) make driveways one way, if possible, that lead to a clearly
 - 20 marked visitor parking area. STOP signs and other traffic calming
 - 21 devices shall be used to keep vehicles at a reasonable speed;
 - 22 (4) place bollards along the roadway or curb line in front of the
 - 23 school to prevent vehicles from gaining access to exterior walls,
 - 24 windows, and doors, or in areas of the property where vehicles are
 - 25 prohibited;
 - 26 (5) clearly mark the school's main entrance and make it easily
 - 27 visible and recognizable;
 - 28 (6) limit the number of doors for access by staff;
 - 29 (7) lock exterior doors, and when they are in use for a large
 - 30 entry/exit provide that they are staffed and monitored;
 - 31 (8) utilize an access control system with remote unlocking
 - 32 features, an intercom, and fixed cameras at the school's main
 - 33 entrance and for other entrances as funding permits;
 - 34 (9) clearly mark all entrances with a numerical sequence to
 - 35 allow for specific response by police, fire, and emergency medical
 - 36 services responders;
 - 37 (10) maintain a parking decal or tag system for all staff and
 - 38 students who park on campus in order to easily identify
 - 39 unauthorized vehicles on the property;
 - 40 (11) locate enclosures for utilities that are outside a school
 - 41 building away from the building to ensure that they do not provide
 - 42 roof access;
 - 43 (12) provide adequate and properly maintained lighting around
 - 44 the buildings and parking lots;
 - 45 (13) if funding, staffing, and site approval are possible, provide a
 - 46 guard shack and gate on the school campus as an effective
 - 47 perimeter control;

1 (14) where the footprint of the school allows, and if funding is
2 available, create secure vestibules at the main entrance of the school
3 building. The exterior door entrance to the school shall allow
4 access by a visitor only to the vestibule and the doors to the
5 remainder of the building shall be locked;

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

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

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

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

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

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

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

27
28 6. Section 12 of P.L.2000, c.72 (C.18A:7G-12) is amended to
29 read as follows:

30 12. A district, other than a district under full State intervention,
31 that sought approval pursuant to section 11 of P.L.2000, c.72
32 (C.18A:7G-11) of a school facilities project without excess costs
33 but failed to receive that approval, and within the three years prior
34 to that, sought and failed to receive approval of that school facilities
35 project with or without excess costs, may submit the project to the
36 commissioner and request that the commissioner approve the
37 project and authorize the issuance of school bonds for the local
38 share of the project. Upon receipt of the request, the commissioner
39 shall review the school facilities project and determine whether the
40 project is necessary for the provision of a thorough and efficient
41 system of education in the district. If the commissioner concludes
42 that the project is necessary, the commissioner may approve the
43 project without excess costs and authorize the issuance of school
44 bonds to fund the local share. In addition to the amount of taxes
45 determined by the legal voters of the district at the annual school
46 election, the secretary of the board of education shall certify the
47 amount required for the repayment of the interest and principal of
48 the bonds required to fund the local share amount approved by the

1 commissioner in the same manner required for interest and debt
2 redemption charges pursuant to N.J.S.18A:22-33, and the amount so
3 certified shall be included in the taxes assessed, levied and collected
4 in the municipality or municipalities comprising the school district
5 for those purposes.

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

15
16 7. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to
17 read as follows:

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

34 b. The **【financing】** authority shall undertake the financing of
35 school facilities projects pursuant to the provisions of this act. The
36 **【financing】** authority shall finance the State share of a school
37 facilities project and may, in its discretion and upon consultation
38 with the district, finance the local share of the project. In the event
39 that the **【financing】** authority finances only the State share of a
40 project, the **【development】** authority shall not commence
41 acquisition or construction of the project until the **【development】**
42 authority receives the local share from the district.

43 c. In order to implement the arrangements established for
44 school facilities projects which are to be constructed by the
45 **【development】** authority and financed pursuant to this section, a
46 district shall enter into an agreement with the **【development】**

1 authority and the commissioner containing the terms and conditions
2 determined by the parties to be necessary to effectuate the project.

3 d. Upon completion by the **【development】** authority of a
4 school facilities project, the district shall enter into an agreement
5 with the **【development】** authority to provide for the maintenance of
6 the project by the district. In the event that the school facilities
7 project is constructed by a district, upon the completion of the
8 project, the district shall submit to the commissioner a plan to
9 provide for the maintenance of the project by the district. Any
10 agreement or plan shall contain, in addition to any other terms and
11 provisions, a requirement for the establishment of a maintenance
12 reserve fund consistent with the appropriation and withdrawal
13 requirements for capital reserve accounts established pursuant to
14 section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of
15 which shall be as set forth in regulations adopted by the
16 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-
17 26).

18 e. (1) **【Within one year of the effective date of P.L.2007,**
19 **c.137 (C.52:18A-235 et al.), the】** The commissioner, in consultation
20 with the **【development】** authority, shall adopt pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), rules and regulations by which the commissioner shall
23 determine whether an SDA district is eligible to be considered by
24 the **【development】** authority to manage a school facilities project or
25 projects. In making the determination, the commissioner shall
26 consider the district's fiscal integrity and operations, the district's
27 performance in each of the five key components of school district
28 effectiveness under the New Jersey Quality Single Accountability
29 Continuum (NJQSAC) in accordance with section 10 of P.L.1975,
30 c.212 (C.18A:7A-10), and other relevant factors.

31 (2) **【Within one year of the effective date of P.L.2007, c.137**
32 **(C.52:18A-235 et al.), the development】** The authority, in
33 consultation with the commissioner, shall adopt pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), rules and regulations by which the **【development】** authority
36 shall determine the capacity of an SDA district, deemed eligible by
37 the commissioner pursuant to paragraph (1) of this subsection, to
38 manage a school facilities project or projects identified by the
39 **【development】** authority. In making the determination, the
40 **【development】** authority shall consider the experience of the SDA
41 district, the size, complexity, and cost of the project, time
42 constraints, and other relevant factors.

43 (3) The **【development】** authority, in consultation with the
44 commissioner, shall develop and implement training programs,
45 seminars, or symposia to provide technical assistance to SDA
46 districts deemed to lack the capacity to manage a school facility
47 project or projects; except that nothing herein shall be construed to

1 require the **【development】** authority or the commissioner to
2 authorize an SDA district to hire additional staff in order to achieve
3 capacity.

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

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

9

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

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

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

20

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

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

24 a. The **【financing】** authority shall have the power, pursuant to
25 the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
26 (C.34:1B-1 et seq.) **【and】** , P.L.2007, c.137 (C.52:18A-235 et al.) ,
27 and P.L. , c. (C.) (pending before the Legislature as this bill) ,

28 to issue bonds and refunding bonds, incur indebtedness and borrow
29 money secured, in whole or in part, by moneys received pursuant to
30 sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-
31 18 and C.18A:7G-19) for the purposes of: financing all or a portion
32 of the costs of school facilities projects and any costs related to the
33 issuance thereof, including, but not limited to, the administrative,
34 insurance, operating and other expenses of the **【financing】**
35 authority to undertake the financing, **【and the development**
36 **authority to undertake the】** planning, design, and construction of
37 school facilities projects; lending moneys to local units to pay the
38 costs of all or a portion of school facilities projects and any costs
39 related to the issuance thereof; funding the grants to be made
40 pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and
41 financing the acquisition of school facilities projects to permit the
42 refinancing of debt by the district pursuant to section 16 of
43 P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of
44 the bonds, notes or other obligations issued by the **【financing】**
45 authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et
46 al.) shall not exceed: \$100,000,000 for the State share of costs for
47 county vocational school district school facilities projects;

1 \$6,000,000,000 for the State share of costs for Abbott district
2 school facilities projects; and \$2,500,000,000 for the State share of
3 costs for school facilities projects in all other districts. The
4 aggregate principal amount of the bonds, notes or other obligations
5 issued by the **【financing】** authority as authorized pursuant to
6 P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:
7 \$2,900,000,000 for the State share of costs of SDA district school
8 facilities projects; and \$1,000,000,000 for the State share of costs
9 for school facilities projects in all other districts, \$50,000,000 of
10 which shall be allocated for the State share of costs for county
11 vocational school district school facilities projects. This limitation
12 shall not include any bonds, notes or other obligations issued for
13 refunding purposes.

14 The **【financing】** authority may establish reserve funds to further
15 secure bonds and refunding bonds issued pursuant to this section
16 and may issue bonds to pay for the administrative, insurance and
17 operating costs of the **【financing】** authority **【and the development**
18 **authority】** in carrying out the provisions of this act. In addition to
19 its bonds and refunding bonds, the **【financing】** authority shall have
20 the power to issue subordinated indebtedness, which shall be
21 subordinate in lien to the lien of any or all of its bonds or refunding
22 bonds as the **【financing】** authority may determine.

23 b. The **【financing】** authority shall issue the bonds or refunding
24 bonds in such manner as it shall determine in accordance with the
25 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
26 (C.34:1B-1 et seq.), **【and】** P.L.2007, c.137 (C.52:18A-235 et al.) ,
27 and P.L. , c. (C.) (pending before the Legislature as this bill);
28 provided that notwithstanding any other law to the contrary, no
29 resolution adopted by the **【financing】** authority authorizing the
30 issuance of bonds or refunding bonds pursuant to this section shall
31 be adopted or otherwise made effective without the approval in
32 writing of the State Treasurer; and refunding bonds issued to refund
33 bonds issued pursuant to this section shall be issued on such terms
34 and conditions as may be determined by the **【financing】** authority
35 and the State Treasurer. The **【financing】** authority may, in any
36 resolution authorizing the issuance of bonds or refunding bonds
37 issued pursuant to this section, pledge the contract with the State
38 Treasurer provided for pursuant to section 18 of P.L.2000, c.72
39 (C.18A:7G-18), or any part thereof, or may pledge all or any part of
40 the repayments of loans made to local units pursuant to section 19
41 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of
42 the bonds or refunding bonds, and covenant as to the use and
43 disposition of money available to the **【financing】** authority for
44 payment of the bonds and refunding bonds. All costs associated
45 with the issuance of bonds and refunding bonds by the **【financing】**
46 authority for the purposes set forth in this act may be paid by the
47 **【financing】** authority from amounts it receives from the proceeds of

1 the bonds or refunding bonds, and from amounts it receives
2 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-
3 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but
4 shall not be limited to, any costs relating to the issuance of the
5 bonds or refunding bonds, administrative costs of the **【financing】**
6 authority attributable to the making and administering of loans and
7 grants to fund school facilities projects, and costs attributable to the
8 agreements entered into pursuant to subsection d. of this section.

