

# ASSEMBLY, No. 5330

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 16, 2019

**Sponsored by:**

**Assemblywoman BETTYLOU DECROCE**

**District 26 (Essex, Morris and Passaic)**

**Assemblyman CHRISTOPHER P. DEPHILLIPS**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Eliminates NJ Schools Development Authority and transfers its school construction responsibilities to Division of Property Management and Construction in Department of Treasury.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/17/2019)

1 AN ACT concerning the construction of school facilities projects,  
2 revising various parts of the statutory law, and supplementing  
3 chapter 7G of Title 18A of the New Jersey 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,  
11 c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) to  
12 the contrary, an SDA district as defined in section 3 of P.L.2000,  
13 c.72 (C.18A:7G-3) may include in its annual capital outlay budget  
14 and construct one or more school facilities projects if the  
15 commissioner, in consultation with the **【New Jersey Schools**  
16 **Development Authority】** Division of Property Management and  
17 Construction in the Department of the Treasury, approves the  
18 inclusion of the project upon a demonstration by the district that its  
19 budget includes sufficient funds to finance the project. The  
20 commissioner's approval of the inclusion of the school facilities  
21 project in the district's annual capital outlay budget may also  
22 contain specific conditions including, but not limited to, a  
23 requirement that the district follow the design requirements and  
24 materials and system standards established by the **【development**  
25 **authority】** division. A district may also withdraw funds from a  
26 capital reserve account for such purpose with the approval of the  
27 commissioner.

28 b. A school facilities project that is not financed and  
29 constructed pursuant to subsection a. of this section, shall continue  
30 to be financed and constructed in accordance with the provisions of  
31 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
32 235 et al.).

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

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

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

41 "Area cost allowance" means \$138 per square foot for the school  
42 year 2000-2001 and shall be inflated by an appropriate cost index  
43 for the 2001-2002 school year. For the 2002-2003 school year and  
44 subsequent school years, the area cost allowance shall be

**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 established by the commissioner pursuant to subsection h. of  
2 section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance  
3 used in determining preliminary eligible costs of school facilities  
4 projects shall be that of the year of application for approval of the  
5 project;

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】** Division of Property Management and  
19 Construction in the Department of the Treasury pursuant to section  
20 26 of P.L.2000, c.72 (C.18A:7G-26);

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

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

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

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

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

8 "Division" means the Division of Property Management and  
9 Construction in the Department of the Treasury;

10 "Excess costs" means the additional costs, if any, which shall be  
11 borne by the district, of a school facilities project which result from  
12 design factors that are not required to meet the facilities efficiency  
13 standards and not approved pursuant to paragraph (1) of subsection  
14 g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized  
15 as community design features included in final eligible costs  
16 pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-  
17 6);

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

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

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

41 "FTE" means a full-time equivalent student which shall be  
42 calculated as follows: each student in grades 1 through 12 shall be  
43 counted at 100% of the actual count of students, in the case of  
44 districts which operate a half-day kindergarten program each  
45 kindergarten student shall be counted at 50% of the actual count of  
46 kindergarten students, in the case of districts which operate a full-  
47 day kindergarten program or which currently operate a half-day

1 kindergarten program but propose to build facilities to house a full-  
2 day kindergarten program each kindergarten student shall be  
3 counted at 100% of the actual count of kindergarten students, and  
4 each preschool student who is enrolled in a full-day preschool  
5 program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54)  
6 shall be counted at 100% of the actual count of preschool students.  
7 In addition, each preschool disabled child who is entitled to receive  
8 a full-time program pursuant to N.J.S.18A:46-6 shall be counted at  
9 100% of the actual count of these students in the district;

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

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

41 "Local share" means, in the case of a school facilities project to  
42 be constructed by the **【development authority】** Division of Property  
43 Management and Construction in the Department of the Treasury,  
44 the total costs less the State share as determined pursuant to section  
45 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration  
46 project, the total costs less the State share as determined pursuant to  
47 sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6);  
48 and in the case of a school facilities project which shall be financed

1 pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total  
2 costs less the State share as determined pursuant to that section;

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

7 "Local unit obligations" means bonds, notes, refunding bonds,  
8 refunding notes, lease obligations and all other obligations of a  
9 local unit which are issued or entered into for the purpose of paying  
10 for all or a portion of the costs of a school facilities project,  
11 including moneys payable to the **【development authority】** Division  
12 of Property Management and Construction in the Department of the  
13 Treasury;

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

17 "Maintenance" means expenditures which are approved for  
18 repairs and replacements for the purpose of keeping a school  
19 facility open and safe for use or in its original condition, including  
20 repairs and replacements to a school facility's heating, lighting,  
21 ventilation, security and other fixtures to keep the facility or  
22 fixtures in effective working condition. Maintenance shall not  
23 include capital maintenance or contracted custodial or janitorial  
24 services, expenditures for the cleaning of a school facility or its  
25 fixtures, the care and upkeep of grounds or parking lots, and the  
26 cleaning of, or repairs and replacements to, movable furnishings or  
27 equipment, or other expenditures which are not required to maintain  
28 the original condition over the school facility's useful life.  
29 Approved maintenance expenditures shall be as determined by the  
30 commissioner pursuant to regulations to be adopted by the  
31 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-  
32 26);

33 "Other allowable costs" means the costs of temporary facilities,  
34 site development, acquisition of land or other real property interests  
35 necessary to effectuate the school facilities project, fees for the  
36 services of design professionals, including architects, engineers,  
37 construction managers and other design professionals, legal fees,  
38 financing costs and the administrative costs of the **【development**  
39 **authority】** Division of Property Management and Construction in  
40 the Department of the Treasury and the financing authority or the  
41 district incurred in connection with the school facilities project;

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

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

7 "Redevelopment entity" means a redevelopment entity  
8 authorized by a municipal governing body to implement plans and  
9 carry out redevelopment projects in the municipality pursuant to the  
10 "Local Redevelopment and Housing Law," P.L.1992,  
11 c.79 (C.40A:12A-1 et al.);

12 "School bonds" means, in the case of a school facilities project  
13 which is to be constructed by the **【development authority】** Division  
14 of Property Management and Construction in the Department of the  
15 Treasury, a redevelopment entity, or a district under section 15 of  
16 P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations  
17 issued by a district to finance the local share; and, in the case of a  
18 school facilities project which is not to be constructed by the  
19 **【development authority】** Division of Property Management and  
20 Construction in the Department of the Treasury or a redevelopment  
21 entity, or financed under section 15 of P.L.2000, c.72 (C.18A:7G-  
22 15), bonds, notes or other obligations issued by a district to finance  
23 the total costs;

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

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

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

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

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

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

5 "State debt service aid" means for school bonds issued for school  
6 facilities projects approved by the commissioner after the effective  
7 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect  
8 not to have a redevelopment entity construct the project or which  
9 elect not to finance the project under section 15 of P.L.2000,  
10 c.72 (C.18A:7G-15), the amount of State aid determined pursuant to  
11 section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or  
12 certificates of participation issued for school facilities projects  
13 approved by the commissioner prior to the effective date of  
14 P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid  
15 determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-  
16 10);

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

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

25 "State share" means the State's proportionate share of the final  
26 eligible costs of a school facilities project to be constructed by the  
27 **【development authority】** Division of Property Management and  
28 Construction in the Department of the Treasury as determined  
29 pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of  
30 a demonstration project, the State's proportionate share of the final  
31 eligible costs of the project as determined pursuant to sections 5 and  
32 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case  
33 of a school facilities project to be financed pursuant to section 15 of  
34 P.L.2000, c.72 (C.18A:7G-15), the State share as determined  
35 pursuant to that section;

36 "Total costs" means, in the case of a school facilities project  
37 which is to be constructed by the **【development authority】** Division  
38 of Property Management and Construction in the Department of the  
39 Treasury or a redevelopment entity or financed pursuant to section  
40 15 of P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus  
41 excess costs if any; and in the case of a school facilities project  
42 which is not to be constructed by the **【development authority】**  
43 Division of Property Management and Construction in the  
44 Department of the Treasury or a redevelopment entity or financed  
45 pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total  
46 cost of the project as determined by the district.  
47 (cf: P.L.2007, c.260, s.39)



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

3       5. a. The **【development authority】** Division of Property  
4 Management and Construction in the Department of the Treasury  
5 shall undertake and the financing authority shall finance the school  
6 facilities projects of SDA districts.

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

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

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

29       (2) In the case of an SDA district school facilities project, based  
30 upon its educational priority ranking and the Statewide strategic  
31 plan established pursuant to subsection m. of this section, the  
32 commissioner may authorize the **【development authority】** division  
33 to undertake preconstruction activities which may include, but need  
34 not be limited to, site identification, investigation, and acquisition,  
35 feasibility studies, land-related design work, design work, site  
36 remediation, demolition, and acquisition of temporary facilities.  
37 Upon receipt of the authorization, the **【development authority】**  
38 division may initiate the preconstruction activities required to  
39 prepare the application for commissioner approval of the school  
40 facilities project.

41       e. The commissioner shall review each proposed school  
42 facilities project to determine whether it is consistent with the  
43 district's long-range facilities plan and whether it complies with the  
44 facilities efficiency standards and the area allowances per FTE  
45 student derived from those standards; and in the case of an SDA  
46 district the commissioner shall also review the project's educational  
47 priority ranking and the Statewide strategic plan developed pursuant  
48 to paragraphs (2) and (3) of subsection m. of this section; and in the

1 case of a district other than an SDA district the commissioner shall  
2 also review the project's priority pursuant to paragraph (4) of  
3 subsection m. of this section. The commissioner shall make a  
4 decision on a district's application within 90 days from the date he  
5 determines that the application is fully and accurately completed  
6 and that all information necessary for a decision has been filed by  
7 the district, or from the date of the last revision made by the district.  
8 If the commissioner is not able to make a decision within 90 days,  
9 he shall notify the district in writing explaining the reason for the  
10 delay and indicating the date on which a decision on the project will  
11 be made, provided that the date shall not be later than 60 days from  
12 the expiration of the original 90 days set forth in this subsection. If  
13 the decision is not made by the subsequent date indicated by the  
14 commissioner, then the project shall be deemed approved and the  
15 preliminary eligible costs for new construction shall be calculated  
16 by using the proposed square footage of the building as the  
17 approved area for unhoused students.

