

[Fourth Reprint]

SENATE, No. 2863

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED AUGUST 27, 2018

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman PATRICIA EGAN JONES

District 5 (Camden and Gloucester)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senators Oroho, Addiego, Singleton, Pou, Assemblyman Karabinchak,

Assemblywoman Reynolds-Jackson, Assemblyman A.M.Bucco,

Assemblywomen Vainieri Huttie, Swain and Assemblyman Tully

SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 20, 2019.



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

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

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

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

10 9. ¹a.¹ Aid to counties and municipalities administered by the
 11 department may, at the discretion of the commissioner, be disbursed
 12 to any individual county or municipality on a grant basis or on a
 13 cost reimbursement basis. ³²The department shall notify a county
 14 or municipality of the aid allotted to that county or municipality for
 15 the year and]

16 ⁴(1)⁴ Awards ⁴to each county for the Local County Aid Program⁴
 17 shall be made pursuant to the following schedule: ⁴[(1) the
 18 department shall distribute an aid application solicitation letter to
 19 each county and each municipality by April 1st of each year] (a)
 20 prior to July 31st of each year, each county shall be notified of the
 21 amount of local aid program funds allocated to the county for the
 22 current State fiscal year⁴; ⁴[(2)] (b)⁴ each county ⁴[and each
 23 municipality]⁴ shall submit an application for funding by ⁴[June
 24 30th] December 1st⁴ of each year; ⁴[(3) the department shall
 25 distribute an award letter to each county and each municipality by
 26 October 1st of each year;]⁴ and ⁴[(4)] (c)⁴ the department³ shall
 27 execute an agreement with ³[the] each³ county ⁴[³[or] and each³
 28 municipality]⁴ concerning the project ⁴or projects⁴ for which the
 29 aid is allotted to that county ⁴[or municipality]⁴ within 90 days
 30 from the date that the department ⁴[³[notifies] distributes the
 31 award letter to³ receives the application from⁴ the county ⁴[or
 32 municipality]⁴ ³[of that year's allotment] pursuant to ⁴[paragraph
 33 (3) of this subsection] subparagraph (b) of this paragraph⁴ or by
 34 ⁴[December 31st of each year] April 1st of the following year⁴,
 35 whichever is ⁴[earlier³] later⁴.²

36 ⁴(2) Awards to each municipality for the Municipal Aid program
 37 shall be made pursuant to the following schedule: (a) the
 38 department shall distribute an aid application solicitation letter to
 39 each municipality by April 30th of each year; (b) each municipality
 40 shall submit an application for funding by July 1st of each year; (c)
 41 the department shall distribute an award letter to each municipality

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 STR committee amendments adopted December 10, 2018.

²Senate SBA committee amendments adopted March 18, 2019.

³Senate floor amendments adopted March 25, 2019.

⁴Assembly floor amendments adopted June 20, 2019.

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

7 b.⁴ Distribution of the portion of the grant provided initially to a
8 county or municipality may be contingent on its performance in
9 spending prior grants. Failure to award construction or other
10 approved contracts for 100 percent of a county's allotment within
11 three years of notification by the department of that year's allotment
12 ⁴[, or failure to award construction or other approved contracts for
13 any percentage of a county's allotment within one year¹[of
14 notification by the department of that year's]²[following the date
15 the county receives the first payment of the¹] of³[notification by
16 the department of] the fully executed agreement for³ that year's²
17 allotment³ pursuant to paragraph (4) of this subsection³.⁴ shall
18 result in the allotment being immediately rescinded or the funds
19 returned to the department, as applicable, or in the event such funds
20 are not immediately returned, deducted by the department from
21 future allocations of aid to such county ⁴[¹, except as provided in
22 subsection b. of this section¹]⁴. Any such funds may be reallocated
23 by the commissioner ⁴[on a grant basis or a cost reimbursement
24 basis to such other counties or municipalities] to other
25 transportation projects⁴ as the commissioner shall so
26 determine. Failure to award construction or other approved
27 contracts for 100 percent of a municipality's allotment within two
28 years of notification by the department of that year's allotment ⁴[,
29 or failure to award construction or other approved contracts for any
30 percentage of a municipality's allotment within one year¹[of
31 notification by the department of that year's]²[following the date
32 the municipality receives the first payment of the¹] of
33 ³[notification by the department of] the fully executed agreement
34 for³ that year's² allotment³ pursuant to paragraph (4) of this
35 subsection³.⁴ shall result in that year's allocation being
36 immediately rescinded ¹, except as provided in subsection⁴[b.] c.⁴
37 of this section¹. Any such funds may be reallocated by the
38 commissioner ⁴[on a grant basis or a cost reimbursement basis to
39 such other counties or municipalities] to other transportation
40 projects⁴ as the commissioner shall determine.