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

15 (1) Pledge of the revenues and other receipts to be derived from
16 the payment of local unit obligations and any other payment made
17 to the **【financing】** authority pursuant to agreements with any local
18 unit, or a pledge or assignment of any local unit obligations, and the
19 rights and interest of the **【financing】** authority therein;

20 (2) Pledge of rentals, receipts and other revenues to be derived
21 from leases or other contractual arrangements with any person or
22 entity, public or private, including one or more local units, or a
23 pledge or assignment of those leases or other contractual
24 arrangements and the rights and interests of the **【financing】**
25 authority therein;

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

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

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

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

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

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

44 d. The resolution authorizing the issuance of bonds or
45 refunding bonds pursuant to this section may also provide for the
46 **【financing】** authority to enter into any revolving credit agreement,
47 agreement establishing a line of credit or letter of credit,

1 reimbursement agreement, interest rate exchange agreement,
2 currency exchange agreement, interest rate floor or cap, options,
3 puts or calls to hedge payment, currency, rate, spread or similar
4 exposure or similar agreements, float agreements, forward
5 agreements, insurance contracts, surety bonds, commitments to
6 purchase or sell bonds, purchase or sale agreements, or
7 commitments or other contracts or agreements and other security
8 agreements approved by the **【financing】** authority in connection
9 with the issuance of the bonds or refunding bonds pursuant to this
10 section. In addition, the **【financing】** authority may, in anticipation
11 of the issuance of the bonds or the receipt of appropriations, grants,
12 reimbursements or other funds, including, without limitation, grants
13 from the federal government for school facilities projects, issue
14 notes, the principal of or interest on which, or both, shall be payable
15 out of the proceeds of notes, bonds or other obligations of the
16 **【financing】** authority or appropriations, grants, reimbursements or
17 other funds or revenues of the **【financing】** authority.

18 e. The **【financing】** authority is authorized to engage, subject to
19 the approval of the State Treasurer and in such manner as the State
20 Treasurer shall determine, the services of financial advisors and
21 experts, placement agents, underwriters, appraisers, and other
22 advisors, consultants and agents as may be necessary to effectuate
23 the financing of school facilities projects.

24 f. Bonds and refunding bonds issued by the **【financing】**
25 authority pursuant to this section shall be special and limited
26 obligations of the **【financing】** authority payable from, and secured
27 by, funds and moneys determined by the **【financing】** authority in
28 accordance with this section. Notwithstanding any other provision
29 of law or agreement to the contrary, any bonds and refunding bonds
30 issued by the **【financing】** authority pursuant to this section shall not
31 be secured by the same property as bonds and refunding bonds
32 issued by the **【financing】** authority to finance projects other than
33 school facilities projects. Neither the members of the **【financing】**
34 authority nor any other person executing the bonds or refunding
35 bonds shall be personally liable with respect to payment of interest
36 and principal on these bonds or refunding bonds. Bonds or
37 refunding bonds issued pursuant to this section shall not be a debt
38 or liability of the State or any agency or instrumentality thereof,
39 except as otherwise provided by this subsection, either legal, moral
40 or otherwise, and nothing contained in this act shall be construed to
41 authorize the **【financing】** authority to incur any indebtedness on
42 behalf of or in any way to obligate the State or any political
43 subdivision thereof, and all bonds and refunding bonds issued by
44 the **【financing】** authority shall contain a statement to that effect on
45 their face.

46 g. The State hereby pledges and covenants with the holders of
47 any bonds or refunding bonds issued pursuant to this act that it will

1 not limit or alter the rights or powers vested in the **【financing】**
2 authority by this act, nor limit or alter the rights or powers of the
3 State Treasurer in any manner which would jeopardize the interest
4 of the holders or any trustee of the holders, or inhibit or prevent
5 performance or fulfillment by the **【financing】** authority or the State
6 Treasurer with respect to the terms of any agreement made with the
7 holders of the bonds or refunding bonds or agreements made
8 pursuant to subsection d. of this section; except that the failure of
9 the Legislature to appropriate moneys for any purpose of this act
10 shall not be deemed a violation of this section.

11 h. The **【financing authority and the development】** authority
12 may charge to and collect from local units, districts, the State and
13 any other person, any fees and charges in connection with the
14 **【financing authority's or development】** authority's actions
15 undertaken with respect to school facilities projects, including, but
16 not limited to, fees and charges for the **【financing】** authority's
17 administrative, organization, insurance, operating and other
18 expenses incident to the financing of school facilities projects, and
19 the **【development authority's administrative, organization,**
20 **insurance, operating,】** planning, design, construction management,
21 acquisition, construction, completion and placing into service and
22 maintenance of school facilities projects. Notwithstanding any
23 provision of this act to the contrary, no SDA district shall be
24 responsible for the payment of any fees and charges related to the
25 **【development】** authority's operating expenses.

26 i. **【Upon the issuance by the financing authority of bonds**
27 **pursuant to this section, other than refunding bonds, the net**
28 **proceeds of the bonds shall be transferred to the development**
29 **authority.】** (Deleted by amendment, P.L. , c.) (pending before
30 the Legislature as this bill)
31 (cf: P.L.2008, c.39, s.4)

32

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

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

43 b. The commissioner shall establish a process for the annual
44 allocation of grant funding. Under that process, the commissioner
45 shall annually notify districts of the date on which the
46 commissioner shall begin to receive applications for grant funding.
47 A district shall have 90 days from that date to submit an application

1 to the commissioner. The commissioner shall make a decision on a
2 district's application within 90 days of the submission of all such
3 applications and shall allocate the grant funding in accordance with
4 the priority process established pursuant to paragraph (4) of
5 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

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

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

14
15 11. Section 16 of P.L.2000, c.72 (C.18A:7G-16) is amended to
16 read as follows:

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

47 (cf: P.L.2007, c.137, s.27)

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

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

17 In regard to the increase in the amount of bonds authorized to be
18 issued by the **【financing】** authority pursuant to P.L.2008, c.39 for
19 the State share of costs for school facilities projects, debt service on
20 the bonds or refunding bonds issued or incurred by the **【financing】**
21 authority pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14)
22 and any additional costs authorized pursuant to that section shall
23 first be payable from revenues received from the gross income tax
24 pursuant to the "New Jersey Gross Income Tax Act," P.L.1976, c.47
25 (C.54A:1-1 et seq.), except for debt service and additional costs for
26 the administrative, insurance, operating, and other expenses of the
27 **【financing authority and the development】** authority incurred in
28 connection with school facilities projects.
29 (cf: P.L.2008, c.39, s.6)

30
31 13. Section 18 of P.L.2000, c.72 (C.18A:7G-18) is amended to
32 read as follows:

33 18. The State Treasurer and the **【financing】** authority are
34 authorized to enter into one or more contracts to implement the
35 payment arrangement provided for in section 17 of P.L.2000, c.72
36 (C.18A:7G-17). The contract shall provide for payment by the
37 State Treasurer of the amounts required pursuant to section 17 of
38 P.L.2000, c.72 (C.18A:7G-17) and shall set forth the procedure for
39 the transfer of moneys for the purpose of that payment. The
40 contract shall contain terms and conditions as determined by the
41 parties and shall, where appropriate, contain terms and conditions
42 necessary and desirable to secure any bonds or refunding bonds of
43 the **【financing】** authority issued or incurred pursuant to this act;
44 provided that notwithstanding any other provision of law or
45 regulation of the **【financing】** authority to the contrary, the
46 **【financing】** authority shall be paid only such funds as shall be
47 determined by the contract, and the incurrence of any obligation of

1 the State under the contract, including any payments to be made
2 thereunder from the General Fund, shall be subject to and
3 dependent upon appropriations being made from time to time by the
4 Legislature for the purposes of this act.

5 (cf: P.L.2007, c.137, s.29)

6
7 14. Section 19 of P.L.2000, c.72 (C.18A:7G-19) is amended to
8 read as follows:

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

21 b. Each loan to a local unit shall be evidenced by local unit
22 obligations and shall be authorized and issued as provided by law.
23 Notwithstanding the provisions of any other law to the contrary, the
24 local unit obligations may be sold at private sale to the **【financing】**
25 authority at any price, whether or not less than par value, and shall
26 be subject to redemption prior to maturity at any times and at any
27 prices as the **【financing】** authority and the local unit may agree.
28 Each loan to a local unit and the local unit obligations issued to
29 evidence the loan shall bear interest at a rate or rates per annum,
30 including zero interest, and shall be repaid in whole or in part, as
31 the **【financing】** authority and the local unit may agree, with the
32 approval of the State Treasurer.

33 (cf: P.L.2007, c.137, s.30)

34
35 15. Section 20 of P.L.2000, c.72 (C.18A:7G-20) is amended to
36 read as follows:

37 20. A local unit may purchase, lease, rent, sublease or otherwise
38 acquire any school facilities project or any space within a project
39 and pay the amounts as may be agreed upon between the local unit
40 and the **【development】** authority as the purchase price, rent or other
41 charge therefor; provided that the terms and conditions of the
42 agreement between the **【development】** authority and the local unit
43 relating to the purchase, lease, rental or sublease shall be subject to
44 the approval of the State Treasurer.

45 (cf: P.L.2007, c.137, s.31)

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

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

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

39 c. The amount paid to the **【financing】** authority pursuant to
40 this section shall be deducted from the appropriation or
41 apportionment of State aid payable to the local unit and shall not
42 obligate the State to make, nor entitle the local unit to receive, any
43 additional appropriation or apportionment. The obligation of the
44 State Treasurer to make payments to the **【financing】** authority or
45 trustee and the right of the **【financing】** authority or trustee to
46 receive those payments shall be subject and subordinate to the

1 rights of holders of qualified bonds issued prior to the effective date
2 of this act pursuant to P.L.1976, c.38 (C.40A:3-1 et seq.) and
3 P.L.1976, c.39 (C.18A:24-85 et seq.).
4 (cf: P.L.2007, c.260, s.47)

5
6 17. Section 22 of P.L.2000, c.72 (C.18A:7G-22) is amended to
7 read as follows:

8 22. a. The **【financing authority and the development】** authority
9 shall have the power to accept and use any funds appropriated and
10 paid by the State to the **【financing authority and the development】**
11 authority for the purposes for which the appropriations are made.
12 The **【financing authority and the development】** authority shall have
13 the power to apply for and receive and accept appropriations or
14 grants of property, money, services or reimbursements for money
15 previously spent and other assistance offered or made available to it
16 by or from any person, government agency, public authority or any
17 public or private entity whatever for any lawful corporate purpose
18 of the **【financing authority or the development】** authority,
19 including, without limitation, grants, appropriations or
20 reimbursements from the federal government, and to apply and
21 negotiate for the same upon such terms and conditions as may be
22 required by any person, government agency, authority or entity as
23 the **【financing authority or the development】** authority may
24 determine to be necessary, convenient or desirable.

25 b. The **【development】** authority and the State Treasurer may
26 establish a financial incentive program for the purpose of promoting
27 donations to school facilities projects. Any entity which makes a
28 donation approved by the State Treasurer to the preliminary eligible
29 costs of a school facilities project shall receive an incentive
30 payment pursuant to the provisions of this subsection. The amount
31 of the incentive payment shall equal 50% of the fair market value of
32 the donation but shall not in any one year exceed one-half of the
33 amount of taxes paid or otherwise due from the donor pursuant to
34 the provisions of the "New Jersey Gross Income Tax Act,"
35 P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation Business
36 Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), as applicable, for
37 the tax year in which the donation is made. The fair market value of
38 a non-cash donation shall be determined by the State Treasurer. The
39 carry-forward for incentive payments shall not be inconsistent with
40 that allowed by P.L.1976, c.47 (C.54A:1-1 et seq.) in the case of a
41 donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.)
42 in the case of a donation by a corporation.

