

[Third Reprint]

SENATE, No. 876

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

Revises process for development and administration of Transportation Trust Fund projects and capital program oversight; establishes transportation research center.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 18, 2019, with amendments.

(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning the administration of Transportation Trust Fund
2 projects supplementing Title 27 of the Revised Statutes, and
3 amending P.L.1984, c.73.
4

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

8 1. (New section) a. For each capital project funded by the
9 authority, including transportation projects and public
10 transportation projects, the authority, in conjunction with the
11 department and the New Jersey Transit Corporation, may contract
12 with consulting engineers to prepare an estimated project schedule
13 (1) for the acquisition of rights-of-way and (2) for the construction
14 of each project. The consulting engineer shall also estimate the
15 amounts which shall be required during each six-month period for
16 estimated costs of construction of each project. Thereafter, at least
17 once in each six-month period during the construction of a project,
18 the authority may require the consulting engineers to prepare a
19 progress report updating the project schedule for the acquisition of
20 real property for each project and construction progress, which may
21 include comparisons of the actual time elapsed, actual costs,
22 estimated time to completion, and estimated total cost between the
23 most recent six-month period and the same actual and estimated
24 times and costs in prior progress reports. Copies of each progress
25 report shall be maintained on the authority's website and shall be
26 submitted to the Governor and, pursuant to section 2 of P.L.1991,
27 c.164 (C.52:14-19.1), to the Legislature.

28 b. For funds provided by the authority to the department or the
29 New Jersey Transit Corporation for non-project costs, the authority
30 may contract with an outside consultant to prepare a report which
31 tracks, according to State capital program line items in each annual
32 appropriations act, an estimated schedule for the expenditure of
33 appropriated funds, and a description of how funds are being
34 expended, including, but not limited to, contracts to be paid from
35 each capital program line item, the amount of staff or outside
36 consultants to be paid from each capital program line item, and
37 measurable policy outcomes relating to each capital program line
38 item which shall be required during each six-month period until an
39 appropriation has been fully expended. Once in each six-month
40 period in which the State appropriations of non-project
41 transportation capital funds in a given fiscal year have not been
42 fully expended, including if that period extends beyond the fiscal
43 year of the original appropriation, the authority may cause the
44 outside consultant to prepare a progress report covering the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted December 17, 2018.

²Senate floor amendments adopted January 31, 2019.

³Assembly AAP committee amendments adopted June 18, 2019.

1 expenditure of appropriated funds and any progress in
2 accomplishing the purpose of given appropriations, which may
3 include comparisons of the actual time elapsed since the initial
4 appropriation, actual expenditures from the appropriation, estimated
5 time to completely expend appropriated funds, and estimated
6 measurable outcomes for the entire appropriation between the most
7 recent six-month period and the same actual and estimated times
8 and outcomes in prior progress reports. Copies of each progress
9 report shall be maintained on the authority's website and shall be
10 submitted to the Governor and, pursuant to section 2 of P.L.1991,
11 c.164 (C.52:14-19.1), to the Legislature.

12
13 2. (New section) a. In order to ensure the expeditious
14 completion of public highway projects, the department shall
15 coordinate with municipalities ², the South Jersey Transportation
16 Authority,² and counties to expedite project delivery.

17 b. The department shall develop, in conjunction with county
18 officials, an annual highway project priority list for each county.
19 The department shall present to county officials in each county a
20 candidate list of State highway pavement areas rated below
21 acceptable condition and structurally deficient State bridges located
22 in the county. The county may select highway pavement areas and
23 bridges from the candidate list that it deems to be priority repairs
24 ³to be placed on the highway project priority list³ and submit the
25 highway project priority list to the Commissioner of Transportation
26 for the commissioner's consideration for inclusion in the
27 department's capital program. Once a project from the highway
28 project priority list has been added to the capital program, the
29 department shall have three fiscal years to advance that project to
30 the construction phase of work subject to the availability of funds.