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

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

38 (1) The commissioner shall approve area allowances in excess  
39 of the area allowances per FTE student derived from the facilities  
40 efficiency standards if the board of education or State district  
41 superintendent, as appropriate, demonstrates that school facilities  
42 needs related to required programs cannot be addressed within the  
43 facilities efficiency standards and that all other proposed spaces are  
44 consistent with those standards. The commissioner shall approve  
45 area allowances in excess of the area allowances per FTE student  
46 derived from the facilities efficiency standards if the additional area  
47 allowances are necessary to accommodate centralized facilities to  
48 be shared among two or more school buildings within the district

1 and the centralized facilities represent a more cost effective  
2 alternative.

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

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

20 If the commissioner approves excess facilities efficiency  
21 standards or additional area allowances pursuant to paragraph (1),  
22 (2), or (3) of this subsection, the commissioner shall calculate the  
23 preliminary eligible costs based upon the additional area allowances  
24 or excess facilities efficiency standards pursuant to the formulas set  
25 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that  
26 the commissioner does not approve the excess facilities efficiency  
27 standards or additional area allowances, the district may either:  
28 modify its submission so that the school facilities project meets the  
29 facilities efficiency standards; or pay for the excess costs.

30 (4) The commissioner shall approve spaces in excess of, or  
31 inconsistent with, the facilities efficiency standards, hereinafter  
32 referred to as nonconforming spaces, upon a determination by the  
33 district that the spaces are necessary to comply with State or federal  
34 law concerning individuals with disabilities, including that the  
35 spaces are necessary to provide in-district programs and services for  
36 current disabled pupils who are being served in out-of-district  
37 placements or in-district programs and services for the projected  
38 disabled pupil population. A district may apply for additional State  
39 aid for nonconforming spaces that will permit pupils with  
40 disabilities to be educated to the greatest extent possible in the same  
41 buildings or classes with their nondisabled peers. The  
42 nonconforming spaces may: (a) allow for the return of pupils with  
43 disabilities from private facilities; (b) permit the retention of pupils  
44 with disabilities who would otherwise be placed in private facilities;  
45 (c) provide space for regional programs in a host school building  
46 that houses both disabled and nondisabled pupils; and (d) provide  
47 space for the coordination of regional programs by a county special  
48 services school district, educational services commission, jointure

1 commission, or other agency authorized by law to provide regional  
2 educational services in a school building that houses both disabled  
3 and nondisabled pupils. A district's State support ratio shall be  
4 adjusted to equal the lesser of the sum of its district aid percentage  
5 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or  
6 100% for any nonconforming spaces approved by the commissioner  
7 pursuant to this paragraph.

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

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

26 The appeal shall outline the reasons why the preliminary eligible  
27 costs calculated for the project are inadequate and estimate the  
28 amount of the adjustment which needs to be made to the  
29 preliminary eligible costs. The commissioner shall forward the  
30 appeal information to the **【development authority】** division for its  
31 review and recommendation. If the additional costs are the result of  
32 factors that are within the control of the district or are the result of  
33 design factors that are not required to meet the facilities efficiency  
34 standards, the **【development authority】** division shall recommend to  
35 the commissioner that the preliminary eligible costs be accepted as  
36 the final eligible costs. If the **【development authority】** division  
37 determines the additional costs are not within the control of the  
38 district or are the result of design factors required to meet the  
39 facilities efficiency standards, the **【development authority】** division  
40 shall recommend to the commissioner a final eligible cost based on  
41 its experience for districts with similar characteristics, provided  
42 that, notwithstanding anything to the contrary, the commissioner  
43 shall not approve an adjustment to the preliminary eligible costs  
44 which exceeds 10% of the preliminary eligible costs. The  
45 commissioner shall make a determination on the appeal within 30  
46 days of its receipt. If the commissioner does not approve an  
47 adjustment to the school facilities project's preliminary eligible  
48 costs, the commissioner shall issue his findings in writing on the

1 reasons for the denial and on why the preliminary eligible costs as  
2 originally calculated are sufficient.

3 (2) In the case of an SDA district, the commissioner shall  
4 promptly prepare and submit to the **【development authority】**  
5 division a preliminary project report which shall consist, at a  
6 minimum, of the following information: a complete description of  
7 the school facilities project; the actual location of the project; the  
8 total square footage of the project together with a breakdown of  
9 total square footage by functional component; the preliminary  
10 eligible costs of the project; the project's priority ranking  
11 determined pursuant to subsection m. of this section; any other  
12 factors to be considered by the **【development authority】** division in  
13 undertaking the project; and the name and address of the person  
14 from the district to contact in regard to the project.

15 i. Upon receipt by the **【development authority】** division of the  
16 preliminary project report, the **【development authority】** division,  
17 upon consultation with the district, shall prepare detailed plans and  
18 specifications and schedules which contain the **【development**  
19 **authority's】** division's estimated cost and schedule to complete the  
20 school facilities project. The **【development authority】** division  
21 shall transmit to the commissioner its recommendations in regard to  
22 the project which shall, at a minimum, contain the detailed plans  
23 and specifications; whether the school facilities project can be  
24 completed within the preliminary eligible costs; and any other  
25 factors which the **【development authority】** division determines  
26 should be considered by the commissioner.

27 (1) In the event that the **【development authority】** division  
28 determines that the school facilities project can be completed within  
29 the preliminary eligible costs: the final eligible costs shall be  
30 deemed to equal the preliminary eligible costs; the commissioner  
31 shall be deemed to have given final approval to the project; and the  
32 preliminary project report shall be deemed to be the final project  
33 report delivered to the **【development authority】** division pursuant to  
34 subsection j. of this section.

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

44 (a) If the **【development authority】** division determines that  
45 changes in the school facilities project are possible so that the  
46 project can be accomplished within the scope of the preliminary  
47 eligible costs while still meeting the facilities efficiency standards,

1 the **【development authority】** division shall so advise the  
2 commissioner, whereupon the commissioner shall: calculate the  
3 final eligible costs to equal the preliminary eligible costs; give final  
4 approval to the project with the changes noted; and issue a final  
5 project report to the **【development authority】** division pursuant to  
6 subsection j. of this section.

7 (b) If the **【development authority】** division determines that it is  
8 not possible to make changes in the school facilities project so that  
9 it can be completed within the preliminary eligible costs either  
10 because the additional costs are the result of factors outside the  
11 control of the district or the additional costs are required to meet the  
12 facilities efficiency standards, the **【development authority】** division  
13 shall recommend to the commissioner that the preliminary eligible  
14 costs be increased accordingly, whereupon the commissioner shall:  
15 calculate the final eligible costs to equal the sum of the preliminary  
16 eligible costs plus the increase recommended by the **【development**  
17 **authority】** division; give final approval to the project; and issue a  
18 final project report to the **【development authority】** division  
19 pursuant to subsection j. of this section.

20 (c) If the additional costs are the result of factors that are within  
21 the control of the district or are the result of design factors that are  
22 not required to meet the facilities efficiency standards or approved  
23 pursuant to paragraph (1) of subsection g. of this section, the  
24 **【development authority】** division shall recommend to the  
25 commissioner that the preliminary eligible costs be accepted,  
26 whereupon the commissioner shall: calculate the final eligible costs  
27 to equal the preliminary eligible costs and specify the excess costs  
28 which are to be borne by the district; give final approval to the  
29 school facilities project; and issue a final project report to the  
30 **【development authority】** division pursuant to subsection j. of this  
31 section; provided that the commissioner may approve final eligible  
32 costs which are in excess of the preliminary eligible costs if, in his  
33 judgment, the action is necessary to meet the educational needs of  
34 the district.

35 (d) For a school facilities project undertaken by the  
36 **【development authority】** division, the **【development authority】**  
37 division shall be responsible for any costs of construction, but only  
38 from the proceeds of bonds issued by the financing authority  
39 pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007,  
40 c.137 (C.52:18A-235 et al.), which exceed the amount originally  
41 projected by the **【development authority】** division and approved for  
42 financing by the **【development authority】** division, provided that  
43 the excess is the result of an underestimate of labor or materials  
44 costs by the **【development authority】** division. After receipt by the  
45 **【development authority】** division of the final project report, the  
46 district shall be responsible only for the costs associated with

1 changes, if any, made at the request of the district to the scope of  
2 the school facilities project.

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

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

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

25 l. The local share for school facilities projects constructed by  
26 the **【authority】** division or a redevelopment entity shall equal the  
27 final eligible costs plus any excess costs less the State share.

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

40 (2) Following the approval of an SDA district's long-range  
41 facilities plan or of an amendment to that plan, but prior to  
42 authorization of preconstruction activities for a school facilities  
43 project included in the plan or amendment, the commissioner shall  
44 establish, in consultation with the SDA district, an educational  
45 priority ranking of all school facilities projects in the SDA district  
46 based upon the commissioner's determination of critical need in  
47 accordance with priority project categories developed by the  
48 commissioner. The priority project categories shall include, but not

1 be limited to, health and safety, overcrowding in the early  
2 childhood, elementary, middle, and high school grade levels, spaces  
3 necessary to provide in-district programs and services for current  
4 disabled students who are being served in out-of-district placements  
5 or in-district programs and services for the projected disabled  
6 student population, rehabilitation, and educational adequacy.

7 (3) Upon the commissioner's determination of the educational  
8 priority ranking of school facilities projects in SDA districts  
9 pursuant to paragraph (2) of this subsection, the **【development**  
10 **authority】** division, in consultation with the commissioner, the SDA  
11 districts, and the governing bodies of the municipalities in which  
12 the SDA districts are situate, shall establish a Statewide strategic  
13 plan to be used in the sequencing of SDA district school facilities  
14 projects based upon the projects' educational priority rankings and  
15 issues which impact the **【development authority's】** division's  
16 ability to complete the projects including, but not limited to, the  
17 construction schedule and other appropriate factors. The  
18 **【development authority】** division shall revise the Statewide  
19 strategic plan and the sequencing of SDA district school facilities  
20 projects in accordance with that plan no less than once every five  
21 years.