43 All incentive payments made pursuant to this section shall be
44 funded by and shall be subject to annual appropriations for this
45 purpose, and shall in no way rely upon funds raised by the issuance
46 of bonds for school facilities projects.
47 (cf: P.L.2007, c.137, s.33)

1 18. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to
2 read as follows:

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

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

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

19

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

22 24. The **【development】** authority, in consultation with the State
23 Treasurer**【, the financing authority,】** and the commissioner, shall
24 biannually submit to the Governor, the Joint Budget Oversight
25 Committee, the President of the Senate and the Speaker of the
26 General Assembly a report on the school facilities construction
27 program established pursuant to the provisions of this act. The
28 report shall be submitted no later than June 1 and December 1 of
29 each year and shall include, but not be limited to, the following
30 information for the prior six-month period: the number of school
31 facilities projects approved by the commissioner pursuant to section
32 5 of P.L.2000, c.72 (C.18A:7G-5); the number of projects
33 undertaken and funded by the **【development】** authority; the
34 information on construction contracts required to be compiled
35 pursuant to section 1 of P.L.2010, c.96 (C.18A:7G-24.1); the
36 aggregate principal amount of bonds, notes or other obligations
37 issued by the **【financing】** authority for the State share of
38 construction and renovation of school facilities and whether there is
39 a need to adjust the aggregate principal amount of bonds, notes or
40 other obligations authorized for issuance pursuant to subsection a.
41 of section 14 of P.L.2000, c.72 (C.18A:7G-14); the number of
42 approved projects which exceeded the facilities efficiency
43 standards, the components of those projects which exceeded the
44 standards, and the amount of construction by individual districts
45 and Statewide estimated to have exceeded the standards; and
46 recommendations for changes in the school facilities construction
47 program established pursuant to this act which have been

1 formulated as a result of its experience with the program or through
2 collaboration with program stakeholders.

3 In addition, the biannual report shall include a comparison of the
4 costs of school facilities projects undertaken and funded by the
5 **【development】** authority to similar school facilities projects
6 constructed in the New York City Metropolitan Statistical Area and
7 the Philadelphia Metropolitan Statistical Area as defined by the
8 United States Department of Labor. The **【development】** authority
9 shall include in the report an explanation of the methodology used
10 in making the comparison.

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

12

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

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

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

30

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

33 26. a. The commissioner shall adopt, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), rules and regulations necessary to implement the provisions
36 of sections 1 through 12 and 57 and 58 and 64 of P.L.2000, c.72
37 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
38 except that notwithstanding any provision of P.L.1968, c.410
39 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt,
40 immediately upon filing with the Office of Administrative Law,
41 such rules and regulations as the commissioner deems necessary to
42 implement the provisions of sections 1 through 12 and 57 and 58
43 and 64 of this act which shall be effective for a period not to exceed
44 12 months. Determinations made by the commissioner pursuant to
45 this act and the rules and regulations adopted by the commissioner
46 to implement this act shall be considered to be final agency action
47 and appeal of that action shall be directly to the Appellate Division

1 of the Superior Court. The regulations shall thereafter be amended,
2 adopted or re-adopted by the State Board of Education in
3 accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et
4 seq.).

5 b. The **【development】** authority shall adopt, pursuant to the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), rules and regulations necessary to implement the provisions
8 of P.L.2000, c.72 (C.18A:7G-1 et al.) **【and】** , P.L.2007, c.137
9 (C.52:18A-235 et al.), and P.L. , c. (C.) (pending before the
10 Legislature as this bill) that apply to the **【development】** authority;
11 except that notwithstanding any provision of P.L.1968, c.410
12 (C.52:14B-1 et seq.) to the contrary, the **【development】** authority
13 may adopt immediately upon filing with the Office of
14 Administrative Law, such rules and regulations as the
15 **【development】** authority deems necessary which shall be effective
16 for a period not to exceed 12 months and shall thereafter be
17 amended, adopted or re-adopted by the authority, in accordance
18 with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

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

26 c. Any regulations adopted to implement this act shall include
27 provisions to ensure that all programs necessary to comply with
28 *Abbott v. Burke*, 153 N.J. 480 (1998) (*Abbott V*), are approved.
29 (cf: P.L.2007, c.137, s.36)

30

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

33 27. All property of the **【development authority and the**
34 **financing】** authority shall be exempt from levy and sale by virtue of
35 an execution and no execution or other judicial process shall issue
36 against the same nor shall any judgment against the **【development**
37 **authority or the financing】** authority be a charge or lien upon its
38 property; provided that nothing herein contained shall apply to or
39 limit the rights of the holder of any bonds, notes or other
40 obligations to pursue any remedy for the enforcement of any pledge
41 or lien given by the **【development authority or the financing】**
42 authority on or with respect to any project, school facilities project,
43 or any revenues or other moneys.

44 (cf: P.L.2007, c.137, s.37)

45

46 23. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to
47 read as follows:

1 59. The **【development】** authority shall establish a process for
2 the prequalification of contractors that desire to bid on school
3 facilities projects. A contractor shall not be permitted to bid on such
4 a school facilities project unless the contractor has been
5 prequalified pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

6 The prequalification process shall apply to general contractors,
7 construction managers, and contractors including those in the
8 following areas:

9 (1) plumbing and gas fitting and all work and materials kindred
10 thereto;

11 (2) steam and hot water heating and ventilating apparatus, steam
12 power plants and all work and materials kindred thereto;

13 (3) electrical work; and

14 (4) structural steel and miscellaneous iron work and materials.

15 The prequalification process established by the New Jersey
16 Schools **【Construction Corporation】** Development Authority
17 pursuant to the provisions of **【P.L.2000, c.72 (C.18A:7G-1 et al.)】**
18 P.L.2007, c.137 (C.52:18A-235 et al.) shall remain in full force and
19 effect unless subsequently revised by the **【development】** authority
20 following the enactment of **【P.L.2007, c.137 (C.52:18A-235 et al.)】**
21 P.L. , c. (C.) (pending before the Legislature as this bill).

22 (cf: P.L.2007, c.137, s.38)

23
24 24. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to
25 read as follows:

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

35 (1) A certified, audited financial statement or compilation of
36 financial statements or other documentation of financial status
37 acceptable to the **【development】** authority;

38 (2) Proof of any contractor or trade license required by law for
39 any trade or specialty area in which the contractor is seeking
40 prequalification and a statement as to whether any contractor or
41 trade license has been revoked;

42 (3) A statement as to bonding capacity, which shall be from a
43 surety authorized to issue bid, performance and payment bonds in
44 the State of New Jersey in accordance with N.J.S.2A:44-143
45 through N.J.S.2A:44-147 to the contractor, and shall indicate
46 aggregate bonding limits;

- 1 (4) A list of the names and titles of all individuals who own
2 10% or more of any class of stock in the corporation or are a 10%
3 or more partner in the firm. If any of the aforementioned
4 stockholders or partners is itself a corporation, or a partnership, that
5 entity shall also provide the information specified herein;
- 6 (5) Disclosure of any judgments, convictions or criminal
7 indictments for any conduct constituting a crime under local, State
8 or federal law;
- 9 (6) Disclosure of any unsatisfied judgments, injunctions or liens
10 obtained by a governmental agency including, but not limited to,
11 judgments based on taxes owed and fines and penalties assessed by
12 any government agency;
- 13 (7) Disclosure of any determination for violations of federal,
14 State or local laws, rules or regulations, including health laws,
15 unemployment insurance or workers' compensation coverage or
16 claim requirements, the "Employee Retirement Income Security Act
17 of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,
18 environmental laws, safety laws, licensing laws, tax laws and
19 antitrust laws;
- 20 (8) Disclosure of any federal, State or local debarments, non-
21 responsibility findings or denials of prequalification;
- 22 (9) Disclosure of any bankruptcy filings or proceedings;
- 23 (10) A statement as to past performance, which shall give an
24 accurate and complete record of work completed in the past five
25 years by the contractor giving the names of the projects, type of
26 work, location, contract price, bid and final contract amount paid
27 and the names of the owner and of the architect or engineer in
28 charge for the owner. This statement shall also disclose any labor
29 problems experienced, any failure to complete a contract on
30 schedule, any penalties, judgments, orders or liens imposed by
31 reason of any contract undertaken within the five-year period and
32 whether the contractor has been defaulted for cause on any project
33 as determined by an unappealed or nonappealable decision. This
34 statement shall also indicate the status of any litigation pending
35 against the potential bidder. The contractor shall be required to
36 attach to this statement all performance evaluations in his
37 possession for any work performed by the contractor on any public
38 or private projects;
- 39 (11) A statement as to organization, which shall demonstrate the
40 adequacy of such organization to undertake a school facilities
41 project. This statement shall include the resumes of the
42 management and professional staff;
- 43 (12) A statement setting forth the contractor's equipment
44 inventory and technical resources; and
- 45 (13) A statement on staffing capabilities, including labor sources,
46 staffing plans, turnover rates, and any use of registered
47 apprenticeship programs and journeyman training programs.

1 b. After the receipt of the submission provided for in
2 subsection a. of this section, the **【development】** authority may
3 verify information provided in the contractor's submission,
4 including applicable license and certificate requirements, federal or
5 State debarments and violations of law. The **【development】**
6 authority may also conduct random inquiries or surveys of the
7 contractor's prior customers.

8 c. Based upon the submission provided for in subsection a. of
9 this section the **【development】** authority shall assign a contractor
10 the following classification and limits for the purpose of
11 determining the types of projects for which a contractor is entitled
12 to bid:

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

15 To effectuate these requirements of the prequalification process,
16 the **【development】** authority shall develop rules and regulations for
17 assigning classifications and aggregate limits.

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

21 e. The **【development】** authority shall establish procedures to
22 permit contractors to challenge a classification made pursuant to
23 this section.

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

30 g. The **【development】** authority shall maintain a registry of all
31 contractors prequalified to bid on school facilities projects. The
32 registry shall include the classification of the bidder and aggregate
33 building limit.

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

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

38 61. a. A contractor's prequalification classification shall be
39 valid for 24 months. A contractor shall be reclassified after the 24-
40 month period in order to remain eligible to bid on school facilities
41 projects.

42 b. Any material changes relevant to the prequalification
43 process shall be reported by the contractor to the **【development】**
44 authority in writing within 10 days. Based on the information
45 provided, the **【development】** authority may change the
46 classification or revoke prequalification for cause.

47 (cf: P.L.2007, c.137, s.40)

1 26. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to
2 read as follows:

3 62. a. A mandatory uniform performance evaluation shall be
4 conducted on all school facilities projects undertaken by the
5 **【development】** authority. The evaluation shall, at a minimum,
6 include cost, schedule adherence and quality.

