

ASSEMBLY, No. 1449

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the construction of school facilities projects,
2 revising various parts of the statutory law, and supplementing
3 chapter 7G of Title 18A of the New Jersey Statutes.
4

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

8 1. Section 21 of P.L.2007, c.21 (C.18A:7F-63) is amended to
9 read as follows:

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

28 b. A school facilities project that is not financed and
29 constructed pursuant to subsection a. of this section, shall continue
30 to be financed and constructed in accordance with the provisions of
31 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
32 235 et al.).
33 (cf: P.L.2015, c.257, s.1)
34

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

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

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

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

Matter underlined thus is new matter.

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

6 "Capital maintenance project" means a school facilities project
7 intended to extend the useful life of a school facility, including up-
8 grades and replacements of building systems, such as structure,
9 enclosure, mechanical, plumbing and electrical systems;

10 "Commissioner" means the Commissioner of Education;

11 "Core curriculum content standards" means the standards
12 established pursuant to the provisions of subsection a. of section 4
13 of P.L.2007, c.260 (C.18A:7F-46);

14 "Cost index" means the average annual increase, expressed as a
15 decimal, in actual construction cost factors for the New York City
16 and Philadelphia areas during the second fiscal year preceding the
17 budget year as determined pursuant to regulations promulgated by
18 the **development authority** Division of Property Management and
19 Construction in the Department of the Treasury pursuant to section
20 26 of P.L.2000, c.72 (C.18A:7G-26);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (cf: P.L.2007, c.260, s.39)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 s. (Deleted by amendment, P.L.2007, c.137).
20 (cf: P.L.2009, c.185, s.1)

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

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

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

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

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

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

e. When the bonds issued by a county improvement authority are no longer outstanding, the leases and liens of the county and the county improvement authority shall expire and the county vocational school district school facilities project shall be solely vested in the county vocational school district. The county vocational school district shall be responsible for the operation, maintenance, and improvement of the school facility upon the completion of the school facilities project.

(cf: P.L.2015, c.68, s.1)

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

1. a. In the case of new school construction undertaken by a district or the **【development authority】** Division of Property Management and Construction in the Department of the Treasury, in addition to the Best Practices Standards for Schools under Construction or Being Planned for Construction set forth by the Department of Community Affairs, the district or the **【development authority】** division, as applicable, shall provide in the architectural design for the new construction that:

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

1 (8) utilize an access control system with remote unlocking
2 features, an intercom, and fixed cameras at the school's main
3 entrance and for other entrances as funding permits;

4 (9) clearly mark all entrances with a numerical sequence to
5 allow for specific response by police, fire, and emergency medical
6 services responders;

7 (10) maintain a parking decal or tag system for all staff and
8 students who park on campus in order to easily identify
9 unauthorized vehicles on the property;

10 (11) locate enclosures for utilities that are outside a school
11 building away from the building to ensure that they do not provide
12 roof access;

13 (12) provide adequate and properly maintained lighting around
14 the buildings and parking lots;

15 (13) if funding, staffing, and site approval are possible, provide
16 a guard shack and gate on the school campus as an effective
17 perimeter control;

18 (14) where the footprint of the school allows, and if funding is
19 available, create secure vestibules at the main entrance of the school
20 building. The exterior door entrance to the school shall allow
21 access by a visitor only to the vestibule and the doors to the
22 remainder of the building shall be locked;

23 (15) adopt school district policies and procedures to clearly
24 indicate that propping open doors is strictly prohibited, and that
25 students and staff shall not open a door for anyone. All persons
26 seeking entry to the building shall be directed to the main entrance;

27 (16) use surveillance cameras as a target-hardening tool;

28 (17) provide a dedicated server and generator for security
29 systems, such as access control and surveillance cameras, in order
30 to secure information and ensure efficient operation in an
31 emergency;

32 (18) use ballistic or shatter resistant film for glass entrance door
33 sidelights and other vulnerable first floor areas; and

34 (19) maintain a strict key distribution protocol that requires staff
35 to sign for keys and return them at the end of each school year.

36 c. The commissioner, in consultation with the [development
37 authority] division, may revise the architectural design standards
38 for new school construction established pursuant to subsection a. of
39 this section and the standards for new school construction and
40 existing school buildings established pursuant to subsection b. of
41 this section, to reflect new recommendations or changes in best
42 practices for school security.

43 (cf: P.L.2016, c.79, s.1)

44

45 6. Section 12 of P.L.2000, c.72 (C.18A:7G-12) is amended to
46 read as follows:

47 12. A district, other than a district under full State intervention,
48 that sought approval pursuant to section 11 of P.L.2000,

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

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

33
34 7. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to
35 read as follows:

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

1 the design, acquisition, construction and all other appropriate
2 actions necessary to complete any other school facilities project in
3 accordance with the procedures established pursuant to subsection
4 e. of this section.

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

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

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

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

1 Accountability Continuum (NJQSAC) in accordance with section
2 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant factors.