22 Any amendment to an SDA district's long-range facilities plan  
23 that is submitted to the commissioner in the period between the  
24 five-year updates of the long-range facilities plan shall be  
25 considered by the **【development authority】** division, in consultation  
26 with the commissioner, for incorporation into the Statewide  
27 strategic plan. In making a determination on whether or not to  
28 amend the Statewide strategic plan, the **【development authority】**  
29 division shall consider the cost of the amendment, the impact of the  
30 amendment upon the school development plans for other districts,  
31 and other appropriate factors.

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

45 n. The provisions of the "Public School Contracts Law,"  
46 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities  
47 project constructed by a district but shall not be applicable to



1 projects constructed by the **【development authority】** division or a  
2 redevelopment entity pursuant to the provisions of this act.

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

8 p. Upon completion by the **【development authority】** division of  
9 a school facilities project, if the cost of construction and completion  
10 of the project is less than the total costs, the district shall be entitled  
11 to receive a portion of the local share based on a pro rata share of  
12 the difference based on the ratio of the State share to the local  
13 share.

14 q. The **【development authority】** division shall determine the  
15 cause of any costs of construction which exceed the amount  
16 originally projected by the **【development authority】** division and  
17 approved for financing by the financing authority.

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

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

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

21  
22 4. Section 1 of P.L.2015, c.68 (C.18A:7G-5a) is amended to  
23 read as follows:

24 1. a. Notwithstanding the provisions of P.L.2000,  
25 c.72 (C.18A:7G-1 et al.) or any other section of law to the contrary,  
26 the board of education of a county vocational school district may  
27 request a county improvement authority to construct a county  
28 vocational school district school facilities project and to issue its  
29 bonds to finance the local share of a project that is to be financed  
30 under section 15 of P.L.2000, c.72 (C.18A:7G-15), or to finance the  
31 total costs of a project that is not to be financed under section 15 of  
32 P.L.2000, c.72 (C.18A:7G-15). The bonds of a county  
33 improvement authority issued to finance the total costs of a county  
34 vocational school district school facilities project that is not to be  
35 financed under section 15 of P.L.2000, c.72 (C.18A:7F-15) shall be  
36 eligible for State debt service aid in accordance with the formula  
37 established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

38 b. A county vocational school district may lease its lands or  
39 facilities to the county improvement authority which may construct  
40 the school facilities project through a design-build contract.  
41 Whenever a school facilities project is constructed by a county  
42 improvement authority through a design-build contract: (1) The  
43 county improvement authority shall follow the procedures  
44 established by the rules and regulations of the **【New Jersey Schools**  
45 **Development Authority】** Division of Property Management and  
46 Construction in the Department of the Treasury for the procurement  
47 of design-build contracts; (2) The county improvement authority

1 shall follow the design requirements and materials and system  
2 standards established by the **【development authority】** division; (3)  
3 The provisions of the "Public School Contracts Law,"  
4 (N.J.S.18A:18A-1 et seq.), and the "Local Public Contracts Law,"  
5 P.L.1971, c.198 (C.40A:11-1 et seq.), shall not apply; and (4) A  
6 county vocational school district shall comply with the procedures  
7 for obtaining approval of the project under P.L.2000,  
8 c.72 (C.18A:7G-1 et al.), but shall not be required to comply with  
9 the provisions of N.J.S.18A:18A-16.

10 c. The county improvement authority shall lease the county  
11 vocational school district school facilities project to the county  
12 which shall then lease it for nominal consideration to the county  
13 vocational school district for as long as the county improvement  
14 authority bonds or refunding bonds are outstanding. Nothing in this  
15 section shall be construed to authorize a county to require a county  
16 vocational school district to bear any portion of the cost of the debt  
17 service on the county improvement authority bonds issued to fund  
18 the county vocational school district school facilities project or on  
19 any refunding bonds.

20 d. The county lease payments made to the county improvement  
21 authority pursuant to subsection c. of this section shall not be  
22 subject to any cap on appropriations or on spending or to any tax  
23 levy cap. The county lease payments shall be sufficient to pay debt  
24 service on the county improvement authority bonds issued to fund  
25 the county vocational school district school facilities project or on  
26 any refunding bonds, that remains after the application of any State  
27 debt service aid paid on those bonds pursuant to section 9 of  
28 P.L.2000, c.72 (C.18A:7G-9). The county lease payments shall be  
29 payable over the life of the bonds.

30 e. When the bonds issued by a county improvement authority  
31 are no longer outstanding, the leases and liens of the county and the  
32 county improvement authority shall expire and the county  
33 vocational school district school facilities project shall be solely  
34 vested in the county vocational school district. The county  
35 vocational school district shall be responsible for the operation,  
36 maintenance, and improvement of the school facility upon the  
37 completion of the school facilities project.  
38 (cf: P.L.2015, c.68, s.1)

39

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

42 1. a. In the case of new school construction undertaken by a  
43 district or the **【development authority】** Division of Property  
44 Management and Construction in the Department of the Treasury,  
45 in addition to the Best Practices Standards for Schools under  
46 Construction or Being Planned for Construction set forth by the  
47 Department of Community Affairs, the district or the **【development**

- 1 authority **】** division, as applicable, shall provide in the architectural  
2 design for the new construction that:
- 3 (1) wherever possible, a building site shall be chosen with  
4 adequate space to accommodate bus and vehicular traffic separately  
5 and permit additional space for the proper evacuation of occupants;
- 6 (2) wherever possible, bus drop-off/pick-up areas shall be  
7 separated from other vehicular drop-off/pick-up areas;
- 8 (3) wherever possible, pedestrian routes shall be separated from  
9 vehicular routes, and crossing of the two shall be minimized;
- 10 (4) the number of anterior doors shall be kept to a minimum as  
11 necessary to satisfy operational considerations and meet code  
12 requirements, and wherever possible exterior door hardware shall  
13 be eliminated from doors that are intended only for emergency  
14 egress;
- 15 (5) there is a single public entrance to be used during the school  
16 day which shall be equipped with a security vestibule with interior  
17 doors that must be released by school security or other staff. The  
18 district or **【development authority】** division shall give  
19 consideration to providing bullet resistant glazing in the interior  
20 vestibule doors and windows;
- 21 (6) all marked entrances shall conform to a uniform numbering  
22 system in order to assist emergency responders in locating  
23 particular areas. The principal's office shall have a secondary exit;
- 24 (7) interior door locks on spaces that will serve as safe havens  
25 during lockdowns shall have a keyless locking mechanism;
- 26 (8) new school buildings shall be provided with access control  
27 systems which allow for remote locking and unlocking of all  
28 building access doors; and
- 29 (9) new school buildings shall be designed and built in such a  
30 manner that areas intended for public use may be separated and  
31 secured from all other areas.
- 32 b. In the case of new school construction undertaken by a  
33 district or the **【development authority】** division, and in the case of  
34 existing school buildings, a district or the **【development authority】**  
35 division, as applicable, shall:
- 36 (1) employ the Crime Prevention through Environmental Design  
37 principles;
- 38 (2) require security personnel to be in uniform;
- 39 (3) make driveways one way, if possible, that lead to a clearly  
40 marked visitor parking area. STOP signs and other traffic calming  
41 devices shall be used to keep vehicles at a reasonable speed;
- 42 (4) place bollards along the roadway or curb line in front of the  
43 school to prevent vehicles from gaining access to exterior walls,  
44 windows, and doors, or in areas of the property where vehicles are  
45 prohibited;
- 46 (5) clearly mark the school's main entrance and make it easily  
47 visible and recognizable;
- 48 (6) limit the number of doors for access by staff;

- 1 (7) lock exterior doors, and when they are in use for a large
- 2 entry/exit provide that they are staffed and monitored;
- 3 (8) utilize an access control system with remote unlocking
- 4 features, an intercom, and fixed cameras at the school's main
- 5 entrance and for other entrances as funding permits;
- 6 (9) clearly mark all entrances with a numerical sequence to
- 7 allow for specific response by police, fire, and emergency medical
- 8 services responders;
- 9 (10) maintain a parking decal or tag system for all staff and
- 10 students who park on campus in order to easily identify
- 11 unauthorized vehicles on the property;
- 12 (11) locate enclosures for utilities that are outside a school
- 13 building away from the building to ensure that they do not provide
- 14 roof access;
- 15 (12) provide adequate and properly maintained lighting around
- 16 the buildings and parking lots;
- 17 (13) if funding, staffing, and site approval are possible, provide
- 18 a guard shack and gate on the school campus as an effective
- 19 perimeter control;
- 20 (14) where the footprint of the school allows, and if funding is
- 21 available, create secure vestibules at the main entrance of the school
- 22 building. The exterior door entrance to the school shall allow
- 23 access by a visitor only to the vestibule and the doors to the
- 24 remainder of the building shall be locked;
- 25 (15) adopt school district policies and procedures to clearly
- 26 indicate that propping open doors is strictly prohibited, and that
- 27 students and staff shall not open a door for anyone. All persons
- 28 seeking entry to the building shall be directed to the main entrance;
- 29 (16) use surveillance cameras as a target-hardening tool;
- 30 (17) provide a dedicated server and generator for security
- 31 systems, such as access control and surveillance cameras, in order
- 32 to secure information and ensure efficient operation in an
- 33 emergency;
- 34 (18) use ballistic or shatter resistant film for glass entrance door
- 35 sidelights and other vulnerable first floor areas; and
- 36 (19) maintain a strict key distribution protocol that requires staff
- 37 to sign for keys and return them at the end of each school year.
- 38 c. The commissioner, in consultation with the **development**
- 39 **authority** division, may revise the architectural design standards
- 40 for new school construction established pursuant to subsection a. of
- 41 this section and the standards for new school construction and
- 42 existing school buildings established pursuant to subsection b. of
- 43 this section, to reflect new recommendations or changes in best
- 44 practices for school security.
- 45 (cf: P.L.2016, c.79, s.1)
- 46
- 47 6. Section 12 of P.L.2000, c.72 (C.18A:7G-12) is amended to
- 48 read as follows:

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

25       Any school facilities project authorized pursuant to this section  
26 shall be undertaken by the **【development authority】** Division of  
27 Property Management and Construction in the Department of the  
28 Treasury in accordance with an agreement between the  
29 **【development authority】** division and the district. Nothing in this  
30 section shall preclude a school district under full State intervention  
31 from using the process established pursuant to section 2 of  
32 P.L.1991, c.139 (C.18A:7A-46.2) to obtain the approval of the  
33 commissioner to undertake a school facilities project.  
34 (P.L.2007, c.137, s.23)

35  
36       7. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to  
37 read as follows:

38       13. a. The financing authority shall be responsible for the  
39 issuance of bonds pursuant to section 14 of P.L.2000, c.72  
40 (C.18A:7G-14) and the **【development authority】** Division of  
41 Property Management and Construction in the Department of the  
42 Treasury shall be responsible for the planning, design, construction  
43 management, acquisition, construction, and completion of school  
44 facilities projects. In the case of a capital maintenance project, the  
45 **【development authority】** division may, in its discretion, authorize  
46 an SDA district to undertake the design, acquisition, construction  
47 and all other appropriate actions necessary to complete the capital  
48 maintenance project and shall enter into a grant agreement with the

1 district for the payment of the State share. The **【development**  
2 **authority】** division may also authorize an SDA district to undertake  
3 the design, acquisition, construction and all other appropriate  
4 actions necessary to complete any other school facilities project in  
5 accordance with the procedures established pursuant to subsection  
6 e. of this section.

7 b. The financing authority shall undertake the financing of  
8 school facilities projects pursuant to the provisions of this act. The  
9 financing authority shall finance the State share of a school  
10 facilities project and may, in its discretion and upon consultation  
11 with the district, finance the local share of the project. In the event  
12 that the financing authority finances only the State share of a  
13 project, the **【development authority】** division shall not commence  
14 acquisition or construction of the project until the **【development**  
15 **authority】** division receives the local share from the district.

16 c. In order to implement the arrangements established for  
17 school facilities projects which are to be constructed by the  
18 **【development authority】** division and financed pursuant to this  
19 section, a district shall enter into an agreement with the  
20 **【development authority】** division and the commissioner containing  
21 the terms and conditions determined by the parties to be necessary  
22 to effectuate the project.

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

38 e. (1) **【Within one year of the effective date of P.L.2007,**  
39 **c.137 (C.52:18A-235 et al.), the】** The commissioner, in consultation  
40 with the **【development authority】** division, shall adopt pursuant to  
41 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
42 seq.), rules and regulations by which the commissioner shall  
43 determine whether an SDA district is eligible to be considered by  
44 the **【development authority】** division to manage a school facilities  
45 project or projects. In making the determination, the commissioner  
46 shall consider the district's fiscal integrity and operations, the  
47 district's performance in each of the five key components of school

1 district effectiveness under the New Jersey Quality Single  
2 Accountability Continuum (NJQSAC) in accordance with section  
3 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant factors.

4 (2) **【Within one year of the effective date of P.L.2007,**  
5 **c.137 (C.52:18A-235 et al.), the development authority】** The  
6 division, in consultation with the commissioner, shall adopt  
7 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
8 (C.52:14B-1 et seq.), rules and regulations by which the  
9 **【development authority】** division shall determine the capacity of an  
10 SDA district, deemed eligible by the commissioner pursuant to  
11 paragraph (1) of this subsection, to manage a school facilities  
12 project or projects identified by the **【development authority】**  
13 division. In making the determination, the **【development authority】**  
14 division shall consider the experience of the SDA district, the size,  
15 complexity, and cost of the project, time constraints, and other  
16 relevant factors.

17 (3) The **【development authority】** division, in consultation with  
18 the commissioner, shall develop and implement training programs,  
19 seminars, or symposia to provide technical assistance to SDA  
20 districts deemed to lack the capacity to manage a school facility  
21 project or projects; except that nothing herein shall be construed to  
22 require the **【development authority】** division or the commissioner  
23 to authorize an SDA district to hire additional staff in order to  
24 achieve capacity.

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

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

31

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

34 9. The **【development authority】** Division of Property  
35 Management and Construction in the Department of the Treasury,  
36 in consultation with the State Comptroller, shall cause an audit to be  
37 conducted of a school facilities project financed pursuant to  
38 P.L.2000, c.72 (C.18A:7G-1 et al.) which has a State share that  
39 exceeds \$10,000,000. This provision shall not be construed to limit  
40 the authority of the **【development authority】** division or the State  
41 Comptroller to conduct audits of other school facilities projects as  
42 provided by law.

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

44

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

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

1       a. The financing authority shall have the power, pursuant to the  
2 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974,  
3 c.80 (C.34:1B-1 et seq.) **【and】** P.L.2007, c.137 (C.52:18A-235 et  
4 al.) , and P.L. , c. (C. ) (pending before the Legislature as this  
5 bill) , to issue bonds and refunding bonds, incur indebtedness and  
6 borrow money secured, in whole or in part, by moneys received  
7 pursuant to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17,  
8 C.18A:7G-18 and C.18A:7G-19) for the purposes of: financing all  
9 or a portion of the costs of school facilities projects and any costs  
10 related to the issuance thereof, including, but not limited to, the  
11 administrative, insurance, operating and other expenses of the  
12 financing authority to undertake the financing, and the  
13 **【development authority】** Division of Property Management and  
14 Construction in the Department of the Treasury to undertake the  
15 planning, design, and construction of school facilities projects;  
16 lending moneys to local units to pay the costs of all or a portion of  
17 school facilities projects and any costs related to the issuance  
18 thereof; funding the grants to be made pursuant to section 15 of  
19 P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition of  
20 school facilities projects to permit the refinancing of debt by the  
21 district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16).  
22 The aggregate principal amount of the bonds, notes or other  
23 obligations issued by the financing authority as authorized pursuant  
24 to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed:  
25 \$100,000,000 for the State share of costs for county vocational  
26 school district school facilities projects; \$6,000,000,000 for the  
27 State share of costs for Abbott district school facilities projects; and  
28 \$2,500,000,000 for the State share of costs for school facilities  
29 projects in all other districts. The aggregate principal amount of the  
30 bonds, notes or other obligations issued by the financing authority  
31 as authorized pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et al.)  
32 shall not exceed: \$2,900,000,000 for the State share of costs of  
33 SDA district school facilities projects; and \$1,000,000,000 for the  
34 State share of costs for school facilities projects in all other  
35 districts, \$50,000,000 of which shall be allocated for the State share  
36 of costs for county vocational school district school facilities  
37 projects. This limitation shall not include any bonds, notes or other  
38 obligations issued for refunding purposes.

39       The financing authority may establish reserve funds to further  
40 secure bonds and refunding bonds issued pursuant to this section  
41 and may issue bonds to pay for the administrative, insurance and  
42 operating costs of the financing authority and the **【development**  
43 **authority】** division in carrying out the provisions of this act. In  
44 addition to its bonds and refunding bonds, the financing authority  
45 shall have the power to issue subordinated indebtedness, which  
46 shall be subordinate in lien to the lien of any or all of its bonds or  
47 refunding bonds as the financing authority may determine.



1       b. The financing authority shall issue the bonds or refunding  
2 bonds in such manner as it shall determine in accordance with the  
3 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974,  
4 c.80 (C.34:1B-1 et seq.), **【and】** P.L.2007, c.137 (C.52:18A-235 et  
5 al.) , and P.L. , c. (C. ) (pending before the Legislature as this  
6 bill); provided that notwithstanding any other law to the contrary,  
7 no resolution adopted by the financing authority authorizing the  
8 issuance of bonds or refunding bonds pursuant to this section shall  
9 be adopted or otherwise made effective without the approval in  
10 writing of the State Treasurer; and refunding bonds issued to refund  
11 bonds issued pursuant to this section shall be issued on such terms  
12 and conditions as may be determined by the financing authority and  
13 the State Treasurer. The financing authority may, in any resolution  
14 authorizing the issuance of bonds or refunding bonds issued  
15 pursuant to this section, pledge the contract with the State Treasurer  
16 provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-  
17 18), or any part thereof, or may pledge all or any part of the  
18 repayments of loans made to local units pursuant to section 19 of  
19 P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the  
20 bonds or refunding bonds, and covenant as to the use and  
21 disposition of money available to the financing authority for  
22 payment of the bonds and refunding bonds. All costs associated  
23 with the issuance of bonds and refunding bonds by the financing  
24 authority for the purposes set forth in this act may be paid by the  
25 financing authority from amounts it receives from the proceeds of  
26 the bonds or refunding bonds, and from amounts it receives  
27 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-  
28 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but  
29 shall not be limited to, any costs relating to the issuance of the  
30 bonds or refunding bonds, administrative costs of the financing  
31 authority attributable to the making and administering of loans and  
32 grants to fund school facilities projects, and costs attributable to the  
33 agreements entered into pursuant to subsection d. of this section.

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

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

45       (2) Pledge of rentals, receipts and other revenues to be derived  
46 from leases or other contractual arrangements with any person or  
47 entity, public or private, including one or more local units, or a  
48 pledge or assignment of those leases or other contractual

1 arrangements and the rights and interests of the financing authority  
2 therein;

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

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

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

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

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

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

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

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

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

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

34 h. The financing authority and the **【development authority】**  
35 division may charge to and collect from local units, districts, the  
36 State and any other person, any fees and charges in connection with  
37 the financing authority's or **【development authority's】** division's  
38 actions undertaken with respect to school facilities projects,  
39 including, but not limited to, fees and charges for the financing  
40 authority's administrative, organization, insurance, operating and  
41 other expenses incident to the financing of school facilities projects,  
42 and the **【development authority's】** division's administrative,  
43 organization, insurance, operating, planning, design, construction  
44 management, acquisition, construction, completion and placing into  
45 service and maintenance of school facilities projects.  
46 Notwithstanding any provision of this act to the contrary, no SDA  
47 district shall be responsible for the payment of any fees and charges

1 related to the **【development authority's】** division's operating  
2 expenses.

