

# SENATE, No. 865

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**Co-Sponsored by:**

**Senators Singleton and Cruz-Perez**

**SYNOPSIS**

Permits public-private partnership agreements for certain building and highway infrastructure projects; provides for EDA oversight.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee with technical review.



**(Sponsorship Updated As Of: 4/6/2018)**

1 AN ACT concerning public-private partnerships for certain building  
2 and highway infrastructure projects, and amending and  
3 supplementing various parts of the statutory law.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. (New section) a. As used in this section:

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

12 “Availability payment” means a periodic payment made by a  
13 local government unit to a private entity in exchange for making  
14 available the use of a public building, road, structure, infrastructure,  
15 or facility at a predetermined level of service, operation, or  
16 maintenance.

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

20 “Local government unit” means a county, a municipality, or any  
21 board, commission, committee, authority or agency thereof that is  
22 subject to the provisions of the "Local Public Contracts Law,"  
23 P.L.1971, c.198 (C.40A:11-1 et seq.).

24 “Project” means the development, construction, reconstruction,  
25 repair, alteration, improvement, extension, operation, and  
26 maintenance of any building, road, structure, infrastructure, or  
27 facility constructed or acquired by a local government unit to house  
28 local government functions, including any infrastructure or facility  
29 used or to be used by the public or in support of a public purpose or  
30 activity; provided that, with respect to a roadway or highway  
31 project, a qualifying project shall include an expenditure of at least  
32 \$10 million in public funds, or any expenditure in solely private  
33 funds.

34 “Public-private partnership agreement” means an agreement  
35 entered into by a local government unit and a private entity  
36 pursuant to this section for the purpose of permitting a private entity  
37 to assume financial and administrative responsibility for the  
38 development, construction, reconstruction, repair, alteration,  
39 improvement, extension, operation, and maintenance of a project of,  
40 or for the benefit of, the local government unit.

41 b. (1) A local government unit may enter into a contract with a  
42 private entity, subject to subsection f. of this section, to be referred  
43 to as a public-private partnership agreement, that permits the private  
44 entity to assume financial and administrative responsibility for a  
45 project of, or for the benefit of, the local government unit, provided  
46 that the project is financed in whole or in part by the private entity.

**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       (2) A public-private partnership agreement may include an  
2 agreement under which a local government unit and a private entity  
3 enter into a lease of a public building, road, structure, infrastructure,  
4 or facility in exchange for up-front or structured financing by the  
5 private entity for the project. Under the lease agreement, the  
6 private entity may be responsible for the management, operation,  
7 and maintenance of the building, road, structure, infrastructure, or  
8 facility. The private entity may receive some or all, as per the  
9 agreement, of the revenue generated by the building, road, structure,  
10 infrastructure, or facility, and may operate the building, road  
11 structure, infrastructure, or facility in accordance with local  
12 government unit standards. At the end of the lease term, subsequent  
13 revenue generated by the building, road, structure, infrastructure, or  
14 facility, along with management, operation, and maintenance  
15 responsibility, shall revert to the local government unit.

16       (3) A public-private partnership agreement may include the use  
17 of availability payments if deemed to be in the best interest of the  
18 public and the local government unit, provided the private entity  
19 shall operate the building, road, structure, infrastructure or facility  
20 in accordance with local government unit standards.

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

22       c. (1) Unless otherwise set forth herein, a private entity that  
23 assumes financial and administrative responsibility for a project  
24 pursuant to this section shall not be subject to the procurement and  
25 contracting requirements of all statutes applicable to the local  
26 government unit at which the project is completed, including, but  
27 not limited to, the "Local Public Contracts Law," P.L.1971, c.198  
28 (C.40A:11-1 et seq.).

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

48       (3) As the carrying out of any project described pursuant to this  
49 section constitutes the performance of an essential public function,

1 all projects used in furtherance of the purposes of the local  
2 government unit undertaken pursuant to this section, provided the  
3 project is owned by or leased to a public entity, non-profit business  
4 entity, foreign or domestic, or a business entity wholly owned by  
5 such non-profit business entity, shall at all times be exempt from  
6 property taxation and special assessments of the State, or any  
7 municipality, or other political subdivision of the State and,  
8 notwithstanding the provisions of section 15 of P.L.1974,  
9 c.80 (C.34:1B-15), section 2 of P.L.1977, c.272 (C.54:4-2.2b), or  
10 any other section of law to the contrary, shall not be required to  
11 make payments in lieu of taxes. The land upon which the project is  
12 located shall also at all times be exempt from property taxation.  
13 The project and land upon which the project is located shall not be  
14 subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-  
15 1.10) regarding the tax liability of private parties conducting for  
16 profit activities on tax exempt land, or section 1 of P.L.1949,  
17 c.177 (C.54:4-2.3) regarding the taxation of leasehold interests in  
18 exempt property that are held by nonexempt parties.

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

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

41 e. (1) All building construction projects under a public-private  
42 partnership agreement entered into pursuant to this section shall  
43 contain a project labor agreement. The project labor agreement  
44 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et  
45 seq.), and shall be in a manner that to the greatest extent possible  
46 enhances employment opportunities for individuals residing in the  
47 county of the project's location. The general contractor,  
48 construction manager, design-build team, or subcontractor for a  
49 construction project proposed in accordance with this paragraph

1 shall be registered pursuant to the provisions of P.L.1999, c.238  
2 (C.34:11-56.48 et seq.), and shall be classified by the Division of  
3 Property Management and Construction, or shall be prequalified by  
4 the Department of Transportation, as appropriate, to perform work  
5 on a public-private partnership project.

6 (2) All projects proposed in accordance with this section shall  
7 be submitted to the New Jersey Economic Development Authority  
8 for its review and approval prior to commencing procurement of the  
9 project and, when practicable, are encouraged to adhere to the  
10 Leadership in Energy and Environmental Design Green Building  
11 Rating System as adopted by the United States Green Building  
12 Council, the Green Globes Program adopted by the Green Building  
13 Initiative, or a comparable nationally recognized, accepted, and  
14 appropriate sustainable development rating system.

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

20 f. (1) All projects proposed in accordance with this section  
21 shall be submitted to the New Jersey Economic Development  
22 Authority for the authority's review and approval. The projects are  
23 encouraged, when practicable, to adhere to the green building  
24 manual prepared by the Commissioner of Community Affairs  
25 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).

26 (2) (a) In order for an application to be complete and  
27 considered by the authority, the application shall include, but not be  
28 limited to: (i) a full description of the proposed public-private  
29 partnership agreement between the local government unit and the  
30 private developer; (ii) a full description of the project, including a  
31 description of any agreement for the lease of a revenue-producing  
32 facility related to the project; (iii) the estimated costs and financial  
33 documentation for the project; (iv) a timetable for completion of the  
34 construction of the project extending no more than five years after  
35 consideration and approval; and (v) any other requirements that the  
36 authority deems appropriate or necessary.