31 c. ³A county may add projects to the highway project priority
32 list each fiscal year with an estimated total cost that is equivalent to
33 or less than the amount that is to be granted to that county in that
34 fiscal year from the formula established in subsection e. of section
35 25 of P.L.1984, c.73 (C.27:1B-25) through the Local County Aid
36 Program.

37 d.³ If a project on the highway project priority list that has
38 been placed on the capital program by the commissioner is not
39 started within three years of that project's inclusion in the capital
40 program, a county may notify the department that the county
41 intends to take over the project.

42 ³[e.] d.³ Once the department has been notified of a county's
43 intent to take over a project on the highway project priority list, the
44 department and notifying county shall confer regarding whether the
45 decision to allow the county ²or the South Jersey Transportation
46 Authority² to take over the project is cost-effective and will
47 expedite completion of the project. The department shall have the

1 discretion to determine whether to transfer the project to the county
2 ²or the South Jersey Transportation Authority² based on whether
3 the transfer is cost-effective and will expedite completion of the
4 project. If the department agrees to transfer the project, the
5 department shall have 90 days from the date it agrees to the transfer
6 to transfer all aspects of the project to the engineering department
7 of the notifying county ²or the South Jersey Transportation
8 Authority².

9 ³**[f.] e.**³ The costs of any project transferred to a county ²or to
10 the South Jersey Transportation Authority² pursuant to this section
11 shall be fully funded by the department on a reimbursement basis
12 ³until such costs exceed the most recent estimated cost for the
13 project developed as part of the project schedule pursuant to
14 subsection a. of section 1 of P.L. , c. (C.) (pending before
15 the Legislature as this bill) or, if unavailable, the estimated cost
16 developed with the initial project schedule³. If the cost of the
17 project exceeds already existing capital program appropriations for
18 that project, the department shall ³**[include in the capital program**
19 **any additional amounts needed to complete the project]** deduct the
20 necessary amounts from the amounts granted to that county from
21 the formula established in subsection e. of section 25 of P.L.1984,
22 c.73 (C.27:1B-25) through the Local County Aid Program for the
23 fiscal year in which the costs arise or for one or more future fiscal
24 years as determined by, and at the discretion of, the commissioner³.

25 ³**[g.** The highway project priority list shall contain only State
26 transportation projects. If a State project on the highway project
27 priority list is transferred to a county ²or the South Jersey
28 Transportation Authority² pursuant to the provisions of this section,
29 completion of the project shall continue to be funded through
30 department capital program appropriations. Grant funds awarded
31 through the Local Aid Program pursuant to section 25 of P.L.1984,
32 c.73 (C.27:1B-25) shall not be used on any project on the highway
33 project priority list.

34 **h.] f.**³ If the department and a county agree that a county ²or the
35 South Jersey Transportation Authority² is better suited to advance a
36 project on the highway project priority list, the department may also
37 enter into an agreement with the county ²or the South Jersey
38 Transportation Authority² to transfer a project to the county ²or the
39 South Jersey Transportation Authority² notwithstanding whether the
40 project has been in the capital program for less than three years.

41 ³**[i.] g.**³ All transportation projects included in the highway
42 project priority list and transferred by the department pursuant to
43 subsection ³**[e.] d.**³ or subsection ³**[h.] f.**³ of this section shall
44 comply with section 24 of P.L.1984, c.73 (C.27:1B-24), chapters 32
45 through 35 of Title 52 of the Revised Statutes, and any other

1 provision of law concerning the State's public bidding requirements
2 and business set-aside programs.

3

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

5 "Project bundle" means any group of transportation projects that
6 are combined into a single design contract under the design
7 bundling program.

8 "Transportation Project Design Bundling Program" or "design
9 bundling program" means a department process where multiple
10 transportation project design contracts, funded in whole or in part
11 by the Transportation Trust Fund, are combined into a single
12 transportation project design contract for the purposes of saving the
13 department time or money. The "Transportation Project Design
14 Bundling Program" or "design bundling program" shall not include
15 any construction contracts among the transportation projects in the
16 program.