3 i. Upon the issuance by the financing authority of bonds  
4 pursuant to this section, other than refunding bonds, the net  
5 proceeds of the bonds shall be transferred to the **【development**  
6 **authority】** division.

7 (cf: P.L.2008, c.39, s.4)

8

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

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

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

29 c. The **【development authority】** Division of Property  
30 Management and Construction in the Department of the Treasury  
31 shall provide grant funding for the State's share of the final eligible  
32 costs of a school facilities project pursuant to an agreement between  
33 the district and the **【development authority】** division which shall, in  
34 addition to other terms and conditions, set forth the terms of  
35 disbursement of the State share. The funding of the State share  
36 shall not commence until the district secures financing for the local  
37 share.

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

39

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

42 17. In each fiscal year the State Treasurer shall pay from the  
43 General Fund to the financing authority, in accordance with a  
44 contract between the State Treasurer and the financing authority as  
45 authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18),  
46 an amount equal to the debt service amount due to be paid in the  
47 State fiscal year on the bonds or refunding bonds of the financing

1 authority issued or incurred pursuant to section 14 of P.L.2000,  
2 c.72 (C.18A:7G-14) and any additional costs authorized pursuant to  
3 that section; provided that all such payments from the General Fund  
4 shall be subject to and dependent upon appropriations being made  
5 from time to time by the Legislature for those purposes, and  
6 provided further that all payments shall be used only to pay for the  
7 costs of school facilities projects and the costs of financing those  
8 projects.

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

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

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

27 20. A local unit may purchase, lease, rent, sublease or otherwise  
28 acquire any school facilities project or any space within a project  
29 and pay the amounts as may be agreed upon between the local unit  
30 and the **【development authority】** Division of Property Management  
31 and Construction in the Department of the Treasury as the purchase  
32 price, rent or other charge therefor; provided that the terms and  
33 conditions of the agreement between the **【development authority】**  
34 division and the local unit relating to the purchase, lease, rental or  
35 sublease shall be subject to the approval of the State Treasurer.

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

37  
38 13. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to  
39 read as follows:

40 21. a. In the event that a local unit has failed or is unable to pay  
41 to the financing authority or the **【development authority】** Division  
42 of Property Management and Construction in the Department of the  
43 Treasury in full when due any local unit obligations issued by the  
44 local unit to the financing authority, including, but not limited to,  
45 any lease or sublease obligations, or any other moneys owed by the  
46 district to the financing authority, to assure the continued operation  
47 and solvency of the authority, the State Treasurer shall pay directly

1 to the financing authority an amount sufficient to satisfy the  
2 deficiency from State aid payable to the local unit; provided that if  
3 the local unit is a school district, the State aid shall not include any  
4 State aid which may otherwise be restricted pursuant to the  
5 provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). As used in this  
6 section, local unit obligations include the principal or interest on  
7 local unit obligations or payment pursuant to a lease or sublease of  
8 a school facilities project to a local unit, including the subrogation  
9 of the financing authority to the right of the holders of those  
10 obligations, any fees or charges payable to the financing authority,  
11 and any amounts payable by a local unit under a service contract or  
12 other contractual arrangement the payments under which are  
13 pledged to secure any local unit obligations issued to the financing  
14 authority by another local unit.

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

30 c. The amount paid to the financing authority pursuant to this  
31 section shall be deducted from the appropriation or apportionment  
32 of State aid payable to the local unit and shall not obligate the State  
33 to make, nor entitle the local unit to receive, any additional  
34 appropriation or apportionment. The obligation of the State  
35 Treasurer to make payments to the financing authority or trustee  
36 and the right of the financing authority or trustee to receive those  
37 payments shall be subject and subordinate to the rights of holders of  
38 qualified bonds issued prior to the effective date of this act pursuant  
39 to P.L.1976, c.38 (C.40A:3-1 et seq.) and P.L.1976,  
40 c.39 (C.18A:24-85 et seq.).  
41 (cf: P.L.2007, c. 260, s.47)

42

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

45 22. a. The financing authority and the **【development authority】**  
46 Division of Property Management and Construction in the  
47 Department of the Treasury shall have the power to accept and use  
48 any funds appropriated and paid by the State to the financing

1 authority and the **【development authority】** division for the purposes  
2 for which the appropriations are made. The financing authority and  
3 the **【development authority】** division shall have the power to apply  
4 for and receive and accept appropriations or grants of property,  
5 money, services or reimbursements for money previously spent and  
6 other assistance offered or made available to it by or from any  
7 person, government agency, public authority or any public or  
8 private entity whatever for any lawful corporate purpose of the  
9 financing authority or the **【development authority】** division,  
10 including, without limitation, grants, appropriations or  
11 reimbursements from the federal government, and to apply and  
12 negotiate for the same upon such terms and conditions as may be  
13 required by any person, government agency, authority or entity as  
14 the financing authority or the **【development authority】** division may  
15 determine to be necessary, convenient or desirable.

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

34 All incentive payments made pursuant to this section shall be  
35 funded by and shall be subject to annual appropriations for this  
36 purpose, and shall in no way rely upon funds raised by the issuance  
37 of bonds for school facilities projects.

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

39

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

42 23. a. Not less than the prevailing wage rate determined by the  
43 Commissioner of Labor and Workforce Development pursuant to  
44 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be  
45 paid to workers employed in the performance of construction  
46 contracts in connection with any school facilities project that is  
47 undertaken by the **【development authority】** Division of Property

1 Management and Construction in the Department of the Treasury, a  
2 redevelopment entity, or a district and any contractor who violates  
3 the provisions of this subsection shall be prohibited from  
4 subsequently bidding on any State or district contract.

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

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

12  
13 16. Section 24 of P.L.2000, c.72 (C.18A:7G-24) is amended to  
14 read as follows:

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

44 In addition, the biannual report shall include a comparison of the  
45 costs of school facilities projects undertaken and funded by the  
46 **【development authority】** division to similar school facilities  
47 projects constructed in the New York City Metropolitan Statistical  
48 Area and the Philadelphia Metropolitan Statistical Area as defined



1 by the United States Department of Labor. The **【development**  
2 **authority】** division shall include in the report an explanation of the  
3 methodology used in making the comparison.

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

5  
6 17. Section 1 of P.L.2010, c.96 (C.18A:7G-24.1) is amended to  
7 read as follows:

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

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

24  
25 18. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to  
26 read as follows:

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

46 b. The **【development authority】** Division of Property  
47 Management and Construction in the Department of the Treasury

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

15 The rules and regulations promulgated 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 division following the enactment of **【P.L.2007, c.137 (C.52:18A-**  
 21 **235 et al.)】** P.L. , c. (C. ) (pending before the Legislature as this  
 22 bill).

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

27

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

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

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

44

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

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

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

11       (1) plumbing and gas fitting and all work and materials kindred  
12 thereto;

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

15       (3) electrical work; and

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

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

25       (cf: P.L.2007, c.137, s.38)

26  
27       21. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to  
28 read as follows:

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

39       (1) A certified, audited financial statement or compilation of  
40 financial statements or other documentation of financial status  
41 acceptable to the **【development authority】** division;

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

46       (3) A statement as to bonding capacity, which shall be from a  
47 surety authorized to issue bid, performance and payment bonds in

- 1 the State of New Jersey in accordance with N.J.S.2A:44-143  
2 through N.J.S.2A:44-147 to the contractor, and shall indicate  
3 aggregate bonding limits;
- 4 (4) A list of the names and titles of all individuals who own  
5 10% or more of any class of stock in the corporation or are a 10%  
6 or more partner in the firm. If any of the aforementioned  
7 stockholders or partners is itself a corporation, or a partnership, that  
8 entity shall also provide the information specified herein;
- 9 (5) Disclosure of any judgments, convictions or criminal  
10 indictments for any conduct constituting a crime under local, State  
11 or federal law;
- 12 (6) Disclosure of any unsatisfied judgments, injunctions or liens  
13 obtained by a governmental agency including, but not limited to,  
14 judgments based on taxes owed and fines and penalties assessed by  
15 any government agency;
- 16 (7) Disclosure of any determination for violations of federal,  
17 State or local laws, rules or regulations, including health laws,  
18 unemployment insurance or workers' compensation coverage or  
19 claim requirements, the "Employee Retirement Income Security Act  
20 of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,  
21 environmental laws, safety laws, licensing laws, tax laws and  
22 antitrust laws;
- 23 (8) Disclosure of any federal, State or local debarments, non-  
24 responsibility findings or denials of prequalification;
- 25 (9) Disclosure of any bankruptcy filings or proceedings;
- 26 (10) A statement as to past performance, which shall give an  
27 accurate and complete record of work completed in the past five  
28 years by the contractor giving the names of the projects, type of  
29 work, location, contract price, bid and final contract amount paid  
30 and the names of the owner and of the architect or engineer in  
31 charge for the owner. This statement shall also disclose any labor  
32 problems experienced, any failure to complete a contract on  
33 schedule, any penalties, judgments, orders or liens imposed by  
34 reason of any contract undertaken within the five-year period and  
35 whether the contractor has been defaulted for cause on any project  
36 as determined by an unappealed or nonappealable decision. This  
37 statement shall also indicate the status of any litigation pending  
38 against the potential bidder. The contractor shall be required to  
39 attach to this statement all performance evaluations in his  
40 possession for any work performed by the contractor on any public  
41 or private projects;
- 42 (11) A statement as to organization, which shall demonstrate the  
43 adequacy of such organization to undertake a school facilities  
44 project. This statement shall include the resumes of the  
45 management and professional staff;
- 46 (12) A statement setting forth the contractor's equipment  
47 inventory and technical resources; and

1 (13) A statement on staffing capabilities, including labor sources,  
2 staffing plans, turnover rates, and any use of registered  
3 apprenticeship programs and journeyman training programs.

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

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

16 (1) a trade or work classification; and

17 (2) an aggregate rating limit.

18 To effectuate these requirements of the prequalification process,  
19 the **【development authority】** division shall develop rules and  
20 regulations for assigning classifications and aggregate limits.

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

24 e. The **【development authority】** division shall establish  
25 procedures to permit contractors to challenge a classification made  
26 pursuant to this section.