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

45 (3) The authority shall review all completed applications, and  
46 request additional information as is needed to make a complete  
47 assessment of the project. No project shall commence the  
48 procurement process until final approval has been granted by the  
49 authority; provided, however, that the authority shall retain the right

1 to revoke approval if it determines that the project has deviated  
2 from the plan submitted pursuant to paragraph (2) of this  
3 subsection, and shall retain the right to cancel a procurement after a  
4 short list of private entities is developed if deemed in the public  
5 interest as specified under subsection j. of this section.  
6 Notwithstanding any provision of this section to the contrary, all  
7 roadway or highway projects shall be subject to review and  
8 approval by the State Treasurer, and the authority shall not approve  
9 any roadway or highway project disapproved by the State Treasurer.

10 (4) The authority may promulgate any rules and regulations  
11 necessary to implement this subsection, including provisions for  
12 fees to cover administrative costs.

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

19 h. The power of eminent domain shall not be delegated to any  
20 private entity under the provisions of P.L. , c. (C. )  
21 (pending before the Legislature as this bill); however, a local  
22 government unit may dedicate any property interest, including land,  
23 improvements, and tangible personal property of the local  
24 government unit for public use in a qualifying project if the local  
25 government unit finds that so doing will serve the public purpose of  
26 the project by minimizing the cost of the project to the local  
27 government unit or reducing the delivery time of a project.

28 i. Any public-private partnership agreement, if appropriate,  
29 shall include provisions affirming that the agreement and any work  
30 performed under the agreement are subject to the provisions of the  
31 "Construction Industry Independent Contractor Act," P.L.2007,  
32 c.114 (C.34:20-1 et seq.).

33 j. (1) A private entity seeking to enter into a public-private  
34 partnership agreement with the local government unit shall be  
35 qualified by the local government unit as part of the procurement  
36 process, provided such process ensures that the private entity meets  
37 at least the minimum local government unit standards for  
38 qualification for professional services, construction contracting, and  
39 other qualifications applicable to the project, prior to submitting a  
40 proposal under the procurement process. The qualification process  
41 shall result in a list of qualified private entities, that may be ranked  
42 in order to generate a short list of private entities requested to  
43 submit a final proposal.

44 (2) The local government unit may accept unsolicited proposals  
45 from private entities for public-private partnership agreements. If  
46 the local government unit receives an unsolicited proposal and  
47 determines that it meets the standards of this section, the local  
48 government unit shall publish a notice of the receipt of the proposal  
49 on the Internet site of the local government unit, or through

1 advertisements in newspapers. If a notice is published exclusively  
2 in newspapers, the notice shall appear in two or more newspapers  
3 circulated wholly or in part in the county where the proposed  
4 project is to be located. The notice shall provide that the local  
5 government unit will accept, for 45 days after the initial date of  
6 publication, proposals meeting the standards of this section from  
7 other private entities for eligible projects that satisfy the same basic  
8 purpose and need. A copy of the notice shall be mailed to each  
9 municipal and county local government body in the geographic area  
10 affected by the proposal.

11 (3) After the proposal or proposals have been received, and any  
12 public notification period has expired, the local government unit  
13 shall rank the proposals in order of preference. In ranking the  
14 proposals, the local government unit may consider factors that  
15 include, but may not be limited to, professional qualifications,  
16 general business terms, innovative engineering, architectural  
17 services, or cost-reduction terms, finance plans, and the need for  
18 local government funds to deliver the project and discharge the  
19 agreement. If only one proposal is received, the local government  
20 unit shall negotiate in good faith and, if not satisfied with the results  
21 of the negotiations, the local government unit may, at its sole  
22 discretion, terminate negotiations.

23 (4) The local government unit may require that the private entity  
24 assume responsibility for all costs incurred by the local government  
25 unit before execution of the public-private partnership agreement,  
26 including costs of retaining independent experts to review, analyze,  
27 and advise the local government unit with respect to the proposal.

28 (5) If the authority or State Treasurer deem it in the public's  
29 interest to cancel a procurement after a short list of private entities  
30 is developed, the authority shall pay for documented third party  
31 costs, including, but not limited to, design services, legal advisors,  
32 financial advisors, and reasonable expenditures.

33 (6) Stipends may be used on public private partnership projects  
34 when there is a substantial opportunity for innovation and the costs  
35 for developing a proposal are significant. The local government unit  
36 may elect to pay unsuccessful proposers for the work product they  
37 submit with their proposal in response to a request for proposals.  
38 The use by the local government unit of any design element  
39 contained in an unsuccessful proposal shall be at the sole risk and  
40 discretion of the local government unit and shall not confer liability  
41 on the recipient of the stipulated stipend amount. After payment of  
42 the stipulated stipend amount, the local government unit and the  
43 unsuccessful proposer shall jointly own the rights to, and may make  
44 use of any work product contained in the proposal, including the  
45 technologies, techniques, methods, processes, ideas, and  
46 information contained in the proposal, project design, and project  
47 financial plan. The use by the unsuccessful proposer of any part of  
48 the work product contained in the proposal shall be at the sole risk

1 of the unsuccessful proposer and shall not confer liability on the  
2 local government unit.

3

4 2. (New section) a. As used in this section:

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

8 “Availability payment” means a periodic payment made by a  
9 school district to a private entity in exchange for making available  
10 the use of a public building, structure, infrastructure, or facility at a  
11 predetermined level of service, operation, or maintenance.

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

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

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

26 “School district” means and includes a local school district,  
27 regional school district, or county special services school district or  
28 county vocational school established and operating under the  
29 provisions of Title 18A of the New Jersey Statutes. The term  
30 “school district” shall not include a charter school established under  
31 P.L.1995, c.426 (C.18A:36A-1 et seq.).

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

38 (2) A public-private partnership agreement may include an  
39 agreement under which a school district and a private entity enter  
40 into a lease of a revenue-producing public building, structure, or  
41 facility in exchange for up-front or structured financing by the  
42 private entity for the project. Under the lease agreement, the  
43 private entity may be responsible for the management, operation,  
44 and maintenance of the building, structure, or facility. The private  
45 entity may receive some or all, as per the agreement, of the revenue  
46 generated by the building, structure, or facility, and may operate the  
47 building, structure, or facility in accordance with school district  
48 standards. At the end of the lease term, subsequent revenue  
49 generated by the building, structure, or facility, along with



1 management, operation, and maintenance responsibility, shall revert  
2 to the school district.

3 (3) A public-private partnership agreement may include the use  
4 of availability payments if deemed to be in the best interest of the  
5 public and the school district, provided the private entity shall  
6 operate the building, structure, infrastructure or facility in  
7 accordance with school district standards.

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

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

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

34 (3) As the carrying out of any project described pursuant to this  
35 section constitutes the performance of an essential public function,  
36 all projects predominantly used in furtherance of the purposes of the  
37 school district undertaken pursuant to this section, provided the  
38 project is owned by or leased to a public entity, non-profit business  
39 entity, foreign or domestic, or a business entity wholly owned by  
40 such non-profit business entity, shall at all times be exempt from  
41 property taxation and special assessments of the State, or any  
42 municipality, or other political subdivision of the State and,  
43 notwithstanding the provisions of section 15 of P.L.1974,  
44 c.80 (C.34:1B-15), section 2 of P.L.1977, c.272 (C.54:4-2.2b), or  
45 any other section of law to the contrary, shall not be required to  
46 make payments in lieu of taxes. The land upon which the project is  
47 located shall also at all times be exempt from property taxation.  
48 The project and land upon which the project is located shall not be  
49 subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-

1 1.10) regarding the tax liability of private parties conducting for  
2 profit activities on tax exempt land, or section 1 of P.L.1949,  
3 c.177 (C.54:4-2.3) regarding the taxation of leasehold interests in  
4 exempt property that are held by nonexempt parties.