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

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

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

13

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

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

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

22

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

25 1. a. As used in this section:

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

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

33 b. The New Jersey **【Schools】** Economic Development
34 Authority shall not restrict the ability of a firm or person that holds
35 a valid classification or a valid prequalification, as applicable,
36 issued by the Division of Property Management and Construction in
37 the Department of the Treasury from competing for contracts or
38 other work in any of the construction categories or trades or specific
39 professional disciplines for which the firm or person holds a
40 classification or prequalification.

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

45 c. Notwithstanding any provision of subsection b. of this
46 section to the contrary, a firm or person or an affiliate thereof shall
47 not serve as a general contractor or as a subcontractor or as a

1 subconsultant on an authority project for which the firm or person
2 serves as the construction manager.

3 (cf: P.L.2009, c.225, s.1)

4

5 29. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to
6 read as follows:

7 71. a. In the case of any school facilities project which has a
8 State share of 100%, the **【development】** authority may require the
9 use of wrap-up insurance coverage for the project and shall
10 establish the terms and requirements for any such coverage.

11 b. For any school facilities project which has a State share of
12 less than 100%, the district may elect to purchase wrap-up
13 insurance coverage for the school facilities project. A district may
14 purchase the coverage on its own or may enter into a joint
15 purchasing agreement with one or more other districts to purchase
16 coverage.

17 c. As used in this section, "wrap-up insurance coverage" means
18 a single insurance and loss control program for all parties involved
19 in the school facilities project, including the owners, administrators,
20 contractors and all tiers of subcontractors, which is controlled and
21 authorized by the owner or financing administrator and applicable
22 to defined construction work sites. Wrap-up insurance coverage
23 may include, but not be limited to, workers' compensation and
24 employers' liability, commercial general liability, umbrella/excess
25 liability, builder's risk, architects' and engineers' errors and
26 omissions, liability, environmental liability, and force majeure.

27 (cf: P.L.2007, c.137, s.43)

28

29 30. Section 14 of P.L.2007, c.137 (C.18A:7G-45) is amended to
30 read as follows:

31 14. a. In the event that the **【development】** authority funds 100%
32 of the cost of the acquisition of land for the construction of a school
33 facilities project and as a result of the construction of that project a
34 school building located in the district and the land upon which the
35 school building is situate are no longer necessary for educational
36 purposes, title to the land together with the school building on the
37 land shall be conveyed to and shall vest in the New Jersey
38 **【Schools】** Economic Development Authority **【established pursuant**
39 **to section 3 of P.L.2007, c.137 (C.52:18A-237)】** when it is
40 determined by the **【development】** authority that such conveyance is
41 in the best interest of the **【development】** authority. The district
42 shall execute any documents including, but not limited to, a deed of
43 conveyance necessary to accomplish the transfer of title.

44 b. The **【development】** authority may retain or sell the land and
45 buildings on that land acquired pursuant to subsection a. of this
46 section. In the event the **【development】** authority elects to sell, it

1 shall use a competitive process. The proceeds of that sale shall be
2 applied to the costs of school facilities projects of the district.

3 c. The transfer of title pursuant to subsection a. of this section
4 shall occur in accordance with a schedule determined by the
5 **【development】** authority. The schedule may provide that the
6 transfer occur prior to the completion of the construction of the new
7 school facilities project if the **【development】** authority deems it
8 necessary in order to complete additional school facilities projects
9 within the district.

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

11

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

14 15. If land is necessary to be acquired in connection with a
15 school facilities project in an SDA district, the board of education
16 of the district and the governing body of the municipality in which
17 the district is situate shall jointly submit to the commissioner and to
18 the **【development】** authority a complete inventory of all district-
19 and municipal-owned land located in the municipality. The
20 inventory shall include a map of the district showing the location of
21 each of the identified parcels of land. The board of education and
22 the governing body of the municipality shall provide an analysis of
23 why any district- or municipal-owned land is not suitable as a site
24 for a school facilities project identified in the district's long-range
25 facilities plan. The inventory shall be updated as needed in
26 connection with any subsequent school facilities projects for which
27 it is necessary to acquire land.

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

29

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

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

41 b. Whenever a map, plan, or report indicating a proposed
42 preferred site for the construction of an SDA district school
43 facilities project is filed by the **【development】** authority pursuant to
44 subsection a. of this section, any municipal approving authority
45 before granting any site plan approval, building permit, or approval
46 of a subdivision plat, or exercising any other approval power with
47 respect to the development or improvement of any lot, tract, or

1 parcel of land which is located wholly or partially within the
2 proposed preferred site shall refer the site plan, application for a
3 building permit or subdivision plat or any other application for
4 proposed development or improvement to the **【development】**
5 authority for review and recommendation as to the effect of the
6 proposed development or improvement upon the construction of the
7 school facilities project.

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

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

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

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

33

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

36 2. a. As used in this section:

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

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

43 "Project" shall have the same meaning as provided in section 3
44 of P.L.2000, c.72 (C.18A:7G-3) for school facilities project, and
45 shall include any infrastructure or facility used or to be used by the
46 public or in support of a public purpose or activity.

1 "Public-private partnership agreement" means an agreement
2 entered into by a school district and a private entity pursuant to this
3 section for the purpose of permitting a private entity to assume full
4 financial and administrative responsibility for the development,
5 construction, reconstruction, repair, alteration, improvement,
6 extension, operation, and maintenance of a school facilities project
7 of, or for the benefit of, the school district.

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

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

25 (2) A public-private partnership agreement may include an
26 agreement under which a school district and a private entity enter
27 into a lease of a revenue-producing public building, structure, or
28 facility in exchange for up-front or structured financing by the
29 private entity for the project. Under the lease agreement, the
30 private entity shall be responsible for the management, operation,
31 and maintenance of the building, structure, or facility. The private
32 entity shall receive some or all, as per the agreement, of the revenue
33 generated by the building, structure, or facility, and shall operate
34 the building, structure, or facility in accordance with school district
35 standards. At the end of the lease term, subsequent revenue
36 generated by the building, structure, or facility, along with
37 management, operation, and maintenance responsibility, shall revert
38 to the school district. A lease agreement entered into pursuant to
39 this section shall be limited in duration to a term of not more than
40 30 years. A lease agreement shall be subject to all applicable
41 provisions of current law governing leases by a school district not
42 inconsistent with the provisions of this section.

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

44 c. (1) A private entity that assumes financial and administrative
45 responsibility for a project pursuant to this section shall not be
46 subject to, unless otherwise set forth herein, the procurement and
47 contracting requirements of all statutes applicable to the school

1 district at which the project is completed, including, but not limited
2 to, the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

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

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

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

45 e. (1) All building construction projects under a public-private
46 partnership agreement entered into pursuant to this section shall
47 contain a project labor agreement. The project labor agreement
48 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et

1 seq.), and shall be in a manner that to the greatest extent possible
2 enhances employment opportunities for individuals residing in the
3 county of the project's location. The general contractor,
4 construction manager, design-build team, or subcontractor for a
5 construction project proposed in accordance with this paragraph
6 shall be registered pursuant to the provisions of P.L.1999, c.238
7 (C.34:11-56.48 et seq.), and shall be classified by the Division of
8 Property Management and Construction, or shall be prequalified by
9 the Department of Transportation, as appropriate, to perform work
10 on a public-private partnership project.

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

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

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

39 (5) Prior to entering into a public -private partnership, the
40 school district must determine: (i) the benefits to be realized by the
41 project, (ii) the cost of the project if it is developed by the public
42 sector supported by comparisons to comparable projects, (iii) the
43 maximum public contribution that the school district will allow
44 under the public -private partnership, (iv) a comparison of the
45 financial and non-financial benefits of the public-private
46 partnership compared to other options including the public sector
47 option, (v) a list of risks, liabilities and responsibilities to be
48 transferred to the private entity and those to be retained by the

1 school district, and (vi) if the project has a high, medium or low
2 level of project delivery risk and how the public is protected from
3 these risks.

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

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

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

34 (3) (a) In order for an application to be complete and considered
35 by the State Treasurer, the application shall include, but not be
36 limited to: (i) a full description of the proposed public-private
37 partnership agreement between the school district and the private
38 developer, including all information obtained by and findings of the
39 school district pursuant to paragraphs (4) and (5) of subsection (e)
40 of this section; (ii) a full description of the project, including a
41 description of any agreement for the lease of a revenue-producing
42 facility related to the project; (iii) the estimated costs and financial
43 documentation for the project showing the underlying financial
44 models and assumptions that determined the estimated costs. The
45 financial documentation must include at least three different
46 projected estimated costs showing scenarios in which materially
47 different economic circumstances are assumed and an explanation
48 for how the estimated costs were determined based on the three

1 scenarios; (iv) a timetable for completion of the construction of the
2 project; (v) an analysis of all available funding options for the
3 project, including an analysis of the financial viability and
4 advisability of such project, along with evidence of the public
5 benefit in advancing the project as a public-private partnership; (vi)
6 a record of the public hearing held pursuant to paragraph (4) of
7 subsection e. of this section, which shall have been kept open for a
8 period of seven days following the conclusion of the hearing; (vii)
9 any other requirements that the State Treasurer deems appropriate
10 or necessary. The application shall also include a resolution by the
11 school district's governing body of its intent to enter into a public-
12 private partnership agreement pursuant to this section.

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

21 (4) The State Treasurer, in consultation with the authority【,】
22 and the Commissioner of the Department of Education【,】 and the
23 Chief Executive Officer of the Schools Development Authority【,】
24 shall review all completed applications, and request additional
25 information as is needed to make a complete assessment of the
26 project. No public-private partnership agreement shall be executed
27 until approval has been granted by the State Treasurer. Prior to a
28 final decision by the State Treasurer on the application, the
29 authority【,】 and the Department of Education【,】 and the Schools
30 Development Authority【,】 shall be afforded the opportunity to
31 provide comments on the application that they deem appropriate,
32 and the State Treasurer shall consider any comments submitted by
33 the authority【,】 and the Department of Education【,】 and the Schools
34 Development Authority【,】 with respect to the application. The State
35 Treasurer will find that: (i) the school district's assumptions
36 regarding the project's scope, its benefits, its risks and the cost of
37 the public sector option were fully and reasonably developed (ii) the
38 design of the project is feasible; (iii) the experience and
39 qualifications of the private entity; (iv) the financial plan is sound;
40 (v) the long-range maintenance plan is adequate to protect the
41 investment; (vi) the project is in the best interest of the public,
42 using the criteria in paragraph (6) of subsection e. of this section;
43 (vii) a resolution by the school district's governing body of its intent
44 to enter into a public-private partnership agreement for the project
45 has been received; and (viii) the term sheet for any proposed
46 procurement contains all necessary elements.