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

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

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

38

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

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

45 b. Any material changes relevant to the prequalification  
46 process shall be reported by the contractor to the **【development**  
47 **authority】** Division of Property Management and Construction in

1 the Department of the Treasury in writing within 10 days. Based on  
2 the information provided, the **【development authority】** division  
3 may change the classification or revoke prequalification for cause.  
4 (cf: P.L.2007, c.137, s.40)  
5

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

8 62. a. A mandatory uniform performance evaluation shall be  
9 conducted on all school facilities projects undertaken by the  
10 **【development authority】** Division of Property Management and  
11 Construction in the Department of the Treasury. The evaluation  
12 shall, at a minimum, include cost, schedule adherence and quality.

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

16 c. The contractor performance evaluations shall be utilized in  
17 reviewing bid submissions.  
18 (cf: P.L.2007, c.137, s.41)  
19

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

22 66. A contractor who has been prequalified as a bidder on  
23 school facilities projects in accordance with the process established  
24 by the **【development authority】** Division of Property Management  
25 and Construction in the Department of the Treasury pursuant to  
26 section 59 of P.L.2000, c.72 (C.18A:7G-33) shall not be required to  
27 undergo any other prequalification process to bid on a school  
28 facilities project.

29 (cf: P.L.2007, c.137, s.42)  
30

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

33 1. a. As used in this section:

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

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

41 b. **【The New Jersey Schools Development Authority** shall not  
42 restrict the ability of a firm or person that holds a valid  
43 classification or a valid prequalification, as applicable, issued by the  
44 Division of Property Management and Construction in the  
45 Department of the Treasury from competing for contracts or other  
46 work in any of the construction categories or trades or specific  
47 professional disciplines for which the firm or person holds a  
48 classification or prequalification.

1 Nothing in this section shall be construed to prohibit the  
2 development authority from requiring the prequalification of a firm  
3 or person by the development authority in accordance with the  
4 provisions of section 59 of P.L.2000, c.72 (C.18A:7G-33).**】**  
5 (Deleted by amendment, P.L. , c. ) (pending before the  
6 Legislature as this bill)

7 c. **【**Notwithstanding any provision of subsection b. of this  
8 section to the contrary, a**】** A firm or person or an affiliate thereof  
9 shall not serve as a general contractor or as a subcontractor or as a  
10 subconsultant on **【an authority】** a Division of Property  
11 Management and Construction in the Department of the Treasury  
12 project for which the firm or person serves as the construction  
13 manager.

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

15  
16 26. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to  
17 read as follows:

18 71. a. In the case of any school facilities project which has a  
19 State share of 100%, the **【development authority】** Division of  
20 Property Management and Construction in the Department of the  
21 Treasury may require the use of wrap-up insurance coverage for the  
22 project and shall establish the terms and requirements for any such  
23 coverage.

24 b. For any school facilities project which has a State share of  
25 less than 100%, the district may elect to purchase wrap-up  
26 insurance coverage for the school facilities project. A district may  
27 purchase the coverage on its own or may enter into a joint  
28 purchasing agreement with one or more other districts to purchase  
29 coverage.

30 c. As used in this section, "wrap-up insurance coverage" means  
31 a single insurance and loss control program for all parties involved  
32 in the school facilities project, including the owners, administrators,  
33 contractors and all tiers of subcontractors, which is controlled and  
34 authorized by the owner or financing administrator and applicable  
35 to defined construction work sites. Wrap-up insurance coverage  
36 may include, but not be limited to, workers' compensation and  
37 employers' liability, commercial general liability, umbrella/excess  
38 liability, builder's risk, architects' and engineers' errors and  
39 omissions, liability, environmental liability, and force majeure.

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

41  
42 27. Section 14 of P.L.2007, c.137 (C.18A:7G-45) is amended to  
43 read as follows:

44 14. a. In the event that the **【development authority】** Division of  
45 Property Management and Construction in the Department of the  
46 Treasury funds 100% of the cost of the acquisition of land for the  
47 construction of a school facilities project and as a result of the

1 construction of that project a school building located in the district  
2 and the land upon which the school building is situate are no longer  
3 necessary for educational purposes, title to the land together with  
4 the school building on the land shall be conveyed to and shall vest  
5 in the **【New Jersey Schools Development Authority established**  
6 **pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237)】** division  
7 when it is determined by the **【development authority】** division that  
8 such conveyance is in the best interest of the **【development**  
9 **authority】** division. The district shall execute any documents  
10 including, but not limited to, a deed of conveyance necessary to  
11 accomplish the transfer of title.

12 b. The **【development authority】** division may retain or sell the  
13 land and buildings on that land acquired pursuant to subsection a. of  
14 this section. In the event the **【development authority】** division  
15 elects to sell, it shall use a competitive process. The proceeds of  
16 that sale shall be applied to the costs of school facilities projects of  
17 the district.

18 c. The transfer of title pursuant to subsection a. of this section  
19 shall occur in accordance with a schedule determined by the  
20 **【development authority】** division. The schedule may provide that  
21 the transfer occur prior to the completion of the construction of the  
22 new school facilities project if the **【development authority】** division  
23 deems it necessary in order to complete additional school facilities  
24 projects within the district.  
25 (cf: P.L.2007, c.137, s.14)  
26

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

29 15. If land is necessary to be acquired in connection with a  
30 school facilities project in an SDA district, the board of education  
31 of the district and the governing body of the municipality in which  
32 the district is situate shall jointly submit to the commissioner and to  
33 the **【development authority】** Division of Property Management and  
34 Construction in the Department of the Treasury a complete  
35 inventory of all district- and municipal-owned land located in the  
36 municipality. The inventory shall include a map of the district  
37 showing the location of each of the identified parcels of land. The  
38 board of education and the governing body of the municipality shall  
39 provide an analysis of why any district- or municipal-owned land is  
40 not suitable as a site for a school facilities project identified in the  
41 district's long-range facilities plan. The inventory shall be updated  
42 as needed in connection with any subsequent school facilities  
43 projects for which it is necessary to acquire land.  
44 (cf: P.L.2007, c.260, s.48)  
45

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



1       16. a. Whenever the board of education of an SDA district  
2 submits to the **【New Jersey Schools Development Authority**  
3 established pursuant to P.L.2007, c.137 (C.52:18A-235 et al.)**】**  
4 Division of Property Management and Construction in the  
5 Department of the Treasury information on a proposed preferred  
6 site for the construction of a school facilities project, the  
7 **【development authority】** division shall file a copy of a map, plan or  
8 report indicating the proposed preferred site with the county clerk  
9 of the county within which the site is located and with the  
10 municipal clerk, planning board, and building inspector of the  
11 municipality within which the site is located.

12       b. Whenever a map, plan, or report indicating a proposed  
13 preferred site for the construction of an SDA district school  
14 facilities project is filed by the **【development authority】** division  
15 pursuant to subsection a. of this section, any municipal approving  
16 authority before granting any site plan approval, building permit, or  
17 approval of a subdivision plat, or exercising any other approval  
18 power with respect to the development or improvement of any lot,  
19 tract, or parcel of land which is located wholly or partially within  
20 the proposed preferred site shall refer the site plan, application for a  
21 building permit or subdivision plat or any other application for  
22 proposed development or improvement to the **【development**  
23 **authority】** division for review and recommendation as to the effect  
24 of the proposed development or improvement upon the construction  
25 of the school facilities project.

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

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

44       (2) give notice to the municipal approving authority and to the  
45 owner of the lot, tract, or parcel of land that the **【development**  
46 **authority】** division has no objection to the granting of the permit or  
47 approval for which application has been made. Upon receipt of the

1 notice the municipal approving authority shall be free to act upon  
2 the pending application in such manner as may be provided by law.  
3 (cf: P.L.2007, c.260, s.49)

4  
5 30. Section 2 of P.L.2018, c.90 (C.18A:18A-60) is amended to  
6 read as follows:

7 2. a. As used in this section:

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

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

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

18 "Public-private partnership agreement" means an agreement  
19 entered into by a school district and a private entity pursuant to this  
20 section for the purpose of permitting a private entity to assume full  
21 financial and administrative responsibility for the development,  
22 construction, reconstruction, repair, alteration, improvement,  
23 extension, operation, and maintenance of a school facilities project  
24 of, or for the benefit of, the school district.

25 "School district" shall have the same meaning as provided in  
26 section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local  
27 school district, regional school district, or county special services  
28 school district or county vocational school established and  
29 operating under the provisions of Title 18A of the New Jersey  
30 Statutes that can demonstrate to the satisfaction of the  
31 Commissioner of Education and the **Chief Executive Officer of the**  
32 **Schools Development Authority** Division of Property Management  
33 and Construction in the Department of the Treasury that a school  
34 facility is necessary due to overcrowding or is in need of  
35 replacement. The term "school district" shall include a charter  
36 school established under P.L.1995, c.426 (C.18A:36A-1 et seq.)

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

43 (2) A public-private partnership agreement may include an  
44 agreement under which a school district and a private entity enter  
45 into a lease of a revenue-producing public building, structure, or  
46 facility in exchange for up-front or structured financing by the  
47 private entity for the project. Under the lease agreement, the  
48 private entity shall be responsible for the management, operation,

1 and maintenance of the building, structure, or facility. The private  
2 entity shall receive some or all, as per the agreement, of the revenue  
3 generated by the building, structure, or facility, and shall operate  
4 the building, structure, or facility in accordance with school district  
5 standards. At the end of the lease term, subsequent revenue  
6 generated by the building, structure, or facility, along with  
7 management, operation, and maintenance responsibility, shall revert  
8 to the school district. A lease agreement entered into pursuant to  
9 this section shall be limited in duration to a term of not more than  
10 30 years. A lease agreement shall be subject to all applicable  
11 provisions of current law governing leases by a school district not  
12 inconsistent with the provisions of this section.