5 (4) Prior to the commencement of work on a project, the private  
6 entity shall establish a construction account and appoint a third-  
7 party financial institution, who shall act as a collateral agent, to  
8 manage the construction account. The construction account shall  
9 include the funding, financial instruments, or both, that shall be  
10 used to fully capitalize and fund the project, and the collateral agent  
11 shall maintain a full accounting of the funds and instruments in the  
12 account. The funds and instruments in the construction account  
13 shall be held in trust for the benefit of the contractor, construction  
14 manager, and design-build team involved in the project. The funds  
15 and instruments in the construction account shall not be the  
16 property of the private entity unless all amounts due to the  
17 construction account beneficiaries are paid in full. The construction  
18 account shall not be designated for more than one project.

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

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

41 (2) All projects proposed in accordance with this section shall  
42 be submitted to the New Jersey Economic Development Authority  
43 for its review and approval prior to commencing procurement of the  
44 project and, when practicable, are encouraged to adhere to the  
45 Leadership in Energy and Environmental Design Green Building  
46 Rating System as adopted by the United States Green Building  
47 Council, the Green Globes Program adopted by the Green Building  
48 Initiative, or a comparable nationally recognized, accepted, and  
49 appropriate sustainable development rating system.

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

6 f. (1) All projects proposed in accordance with this section  
7 shall be submitted to the New Jersey Economic Development  
8 Authority for the authority's review and approval. The projects are  
9 encouraged, when practicable, to adhere to the green building  
10 manual prepared by the Commissioner of Community Affairs  
11 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).

12 (2) (a) In order for an application to be complete and  
13 considered by the authority, the application shall include, but not be  
14 limited to: (i) a full description of the proposed public-private  
15 partnership agreement between the school district and the private  
16 developer; (ii) a full description of the project, including a  
17 description of any agreement for the lease of a revenue-producing  
18 facility related to the project; (iii) the estimated costs and financial  
19 documentation for the project; (iv) a timetable for completion of the  
20 construction of the project extending no more than five years after  
21 consideration and approval; and (v) any other requirements that the  
22 authority deems appropriate or necessary.

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

31 (3) The authority shall review all completed applications, and  
32 request additional information as is needed to make a complete  
33 assessment of the project. No project shall commence the  
34 procurement process until final approval has been granted by the  
35 authority; provided, however, that the authority shall retain the right  
36 to revoke approval if it determines that the project has deviated  
37 from the plan submitted pursuant to paragraph (2) of this  
38 subsection, and shall retain the right to cancel a procurement after a  
39 short list of private entities is developed if deemed in the public  
40 interest as specified under subsection j. of this section.

41 (4) The authority may promulgate any rules and regulations  
42 necessary to implement this subsection, including provisions for  
43 fees to cover administrative costs.

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

- 1       h. The power of eminent domain shall not be delegated to any  
2 private entity under the provisions of P.L.     , c.     (C.     )  
3 (pending before the Legislature as this bill); however, a school  
4 district may dedicate any property interest, including land,  
5 improvements, and tangible personal property of the school district  
6 for public use in a qualifying project if the school district finds that  
7 so doing will serve the public purpose of the project by minimizing  
8 the cost of the project to the school district or reducing the delivery  
9 time of a project.
- 10       i. Any public-private partnership agreement, if appropriate,  
11 shall include provisions affirming that the agreement and any work  
12 performed under the agreement are subject to the provisions of the  
13 “Construction Industry Independent Contractor Act,” P.L.2007,  
14 c.114 (C.34:20-1 et seq.).
- 15       j. (1) A private entity seeking to enter into a public-private  
16 partnership agreement with the school district shall be qualified by  
17 the school district as part of the procurement process, provided such  
18 process ensures that the private entity meets at least the minimum  
19 school district standards for qualification for professional services,  
20 construction contracting, and other qualifications applicable to the  
21 project, prior to submitting a proposal under the procurement  
22 process. The qualification process shall result in a list of qualified  
23 private entities, that may be ranked in order to generate a short list  
24 of private entities requested to submit a final proposal.
- 25       (2) The school district may accept unsolicited proposals from  
26 private entities for public-private partnership agreements. If the  
27 school district receives an unsolicited proposal and determines that  
28 it meets the standards of this section, the school district shall  
29 publish a notice of the receipt of the proposal on the Internet site of  
30 the school district, or through advertisements in newspapers. If a  
31 notice is published exclusively in newspapers, the notice shall  
32 appear in two or more newspapers circulated wholly or in part in  
33 the county where the proposed project is to be located. The notice  
34 shall provide that the school district will accept, for 45 days after  
35 the initial date of publication, proposals meeting the standards of  
36 this section from other private entities for eligible projects that  
37 satisfy the same basic purpose and need. A copy of the notice shall  
38 be mailed to each municipal and county local government body in  
39 the geographic area affected by the proposal.
- 40       (3) After the proposal or proposals have been received, and any  
41 public notification period has expired, the school district shall rank  
42 the proposals in order of preference. In ranking the proposals, the  
43 school district may consider factors that include, but may not be  
44 limited to, professional qualifications, general business terms,  
45 innovative engineering, architectural services, or cost-reduction  
46 terms, finance plans, and the need for school district funds to  
47 deliver the project and discharge the agreement. If only one  
48 proposal is received, the school district shall negotiate in good faith

1 and, if not satisfied with the results of the negotiations, the school  
2 district may, at its sole discretion, terminate negotiations.

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

8 (5) If the authority or State Treasurer deem it in the public's  
9 interest to cancel a procurement after a short list of private entities  
10 is developed, the authority shall pay for documented third party  
11 costs, including, but not limited to, design services, legal advisors,  
12 financial advisors, and reasonable expenditures.

13 (6) Stipends may be used on public private partnership projects  
14 when there is a substantial opportunity for innovation and the costs  
15 for developing a proposal are significant. The school district may  
16 elect to pay unsuccessful proposers for the work product they  
17 submit with their proposal in response to a request for proposals.  
18 The use by the school district of any design element contained in an  
19 unsuccessful proposal shall be at the sole risk and discretion of the  
20 school district and shall not confer liability on the recipient of the  
21 stipulated stipend amount. After payment of the stipulated stipend  
22 amount, the school district and the unsuccessful proposer shall  
23 jointly own the rights to, and may make use of any work product  
24 contained in the proposal, including the technologies, techniques,  
25 methods, processes, ideas, and information contained in the  
26 proposal, project design, and project financial plan. The use by the  
27 unsuccessful proposer of any part of the work product contained in  
28 the proposal shall be at the sole risk of the unsuccessful proposer  
29 and shall not confer liability on the school district.