1 (5) The State Treasurer, in consultation with the Commissioner
2 of the Department of Education and Chief Executive Officer of the
3 **【Schools】** Economic Development Authority, may promulgate any
4 rules and regulations necessary to implement this subsection,
5 including, but not limited to, provisions for fees to cover
6 administrative costs, and for the determination of minimum school
7 district standards for the operation of the project, and for the
8 qualification for professional services, construction contracting, and
9 other relevant qualifications.

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

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

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

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

47 (2) A request for qualifications for a public-private partnership
48 agreement shall be advertised at least 45 days prior to the

1 anticipated date of receipt. The advertisement of the request for
2 qualifications shall be published on the official Internet website of
3 the school district and at least one or more newspapers with
4 Statewide circulation.

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

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

42 (5) After the proposal or proposals have been received, and any
43 public notification period has expired, the school district shall rank
44 the proposals in order of preference. In ranking the proposals, the
45 school district shall rely upon, at minimum, the evaluation criteria
46 promulgated by the State Treasurer, in consultation with the New
47 Jersey Economic Development Authority[,], and the Department of
48 Education[,], and Schools Development Authority]. In addition, the

1 local school district may consider factors that include, but may not
2 be limited to, professional qualifications, general business terms,
3 innovative engineering, architectural services, or cost-reduction
4 terms, finance plans, and the need for school district funds to
5 deliver the project and discharge the agreement. The private entity
6 selected shall comply with all laws and regulations required by the
7 State government entity, including but not limited to section 1 of
8 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,
9 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25.24-2),
10 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-
11 51 et al.), Executive Order No. 117 of 2008, Executive Order No.
12 118 of 2008, Executive Order No. 189, prior to executing the public
13 private partnership agreement. If only one proposal is received, the
14 school district shall negotiate in good faith and, if not satisfied with
15 the results of the negotiations, the school district may, at its sole
16 discretion, terminate negotiations.

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

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

27 (8) Nothing in this section shall be construed as or deemed a
28 waiver of the sovereign immunity of the State, the local government
29 unit or an affected locality or public entity or any officer or
30 employee thereof with respect to the participation in or approval of
31 all or any part of the public-private project.

32 (cf: P.L.2018, c.90, s.2)

33

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

35 18A:22-39. Whenever the undertaking of any capital project or
36 projects to be paid for from the proceeds of an issue or issue of
37 bonds is submitted to the voters of a type II district at an annual or
38 special school election for their approval or disapproval, the board
39 shall frame and adopt by a recorded roll call majority vote of its full
40 membership the question or questions to be submitted so that each
41 project is submitted in a separate question, or all or any number of
42 them are submitted in one question, which shall state the project or
43 projects so submitted and the amounts to be raised for each of the
44 projects so separately submitted or for each or for all of the projects
45 so jointly submitted, as the case may be, but any proposal for the
46 purchase of land shall be sufficient to authorize the taking and
47 condemning of such land. If the project is to be constructed by the
48 New Jersey **【Schools】** Economic Development Authority or a

1 redevelopment entity or by the district with a grant pursuant to
2 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,
3 when framed as a single question, request approval for the local
4 share and shall disclose the final eligible costs of the project as
5 approved by the commissioner pursuant to section 5 of P.L.2000,
6 c.72 (C.18A:7G-5) and in the case of a demonstration project
7 pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and
8 C.18A:7G-6), and, if applicable, the amount of any costs of the
9 project which are in addition to the final eligible costs. If the school
10 facilities project is not to be constructed by the New Jersey
11 **【Schools】** Economic Development Authority or a redevelopment
12 entity or by the district with a grant pursuant to section 15 of
13 P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed
14 as a single question, request approval for the total costs of the
15 project, shall disclose State debt service aid for the project and, if
16 applicable, the amount of any costs of the project which are in
17 addition to the final eligible costs of the project. When a project is
18 framed in more than one question, a summary shall be included in
19 the explanatory statement which accompanies the questions that
20 includes the total costs of the project, total State debt service aid,
21 and, if applicable, the amount of the costs of the project which are
22 in addition to the final eligible costs of the project, and any
23 individual question containing costs in addition to the final eligible
24 costs shall include the amount of those additional costs.

25 The statement of additional costs in any ballot question and in
26 any explanatory statement that accompanies a ballot question shall
27 describe the additional costs as follows: "This project includes
28 \$(insert amount) for school facility construction elements in
29 addition to the facilities efficiency standards developed by the
30 Commissioner of Education."

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

32

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

35 4. a. A nonprofit entity, in partnership with the renaissance
36 school district, may submit to the commissioner an application to
37 create a renaissance school project no later than three years
38 following the effective date of P.L.2011, c.176 (C.18A:36C-1 et
39 seq.); except that in the case of a project to be located in a
40 renaissance school district which is in a municipality that is subject
41 to the "Municipal Rehabilitation and Economic Recovery Act,"
42 P.L.2002, c.43 (C.52:27BBB-1 et al.), the application must be
43 submitted no later than four years following the effective date of
44 P.L.2011, c.176 (C.18A:36C-1 et seq.). A nonprofit entity seeking
45 to create a renaissance school project shall have experience in
46 operating a school in a high-risk, low-income urban district. In
47 addition, an entity retained by the nonprofit entity for the purpose

1 of financing or constructing the renaissance school project shall
2 also have appropriate experience.

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

5 (1) except as otherwise provided in this paragraph, a resolution
6 adopted in a public meeting by the board of education of the
7 renaissance school district in which the renaissance school project
8 will be located certifying the support of the board for the
9 application. In the case of a district under full or partial State
10 intervention with an advisory board of education, the application
11 shall contain evidence that that State district superintendent or
12 superintendent, as applicable, convened at least three public
13 meetings to discuss the merits of the renaissance school project.
14 The evidence shall include, at a minimum, any written public
15 comments received during those meetings. In the case of these
16 districts, the application shall contain a resolution from the advisory
17 board of education reflecting the board's approval or disapproval of
18 the renaissance school project. While a successful application does
19 not require approval from the advisory board of education, the
20 commissioner, in considering the application, shall give due
21 consideration to any disapproval from the advisory board;

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

26 (3) the educational goals of the renaissance school project, the
27 curriculum to be offered, and the methods of assessing whether
28 students are meeting the proffered educational goals;

29 (4) any testing and academic performance standards to be
30 mandated by the renaissance school project beyond those required
31 by State law and regulation;

32 (5) the admission policy and criteria for evaluating the
33 admission of students to the renaissance school project, which shall
34 comply with the provisions of section 8 of this act;

35 (6) the age or grade range of students to be enrolled in the
36 renaissance school project;

37 (7) the total number of students to be enrolled in each grade
38 level of the renaissance school project;

39 (8) the renaissance school project calendar and school day
40 schedule;

41 (9) the financial plan for the renaissance school project and the
42 provisions that will be made for auditing pursuant to N.J.S.18A:23-
43 1;

44 (10) a description of, and address for, the initial school facility in
45 which the renaissance school project will be located and an
46 affirmation that any other school facility or facilities in which the
47 renaissance school project will be located will be in the required
48 urban campus area. For any school facility other than the initial

1 school facility included in the application pursuant to this
2 paragraph, the nonprofit entity shall notify the Commissioner of
3 Education of the location of the facility at least one year prior to the
4 opening of the facility;

5 (11) documentation that the proposed renaissance school project
6 meets school facility regulations promulgated by the State Board of
7 Education pertaining to the health and safety of the pupils;

8 (12) documentation of a funding plan to acquire necessary lands
9 and to construct a renaissance school project thereon, including the
10 terms of any financing secured for such purpose;

11 (13) (Deleted by amendment, P.L.2013, c.149)

12 (14) identification of the attendance area of the renaissance
13 school project, if the renaissance school project will not be built on
14 land owned by the New Jersey **[Schools]** Economic Development
15 Authority or the renaissance school district;

16 (15) a description of the process employed by the renaissance
17 school district to find and partner with the chosen nonprofit entity
18 to create a renaissance school project. The description shall be
19 sufficient to show that the process employed by the renaissance
20 school district was open, fair, and subject to public input and
21 comment. The description shall, at a minimum, include any
22 requests for proposals issued by the renaissance school district, the
23 number of responses received, and the process and criteria
24 employed by the renaissance school district to select the chosen
25 nonprofit entity among the respondents; and

26 (16) such other information as the commissioner may require.
27 (cf: P.L.2014, c.61, s.2)

28

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

31 8. a. (1) In the case of a renaissance school project built on
32 land owned by the New Jersey **[Schools]** Economic Development
33 Authority or the renaissance school district, students residing in the
34 attendance area established by the renaissance school district for
35 that property shall be automatically enrolled in the renaissance
36 school project, except as otherwise provided in paragraph (2) of this
37 subsection. The parent or guardian of the student may determine
38 not to enroll the student in the renaissance school project, and in
39 that case the student shall be eligible for enrollment in another
40 school in the renaissance school district. If spaces remain available
41 in the renaissance school project, students shall be selected for the
42 remaining spaces through a lottery system. The first lottery shall
43 include students who reside in the renaissance school district but
44 outside the attendance area of the renaissance school. If space
45 remains available, a second lottery shall be conducted that may
46 include students who reside outside of the renaissance school
47 district.

1 (2) A renaissance school project built on land owned by the
2 New Jersey **【Schools】** Economic Development Authority or the
3 renaissance school district, shall allow any student who was
4 enrolled in the renaissance school project in the immediately
5 preceding school year to enroll in the renaissance school project in
6 the appropriate grade unless the appropriate grade is not offered;
7 and if a grade is at capacity, a student enrolled in the immediately
8 preceding school year shall have priority for enrollment in that
9 grade over a student who would otherwise be eligible for initial
10 enrollment in the renaissance school project automatically based on
11 the fact that he resides in the attendance area established by the
12 renaissance school project for that property.

13 b. (1) In the case of a renaissance school project which is not
14 built on land owned by the New Jersey **【Schools】** Economic
15 Development Authority or the renaissance school district,
16 preference for enrollment in the renaissance school project shall be
17 given to students who reside in the attendance area identified in the
18 application submitted by the nonprofit entity and approved by the
19 commissioner for the renaissance school project. In no case may an
20 attendance area include an area outside of the renaissance school
21 district. If spaces remain available in the renaissance school
22 project, then the renaissance school project may select students for
23 the remaining spaces through a lottery system. The first lottery
24 shall include students who reside in the renaissance school district
25 but outside the attendance area identified in the application
26 approved by the commissioner for the renaissance school project. If
27 space remains available, a second lottery shall be conducted that
28 may include students who reside outside of the renaissance school
29 district.

30 (2) A renaissance school project which is not built on land
31 owned by the New Jersey **【Schools】** Economic Development
32 Authority or the renaissance school district shall allow any student
33 who was enrolled in the renaissance school project in the
34 immediately preceding school year to enroll in the renaissance
35 school project in the appropriate grade unless the appropriate grade
36 is not offered.

