

P.L. 2019, CHAPTER 135, *approved June 26, 2019*  
 Senate, No. 2863 (*Fourth Reprint*)

1 AN ACT concerning transportation projects funded through the local  
 2 aid program, amending P.L.1995, c.108, and supplementing Title  
 3 27 of the Revised Statutes.

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

7  
 8 1. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to  
 9 read as follows:

10 9. <sup>1</sup>a.<sup>1</sup> Aid to counties and municipalities administered by the  
 11 department may, at the discretion of the commissioner, be disbursed  
 12 to any individual county or municipality on a grant basis or on a  
 13 cost reimbursement basis. <sup>3</sup><sup>2</sup>The department shall notify a county  
 14 or municipality of the aid allotted to that county or municipality for  
 15 the year and]

16 <sup>4</sup>(1)<sup>4</sup> Awards <sup>4</sup>to each county for the Local County Aid Program<sup>4</sup>  
 17 shall be made pursuant to the following schedule: <sup>4</sup>[(1) the  
 18 department shall distribute an aid application solicitation letter to  
 19 each county and each municipality by April 1st of each year] (a)  
 20 prior to July 31st of each year, each county shall be notified of the  
 21 amount of local aid program funds allocated to the county for the  
 22 current State fiscal year<sup>4</sup>; <sup>4</sup>[(2)] (b)<sup>4</sup> each county <sup>4</sup>[and each  
 23 municipality]<sup>4</sup> shall submit an application for funding by <sup>4</sup>[June  
 24 30th] December 1st<sup>4</sup> of each year; <sup>4</sup>[(3) the department shall  
 25 distribute an award letter to each county and each municipality by  
 26 October 1st of each year;]<sup>4</sup> and <sup>4</sup>[(4)] (c)<sup>4</sup> the department<sup>3</sup> shall  
 27 execute an agreement with <sup>3</sup>[the] each<sup>3</sup> county <sup>4</sup>[<sup>3</sup>[or] and each<sup>3</sup>  
 28 municipality]<sup>4</sup> concerning the project <sup>4</sup>or projects<sup>4</sup> for which the  
 29 aid is allotted to that county <sup>4</sup>[or municipality]<sup>4</sup> within 90 days  
 30 from the date that the department <sup>4</sup>[<sup>3</sup>[notifies] distributes the  
 31 award letter to<sup>3</sup>] receives the application from<sup>4</sup> the county <sup>4</sup>[or  
 32 municipality]<sup>4</sup> <sup>3</sup>[of that year's allotment] pursuant to <sup>4</sup>[paragraph  
 33 (3) of this subsection] subparagraph (b) of this paragraph<sup>4</sup> or by  
 34 <sup>4</sup>[December 31st of each year] April 1st of the following year<sup>4</sup>,  
 35 whichever is <sup>4</sup>[earlier<sup>3</sup>] later<sup>4</sup>.<sup>2</sup>

36 <sup>4</sup>(2) Awards to each municipality for the Municipal Aid program  
 37 shall be made pursuant to the following schedule: (a) the

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate STR committee amendments adopted December 10, 2018.

<sup>2</sup>Senate SBA committee amendments adopted March 18, 2019.

<sup>3</sup>Senate floor amendments adopted March 25, 2019.

<sup>4</sup>Assembly floor amendments adopted June 20, 2019.

1 department shall distribute an aid application solicitation letter to  
2 each municipality by April 30th of each year; (b) each municipality  
3 shall submit an application for funding by July 1st of each year; (c)  
4 the department shall distribute an award letter to each municipality  
5 by November 30th of each year; (d) the department shall execute an  
6 agreement with each municipality concerning the project for which  
7 the aid is allotted to that municipality within 90 days from the date  
8 the department distributes the award letter to the municipality  
9 pursuant to subparagraph (c) of this paragraph or by March 1st of  
10 the following year, or whichever is later.