41 ⁴[¹b.] c.⁴ An allotment provided to a ⁴[county or]⁴ municipality
42 shall be rescinded, returned, or deducted from future allocations as
43 a result of a ⁴[county's or]⁴ municipality's failure to award
44 construction or other approved contracts for ⁴[any amount of the]
45 100 percent of a municipality's⁴ allotment within ⁴[one year of

²[receiving the first payment of the] ³[notification by the department of] the fully executed agreement for³] two years of notification by the department of⁴ that year's² allotment as provided in ⁴paragraph (2) of⁴ subsection a. of this section, except that ⁴[this one-year requirement shall be extended if a designated financial officer for the county or municipality certifies to the department that the project will not begin construction during the required time frame due to one of the following exceptions:

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

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

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

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

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

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

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

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

(3) if a designated financial officer certifies that acquisition of an interest in State-owned land is delaying the completion of a project due to the divestment of a deed restriction, the designated financial officer shall provide to the department the block and lot designation of such land] the department, at its discretion, may grant an extension of the two year requirement of not greater than six months in duration for extraordinary circumstances, which shall be limited to the following:

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

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

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

20 (4) Right-of-way is not available for the project. The
21 municipality shall provide details on the schedule of right-of-way
22 acquisition and any issues precluding advancement of the project;
23 or

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

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

35 e. Meeting the extraordinary circumstances described in
36 paragraph (1) of subsection c. of this section does not guarantee
37 approval of a six-month deadline extension. The department shall
38 consider factors such as likelihood of achieving the award within
39 the next six months and past performance of the municipality. A
40 six-month deadline extension shall require approval of the Director
41 of Local Aid and Economic Development with concurrence of the
42 Commissioner. At any time, but at a minimum of 30 days prior to
43 the extension of time deadline, a municipality may voluntarily
44 cancel the municipal local aid agreement and release the funds back
45 to the department^{4, 1}

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

- 1 2. (New section) ¹**【a.】**¹ All appropriations or authorizations
2 made by the Legislature and allocated by the commissioner, under
3 the local aid program, pursuant to section 25 of P.L1984, c.73
4 (C.27:1B-25), shall include the following limitations on grant
5 recipients:
- 6 ¹**【(1)】** a.¹ local government entity grant recipients shall be
7 prohibited from using local aid program funds to support the work
8 of any local government entity's employees on any ¹construction¹
9 projects funded, in whole or in part, out of funds from the local aid
10 program;
- 11 ¹**【(2)】** b.¹ the construction contracts for all projects funded, in
12 whole or in part, out of funds from the local aid program shall be
13 made and awarded in accordance with the "Local Public Contracts
14 Law," P.L.1971, c.198 (C.40A:11-1 et seq.);
- 15 ¹**【(3)】** c.¹ for all projects funded, in whole or in part, out of
16 funds from the local aid program, each bidder on a construction
17 contract ¹valued at more than ⁴**【\$500,000¹】** \$5,000,000⁴ shall be
18 prequalified by the New Jersey Department of Transportation; and,
- 19 ¹**【(4)】** d.¹ a grant recipient under the local aid program shall be
20 permitted to expend up to 10 percent of its aid allotment in the
21 fiscal year beginning July 1, 2018 for design purposes, and up to
22 five percent of its aid allotment in the fiscal year beginning July 1,
23 2019 and every fiscal year thereafter for such purposes.
24
- 25 3. This act shall take effect immediately