17 b. The Transportation Project Design Bundling Program is
18 hereby established within the department to save time and money
19 on transportation projects by allowing multiple transportation
20 projects to be combined into a single design contract.

21 c. All transportation projects, including but not limited to,
22 transportation projects contained in the department's bridge
23 inspection, safety, and pavement asset management systems, and
24 any transportation assets identified by the department as being in
25 need of repair, may be included in the design bundling program if
26 the projects meet all of the following criteria: (1) the transportation
27 projects are similar in complexity, in the same capital investment
28 strategy (CIS) asset category, or are in reasonable geographical
29 proximity to one another; (2) the transportation projects are of
30 similar size or design; (3) the transportation projects will not
31 require a more stringent environmental permitting process or
32 increase the environmental review time as a result of their inclusion
33 in the design bundling program; and (4) the inclusion of
34 transportation projects in the design bundling program will provide
35 the department with cost and time savings.

36 d. The commissioner ³[shall] may³ develop ³[the] a³ design
37 bundling program ³[with] . In the event that such a program is
38 developed,³ the³ program shall include the³ following minimum
39 requirements:

40 (1) The department shall annually develop a preliminary list of
41 transportation projects that are intended to be included in project
42 design bundles. The department shall identify project design
43 bundles for different regions of the State for geographically
44 combinable transportation projects and project design bundles on a
45 Statewide basis for similar transportation project types and similar
46 CIS asset categories. The preliminary list shall include all
47 transportation projects meeting the eligibility requirements
48 established in subsection c. of this section;

1 (2) The department shall notify any local government entity that
2 is substantially impacted by the project design bundles
3 recommended for inclusion in the design bundling program. The
4 department shall also distribute the preliminary list to the North
5 Jersey Transportation Planning Authority, the South Jersey
6 Transportation Planning Organization, and the Delaware Valley
7 Regional Planning Commission; and

8 (3) Once the department has obtained all of the necessary
9 approvals for transportation projects in the design bundle from
10 applicable governmental entities, the department shall annually,
11 publicly issue a final list of transportation design projects to be
12 included in the design bundling program, prior to issuing the
13 respective contracts for project design bundles.

14 e. Notwithstanding any other law to the contrary,
15 transportation design projects determined to be eligible and
16 recommended for inclusion in the design bundling program by the
17 department shall not require specific itemization in a capital budget,
18 but any capital funds expended on the design bundling program
19 shall be provided for in a single capital program line item for each
20 project design bundle under the design bundling program.

21 f. Any transportation projects included in the design bundling
22 program established pursuant to subsection b. of this section shall
23 comply with section 24 of P.L.1984, c.73 (C.27:1B-24), chapters 32
24 through 35 of Title 52 of the Revised Statutes, and any other
25 provision of law concerning the State's public bidding requirements
26 and business set-aside programs.

27
28 4. (New section) a. There is hereby established within the
29 Department of Transportation, the New Jersey Transportation
30 Research Center, hereinafter referred to as the center.

31 b. The center shall be located within the Department of
32 Transportation, and the center shall award research contracts to
33 New Jersey public research institutions of higher education to
34 conduct the research activities of the center. The award of those
35 research contracts shall be subject to all relevant existing State and
36 federally established public bidding regulations and processes.

37 c. The center shall identify specific areas of transportation
38 expertise for New Jersey public research institutions of higher
39 education, where all research undertaken by the center in that area
40 of expertise is to occur, and shall be subject to all relevant existing
41 State and federally established public bidding regulations and
42 processes.