11 b.<sup>4</sup> Distribution of the portion of the grant provided initially to a  
12 county or municipality may be contingent on its performance in  
13 spending prior grants. Failure to award construction or other  
14 approved contracts for 100 percent of a county's allotment within  
15 three years of notification by the department of that year's allotment  
16 <sup>4</sup>[, or failure to award construction or other approved contracts for  
17 any percentage of a county's allotment within one year <sup>1</sup>[of  
18 notification by the department of that year's] <sup>2</sup>[following the date  
19 the county receives the first payment of the<sup>1</sup>] of <sup>3</sup>[notification by  
20 the department of] the fully executed agreement for<sup>3</sup> that year's<sup>2</sup>  
21 allotment <sup>3</sup>pursuant to paragraph (4) of this subsection<sup>3</sup>.]<sup>4</sup> shall  
22 result in the allotment being immediately rescinded or the funds  
23 returned to the department, as applicable, or in the event such funds  
24 are not immediately returned, deducted by the department from  
25 future allocations of aid to such county <sup>4</sup>[<sup>1</sup>, except as provided in  
26 subsection b. of this section<sup>1</sup>]<sup>4</sup>. Any such funds may be reallocated  
27 by the commissioner <sup>4</sup>[on a grant basis or a cost reimbursement  
28 basis to such other counties or municipalities] to other  
29 transportation projects<sup>4</sup> as the commissioner shall so  
30 determine. Failure to award construction or other approved  
31 contracts for 100 percent of a municipality's allotment within two  
32 years of notification by the department of that year's allotment <sup>4</sup>[,  
33 or failure to award construction or other approved contracts for any  
34 percentage of a municipality's allotment within one year <sup>1</sup>[of  
35 notification by the department of that year's] <sup>2</sup>[following the date  
36 the municipality receives the first payment of the<sup>1</sup>] of  
37 <sup>3</sup>[notification by the department of] the fully executed agreement  
38 for<sup>3</sup> that year's<sup>2</sup> allotment <sup>3</sup>pursuant to paragraph (4) of this  
39 subsection<sup>3</sup>.]<sup>4</sup> shall result in that year's allocation being  
40 immediately rescinded <sup>1</sup>, except as provided in subsection <sup>4</sup>[b.] c.<sup>4</sup>  
41 of this section<sup>1</sup>. Any such funds may be reallocated by the  
42 commissioner <sup>4</sup>[on a grant basis or a cost reimbursement basis to  
43 such other counties or municipalities] to other transportation  
44 projects<sup>4</sup> as the commissioner shall determine.

1 <sup>4</sup>['b.] c.<sup>4</sup> An allotment provided to a <sup>4</sup>[county or]<sup>4</sup> municipality  
2 shall be rescinded, returned, or deducted from future allocations as  
3 a result of a <sup>4</sup>[county's or]<sup>4</sup> municipality's failure to award  
4 construction or other approved contracts for <sup>4</sup>[any amount of the]  
5 100 percent of a municipality's<sup>4</sup> allotment within <sup>4</sup>[one year of  
6 <sup>2</sup>[receiving the first payment of the] <sup>3</sup>[notification by the  
7 department of] the fully executed agreement for<sup>3</sup>] two years of  
8 notification by the department of<sup>4</sup> that year's<sup>2</sup> allotment as provided  
9 in <sup>4</sup>paragraph (2) of<sup>4</sup> subsection a. of this section, except that <sup>4</sup>[this  
10 one-year requirement shall be extended if a designated financial  
11 officer for the county or municipality certifies to the department  
12 that the project will not begin construction during the required time  
13 frame due to one of the following exceptions:

14 (1) the allotment will be aggregated with future funds for the  
15 purpose of completing a specific project;

16 (2) a permit needed for completion of the project has not been  
17 issued due to a delay in the permitting process;

18 (3) the acquisition of an interest in State-owned land needed to  
19 complete the project is delayed due to the divestment of a deed  
20 restriction;

21 (4) the project requires a utility to be relocated; or

22 (5) a catastrophic event occurs and results in a declaration of a  
23 state of emergency. The commissioner shall determine which  
24 events are considered catastrophic for purposes of this paragraph.

25 c. A designated financial officer for a county or municipality  
26 submitting a certification pursuant to subsection b. of this section  
27 shall provide proof that the project meets one or more of the  
28 exceptions provided in subsection b. of this section and shall certify  
29 that a construction or other approved contract will be awarded  
30 promptly upon resolution of the cause of the delay. The  
31 commissioner shall determine the proof necessary to claim an  
32 exception under subsection b. of this section; provided that:

33 (1) if a designated financial officer certifies that the allotment  
34 will be aggregated with future funds for the purpose of completing a  
35 specific project, the designated financial officer shall provide to the  
36 department the specific project for which the allotment will be used  
37 and an expected timeline for completion of the project. The  
38 allotment shall not be aggregated until the department approves  
39 such aggregation;

40 (2) if a designated financial officer certifies that a permit needed  
41 for the completion of a project has not been issued due to a delay in  
42 the permitting process, the designated financial officer shall provide  
43 to the department the specific permit application number; or