30

31 3. (New section) a. As used in this section:

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

35 "Availability payment" means a periodic payment made by a  
36 State government entity to a private entity in exchange for making  
37 available the use of a public building, road, structure, infrastructure,  
38 or facility at a predetermined level of service, operation, or  
39 maintenance.

40 "Building project" means the construction, reconstruction, repair,  
41 alteration, improvement, or extension of any public building,  
42 structure, or facility constructed or acquired by a State government  
43 entity to house State government functions, including any  
44 infrastructure or facility used or to be used by the public or in  
45 support of a public purpose or activity.

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

1 "Highway project" means the construction, reconstruction,  
2 repair, alteration, improvement, or extension of public expressways,  
3 freeways, and parkways, including bridges, tunnels, overpasses,  
4 underpasses, interchanges, rest areas, express bus roadways, bus  
5 pullouts and turnarounds, and park and ride facilities, including any  
6 infrastructure or facility used or to be used by the public or in  
7 support of a public purpose or activity; provided that the project  
8 shall include an expenditure of at least \$10 million in public funds,  
9 or any expenditure in solely private funds.

10 "Public-private partnership agreement" means an agreement  
11 entered into by a State government entity and a private entity  
12 pursuant to this section for the purpose of permitting a private entity  
13 to assume financial and administrative responsibility for the  
14 construction, reconstruction, repair, alteration, improvement,  
15 extension, operation, and maintenance of a building project or a  
16 highway project of, or for the benefit of, the State government  
17 entity.

18 "State government entity" means the State or any department,  
19 agency, board, commission, committee, or authority thereof subject  
20 to the public contracting provisions of P.L.1954, c.48 (C.52:34-6 et  
21 seq.), but shall not include any State institution of higher education.

22 b. (1) A State government entity may enter into a contract with  
23 a private entity, subject to subsection f. of this section, to be  
24 referred to as a public-private partnership agreement, that permits  
25 the private entity to assume financial and administrative  
26 responsibility for the construction, reconstruction, repair, alteration,  
27 improvement, extension, operation, and maintenance of a building  
28 or highway of, or for the benefit of, the State government entity,  
29 provided that the building or highway project is financed in whole  
30 or in part by the private entity.

31 (2) A public-private partnership agreement may include an  
32 agreement under which a State government entity and a private  
33 entity enter into a lease of a revenue-producing public building or  
34 highway in exchange for up-front or structured financing by the  
35 private entity for the project. Under the lease agreement, the  
36 private entity may be responsible for the management, operation,  
37 and maintenance of the building or highway. The private entity  
38 may receive some or all, as per the agreement, of the revenue  
39 generated by the building or highway, and may operate the building  
40 or highway in accordance with State government entity standards.  
41 At the end of the lease term, subsequent revenue generated by the  
42 building or highway, along with management, operation, and  
43 maintenance responsibility, shall revert to the State government  
44 entity.

45 (3) A public-private partnership agreement may include the use  
46 of availability payments if deemed to be in the best interest of the  
47 public and the State government entity, provided the private entity  
48 shall operate the building, road, structure, infrastructure or facility  
49 in accordance with State government entity standards.

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

2 c. (1) A private entity that assumes financial and administrative  
3 responsibility for a building or highway project pursuant to this  
4 section, unless otherwise set forth herein, shall not be subject to the  
5 procurement and contracting requirements of all statutes applicable  
6 to the State government entity at which the project is completed,  
7 including, but not limited to, the public contracting provisions of  
8 P.L.1954, c.48 (C.52:34-6 et seq.).

9 (2) For the purposes of facilitating the financing of a project  
10 pursuant to this section, a public entity may become the owner or  
11 lessee of the project or the lessee of the land, or both, may become  
12 the lessee of a building or highway to which the State government  
13 entity holds title and, notwithstanding any provision of law to the  
14 contrary, shall be empowered to enter into contracts with a private  
15 entity and its affiliates without being subject to the procurement and  
16 contracting requirements, unless otherwise set forth herein, of any  
17 statute applicable to the public entity provided that the private  
18 entity has been selected by the public entity pursuant to a  
19 solicitation of proposals or qualifications from at least two private  
20 entities. For the purposes of this subsection, a public entity shall  
21 include the New Jersey Department of Transportation, New Jersey  
22 Turnpike Authority, South Jersey Transportation Authority, New  
23 Jersey Transit, and the New Jersey Economic Development  
24 Authority, and any project undertaken pursuant to this section of  
25 which the public entity becomes the owner or lessee, or which is  
26 situated on land of which the public entity becomes the lessee, shall  
27 be deemed a "project" under the "New Jersey Economic  
28 Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

29 (3) As the carrying out of any project described pursuant to this  
30 section constitutes the performance of an essential public function,  
31 all projects predominantly used in furtherance of the purposes of the  
32 State government entity undertaken pursuant to this section,  
33 provided the project is owned by or leased to a public entity, non-  
34 profit business entity, foreign or domestic, or a business entity  
35 wholly owned by such non-profit business entity, shall at all times  
36 be exempt from property taxation and special assessments of the  
37 State, or any municipality, or other political subdivision of the State  
38 and, notwithstanding the provisions of section 15 of P.L.1974, c.80  
39 (C.34:1B-15), section 2 of P.L.1977, c.272 (C.54:4-2.2b), or any  
40 other section of law to the contrary, shall not be required to make  
41 payments in lieu of taxes. The land upon which the project is  
42 located shall also at all times be exempt from property taxation.  
43 The project and land upon which the project is located shall not be  
44 subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-  
45 1.10) regarding the tax liability of private parties conducting for  
46 profit activities on tax exempt land, or section 1 of P.L.1949, c.177  
47 (C.54:4-2.3) regarding the taxation of leasehold interests in exempt  
48 property that are held by nonexempt parties.

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

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

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

37 (2) All projects proposed in accordance with this section shall  
38 be submitted to the New Jersey Economic Development Authority  
39 for its review and approval prior to commencing procurement of the  
40 project and, when practicable, are encouraged to adhere to the  
41 Leadership in Energy and Environmental Design Green Building  
42 Rating System as adopted by the United States Green Building  
43 Council, the Green Globes Program adopted by the Green Building  
44 Initiative, or a comparable nationally recognized, accepted, and  
45 appropriate sustainable development rating system.

46 (3) The general contractor, construction manager, or design-  
47 build team shall be required to post a performance bond to ensure  
48 the completion of the project and a payment bond guaranteeing



1 prompt payment of moneys due in accordance with and conforming  
2 to the requirements of N.J.S.2A:44-143 et seq.

3 f. (1) All projects proposed in accordance with this section  
4 shall be submitted to the New Jersey Economic Development  
5 Authority for the authority's review and approval. The projects are  
6 encouraged, when practicable, to adhere to the green building  
7 manual prepared by the Commissioner of Community Affairs  
8 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).