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

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

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

40 (3) Prior to the commencement of work on a project, the private  
41 entity shall establish a construction account and appoint a third-  
42 party financial institution, who shall be prequalified by the State  
43 Treasurer to act as a collateral agent and manage the construction  
44 account. The construction account shall include the funding,  
45 financial instruments, or both, that shall be used to fully capitalize  
46 and fund the project, and the collateral agent shall maintain a full  
47 accounting of the funds and instruments in the account. The funds  
48 and instruments in the construction account shall be held in trust for

1 the benefit of the contractor, construction manager, and design-  
2 build team involved in the project. The funds and instruments in  
3 the construction account shall not be the property of the private  
4 entity unless all amounts due to the construction account  
5 beneficiaries are paid in full. The construction account shall not be  
6 designated for more than one project.

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

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

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

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

46 (4) Prior to being submitted to the State Treasurer for review  
47 and approval, all projects proposed in accordance with this section  
48 shall be subject to a public hearing, the record of which shall have

1 been kept open for a period of seven days following the conclusion  
2 of the hearing, after the ranking of proposals takes place pursuant to  
3 paragraph (5) of subsection j. of this section. The school district  
4 shall provide notice of the public hearing no less than 14 days prior  
5 to the date of the hearing. The notice shall prominently state the  
6 purpose and nature of the proposed project, and shall be published  
7 on the official Internet website of the school district and in at least  
8 one or more newspapers with Statewide circulation.

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

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

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

47 (2) All projects proposed in accordance with this section that  
48 have a transportation component or impact the transportation

1 infrastructure shall be submitted to the Department of  
2 Transportation. The State Treasurer shall consult with the  
3 Department of Transportation in making its final determination.

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

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

39 (4) The State Treasurer, in consultation with the authority~~[],~~  
40 and the Commissioner of the Department of Education~~[],~~ and the  
41 Chief Executive Officer of the Schools Development Authority~~],~~  
42 shall review all completed applications, and request additional  
43 information as is needed to make a complete assessment of the  
44 project. No public-private partnership agreement shall be executed  
45 until approval has been granted by the State Treasurer. Prior to a  
46 final decision by the State Treasurer on the application, the  
47 authority~~[],~~ and the Department of Education~~[],~~ and the Schools

1 Development Authority】 shall be afforded the opportunity to  
2 provide comments on the application that they deem appropriate,  
3 and the State Treasurer shall consider any comments submitted by  
4 the authority【,】 and the Department of Education【, and the Schools  
5 Development Authority】 with respect to the application. The State  
6 Treasurer will find that: (i) the school district's assumptions  
7 regarding the project's scope, its benefits, its risks and the cost of  
8 the public sector option were fully and reasonably developed (ii) the  
9 design of the project is feasible; (iii) the experience and  
10 qualifications of the private entity; (iv) the financial plan is sound;  
11 (v) the long-range maintenance plan is adequate to protect the  
12 investment; (vi) the project is in the best interest of the public,  
13 using the criteria in paragraph (6) of subsection e. of this section;  
14 (vii) a resolution by the school district's governing body of its intent  
15 to enter into a public-private partnership agreement for the project  
16 has been received; and (viii) the term sheet for any proposed  
17 procurement contains all necessary elements.

18 (5) The State Treasurer, in consultation with the Commissioner  
19 of the Department of Education 【and Chief Executive Officer of the  
20 Schools Development Authority】, may promulgate any rules and  
21 regulations necessary to implement this subsection, including, but  
22 not limited to, provisions for fees to cover administrative costs, and  
23 for the determination of minimum school district standards for the  
24 operation of the project, and for the qualification for professional  
25 services, construction contracting, and other relevant qualifications.

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

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

40 i. Any public-private partnership agreement, if appropriate,  
41 shall include provisions affirming that the agreement and any work  
42 performed under the agreement are subject to the provisions of the  
43 "Construction Industry Independent Contractor Act," P.L.2007,  
44 c.114 (C.34:20-1 et seq.). Any public-private partnership agreement  
45 will also include, at a minimum: (i) the term of the agreement, (ii)  
46 the total project cost, (iii) a completion date guarantee, (iv) a  
47 provision for damages if the private entity fails to meet the

1 completion date and (v) a maximum rate of return to the private  
2 entity and a provision for the distribution of excess earnings to the  
3 local government unit or to the private party for debt reduction.

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

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

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

34 (4) The school district may accept unsolicited proposals from  
35 private entities for public-private partnership agreements. If the  
36 school district receives an unsolicited proposal and determines that  
37 it meets the standards of this section, the school district shall  
38 publish a notice of the receipt of the proposal on the Internet site of  
39 the school district and through advertisement in at least one or more  
40 newspapers with Statewide circulation. The school district shall  
41 also provide notice of the proposal at its next scheduled public  
42 meeting and to the State Treasurer. To qualify as an unsolicited  
43 proposal, the unsolicited proposal must at a minimum include a  
44 description of the public-private project, the estimated construction  
45 and life-cycle costs, a timeline for development, proposed plan of  
46 financing, including projected revenues, public or private, debt,  
47 equity investment, description of how the project meets needs  
48 identified in existing plans, the permits and approvals needed to



1 develop the project from local, state and federal agencies and a  
2 projected schedule for obtaining such permits and approvals, a  
3 statement of risks, liabilities and responsibilities to be assumed by  
4 the private entity. The notice shall provide that the school district  
5 will accept, for 120 days after the initial date of publication,  
6 proposals meeting the standards of this section from other private  
7 entities for eligible projects that satisfy the same basic purpose and  
8 need. A copy of the notice shall be mailed to each municipal and  
9 county local government body in the geographic area affected by  
10 the proposal.

11 (5) After the proposal or proposals have been received, and any  
12 public notification period has expired, the school district shall rank  
13 the proposals in order of preference. In ranking the proposals, the  
14 school district shall rely upon, at minimum, the evaluation criteria  
15 promulgated by the State Treasurer, in consultation with the New  
16 Jersey Economic Development Authority~~[],~~ and the Department of  
17 Education~~[],~~ and Schools Development Authority~~].~~ In addition, the  
18 local school district may consider factors that include, but may not  
19 be limited to, professional qualifications, general business terms,  
20 innovative engineering, architectural services, or cost-reduction  
21 terms, finance plans, and the need for school district funds to  
22 deliver the project and discharge the agreement. The private entity  
23 selected shall comply with all laws and regulations required by the  
24 State government entity, including but not limited to section 1 of  
25 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,  
26 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25.24-2),  
27 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-  
28 51 et al.), Executive Order No. 117 of 2008, Executive Order No.  
29 118 of 2008, Executive Order No. 189, prior to executing the public  
30 private partnership agreement. If only one proposal is received, the  
31 school district shall negotiate in good faith and, if not satisfied with  
32 the results of the negotiations, the school district may, at its sole  
33 discretion, terminate negotiations.

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

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

44 (8) Nothing in this section shall be construed as or deemed a  
45 waiver of the sovereign immunity of the State, the local government  
46 unit or an affected locality or public entity or any officer or

1 employee thereof with respect to the participation in or approval of  
2 all or any part of the public-private project.

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

4  
5 31. N.J.S.18A:22-39 is amended to read as follows:

6 18A:22-39. Whenever the undertaking of any capital project or  
7 projects to be paid for from the proceeds of an issue or issue of  
8 bonds is submitted to the voters of a type II district at an annual or  
9 special school election for their approval or disapproval, the board  
10 shall frame and adopt by a recorded roll call majority vote of its full  
11 membership the question or questions to be submitted so that each  
12 project is submitted in a separate question, or all or any number of  
13 them are submitted in one question, which shall state the project or  
14 projects so submitted and the amounts to be raised for each of the  
15 projects so separately submitted or for each or for all of the projects  
16 so jointly submitted, as the case may be, but any proposal for the  
17 purchase of land shall be sufficient to authorize the taking and  
18 condemning of such land. If the project is to be constructed by the  
19 **【New Jersey Schools Development Authority】** Division of Property  
20 Management and Construction in the Department of the Treasury or  
21 a redevelopment entity or by the district with a grant pursuant to  
22 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,  
23 when framed as a single question, request approval for the local  
24 share and shall disclose the final eligible costs of the project as  
25 approved by the commissioner pursuant to section 5 of P.L.2000,  
26 c.72 (C.18A:7G-5) and in the case of a demonstration project  
27 pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and  
28 C.18A:7G-6), and, if applicable, the amount of any costs of the  
29 project which are in addition to the final eligible costs. If the school  
30 facilities project is not to be constructed by the **【New Jersey**  
31 **Schools Development Authority】** Division of Property Management  
32 and Construction in the Department of the Treasury or a  
33 redevelopment entity or by the district with a grant pursuant to  
34 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,  
35 when framed as a single question, request approval for the total  
36 costs of the project, shall disclose State debt service aid for the  
37 project and, if applicable, the amount of any costs of the project  
38 which are in addition to the final eligible costs of the project. When  
39 a project is framed in more than one question, a summary shall be  
40 included in the explanatory statement which accompanies the  
41 questions that includes the total costs of the project, total State debt  
42 service aid, and, if applicable, the amount of the costs of the project  
43 which are in addition to the final eligible costs of the project, and  
44 any individual question containing costs in addition to the final  
45 eligible costs shall include the amount of those additional costs.

46 The statement of additional costs in any ballot question and in  
47 any explanatory statement that accompanies a ballot question shall  
48 describe the additional costs as follows: "This project includes

1 \$(insert amount) for school facility construction elements in  
2 addition to the facilities efficiency standards developed by the  
3 Commissioner of Education."  
4 (cf: P.L.2007, c.137, s.50)  
5

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

8 4. a. A nonprofit entity, in partnership with the renaissance  
9 school district, may submit to the commissioner an application to  
10 create a renaissance school project no later than three years  
11 following the effective date of P.L.2011, c.176 (C.18A:36C-1 et  
12 seq.); except that in the case of a project to be located in a  
13 renaissance school district which is in a municipality that is subject  
14 to the "Municipal Rehabilitation and Economic Recovery Act,"  
15 P.L.2002, c.43 (C.52:27BBB-1 et al.), the application must be  
16 submitted no later than four years following the effective date of  
17 P.L.2011, c.176 (C.18A:36C-1 et seq.). A nonprofit entity seeking  
18 to create a renaissance school project shall have experience in  
19 operating a school in a high-risk, low-income urban district. In  
20 addition, an entity retained by the nonprofit entity for the purpose  
21 of financing or constructing the renaissance school project shall  
22 also have appropriate experience.