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

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

45

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

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

14 b. Notwithstanding any other law to the contrary, in the event
15 of a conveyance by the authority to a renaissance school district
16 pursuant to this section, the renaissance school district is authorized
17 to enter into a sub-lease of the property to the entity as required to
18 effectuate the renaissance school project. The sub-lease shall be
19 submitted to the commissioner for his review and approval. The
20 sub-lease shall contain a restriction that the land be used solely for
21 the renaissance school project or it shall revert to the school district.
22 (cf: P.L.2011, c.176, s.11)

23

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

26 2. The Legislature hereby finds and determines that:

27 a. Department of Labor and Workforce Development statistics
28 of recent years indicate a continuing decline in manufacturing
29 employment within the State, which is a contributing factor to the
30 drastic unemployment existing within the State, which far exceeds
31 the national average, thus adversely affecting the economy of the
32 State and the prosperity, safety, health and general welfare of its
33 inhabitants and their standard of living; that there is an urgent need
34 to protect and enhance the quality of the natural environment and to
35 reduce, abate and prevent environmental pollution derived from the
36 operation of industry, utilities and commerce within the State; and
37 that the availability of financial assistance and suitable facilities are
38 important inducements to new and varied employment promoting
39 enterprises to locate in the State, to existing enterprises to remain
40 and expand in the State, and to industry, utilities and commerce to
41 reduce, abate and prevent environmental pollution.

42 b. The provision of buildings, structures and other facilities to
43 increase opportunity for employment in manufacturing, industrial,
44 commercial, recreational, retail and service enterprises in the State
45 is in the public interest and it is a public purpose for the State to
46 induce and to accelerate opportunity for employment in such
47 enterprises.

1 c. In order to aid in supplying these needs and to assist in the
2 immediate reduction of unemployment and to provide sufficient
3 employment for the citizens of the State in the future, it is necessary
4 and in the public interest to aid and encourage the immediate
5 commencement of new construction projects of all types, to induce
6 and facilitate the acquisition and installation at an accelerated rate
7 of such devices, equipment and facilities as may be required to
8 reduce, abate and prevent environmental pollution by industry,
9 utilities and commerce.

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

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

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

46 The Legislature further determines that in order to aid in
47 remedying the aforesaid conditions and to further and implement
48 the purposes of this act, that there shall be created a body politic

1 and corporate having the powers, duties and functions provided in
2 this act; and that the authority and powers conferred under this act,
3 and the expenditure of moneys pursuant thereto constitute a serving
4 of a valid public purpose; and that the enactment of the provisions
5 hereinafter set forth is in the public interest and for the public
6 benefit and good, and is hereby so declared to be as a matter of
7 express legislative determination.

8 The Legislature further finds and determines that:

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

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

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

47 The New Jersey Economic Development Authority also has
48 substantial and significant experience in undertaking major capital

1 construction projects, has a system of internal controls and
2 procedures to ensure the integrity of construction activities, and is
3 therefore the appropriate entity to undertake the planning, design,
4 construction, and operation of educational infrastructure projects.

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

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

7
8 39. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read
9 as follows:

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

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

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

27 "Cost" means the cost of the acquisition, construction,
28 reconstruction, repair, alteration, improvement and extension of any
29 building, structure, facility including water transmission facilities,
30 or other improvement; the cost of machinery and equipment; the
31 cost of acquisition, construction, reconstruction, repair, alteration,
32 improvement and extension of energy saving improvements or
33 pollution control devices, equipment or facilities; the cost of lands,
34 rights-in-lands, easements, privileges, agreements, franchises,
35 utility extensions, disposal facilities, access roads and site
36 development deemed by the authority to be necessary or useful and
37 convenient for any project or school facilities project or in
38 connection therewith; discount on bonds; cost of issuance of bonds;
39 engineering and inspection costs; costs of financial, legal,
40 professional and other estimates and advice; organization,
41 administrative, insurance, operating and other expenses of the
42 authority or any person prior to and during any acquisition or
43 construction, and all such expenses as may be necessary or incident
44 to the financing, acquisition, construction or completion of any
45 project or school facilities project or part thereof, and also such
46 provision for reserves for payment or security of principal of or
47 interest on bonds during or after such acquisition or construction as
48 the authority may determine.

1 "County" means any county of any class.

2 "County solid waste facility" means a solid waste facility that is
3 designated by a public authority or county in its adopted district
4 solid waste management plan as approved by the department prior
5 to November 10, 1997 as the in-county facility to which solid waste
6 generated within the boundaries of the county is transported for
7 final disposal, or transfer for transportation to an offsite solid waste
8 facility or designated out-of-district disposal site for disposal, as
9 appropriate, pursuant to interdistrict or intradistrict waste flow
10 orders issued by the department, regardless of whether the county
11 solid waste facility was acquired, constructed, operated, abandoned
12 or canceled.

13 "Department" means the Department of Environmental
14 Protection.

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

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

26 "Pollution control project" means any device, equipment,
27 improvement, structure or facility, or any land and any building,
28 structure, facility or other improvement thereon, or any combination
29 thereof, whether or not in existence or under construction, or the
30 refinancing thereof in order to facilitate improvements or additions
31 thereto or upgrading thereof, and all real and personal property
32 deemed necessary thereto, having to do with or the end purpose of
33 which is the control, abatement or prevention of land, sewer, water,
34 air, noise or general environmental pollution, including, but not
35 limited to, any air pollution control facility, noise abatement
36 facility, water management facility, thermal pollution control
37 facility, radiation contamination control facility, wastewater
38 collection system, wastewater treatment works, sewage treatment
39 works system, sewage treatment system or solid waste facility or
40 site; provided that the authority shall have received from the
41 Commissioner of the State Department of Environmental Protection
42 or the commissioner's duly authorized representative a certificate
43 stating the opinion that, based upon information, facts and
44 circumstances available to the State Department of Environmental
45 Protection and any other pertinent data, (1) the pollution control
46 facilities do not conflict with, overlap or duplicate any other
47 planned or existing pollution control facilities undertaken or
48 planned by another public agency or authority within any political

1 subdivision, and (2) the facilities, as designed, will be a pollution
2 control project as defined in the provisions of P.L.1974, c.80
3 (C.34:1B-1 et seq.) and are in furtherance of the purpose of abating
4 or controlling pollution.

5 "Project" means: (1) (a) acquisition, construction, reconstruction,
6 repair, alteration, improvement and extension of any building,
7 structure, facility, including water transmission facilities or other
8 improvement, whether or not in existence or under construction, (b)
9 purchase and installation of equipment and machinery, (c)
10 acquisition and improvement of real estate and the extension or
11 provision of utilities, access roads and other appurtenant facilities;
12 and (2) (a) the acquisition, financing, or refinancing of inventory,
13 raw materials, supplies, work in process, or stock in trade, or (b) the
14 financing, refinancing or consolidation of secured or unsecured
15 debt, borrowings, or obligations, or (c) the provision of financing
16 for any other expense incurred in the ordinary course of business;
17 all of which are to be used or occupied by any person in any
18 enterprise promoting employment, either for the manufacturing,
19 processing or assembly of materials or products, or for research or
20 office purposes, including, but not limited to, medical and other
21 professional facilities, or for industrial, recreational, hotel or motel
22 facilities, public utility and warehousing, or for commercial and
23 service purposes, including, but not limited to, retail outlets, retail
24 shopping centers, restaurant and retail food outlets, and any and all
25 other employment promoting enterprises, including, but not limited
26 to, motion picture and television studios and facilities and
27 commercial fishing facilities, commercial facilities for recreational
28 fishermen, fishing vessels, aquaculture facilities and marketing
29 facilities for fish and fish products and (d) acquisition of an equity
30 interest in, including capital stock of, any corporation; or any
31 combination of the above, which the authority determines will: (i)
32 tend to maintain or provide gainful employment opportunities
33 within and for the people of the State, or (ii) aid, assist and
34 encourage the economic development or redevelopment of any
35 political subdivision of the State, or (iii) maintain or increase the
36 tax base of the State or of any political subdivision of the State, or
37 (iv) maintain or diversify and expand employment promoting
38 enterprises within the State; and (3) the cost of acquisition,
39 construction, reconstruction, repair, alteration, improvement and
40 extension of an energy saving improvement or pollution control
41 project which the authority determines will tend to reduce the
42 consumption in a building devoted to industrial or commercial
43 purposes, or in an office building, of nonrenewable sources of
44 energy or to reduce, abate or prevent environmental pollution
45 within the State; and (4) the acquisition, construction,
46 reconstruction, repair, alteration, improvement, extension,
47 development, financing or refinancing of infrastructure, including
48 parking facilities or structures, and transportation facilities or

1 improvements related to economic development and of cultural,
2 recreational and tourism facilities or improvements related to
3 economic development and of capital facilities for primary and
4 secondary schools and of mixed use projects consisting of housing
5 and commercial development; and (5) the establishment,
6 acquisition, construction, rehabilitation, improvement, and
7 ownership of port facilities as defined in section 3 of P.L.1997,
8 c.150 (C.34:1B-146). Project may also include: (i) reimbursement
9 to any person for costs in connection with any project, or the
10 refinancing of any project or portion thereof, if determined by the
11 authority as necessary and in the public interest to maintain
12 employment and the tax base of any political subdivision and will
13 facilitate improvements thereto or the completion thereof, and (ii)
14 development property and any construction, reconstruction,
15 improvement, alteration, equipment or maintenance or repair, or
16 planning and designing in connection therewith. For the purpose of
17 carrying out mixed use projects consisting of both housing and
18 commercial development, the authority may enter into agreements
19 with the New Jersey Housing and Mortgage Finance Agency for
20 loan guarantees for any such project in accordance with the
21 provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that
22 purpose shall allocate to the New Jersey Housing and Mortgage
23 Finance Agency, under such agreements, funding available pursuant
24 to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13).
25 Project shall not include a school facilities project.

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

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

46 "Resolution" means any resolution adopted or trust agreement
47 executed by the authority, pursuant to which bonds of the authority
48 are authorized to be issued.

1 "Solid waste" means garbage, refuse, and other discarded
2 materials resulting from industrial, commercial and agricultural
3 operations, and from domestic and community activities, and shall
4 include all other waste materials including liquids, except for source
5 separated recyclable materials or source separated food waste
6 collected by livestock producers approved by the State Department
7 of Agriculture to collect, prepare and feed such wastes to livestock
8 on their own farms.

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

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

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

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

46 "Urban growth zone" means any area within a municipality
47 receiving State aid pursuant to the provisions of P.L.1978, c.14
48 (C.52:27D-178 et seq.) or a municipality certified by the

1 Commissioner of Community Affairs to qualify under such law in
2 every respect except population, which area has been so designated
3 pursuant to an ordinance of the governing body of such
4 municipality.