9 (2) (a) In order for an application to be complete and considered  
10 by the authority, the application shall include, but not be limited to:  
11 (i) a full description of the proposed public-private partnership  
12 agreement between the State government entity and the private  
13 developer; (ii) a full description of the project, including a  
14 description of any agreement for the lease of a revenue-producing  
15 building or highway related to the project; (iii) the estimated costs  
16 and financial documentation for the project; (iv) a timetable for  
17 completion of the construction of the project extending no more  
18 than five years after consideration and approval; and (v) any other  
19 requirements that the authority deems appropriate or necessary.

20 (b) As part of the estimated costs and financial documentation  
21 for the project, the application shall contain a long-range  
22 maintenance plan and a long-range maintenance bond and shall  
23 specify the expenditures that qualify as an appropriate investment in  
24 maintenance. The long-range maintenance plan shall be approved  
25 by the authority pursuant to regulations promulgated by the  
26 authority that reflect national building or highway maintenance  
27 standards, as appropriate, and other appropriate maintenance  
28 benchmarks.

29 (3) The authority shall review all completed applications, and  
30 request additional information as is needed to make a complete  
31 assessment of the project. No project shall commence the  
32 procurement process until final approval has been granted by the  
33 authority; provided, however, that the authority shall retain the right  
34 to revoke approval if it determines that the project has deviated  
35 from the plan submitted pursuant to paragraph (2) of this  
36 subsection, and shall retain the right to cancel a procurement after a  
37 short list of private entities is developed if deemed in the public  
38 interest as specified under subsection j. of this section.  
39 Notwithstanding any provision of this section to the contrary, all  
40 roadway or highway projects shall be subject to review and  
41 approval by the State Treasurer, and the authority shall not approve  
42 any roadway or highway project disapproved by the State Treasurer.

43 (4) The authority may promulgate any rules and regulations  
44 necessary to implement this subsection, including provisions for  
45 fees to cover administrative costs.

46 g. A project with an expenditure of under \$50 million  
47 developed under a public-private partnership agreement shall  
48 include a requirement that precludes contractors from engaging in  
49 the project if the contractor has contributed to the private entity's

1 financing of the project in an amount of more than 10% of the  
2 project's financing costs.

3 h. The power of eminent domain shall not be delegated to any  
4 private entity under the provisions of P.L. , c. (C. )  
5 (pending before the Legislature as this bill); however, a State  
6 government entity may dedicate any property interest, including  
7 land, improvements, and tangible personal property of the State  
8 government entity for public use in a qualifying project if the State  
9 government entity finds that so doing will serve the public purpose  
10 of the project by minimizing the cost of the project to the State  
11 government entity or reducing the delivery time of a project.

12 i. Any public-private partnership agreement, if appropriate,  
13 shall include provisions affirming that the agreement and any work  
14 performed under the agreement are subject to the provisions of the  
15 "Construction Industry Independent Contractor Act," P.L.2007,  
16 c.114 (C.34:20-1 et seq.).

17 j. (1) A private entity seeking to enter into a public-private  
18 partnership agreement with the State government entity shall be  
19 qualified by the State government entity as part of the procurement  
20 process, provided such process ensures that the private entity meets  
21 at least the minimum State government entity standards for  
22 qualification for professional services, construction contracting, and  
23 other qualifications applicable to the project, prior to submitting a  
24 proposal under the procurement process. The qualification process  
25 shall result in a list of qualified private entities, that may be ranked  
26 in order to generate a short list of private entities requested to  
27 submit a final proposal.

28 (2) The State government entity may accept unsolicited  
29 proposals from private entities for public-private partnership  
30 agreements. If the State government entity receives an unsolicited  
31 proposal and determines that it meets the standards of this section,  
32 the State government entity shall publish a notice of the receipt of  
33 the proposal on the Internet site of the State government entity, or  
34 through advertisements in newspapers. If a notice is published  
35 exclusively in newspapers, the notice shall appear in two or more  
36 newspapers circulated wholly or in part in the county where the  
37 proposed project is to be located. The notice shall provide that the  
38 State government entity will accept, for 45 days after the initial date  
39 of publication, proposals meeting the standards of this section from  
40 other private entities for eligible projects that satisfy the same basic  
41 purpose and need. A copy of the notice shall be mailed to each  
42 municipal and county local government body in the geographic area  
43 affected by the proposal.

44 (3) After the proposal or proposals have been received, and any  
45 public notification period has expired, the State government entity  
46 shall rank the proposals in order of preference. In ranking the  
47 proposals, the State government entity may consider factors that  
48 include, but may not be limited to, professional qualifications,  
49 general business terms, innovative engineering, architectural

1 services, or cost-reduction terms, finance plans, and the need for  
2 State government entity funds to deliver the project and discharge  
3 the agreement. If only one proposal is received, the State  
4 government entity shall negotiate in good faith and, if not satisfied  
5 with the results of the negotiations, the State government entity  
6 may, at its sole discretion, terminate negotiations.

7 (4) The State government entity may require that the private  
8 entity assume responsibility for all costs incurred by the State  
9 government entity before execution of the public-private  
10 partnership agreement, including costs of retaining independent  
11 experts to review, analyze, and advise the State government entity  
12 with respect to the proposal.

13 (5) If the authority or State Treasurer deem it in the public's  
14 interest to cancel a procurement after a short list of private entities  
15 is developed, the authority shall pay for documented third party  
16 costs, including, but not limited to, design services, legal advisors,  
17 financial advisors, and reasonable expenditures.

18 (6) Stipends may be used on public private partnership projects  
19 when there is a substantial opportunity for innovation and the costs  
20 for developing a proposal are significant. The State government  
21 entity may elect to pay unsuccessful proposers for the work product  
22 they submit with their proposal in response to a request for  
23 proposals. The use by the State government entity of any design  
24 element contained in an unsuccessful proposal shall be at the sole  
25 risk and discretion of the State government entity and shall not  
26 confer liability on the recipient of the stipulated stipend amount.  
27 After payment of the stipulated stipend amount, the State  
28 government entity and the unsuccessful proposer shall jointly own  
29 the rights to, and may make use of any work product contained in  
30 the proposal, including the technologies, techniques, methods,  
31 processes, ideas, and information contained in the proposal, project  
32 design, and project financial plan. The use by the unsuccessful  
33 proposer of any part of the work product contained in the proposal  
34 shall be at the sole risk of the unsuccessful proposer and shall not  
35 confer liability on the State government entity.

36  
37 4. (New section) Notwithstanding the provisions of section 43  
38 of P.L.2009, c.90 (C.18A:64-85) to the contrary, the New Jersey  
39 Institute of Technology may enter into a public-private partnership  
40 agreement in accordance with the provisions of that section.

41  
42 5. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to  
43 read as follows:

44 43. a. (1) A State college or county college may enter into a  
45 contract with a private entity, subject to subsection f. of this section,  
46 to be referred to as a public-private partnership agreement, that  
47 permits the private entity to assume **【full】** financial and  
48 administrative responsibility for the on-campus or off-campus  
49 construction, reconstruction, repair, alteration, improvement,

1 extension, management, or operation of a building, structure, or  
2 facility of, or for the benefit of, the institution, provided that the  
3 project is financed in whole or in part by the private entity and that  
4 the State or institution of higher education, as applicable, retains  
5 full ownership of the land upon which the project is completed.