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

25 (1) except as otherwise provided in this paragraph, a resolution  
26 adopted in a public meeting by the board of education of the  
27 renaissance school district in which the renaissance school project  
28 will be located certifying the support of the board for the  
29 application. In the case of a district under full or partial State  
30 intervention with an advisory board of education, the application  
31 shall contain evidence that that State district superintendent or  
32 superintendent, as applicable, convened at least three public  
33 meetings to discuss the merits of the renaissance school project.  
34 The evidence shall include, at a minimum, any written public  
35 comments received during those meetings. In the case of these  
36 districts, the application shall contain a resolution from the advisory  
37 board of education reflecting the board's approval or disapproval of  
38 the renaissance school project. While a successful application does  
39 not require approval from the advisory board of education, the  
40 commissioner, in considering the application, shall give due  
41 consideration to any disapproval from the advisory board;

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

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

- 1 (4) any testing and academic performance standards to be
- 2 mandated by the renaissance school project beyond those required
- 3 by State law and regulation;
- 4 (5) the admission policy and criteria for evaluating the
- 5 admission of students to the renaissance school project, which shall
- 6 comply with the provisions of section 8 of this act;
- 7 (6) the age or grade range of students to be enrolled in the
- 8 renaissance school project;
- 9 (7) the total number of students to be enrolled in each grade
- 10 level of the renaissance school project;
- 11 (8) the renaissance school project calendar and school day
- 12 schedule;
- 13 (9) the financial plan for the renaissance school project and the
- 14 provisions that will be made for auditing pursuant to N.J.S.18A:23-
- 15 1;
- 16 (10) a description of, and address for, the initial school facility in
- 17 which the renaissance school project will be located and an
- 18 affirmation that any other school facility or facilities in which the
- 19 renaissance school project will be located will be in the required
- 20 urban campus area. For any school facility other than the initial
- 21 school facility included in the application pursuant to this
- 22 paragraph, the nonprofit entity shall notify the Commissioner of
- 23 Education of the location of the facility at least one year prior to the
- 24 opening of the facility;
- 25 (11) documentation that the proposed renaissance school project
- 26 meets school facility regulations promulgated by the State Board of
- 27 Education pertaining to the health and safety of the pupils;
- 28 (12) documentation of a funding plan to acquire necessary lands
- 29 and to construct a renaissance school project thereon, including the
- 30 terms of any financing secured for such purpose;
- 31 (13) (Deleted by amendment, P.L.2013, c.149)
- 32 (14) identification of the attendance area of the renaissance
- 33 school project, if the renaissance school project will not be built on
- 34 land owned by the **【New Jersey Schools Development Authority】**
- 35 Division of Property Management and Construction in the
- 36 Department of the Treasury or the renaissance school district;
- 37 (15) a description of the process employed by the renaissance
- 38 school district to find and partner with the chosen nonprofit entity
- 39 to create a renaissance school project. The description shall be
- 40 sufficient to show that the process employed by the renaissance
- 41 school district was open, fair, and subject to public input and
- 42 comment. The description shall, at a minimum, include any
- 43 requests for proposals issued by the renaissance school district, the
- 44 number of responses received, and the process and criteria
- 45 employed by the renaissance school district to select the chosen
- 46 nonprofit entity among the respondents; and
- 47 (16) such other information as the commissioner may require.
- 48 (cf: P.L.2014, c.61, s.2)

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

3       8. a. (1) In the case of a renaissance school project built on  
4 land owned by the **【New Jersey Schools Development Authority】**  
5 Division of Property Management and Construction in the  
6 Department of the Treasury or the renaissance school district,  
7 students residing in the attendance area established by the  
8 renaissance school district for that property shall be automatically  
9 enrolled in the renaissance school project, except as otherwise  
10 provided in paragraph (2) of this subsection. The parent or  
11 guardian of the student may determine not to enroll the student in  
12 the renaissance school project, and in that case the student shall be  
13 eligible for enrollment in another school in the renaissance school  
14 district. If spaces remain available in the renaissance school  
15 project, students shall be selected for the remaining spaces through  
16 a lottery system. The first lottery shall include students who reside  
17 in the renaissance school district but outside the attendance area of  
18 the renaissance school. If space remains available, a second lottery  
19 shall be conducted that may include students who reside outside of  
20 the renaissance school district.

21       (2) A renaissance school project built on land owned by the  
22 **【New Jersey Schools Development Authority】** Division of Property  
23 Management and Construction in the Department of the Treasury or  
24 the renaissance school district, shall allow any student who was  
25 enrolled in the renaissance school project in the immediately  
26 preceding school year to enroll in the renaissance school project in  
27 the appropriate grade unless the appropriate grade is not offered;  
28 and if a grade is at capacity, a student enrolled in the immediately  
29 preceding school year shall have priority for enrollment in that  
30 grade over a student who would otherwise be eligible for initial  
31 enrollment in the renaissance school project automatically based on  
32 the fact that he resides in the attendance area established by the  
33 renaissance school project for that property.

34       b. (1) In the case of a renaissance school project which is not  
35 built on land owned by the **【New Jersey Schools Development**  
36 **Authority】** Division of Property Management and Construction in  
37 the Department of the Treasury or the renaissance school district,  
38 preference for enrollment in the renaissance school project shall be  
39 given to students who reside in the attendance area identified in the  
40 application submitted by the nonprofit entity and approved by the  
41 commissioner for the renaissance school project. In no case may an  
42 attendance area include an area outside of the renaissance school  
43 district. If spaces remain available in the renaissance school  
44 project, then the renaissance school project may select students for  
45 the remaining spaces through a lottery system. The first lottery  
46 shall include students who reside in the renaissance school district  
47 but outside the attendance area identified in the application  
48 approved by the commissioner for the renaissance school project. If

1 space remains available, a second lottery shall be conducted that  
2 may include students who reside outside of the renaissance school  
3 district.

4 (2) A renaissance school project which is not built on land  
5 owned by the **【New Jersey Schools Development Authority】**  
6 Division of Property Management and Construction in the  
7 Department of the Treasury or the renaissance school district shall  
8 allow any student who was enrolled in the renaissance school  
9 project in the immediately preceding school year to enroll in the  
10 renaissance school project in the appropriate grade unless the  
11 appropriate grade is not offered.

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

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

20

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

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

37 b. Notwithstanding any other law to the contrary, in the event  
38 of a conveyance by the authority to a renaissance school district  
39 pursuant to this section, the renaissance school district is authorized  
40 to enter into a sub-lease of the property to the entity as required to  
41 effectuate the renaissance school project. The sub-lease shall be  
42 submitted to the commissioner for his review and approval. The  
43 sub-lease shall contain a restriction that the land be used solely for  
44 the renaissance school project or it shall revert to the school district.  
45 (cf: P.L.2011, c.176, s.11)

46

47 35. 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,  
14 c.90 (C.40A:11-52 et al.), a public entity shall remit one percent of  
15 the 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       36. (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 Division of Property Management  
32 and Construction in the Department of the Treasury, or the  
33 construction, plumbing, heating, lighting or other mechanical  
34 branch of work necessary to complete the work in question, nor to  
35 require that any person, firm or corporation employed on any such  
36 work shall perform the work in any other or different manner than  
37 that provided by the drawings, plans and specifications, nor to  
38 require that any person, firm or corporation obtain any other or  
39 additional authority, approval, permit or certificate from the  
40 municipality in relation to the work being done, and the doing of  
41 the work by any person, firm or corporation in accordance with the  
42 terms of the drawings, plans, specifications or contracts shall not  
43 subject the person, firm or corporation to any liability or penalty,  
44 civil or criminal, other than as may be stated in the contracts or  
45 incidental to the proper enforcement thereof; nor shall any  
46 municipality require the division or any person, firm, partnership or  
47 corporation which leases or purchases the school facilities project  
48 for lease or purchase to a State agency, to obtain any other or

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

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

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

27  
28 37. (New section) a. If the Division of Property Management  
29 and Construction in the Department of the Treasury shall find it  
30 necessary in connection with the undertaking of any school  
31 facilities project to change the location of any portion of any public  
32 highway or road, it may contract with any government agency, or  
33 public or private corporation which may have jurisdiction over the  
34 public highway or road to cause the public highway or road to be  
35 constructed at such locations as the division shall deem most  
36 favorable. The cost of the reconstruction and any damage incurred  
37 in changing the location of the highway shall be ascertained and  
38 paid by the division as part of the cost of the school facilities  
39 project. Any public highway affected by the construction of any  
40 school facilities project may be vacated or relocated by the division  
41 in the manner now provided by law for the vacation or relocation of  
42 public roads, and any damages awarded on account thereof shall be  
43 paid by the division as a part of the cost of the school facilities  
44 project. In all undertakings authorized by this subsection, the  
45 division shall consult and obtain the approval of the Commissioner  
46 of Transportation.

47 b. The division and its authorized agents and employees may  
48 enter upon any lands, waters and premises for the purpose of



1 making surveys, soundings, drillings and examinations as it may  
2 deem necessary or convenient for the purposes of this act, all in  
3 accordance with due process of law, and this entry shall not be  
4 deemed a trespass nor shall an entry for this purpose be deemed an  
5 entry under any condemnation proceedings which may be then  
6 pending. The division shall make reimbursement for any actual  
7 damages resulting to the lands, waters and premises as a result of  
8 these activities.

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

36

37 38. (New section) a. The New Jersey Schools Development  
38 Authority established pursuant to section 3 of P.L.2007,  
39 c.137 (C.52:18A-237) is abolished and all its functions, powers,  
40 duties, and employees are transferred to the Division of Property  
41 Management and Construction in the Department of the Treasury.

42 b. Whenever, in any law, rule, regulation, order, contract,  
43 document, judicial or administrative proceeding or otherwise,  
44 reference is made to the New Jersey Schools Development  
45 Authority, the same shall mean and refer to the Division of Property  
46 Management and Construction in the Department of the Treasury.

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