44 (3) if a designated financial officer certifies that acquisition of  
45 an interest in State-owned land is delaying the completion of a  
46 project due to the divestment of a deed restriction, the designated  
47 financial officer shall provide to the department the block and lot

1 designation of such land] the department, at its discretion, may  
2 grant an extension of the two year requirement of not greater than  
3 six months in duration for extraordinary circumstances, which shall  
4 be limited to the following:

5 (1) Bidding problems. The project was advertised and bids were  
6 received before the 24-month deadline, but because the bids  
7 exceeded the estimate, the project will be re-advertised for bid  
8 within three months or financing will be arranged to allow an award  
9 within the next six months;

10 (2) Permits have not been approved. Environmental permit  
11 applications were submitted and accepted by all permitting agencies  
12 within 12 months of municipal local aid agreement execution and  
13 permits have not been received. Municipalities shall provide details  
14 of issues precluding the issuance of the permits;

15 (3) Utility relocation work precludes advertisement, bid, and  
16 award during the 24-month deadline. The municipality has  
17 demonstrated communication and coordination with all utility  
18 service providers within 12 months of municipal local aid grant  
19 agreement execution; however, the utility service providers have  
20 indicated that relocation work is required to be performed prior to  
21 the construction of the project. The municipality shall provide  
22 details on the schedule of utility work precluding advancement of  
23 the municipal local aid project;

24 (4) Right-of-way is not available for the project. The  
25 municipality shall provide details on the schedule of right-of-way  
26 acquisition and any issues precluding advancement of the project;  
27 or

28 (5) Declaration of a state of emergency by the Governor of the  
29 State of New Jersey or the President of the United States that  
30 directly impacts the ability of the municipality to award the  
31 contract. The municipality shall provide details on the project's  
32 schedule and the details as to how the state of emergency precluded  
33 the advancement of the municipal local aid project.

34 d. Award deadline extensions shall be requested in writing by  
35 the municipality a minimum of 30 days prior to the 24 month  
36 deadline, and shall include a resolution and justification for the  
37 extension of time that demonstrates ability to award the contract  
38 within the requested six month period.

39 e. Meeting the extraordinary circumstances described in  
40 paragraph (1) of subsection c. of this section does not guarantee  
41 approval of a six-month deadline extension. The department shall  
42 consider factors such as likelihood of achieving the award within  
43 the next six months and past performance of the municipality. A  
44 six-month deadline extension shall require approval of the Director  
45 of Local Aid and Economic Development with concurrence of the  
46 Commissioner. At any time, but at a minimum of 30 days prior to  
47 the extension of time deadline, a municipality may voluntarily

1 cancel the municipal local aid agreement and release the funds back  
2 to the department<sup>4</sup> .<sup>1</sup>

3 (cf: P.L.2012, c.13, s.10)

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5 2. (New section) <sup>1</sup>**[a.]**<sup>1</sup> All appropriations or authorizations  
6 made by the Legislature and allocated by the commissioner, under  
7 the local aid program, pursuant to section 25 of P.L1984, c.73  
8 (C.27:1B-25), shall include the following limitations on grant  
9 recipients:

10 <sup>1</sup>**[(1)] a.**<sup>1</sup> local government entity grant recipients shall be  
11 prohibited from using local aid program funds to support the work  
12 of any local government entity's employees on any <sup>1</sup>construction<sup>1</sup>  
13 projects funded, in whole or in part, out of funds from the local aid  
14 program;

15 <sup>1</sup>**[(2)] b.**<sup>1</sup> the construction contracts for all projects funded, in  
16 whole or in part, out of funds from the local aid program shall be  
17 made and awarded in accordance with the "Local Public Contracts  
18 Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

19 <sup>1</sup>**[(3)] c.**<sup>1</sup> for all projects funded, in whole or in part, out of  
20 funds from the local aid program, each bidder on a construction  
21 contract <sup>1</sup>valued at more than <sup>4</sup>**[\$500,000<sup>1</sup>]** \$5,000,000<sup>4</sup> shall be  
22 prequalified by the New Jersey Department of Transportation; and,

23 <sup>1</sup>**[(4)] d.**<sup>1</sup> a grant recipient under the local aid program shall be  
24 permitted to expend up to 10 percent of its aid allotment in the  
25 fiscal year beginning July 1, 2018 for design purposes, and up to  
26 five percent of its aid allotment in the fiscal year beginning July 1,  
27 2019 and every fiscal year thereafter for such purposes.

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29 3. This act shall take effect immediately

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35 Revises requirements for grant recipients of Transportation Trust  
Fund Authority local aid program.