6 (2) A public-private partnership agreement may include an  
7 agreement under which a State or county college **【**leases to a  
8 private entity the operation**】** and the private entity enter into a lease  
9 of a dormitory or other 【revenue-producing】 facility to which the  
10 college holds title, in exchange for up-front or structured financing  
11 by the private entity for the construction of classrooms,  
12 laboratories, or other academic or research buildings. Under the  
13 lease agreement, the college shall continue to hold title to the  
14 facility, and the private entity shall be responsible for the  
15 management, operation, and maintenance of the facility. The  
16 private entity shall receive some or all, as per the agreement, of the  
17 revenue generated by the facility and shall operate the facility in  
18 accordance with college standards. 【A lease agreement shall not  
19 affect the status or employment rights of college employees who are  
20 assigned to, or provide services to, the leased facility.】 A lease  
21 agreement shall not affect the status or employment rights of  
22 college employees who are assigned to, or provide services to, the  
23 leased facility. At the end of the lease term, subsequent revenue  
24 generated by the facility, along with management, operation, and  
25 maintenance responsibility, shall revert to the college.

26 (3) A public-private partnership agreement may include the use  
27 of availability payments if deemed to be in the best interest of the  
28 public and the State or county college, provided the private entity  
29 shall operate the building, structure, infrastructure or facility in  
30 accordance with State or county college standards. Bundling of  
31 projects shall be prohibited. As used in this paragraph, “availability  
32 payment” means a periodic payment made by a State or county  
33 college to a private entity in exchange for making available the use  
34 of a public building, structure, infrastructure, or facility at a  
35 predetermined level of service, operation, or maintenance.  
36 “Bundling” means the use of a solicitation for multiple projects in  
37 one single contract, through a public-private partnership project  
38 delivery method, the result of which restricts competition.

39 b. (1) A private entity that assumes financial and administrative  
40 responsibility for a project pursuant to subsection a. of this section  
41 shall not be subject, unless otherwise set forth herein, to the  
42 procurement and contracting requirements of all statutes applicable  
43 to the institution of higher education at which the project is  
44 completed, including, but not limited to, the "State College  
45 Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), and the  
46 "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1  
47 et seq.). For the purposes of facilitating the financing of a project  
48 pursuant to subsection a. of this section, a public entity, including  
49 any State or county college or public research university, may

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

20 (2) As the carrying out of any project described pursuant to this  
21 section constitutes the performance of an essential public function,  
22 all projects **【predominantly used in furtherance of the】** having the  
23 primary stated purpose of furthering the educational purposes of the  
24 institution undertaken pursuant to this section, provided it is owned  
25 by or leased to a public entity, any State or county college or public  
26 research university, non-profit business entity, foreign or domestic,  
27 or a business entity wholly owned by such non-profit business  
28 entity, shall at all times be exempt from property taxation and  
29 special assessments of the State, or any municipality, or other  
30 political subdivision of the State and, notwithstanding the  
31 provisions of section 15 of P.L.1974, c.80 (C.34:1B-15), section 2  
32 of P.L.1977, c.272 (C.54:4-2.2b), or any other section of law to the  
33 contrary, shall not be required to make payments in lieu of taxes.  
34 The land upon which the project is located shall also at all times be  
35 exempt from property taxation. Further, the project and land upon  
36 which the project is located shall not be subject to the provisions of  
37 section 1 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax  
38 liability of private parties conducting for profit activities on tax  
39 exempt land, or section 1 of P.L.1949, c.177 (C.54:4-2.3) regarding  
40 the taxation of leasehold interests in exempt property that are held  
41 by nonexempt parties.

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

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

7 c. 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 State  
10 or county college pursuant to subsection a. of this section shall be  
11 paid not less than the prevailing wage rate for the worker's craft or  
12 trade as determined by the Commissioner of Labor and Workforce  
13 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)  
14 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

15 d. (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. Further, 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, c.238  
25 (C.34:11-56.48 et seq.), and shall be classified by the Division of  
26 Property Management and Construction, or shall be prequalified by  
27 the Department of Transportation, as appropriate, to perform work  
28 on a public-private partnership higher education project.

29 (2) All **【construction】** projects proposed in accordance with this  
30 **【paragraph】** section shall be submitted to the New Jersey Economic  
31 Development Authority for its review and approval prior to  
32 commencing procurement of the project and, when practicable, are  
33 encouraged to adhere to the Leadership in Energy and  
34 Environmental Design Green Building Rating System as adopted by  
35 the United States Green Building Council, the Green Globes  
36 Program adopted by the Green Building Initiative, or a comparable  
37 nationally recognized, accepted, and appropriate sustainable  
38 development rating system.

39 **【(2) Where no public fund has been established for the**  
40 **financing of a public improvement, the chief financial officer of the**  
41 **public owner shall require the private entity for whom the public**  
42 **improvement is being made】** (3) The general contractor,  
43 construction manager, or design-build team shall be required to post  
44 **【, or cause to be posted,】** a performance bond to ensure completion  
45 of the project and a payment bond guaranteeing prompt payment of  
46 moneys due **【to the contractor, his or her subcontractors and to all**  
47 **persons furnishing labor or materials to the contractor or his or her**  
48 **subcontractors in the prosecution of the work on the public**

1 improvement】 in accordance with and conforming to the  
2 requirements of N.J.S.2A:44-143 et seq.

3 e. **【A general contractor, construction manager, design-build**  
4 **team, or subcontractor shall be registered pursuant to the provisions**  
5 **of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified**  
6 **by the Division of Property Management and Construction to**  
7 **perform work on a public-private partnership higher education**  
8 **project.】** (Deleted by amendment, P.L. , c. ) (pending before the  
9 Legislature as this bill)

10 f. (1) **【On or before August 1, 2015, all】** All projects proposed  
11 in accordance with this section shall be submitted to the New Jersey  
12 Economic Development Authority for the authority's review and  
13 approval **【; except that in the case of projects proposed in**  
14 **accordance with paragraph (2) of subsection a. of this section, all**  
15 **projects shall be submitted on or before August 1, 2016】**. The  
16 projects are encouraged, when practicable, to adhere to the green  
17 building manual prepared by the Commissioner of Community  
18 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).  
19 **【Any application that is deemed to be incomplete on August 2,**  
20 **2015, or on August 2, 2016 in the case of an application submitted**  
21 **pursuant to paragraph (2) of subsection a. of this section, shall not**  
22 **be eligible for consideration.】**

23 (2) (a) In order for an application to be complete and  
24 considered by the authority, the application shall include, but not be  
25 limited to: (i) a full description of the proposed public-private  
26 partnership agreement between the State or county college and the  
27 private developer; (ii) a full description of the project, including a  
28 description of any agreement for the lease of a revenue-producing  
29 facility related to the project; (iii) the estimated costs and financial  
30 documentation for the project; (iv) a timetable for completion of the  
31 construction of the project extending no more than five years after  
32 consideration and approval; and (v) any other requirements that the  
33 authority deems appropriate or necessary.