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

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

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

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

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

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

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

45

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

48 5. The authority shall have the following powers:

- 1 a. To adopt bylaws for the regulation of its affairs and the
2 conduct of its business;
- 3 b. To adopt and have a seal and to alter the same at pleasure;
- 4 c. To sue and be sued;
- 5 d. To acquire in the name of the authority by purchase or
6 otherwise, on such terms and conditions and such manner as it may
7 deem proper, or by the exercise of the power of eminent domain in
8 the manner provided by the "Eminent Domain Act of 1971,"
9 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
10 other property which it may determine is reasonably necessary for
11 any project or school facilities project; provided, however, that the
12 authority in connection with any project shall not take by exercise
13 of the power of eminent domain any real property except upon
14 consent thereto given by resolution of the governing body of the
15 municipality in which such real property is located; and provided
16 further that the authority shall be limited in its exercise of the power
17 of eminent domain in connection with any project in qualifying
18 municipalities as defined under the provisions of P.L.1978, c.14
19 (C.52:27D-178 et seq.), or to municipalities which had a population,
20 according to the latest federal decennial census, in excess of 10,000;
- 21 e. To enter into contracts with a person upon such terms and
22 conditions as the authority shall determine to be reasonable,
23 including, but not limited to, reimbursement for the planning,
24 designing, financing, construction, reconstruction, improvement,
25 equipping, furnishing, operation and maintenance of the project or
26 the school facilities project and to pay or compromise any claims
27 arising therefrom;
- 28 f. To establish and maintain reserve and insurance funds with
29 respect to the financing of the project or the school facilities project
30 and any project financed pursuant to the "Municipal Rehabilitation
31 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
32 al.);
- 33 g. To sell, convey or lease to any person all or any portion of a
34 project or school facilities project, for such consideration and upon
35 such terms as the authority may determine to be reasonable;
- 36 h. To mortgage, pledge or assign or otherwise encumber all or
37 any portion of a project, school facilities project, or revenues,
38 whenever it shall find such action to be in furtherance of the
39 purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the
40 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
41 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),
42 **[and]** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et
43 al.), and P.L. , c. (C.) (pending before the Legislature as
44 this bill);
- 45 i. To grant options to purchase or renew a lease for any of its
46 projects or school facilities projects on such terms as the authority
47 may determine to be reasonable;

1 j. To contract for and to accept any gifts or grants or loans of
2 funds or property or financial or other aid in any form from the
3 United States of America or any agency or instrumentality thereof,
4 or from the State or any agency, instrumentality or political
5 subdivision thereof, or from any other source and to comply,
6 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),
7 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
8 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
9 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), **[and]**
10 P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C.)
11 (pending before the Legislature as this bill), with the terms and
12 conditions thereof;

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

20 l. To adopt, amend and repeal regulations to carry out the
21 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
22 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
23 the "Municipal Rehabilitation and Economic Recovery Act,"
24 P.L.2002, c.43 (C.52:27BBB-1 et al.), **[and]** P.L.2007, c.137
25 (C.52:18A-235 et al.), and P.L. , c. (C.) (pending before the
26 Legislature as this bill);

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

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

35 o. To purchase, acquire, attach, seize, accept or take title to any
36 project or school facilities project by conveyance or by foreclosure,
37 and sell, lease, manage or operate any project or school facilities
38 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1
39 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"
40 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
41 235 et al.), **[and]** sections 3 through 18 of P.L.2009, c.90
42 (C.52:27D-489c et al.) , and P.L. , c. (C.) (pending before
43 the Legislature as this bill);

44 p. To borrow money and to issue bonds of the authority and to
45 provide for the rights of the holders thereof, as provided in
46 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
47 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
48 Rehabilitation and Economic Recovery Act," P.L.2002, c.43

1 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),
2 **[and]** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et
3 al.), and P.L. , c. (C.) (pending before the Legislature as
4 this bill);

5 q. To extend credit or make loans to any person for the
6 planning, designing, acquiring, constructing, reconstructing,
7 improving, equipping and furnishing of a project or school facilities
8 project, which credits or loans may be secured by loan and security
9 agreements, mortgages, leases and any other instruments, upon such
10 terms and conditions as the authority shall deem reasonable,
11 including provision for the establishment and maintenance of
12 reserve and insurance funds, and to require the inclusion in any
13 mortgage, lease, contract, loan and security agreement or other
14 instrument, of such provisions for the construction, use, operation
15 and maintenance and financing of a project or school facilities
16 project as the authority may deem necessary or desirable;

17 r. To guarantee up to 90% of the amount of a loan to a person,
18 if the proceeds of the loan are to be applied to the purchase and
19 installation, in a building devoted to industrial or commercial
20 purposes, or in an office building, of an energy improvement
21 system;

22 s. To employ consulting engineers, architects, attorneys, real
23 estate counselors, appraisers, and such other consultants and
24 employees as may be required in the judgment of the authority or
25 the redevelopment utility to carry out the purposes of P.L.1974,
26 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
27 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
29 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),
30 **[and]** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et
31 al.), and P.L. , c. (C.) (pending before the Legislature as
32 this bill), and to fix and pay their compensation from funds
33 available to the redevelopment utility therefor, all without regard to
34 the provisions of Title 11A of the New Jersey Statutes;

35 t. To do and perform any acts and things authorized by
36 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
37 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
38 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
39 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),
40 **[and]** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et
41 al.), and P.L. , c. (C.) (pending before the Legislature as
42 this bill), under, through or by means of its own officers, agents and
43 employees, or by contract with any person;

44 u. To procure insurance against any losses in connection with
45 its property, operations or assets in such amounts and from such
46 insurers as it deems desirable;

47 v. To do any and all things necessary or convenient to carry out
48 its purposes and exercise the powers given and granted in P.L.1974,

1 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
2 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
3 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
4 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),
5 **【and】** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et
6 al.) , and P.L. , c. (C.) (pending before the Legislature as
7 this bill);

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

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

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

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

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

46 bb. To make and contract to make loans or leases and to make
47 grants to local units to finance the cost of school facilities projects
48 and to acquire and contract to acquire bonds, notes or other

1 obligations issued or to be issued by local units to evidence the
2 loans or leases, all in accordance with the provisions of P.L.2000,
3 c.72 (C.18A:7G-1 et al.), **[and]** P.L.2007, c.137 (C.52:18A-235 et
4 al.), and P.L. , c. (C.) (pending before the Legislature as
5 this bill);

6 cc. Subject to any agreement with holders of its bonds issued to
7 finance a project or school facilities project, obtain as security or to
8 provide liquidity for payment of all or any part of the principal of
9 and interest and premium on the bonds of the authority or for the
10 purchase upon tender or otherwise of the bonds, lines of credit,
11 letters of credit, reimbursement agreements, interest rate exchange
12 agreements, currency exchange agreements, interest rate floors or
13 caps, options, puts or calls to hedge payment, currency, rate, spread
14 or similar exposure or similar agreements, float agreements,
15 forward agreements, insurance contract, surety bond, commitment
16 to purchase or sell bonds, purchase or sale agreement, or
17 commitments or other contracts or agreements, and other security
18 agreements or instruments in any amounts and upon any terms as
19 the authority may determine and pay any fees and expenses required
20 in connection therewith;

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

28 ee. To make loans to refinance solid waste facility bonds
29 through the issuance of bonds or other obligations and the execution
30 of any agreements with counties or public authorities to effect the
31 refunding or rescheduling of solid waste facility bonds, or otherwise
32 provide for the payment of all or a portion of any series of solid
33 waste facility bonds. Any county or public authority refunding or
34 rescheduling its solid waste facility bonds pursuant to this
35 subsection shall provide for the payment of not less than fifty
36 percent of the aggregate debt service for the refunded or
37 rescheduled debt of the particular county or public authority for the
38 duration of the loan; except that, whenever the solid waste facility
39 bonds to be refinanced were issued by a public authority and the
40 county solid waste facility was utilized as a regional county solid
41 waste facility, as designated in the respective adopted district solid
42 waste management plans of the participating counties as approved
43 by the department prior to November 10, 1997, and the utilization
44 of the facility was established pursuant to tonnage obligations set
45 forth in their respective interdistrict agreements, the public
46 authority refunding or rescheduling its solid waste facility bonds
47 pursuant to this subsection shall provide for the payment of a
48 percentage of the aggregate debt service for the refunded or

1 rescheduled debt of the public authority not to exceed the
2 percentage of the specified tonnage obligation of the host county for
3 the duration of the loan. Whenever the solid waste facility bonds
4 are the obligation of a public authority, the relevant county shall
5 execute a deficiency agreement with the authority, which shall
6 provide that the county pledges to cover any shortfall and to pay
7 deficiencies in scheduled repayment obligations of the public
8 authority. All costs associated with the issuance of bonds pursuant
9 to this subsection may be paid by the authority from the proceeds of
10 these bonds. Any county or public authority is hereby authorized to
11 enter into any agreement with the authority necessary, desirable or
12 convenient to effectuate the provisions of this subsection.

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

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

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

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

32 ii. To finance or develop private or public parking facilities or
33 structures, which may include the use of solar photovoltaic
34 equipment, in municipalities qualified to receive State aid pursuant
35 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
36 municipalities that contain areas designated pursuant to P.L.1985,
37 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
38 Planning Area 2 (Suburban), or a town center, and to provide
39 appropriate assistance, including but not limited to, extensions of
40 credit, loans, and guarantees, to municipalities qualified to receive
41 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-
42 178 et seq.) and municipalities that contain areas designated
43 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
44 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town
45 center, and their agencies and instrumentalities or to private entities
46 whose projects are located in those municipalities, in order to
47 facilitate the financing and development of parking facilities or
48 structures in such municipalities. The authority may serve as the

1 issuing agent of bonds to finance the undertaking of a project for
2 the purposes of this subsection; and

3 jj. To enter into leases, rental, or other disposition of a real
4 property interest in and of any school facilities project to or from
5 any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.),
6 P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C.)
7 (pending before the Legislature as this bill).

8 (cf: P.L.2010, c.28, s.3)

9

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

12 1. The New Jersey Economic Development Authority shall
13 adopt rules and regulations requiring that not less than the
14 prevailing wage rate be paid to workers employed in the
15 performance of any construction contract, including contracts for
16 millwork fabrication, undertaken in connection with authority
17 financial assistance or any of its projects, those projects which it
18 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or
19 school facilities projects, or undertaken to fulfill any condition of
20 receiving authority financial assistance, including the performance
21 of any contract to construct, renovate or otherwise prepare a facility
22 for operations which are necessary for the receipt of authority
23 financial assistance, unless the work performed under the contract is
24 performed on a facility owned by a landlord of the entity receiving
25 the assistance and less than 55% of the facility is leased by the
26 entity at the time of the contract and under any agreement to
27 subsequently lease the facility. The prevailing wage rate shall be
28 the rate determined by the Commissioner of Labor and Workforce
29 Development pursuant to the provisions of P.L.1963, c.150
30 (C.34:11-56.25 et seq.). For the purposes of this section, "authority
31 financial assistance" means any loan, loan guarantee, grant,
32 incentive, tax exemption or other financial assistance that is
33 approved, funded, authorized, administered or provided by the
34 authority to any entity and is provided before, during or after
35 completion of a project, including but not limited to, all authority
36 financial assistance received by the entity pursuant to the "Business
37 Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124
38 et al.) that enables the entity to engage in a construction contract,
39 but this section shall not be construed as requiring the payment of
40 the prevailing wage for construction commencing more than two
41 years after an entity has executed with the authority a commitment
42 letter regarding authority financial assistance and the first payment
43 or other provision of the assistance is received.