43 d. The Commissioner of Transportation shall appoint a director
44 for the center. The duties of the director shall include but not be
45 limited to:

- 46 (1) Administering and operating the center;
47 (2) Overseeing research undertaken by the center;

1 (3) Establishing and maintaining relationships with New Jersey
2 public research institutions of higher education;

3 (4) Supporting New Jersey public research institutions of higher
4 education in obtaining and maintaining University Transportation
5 Center status under the United States Department of Transportation
6 Federal Highway Administration's University Transportation
7 Center Program; and

8 (5) Authorizing competitive bidding for research contracts to
9 include entities in addition to New Jersey public research
10 institutions of higher education, notwithstanding the provisions of
11 subsections b. and c. of this section to the contrary, after making a
12 written determination that the department stands to benefit from
13 additional competition in terms of quality of work product,
14 timeliness of work product delivery, or availability of expertise in
15 one or more specific transportation areas.

16 e. For purposes of this section, "entities" means an entity that
17 is organized as a non-profit organization. "Entities" shall not
18 include a municipal planning organization or a municipal planning
19 organization-related entity, regardless of whether it is organized as
20 a non-profit organization.

21

22 5. Section 21 of P.L.1984, c.73 (C.27:1B-21) is amended to
23 read as follows:

24 21. a. There is hereby established a separate fund entitled
25 "Special Transportation Fund." This fund shall be maintained by the
26 State Treasurer and may be held in depositories as may be selected
27 by the treasurer and invested and reinvested as other funds in the
28 custody of the treasurer, in the manner provided by law. The
29 commissioner may from time to time (but not more frequently than
30 monthly) certify to the authority an amount necessary to fund
31 payments made, or anticipated to be made by or on behalf of the
32 department, from appropriations established for or made to the
33 department from revenues or other funds of the authority. The
34 commissioner's certification shall be deemed conclusive for
35 purposes of the act. The authority shall, within 15 days of receipt
36 of the certificate, transfer from available funds of the authority to
37 the treasurer for deposit in the Special Transportation Fund the
38 amount certified by the commissioner, provided that all funds
39 transferred shall only be expended by the department by project
40 pursuant to appropriations made from time to time by the
41 Legislature for the purposes of the act.

42 b. The department shall not expend any money except as
43 appropriated by law. Commencing with appropriations for the fiscal
44 years beginning on July 1, 1988, the department shall not expend
45 any funds, other than for permitted maintenance, except as are
46 appropriated by specific projects identified by a description of the
47 projects, the county or counties within which they are located, and
48 amounts to be expended on each project, in the annual

1 appropriations act. Funds expended for permitted maintenance may
2 be appropriated as one item of appropriation and subject to
3 allocation at the commissioner's discretion.

4 c. No funds appropriated, authorized, or expended pursuant to
5 this act shall be used to finance the resurfacing of highways by
6 department personnel, where that resurfacing would require the use
7 of more than 100,000 tons of bituminous concrete for that purpose
8 in any calendar year, except that the commissioner may waive this
9 provision when the commissioner determines the existence of
10 emergency conditions requiring the use of department personnel for
11 the resurfacing of highways, after the department has effectively
12 reached the 100,000 ton limit.

13 d. In order to provide the department with flexibility in
14 administering the specific appropriations by project identified in the
15 annual appropriations act, the commissioner may transfer a part of
16 any item to any other item subject to the approval of the Director of
17 the Division of Budget and Accounting and of the Joint Budget
18 Oversight Committee or its successor. Upon approval of the
19 director and the committee, the transfer shall take effect.

20 e. Any federal funds which become available to the State for
21 transportation projects which have not been appropriated to the
22 department in the annual appropriations act, shall be deemed
23 appropriated to the department and may, subject to approval by the
24 Joint Budget Oversight Committee and the State Treasurer, be
25 expended for any purpose for which such funds are qualified.

26 f. There shall be no appropriations from the revenues and other
27 funds of the authority for regular and routine maintenance of public
28 highways and components thereof, or operational activities of the
29 department unrelated to the implementation of, and indirect costs
30 associated with, the capital program. The commissioner shall
31 include in his annual budget request sufficient funding to effectuate
32 the purposes of P.L.2000, c.73 (C.27:1B-21.14 et al.).