34 (b) As part of the estimated costs and financial documentation  
35 for the project, the application shall contain a long-range  
36 maintenance plan and a long-range maintenance bond and shall  
37 specify the expenditures that qualify as an appropriate investment in  
38 maintenance. The long-range maintenance plan shall be approved  
39 by the authority pursuant to regulations promulgated by the  
40 authority that reflect national building maintenance standards and  
41 other appropriate building maintenance benchmarks. All contracts  
42 to implement a long-range maintenance plan pursuant to this  
43 paragraph shall contain a project labor agreement. The project  
44 labor agreement shall be subject to the provisions of P.L.2002,  
45 c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest  
46 extent possible enhances employment opportunities for individuals  
47 residing in the county of the project's location.

1 (3) The authority shall review all completed applications, and  
2 request additional information as is needed to make a complete  
3 assessment of the project. No project shall **【be undertaken】**  
4 commence the procurement process until final approval has been  
5 granted by the authority; provided, however, that the authority shall  
6 retain the right to revoke approval if it determines that the project  
7 has deviated from the plan submitted pursuant to paragraph (2) of  
8 this subsection, and shall retain the right to cancel a procurement  
9 after a short list of private entities is developed if deemed in the  
10 public interest as specified under subsection k. of this section.

11 (4) The authority may promulgate any rules and regulations  
12 necessary to implement this subsection, including provisions for  
13 fees to cover administrative costs.

14 **【Where no public fund has been established for the financing of**  
15 **a public improvement, the chief financial officer of the public**  
16 **owner shall require the private entity for whom the public**  
17 **improvement is being made to post, or cause to be posted, a bond**  
18 **guaranteeing prompt payment of moneys due to the contractor, his**  
19 **or her subcontractors and to all persons furnishing labor or**  
20 **materials to the contractor or his or her subcontractors in the**  
21 **prosecution of the work on the public improvement.】**

22 g. **【The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall**  
23 **not apply to any project carried out pursuant to this section.】**  
24 (Deleted by amendment, P.L. , c. ) (pending before the  
25 Legislature as this bill)

26 h. 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 i. The power of eminent domain shall not be delegated to any  
33 private entity under the provisions of P.L. , c. (C. )  
34 (pending before the Legislature as this bill); however, a State or  
35 county college may dedicate any property interest, including land,  
36 improvements, and tangible personal property of the State or county  
37 college for public use in a qualifying project if the State or county  
38 college finds that so doing will serve the public purpose of the  
39 project by minimizing the cost of the project to the State or county  
40 college or reducing the delivery time of a project.

41 j. Any public-private partnership agreement, if appropriate,  
42 shall include provisions affirming that the agreement and any work  
43 performed under the agreement are subject to the provisions of the  
44 “Construction Industry Independent Contractor Act,” P.L.2007,  
45 c.114 (C.34:20-1 et seq.).

46 k. (1) A private entity seeking to enter into a public-private  
47 partnership agreement with the State or county college shall be  
48 qualified by the State or county college as part of the procurement  
49 process, provided such process ensures that the private entity meets



1 at least the minimum State or county college standards for  
2 qualification for professional services, construction contracting, and  
3 other qualifications applicable to the project, prior to submitting a  
4 proposal under the procurement process. The qualification process  
5 shall result in a list of qualified private entities, that may be ranked  
6 in order to generate a short list of private entities requested to  
7 submit a final proposal.

8 (2) The State or county college may accept unsolicited proposals  
9 from private entities for public-private partnership agreements. If  
10 the State or county college receives an unsolicited proposal and  
11 determines that it meets the standards of this section, the State or  
12 county college shall publish a notice of the receipt of the proposal  
13 on the Internet site of the State or county college, or through  
14 advertisements in newspapers. If a notice is published exclusively  
15 in newspapers, the notice shall appear in two or more newspapers  
16 circulated wholly or in part in the county where the proposed  
17 project is to be located. The notice shall provide that the State or  
18 county college will accept, for 45 days after the initial date of  
19 publication, proposals meeting the standards of this section from  
20 other private entities for eligible projects that satisfy the same basic  
21 purpose and need. A copy of the notice shall be mailed to each  
22 municipal and county local government body in the geographic area  
23 affected by the proposal.

24 (3) After the proposal or proposals have been received, and any  
25 public notification period has expired, the State or county college  
26 shall rank the proposals in order of preference. In ranking the  
27 proposals, the State or county college may consider factors that  
28 include, but may not be limited to, professional qualifications,  
29 general business terms, innovative engineering, architectural  
30 services, or cost-reduction terms, finance plans, and the need for  
31 State or county college funds to deliver the project and discharge  
32 the agreement. If only one proposal is received, the State or county  
33 college shall negotiate in good faith and, if not satisfied with the  
34 results of the negotiations, the State or county college may, at its  
35 sole discretion, terminate negotiations.

36 (4) The State or county college may require that the private  
37 entity assume responsibility for all costs incurred by the State or  
38 county college before execution of the public-private partnership  
39 agreement, including costs of retaining independent experts to  
40 review, analyze, and advise the State or county college with respect  
41 to the proposal.

42 (5) If the authority or State Treasurer deem it in the public's  
43 interest to cancel a procurement after a short list of private entities  
44 is developed, the authority shall pay for documented third party  
45 costs, including, but not limited to, design services, legal advisors,  
46 financial advisors, and reasonable expenditures.

47 (6) Stipends may be used on public private partnership projects  
48 when there is a substantial opportunity for innovation and the costs  
49 for developing a proposal are significant. The State or county

1 college may elect to pay unsuccessful proposers for the work  
2 product they submit with their proposal in response to a request for  
3 proposals. The use by the State or county college of any design  
4 element contained in an unsuccessful proposal shall be at the sole  
5 risk and discretion of the State or county college and shall not  
6 confer liability on the recipient of the stipulated stipend amount.  
7 After payment of the stipulated stipend amount, the State or county  
8 college and the unsuccessful proposer shall jointly own the rights  
9 to, and may make use of any work product contained in the  
10 proposal, including the technologies, techniques, methods,  
11 processes, ideas, and information contained in the proposal, project  
12 design, and project financial plan. The use by the unsuccessful  
13 proposer of any part of the work product contained in the proposal  
14 shall be at the sole risk of the unsuccessful proposer and shall not  
15 confer liability on the State or county college.