44 (cf: P.L.2007, c.245)

45

46 42. Section 4 of P.L.1979, c.303 (C.34:1B-5.4) is amended to
47 read as follows:

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

12 b. (Deleted by amendment, P.L.2007, c.137).
13 (cf: P.L.2007, c.137, s.55)

14

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

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

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

33

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

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

47 (cf: P.L.2008, c.39, s.7)

1 45. Section 15 of P.L.1974, c.80 (C.34:1B-15) is amended to
2 read as follows:

3 15. The exercise of the powers granted by this act, P.L.2000,
4 c.72 (C.18A:7G-1 et al.), **[and]** P.L.2007, c.137 (C.52:18A-235 et
5 al.), and P.L. , c. (C.) (pending before the Legislature as
6 his bill) shall constitute the performance of an essential
7 governmental function and the authority shall not be required to pay
8 any taxes or assessments upon or in respect of a project or school
9 facilities project, or any property or moneys of the authority, and
10 the authority, its projects and school facilities projects, property and
11 moneys and any bonds and notes issued under the provisions of this
12 act, P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** P.L.2007, c.137
13 (C.52:18A-235 et al.), and P.L. , c. (C.) (pending before
14 the Legislature as his bill), their transfer and the income therefrom,
15 including any profit made on the sale thereof, shall at all times be
16 free from taxation of every kind by the State except for transfer,
17 inheritance and estate taxes and by any political subdivision of the
18 State; provided, that any person occupying a project whether as
19 lessee, vendee or otherwise shall, as long as title thereto shall
20 remain in the authority, pay to the political subdivision in which
21 such project is located a payment in lieu of taxes which shall equal
22 the taxes on real and personal property, including water and sewer
23 service charges or assessments, which such person would have been
24 required to pay had it been the owner of such property during the
25 period for which such payment is made and neither the authority
26 nor its projects, properties, money or bonds and notes shall be
27 obligated, liable or subject to lien of any kind for the enforcement,
28 collection or payment thereof. If and to the extent the proceedings
29 under which the bonds authorized to be issued under the provisions
30 of this act so provide, the authority may agree to cooperate with
31 such person occupying a project, in connection with any
32 administrative or judicial proceedings for determining the validity
33 or amount of such payments and may agree to appoint or designate
34 and reserve the right in and for such person to take all action which
35 the authority may lawfully take in respect of such payments and all
36 matters relating thereto, provided such person shall bear and pay all
37 costs and expenses of the authority thereby incurred at the request
38 of such person or by reason of any such action taken by such person
39 in behalf of the authority. If such person occupying a project has
40 paid the amounts in lieu of taxes required by this section to be paid
41 such person shall not be required to pay any such taxes as to which
42 a payment in lieu thereof has been made to the State or to any
43 political subdivision, any other statute to the contrary
44 notwithstanding.

45 (cf: P.L.2007, c.137, s.58)

46

47 46. Section 8 of P.L.2018, c.90 (C.52:18A-260) is amended to
48 read as follows:

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

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

18 c. The State Treasurer, in coordination with any relevant
19 agency, including the New Jersey Economic Development
20 Authority, Department of Transportation, and Department of
21 Community Affairs, shall provide, and make available to the public
22 on the Internet, an annual report, not later than December 31, 2019
23 and each year after that year, a list of all projects reviewed and the
24 percentage and amount of funds withheld and provided to the fund
25 pursuant to this section.

26 (cf: P.L.2018, c.90, s.8)

27

28 47. (New section) a. No municipality shall modify or change
29 the drawings, plans or specifications for the construction,
30 reconstruction, rehabilitation, alteration or improvement of any
31 school facilities project of the authority, or the construction,
32 plumbing, heating, lighting or other mechanical branch of work
33 necessary to complete the work in question, nor to require that any
34 person, firm or corporation employed on any such work shall
35 perform the work in any other or different manner than that
36 provided by the drawings, plans and specifications, nor to require
37 that any person, firm or corporation obtain any other or additional
38 authority, approval, permit or certificate from the municipality in
39 relation to the work being done, and the doing of the work by any
40 person, firm or corporation in accordance with the terms of the
41 drawings, plans, specifications or contracts shall not subject the
42 person, firm or corporation to any liability or penalty, civil or
43 criminal, other than as may be stated in the contracts or incidental
44 to the proper enforcement thereof; nor shall any municipality
45 require the authority or any person, firm, partnership or corporation
46 which leases or purchases the school facilities project for lease or
47 purchase to a State agency, to obtain any other or additional
48 authority, approval, permit, certificate or certificate of occupancy

1 from the municipality as a condition of owning, using, maintaining,
2 operating or occupying any school facilities project acquired,
3 constructed, reconstructed, rehabilitated, altered or improved by the
4 authority or by any subsidiary thereof. The foregoing provisions
5 shall not preclude any municipality from exercising the right of
6 inspection for the purpose of requiring compliance by any school
7 facilities project with local requirements for operation and
8 maintenance affecting the health, safety and welfare of the
9 occupants thereof, provided that the compliance does not require
10 changes, modifications or additions to the original construction of
11 the school facilities project.

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

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

26

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

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

47 c. Contracts shall be awarded as follows: (1) if bids are
48 received in accordance with paragraph (1) of subsection b. of this

1 section, the authority shall determine the responsible bidder for
2 each branch whose bid, conforming to the invitation for bids, will
3 be most advantageous to the authority, price and other factors
4 considered; (2) if bids are received in accordance with paragraph
5 (2) of subsection b. of this section, the authority shall determine the
6 responsible bidder for the single overall contract whose bid,
7 conforming to the invitation for bids, will be the most advantageous
8 to the authority, price and other factors considered; or (3) if bids are
9 received in accordance with paragraph (3) of subsection b. of this
10 section, the authority shall award separate contracts for each branch
11 of work specified in subsection a. of this section if the sum total of
12 the amounts bid by the responsible bidders for each branch, as
13 determined pursuant to paragraph (1) of this subsection, is less than
14 the amount bid by the responsible bidder for all of the work and
15 materials, as determined pursuant to paragraph (2) of this
16 subsection; but if the sum total of the amounts bid by the
17 responsible bidder for each branch, as determined pursuant to
18 paragraph (1) of this subsection is not less than the amount bid by
19 the responsible bidder for all of the work and materials, as
20 determined pursuant to paragraph (2) of this subsection, the
21 authority shall award a single over-all contract to the responsible
22 bidder for all of the work and materials as determined pursuant to
23 paragraph (2) of this subsection.

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

44 e. The authority shall require from all contractors to which it
45 awards contracts pursuant to P.L. , c. (C.) (now pending
46 before the Legislature as this bill), the delivery of a payment
47 performance bond issued in accordance with N.J.S.2A:44-143 et
48 seq.

1 f. The authority shall adopt regulations to implement this
2 section which shall include, but not be limited to, the procedural
3 requirements for: (1) the evaluation and weighting of price and
4 "other factors" in the awarding of contracts; and (2) the appealing
5 of a prequalification classification and rating, a bid rejection and a
6 contract award recommendation.

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

11
12 49. (New section) a. If the authority shall find it necessary in
13 connection with the undertaking of any school facilities project to
14 change the location of any portion of any public highway or road, it
15 may contract with any government agency, or public or private
16 corporation which may have jurisdiction over the public highway or
17 road to cause the public highway or road to be constructed at such
18 locations as the authority shall deem most favorable. The cost of
19 the reconstruction and any damage incurred in changing the
20 location of the highway shall be ascertained and paid by the
21 authority as part of the cost of the school facilities project. Any
22 public highway affected by the construction of any school facilities
23 project may be vacated or relocated by the authority in the manner
24 now provided by law for the vacation or relocation of public roads,
25 and any damages awarded on account thereof shall be paid by the
26 authority as a part of the cost of the school facilities project. In all
27 undertakings authorized by this subsection, the authority shall
28 consult and obtain the approval of the Commissioner of
29 Transportation.

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

40 c. The authority shall have the power to make reasonable
41 regulations for the installation, construction, maintenance, repair,
42 renewal, relocation and removal of tracks, pipes, mains, conduits,
43 cables, wires, towers, poles and other equipment and appliances,
44 herein called "public utility facilities," or any public utility as
45 defined in R.S.48:2-13, in, on, along, over or under any school
46 facilities project. Whenever the authority shall determine that it is
47 necessary that any public utility facilities which now are, or
48 hereafter may be, located in, on, along, over or under any school

1 facilities project shall be relocated in the school facilities project, or
2 should be removed from the school facilities project, the public
3 utility owning or operating the facilities shall relocate or remove
4 them in accordance with the order of the authority. The cost and
5 expenses of the relocation or removal, including the cost of
6 installing the facilities in a new location or new locations, and the
7 cost of any lands, or any rights or interests in lands, and any other
8 rights, acquired to accomplish the relocation or removal, shall be
9 ascertained and paid by the authority as a part of the cost of the
10 school facilities project. In case of any relocation or removal of
11 facilities, the public utility owning or operating them, its successors
12 or assigns, may maintain and operate the facilities, with the
13 necessary appurtenances, in the new location or new locations, for
14 as long a period, and upon the same terms and conditions, as it had
15 the right to maintain and operate the facilities in their former
16 location or locations. In all undertakings authorized by this
17 subsection the authority shall consult and obtain the approval of the
18 Board of Public Utilities.

19

20 50. (New section) a. The New Jersey Schools Development
21 Authority established pursuant to section 3 of P.L.2007, c.137
22 (C.52:18A-237) is abolished and all its functions, powers, duties,
23 and employees are transferred to the New Jersey Economic
24 Development Authority.

25 b. Whenever, in any law, rule, regulation, order, contract,
26 document, judicial or administrative proceeding or otherwise,
27 reference is made to the New Jersey Schools Development
28 Authority, the same shall mean and refer to the New Jersey
29 Economic Development Authority.

30 c. This transfer shall be subject to the provisions of the "State
31 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

32

33 51. The following sections are repealed:

34 Sections 1 through 13 of P.L.2007, c.137 (C.52:18A-235 through
35 52:18A-247).

36

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

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STATEMENT

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43 This bill revises the school construction program established
44 under the "Educational Facilities Construction and Financing Act,"
45 (EFCFA) P.L.2000, c.72 (C.18A:7G-1 et al.). The bill will abolish
46 the New Jersey Schools Development Authority (SDA), which was
47 created pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) as a new
48 State authority responsible for the construction of schools in the

A4908 JONES, DEPHILLIPS

78

1 former Abbott districts. Under P.L.2007, c.137, the New Jersey
2 Economic Development Authority (EDA) retained its responsibility
3 for the financing of school construction projects. This bill transfers
4 all the functions, powers, duties, and employees of the SDA to the
5 EDA. The bill thereby consolidates all the construction and
6 financing authority for school facilities projects in a single State
7 authority, the EDA.