33 g. To the extent that salaries or overhead of the department or
34 the New Jersey Transit Corporation are charged to transportation
35 projects, each agency shall keep adequate and truthful personnel
36 records, and time charts to adequately justify each such charge, and
37 shall make those records available to the external auditor to the
38 authority.

39 h. The commissioner shall annually, on or before January 1 of
40 each fiscal year, report to the Governor and the Legislature how
41 much money was expended in the previous fiscal year for salaries
42 and overhead of the department and the New Jersey Transit
43 Corporation. However, the amount expended from the revenues
44 and other funds of the authority for salaries and overhead of the
45 department and the New Jersey Transit Corporation for the fiscal
46 year beginning July 1, 2006 through the fiscal year beginning July
47 1, 2015 shall not exceed 13 percent of the total funds appropriated
48 from the revenues and other nonfederal funds of the authority for

1 those fiscal years, and shall not exceed \$208,000,000 for the fiscal
2 year beginning July 1, 2016 and each fiscal year thereafter.

3 i. No revenues or other funds of the authority shall be
4 expended for emergency response operations, the review of
5 applications for access permits under the State highway access
6 management code and membership fees or other fees connected
7 with membership in TRANSCOM, the Transportation Operations
8 Coordinating Committee.

9 j. Every project in which revenues or other funds of the
10 authority are expended shall be included on a website created by the
11 authority whose exclusive purpose shall be reporting on the status
12 of State and federal projects and serving as a singular location for
13 State and federal public documentation concerning those projects.
14 The website shall document the status of each project, presented in
15 tabular form outlining the budgeted amount, the amount spent and
16 committed, and the amount necessary to complete each project. The
17 website shall include a chart which compares the planned and actual
18 quarterly and cumulative expenditures for each project. The
19 website shall chronicle actions which have a bearing on the
20 progress of projects, including, but not limited to, awards for legal,
21 insurance, and engineering services, environmental review, public
22 involvement and outreach, property acquisitions, and construction
23 contracts. The website shall also include a description of any action
24 by an external regulatory agency such as the Department of
25 Environmental Protection, or any other party, which occurred
26 during the reporting period that affected the cost or timely
27 completion of any project in any manner. Information concerning
28 each project shall be included and updated, at minimum, once per
29 month.

30 k. There shall be a minimum appropriation from the revenues
31 and other funds of the authority of \$25,000,000 each fiscal year,
32 commencing with the fiscal year beginning July 1, 2016 for the
33 design, construction, reconstruction, rehabilitation, land acquisition,
34 and environmental mitigation of freight rail projects that include the
35 following factors: are significant to port commerce connectivity;
36 eliminate rail freight missing links to port facilities; **[or]** upgrade
37 freight rail trackage to a 286,000 pound load carrying capacity; or
38 support a safe, efficient, and effective rail freight system consistent
39 with the commissioner's rail freight authority pursuant to section 2
40 of P.L.1986, c.56 (C.27:1A-5.1). The amount appropriated pursuant
41 to this subsection shall be inclusive of all amounts annually
42 appropriated for the New Jersey Rail Freight Assistance Program.
43 (cf: P.L.2016, c.56, s.4)

44
45 6. The Department of Transportation shall adopt regulations
46 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
47 (C.52:14B-1 et seq.), to effectuate the provisions of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 ¹7. (New section) The department shall accept new applications
2 for projects that support a safe, efficient , and effective rail freight
3 system consistent with the commissioner’s rail freight authority
4 pursuant to section 2 of P.L.1986, c.56 (C.27:1A-5.1), for 60 days
5 following the enactment of P.L. _____, c. _____ (pending before the
6 legislature as this bill).¹

7

8 ¹**[7.] 8.**¹ This act shall take effect immediately.