16 (cf: P.L.2013, c.161, s.26)

17  
18 6. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
19 as follows:

20 5. The authority shall have the following powers:

21 a. To adopt bylaws for the regulation of its affairs and the  
22 conduct of its business;

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

24 c. To sue and be sued;

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

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

47 f. To establish and maintain reserve and insurance funds with  
48 respect to the financing of the project or the school facilities project  
49 and any project financed pursuant to the "Municipal Rehabilitation

- 1 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
2 al.);
- 3 g. To sell, convey or lease to any person all or any portion of a  
4 project for such consideration and upon such terms as the authority  
5 may determine to be reasonable;
- 6 h. To mortgage, pledge or assign or otherwise encumber all or  
7 any portion of a project, or revenues, whenever it shall find such  
8 action to be in furtherance of the purposes of this act, P.L.2000,  
9 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
10 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
11 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
12 P.L.2009, c.90 (C.52:27D-489c et al.);
- 13 i. To grant options to purchase or renew a lease for any of its  
14 projects on such terms as the authority may determine to be  
15 reasonable;
- 16 j. To contract for and to accept any gifts or grants or loans of  
17 funds or property or financial or other aid in any form from the  
18 United States of America or any agency or instrumentality thereof,  
19 or from the State or any agency, instrumentality or political  
20 subdivision thereof, or from any other source and to comply,  
21 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
22 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000,  
23 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
24 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
25 and P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
26 conditions thereof;
- 27 k. In connection with any action undertaken by the authority in  
28 the performance of its duties and any application for assistance or  
29 commitments therefor and modifications thereof, to require and  
30 collect such fees and charges as the authority shall determine to be  
31 reasonable, including but not limited to fees and charges for the  
32 authority's administrative, organizational, insurance, operating,  
33 legal, and other expenses;
- 34 l. To adopt, amend and repeal regulations to carry out the  
35 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
36 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
37 the "Municipal Rehabilitation and Economic Recovery Act,"  
38 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007,  
39 c.137 (C.52:18A-235 et al.);
- 40 m. To acquire, purchase, manage and operate, hold and dispose  
41 of real and personal property or interests therein, take assignments  
42 of rentals and leases and make and enter into all contracts, leases,  
43 agreements and arrangements necessary or incidental to the  
44 performance of its duties;
- 45 n. To purchase, acquire and take assignments of notes,  
46 mortgages and other forms of security and evidences of  
47 indebtedness;
- 48 o. To purchase, acquire, attach, seize, accept or take title to any  
49 project or school facilities project by conveyance or by foreclosure,

1 and sell, lease, manage or operate any project or school facilities  
2 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
3 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"  
4 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
5 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
6 489c et al.);

7 p. To borrow money and to issue bonds of the authority and to  
8 provide for the rights of the holders thereof, as provided in  
9 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001,  
10 c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the  
11 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
12 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
13 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

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

26 r. To guarantee up to 90% of the amount of a loan to a person,  
27 if the proceeds of the loan are to be applied to the purchase and  
28 installation, in a building devoted to industrial or commercial  
29 purposes, or in an office building, of an energy improvement  
30 system;

31 s. To employ consulting engineers, architects, attorneys, real  
32 estate counselors, appraisers, and such other consultants and  
33 employees as may be required in the judgment of the redevelopment  
34 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
35 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000,  
36 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
37 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
38 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
39 P.L.2009, c.90 (C.52:27D-489c et al.), and to fix and pay their  
40 compensation from funds available to the redevelopment utility  
41 therefor, all without regard to the provisions of Title 11A of the  
42 New Jersey Statutes;

43 t. To do and perform any acts and things authorized by  
44 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001,  
45 c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the  
46 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
47 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
48 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),

- 1 under, through or by means of its own officers, agents and  
2 employees, or by contract with any person;
- 3 u. To procure insurance against any losses in connection with  
4 its property, operations or assets in such amounts and from such  
5 insurers as it deems desirable;
- 6 v. To do any and all things necessary or convenient to carry out  
7 its purposes and exercise the powers given and granted in P.L.1974,  
8 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
9 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
10 Rehabilitation and Economic Recovery Act," P.L.2002,  
11 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
12 and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 13 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
14 maintain or repair or provide for the construction, reconstruction,  
15 improvement, alteration, equipping or maintenance or repair of any  
16 development property and lot, award and enter into construction  
17 contracts, purchase orders and other contracts with respect thereto,  
18 upon such terms and conditions as the authority shall determine to  
19 be reasonable, including, but not limited to, reimbursement for the  
20 planning, designing, financing, construction, reconstruction,  
21 improvement, equipping, furnishing, operation and maintenance of  
22 any such development property and the settlement of any claims  
23 arising therefrom and the establishment and maintenance of reserve  
24 funds with respect to the financing of such development property;
- 25 x. When authorized by the governing body of a municipality  
26 exercising jurisdiction over an urban growth zone, to construct,  
27 cause to be constructed or to provide financial assistance to projects  
28 in an urban growth zone which shall be exempt from the terms and  
29 requirements of the land use ordinances and regulations, including,  
30 but not limited to, the master plan and zoning ordinances, of such  
31 municipality;
- 32 y. To enter into business employment incentive agreements as  
33 provided in the "Business Employment Incentive Program Act,"  
34 P.L.1996, c.26 (C.34:1B-124 et al.);
- 35 z. To enter into agreements or contracts, execute instruments,  
36 and do and perform all acts or things necessary, convenient or  
37 desirable for the purposes of the redevelopment utility to carry out  
38 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
39 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
40 c.137 (C.52:18A-235 et al.), including, but not limited to, entering  
41 into contracts with the State Treasurer, the Commissioner of  
42 Education, districts, the New Jersey Schools Development  
43 Authority, and any other entity which may be required in order to  
44 carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.),  
45 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
46 P.L.2009, c.90 (C.52:27D-489c et al.);
- 47 aa. (Deleted by amendment, P.L.2007, c.137);
- 48 bb. To make and contract to make loans to local units to finance  
49 the cost of school facilities projects and to acquire and contract to

1 acquire bonds, notes or other obligations issued or to be issued by  
2 local units to evidence the loans, all in accordance with the  
3 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
4 c.137 (C.52:18A-235 et al.);

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

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

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

1 the obligation of a public authority, the relevant county shall  
2 execute a deficiency agreement with the authority, which shall  
3 provide that the county pledges to cover any shortfall and to pay  
4 deficiencies in scheduled repayment obligations of the public  
5 authority. All costs associated with the issuance of bonds pursuant  
6 to this subsection may be paid by the authority from the proceeds of  
7 these bonds. Any county or public authority is hereby authorized to  
8 enter into any agreement with the authority necessary, desirable or  
9 convenient to effectuate the provisions of this subsection.

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

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

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

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

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

48 jj. To consider, review, amend, and approve public-private  
49 partnership agreements for certain building or highway

1 infrastructure development projects entered into by a private entity  
2 and a local government unit, a school district, a State government  
3 entity, or the New Jersey Institute of Technology pursuant to  
4 sections 1 through 4 of P.L. , c. (C. through C. ) (pending  
5 before the Legislature as this bill) or by a private entity and a State  
6 or county college pursuant to section 43 of P.L.2009, c.90  
7 (C.18A:64-85), for the purposes set forth therein, and provide to a  
8 private entity that is a party to an agreement any tax-exempt private  
9 activity bond financing under terms and conditions established by  
10 the authority and as otherwise authorized under State or federal law.  
11 (cf: P.L.2010, c.28, s.3)

12

13 7. (New section) The New Jersey Economic Development  
14 Authority shall post on its official website the status of each public-  
15 private partnership agreement subject to its consideration, review,  
16 amendment, or approval under subsection jj. of section 5 of  
17 P.L.1974, c.80 (C.34:1B-5), indicating the status of each agreement  
18 by designating it as a proposed, under review, or active public-  
19 private partnership project.

20

21 8. This act shall take effect immediately.