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

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

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

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

30

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

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

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

43

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

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

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

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

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

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

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

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

1 pledge or assignment of those leases or other contractual
2 arrangements and the rights and interests of the financing authority
3 therein;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (cf: P.L.2008, c.39, s.4)
8

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

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

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

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

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

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

42 17. In each fiscal year the State Treasurer shall pay from the
43 General Fund to the financing authority, in accordance with a
44 contract between the State Treasurer and the financing authority as
45 authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18),
46 an amount equal to the debt service amount due to be paid in the
47 State fiscal year on the bonds or refunding bonds of the financing
48 authority issued or incurred pursuant to section 14 of P.L.2000,

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

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

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

23
24 12. Section 20 of P.L.2000, c.72 (C.18A:7G-20) is amended to
25 read as follows:

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

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

36
37 13. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to
38 read as follows:

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

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

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

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

40

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

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

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

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

32 All incentive payments made pursuant to this section shall be
33 funded by and shall be subject to annual appropriations for this
34 purpose, and shall in no way rely upon funds raised by the issuance
35 of bonds for school facilities projects.
36 (cf: P.L.2007, c.137, s.33)
37

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

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

1 the provisions of this subsection shall be prohibited from
2 subsequently bidding on any State or district contract.

3 b. Registration fees collected pursuant to P.L.1999, c.238
4 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and
5 administrative costs of the Division of Workplace Standards, Office
6 of Wage and Hour Compliance, Public Contracts section and
7 Registration section within the Department of Labor and Workforce
8 Development.
9 (cf: P.L.2007, c.137, s.34)

10

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

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

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

1 authority **】** division shall include in the report an explanation of the
2 methodology used in making the comparison.

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

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

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

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

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

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

45 b. The **【**development authority**】** Division of Property
46 Management and Construction in the Department of the Treasury
47 shall adopt, pursuant to the "Administrative Procedure Act,"
48 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations

1 necessary to implement the provisions of P.L.2000,
2 c.72 (C.18A:7G-1 et al.) **【and】** , P.L.2007, c.137 (C.52:18A-
3 235 et al.), and P.L. , c. (C.) (pending before the Legislature as
4 this bill) that apply to the **【development authority】** division; except
5 that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-
6 1 et seq.) to the contrary, the **【development authority】** division may
7 adopt immediately upon filing with the Office of Administrative
8 Law, such rules and regulations as the **【development authority】**
9 division deems necessary which shall be effective for a period not
10 to exceed 12 months and shall thereafter be amended, adopted or re-
11 adopted by the authority, in accordance with the provisions of
12 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

25
26 19. Section 27 of P.L.2000, c.72 (C.18A:7G-27) is amended to
27 read as follows:

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

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

42
43 20. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to
44 read as follows:

45 59. The **【development authority】** Division of Property
46 Management and Construction in the Department of the Treasury
47 shall establish a process for the prequalification of contractors that

1 desire to bid on school facilities projects. A contractor shall not be
 2 permitted to bid on such a school facilities project unless the
 3 contractor has been prequalified pursuant to P.L.2000,
 4 c.72 (C.18A:7G-1 et al.).

5 The prequalification process shall apply to general contractors,
 6 construction managers, and contractors including those in the
 7 following areas:

8 (1) plumbing and gas fitting and all work and materials kindred
 9 thereto;

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

12 (3) electrical work; and

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

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

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

23
 24 21. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to
 25 read as follows:

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

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

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

43 (3) A statement as to bonding capacity, which shall be from a
 44 surety authorized to issue bid, performance and payment bonds in
 45 the State of New Jersey in accordance with N.J.S.2A:44-143
 46 through N.J.S.2A:44-147 to the contractor, and shall indicate
 47 aggregate bonding limits;

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

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

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

- 13 (1) a trade or work classification; and
14 (2) an aggregate rating limit.

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

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

21 e. The **【development authority】** division shall establish
22 procedures to permit contractors to challenge a classification made
23 pursuant to this section.

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

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

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

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

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

42 b. Any material changes relevant to the prequalification
43 process shall be reported by the contractor to the **【development**
44 **authority】** Division of Property Management and Construction in
45 the Department of the Treasury in writing within 10 days. Based on

1 the information provided, the **【development authority】** division
2 may change the classification or revoke prequalification for cause.
3 (cf: P.L.2007, c.137, s.40)
4

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

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

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

15 c. The contractor performance evaluations shall be utilized in
16 reviewing bid submissions.

17 (cf: P.L.2007, c.137, s.41)
18

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

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

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

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

32 1. a. As used in this section:

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

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

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

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

7 c. **【**Notwithstanding any provision of subsection b. of this
8 section to the contrary, a**】** A firm or person or an affiliate thereof
9 shall not serve as a general contractor or as a subcontractor or as a
10 subconsultant on 【an authority】 a Division of Property
11 Management and Construction in the Department of the Treasury
12 project for which the firm or person serves as the construction
13 manager.
14 (cf: P.L.2009, c.225, s.1)
15

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

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

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

30 c. As used in this section, "wrap-up insurance coverage" means
31 a single insurance and loss control program for all parties involved
32 in the school facilities project, including the owners, administrators,
33 contractors and all tiers of subcontractors, which is controlled and
34 authorized by the owner or financing administrator and applicable
35 to defined construction work sites. Wrap-up insurance coverage
36 may include, but not be limited to, workers' compensation and
37 employers' liability, commercial general liability, umbrella/excess
38 liability, builder's risk, architects' and engineers' errors and
39 omissions, liability, environmental liability, and force majeure.
40 (cf: P.L.2007, c.137, s.43)
41

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

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

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

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

17 c. The transfer of title pursuant to subsection a. of this section
18 shall occur in accordance with a schedule determined by the
19 **【development authority】** division. The schedule may provide that
20 the transfer occur prior to the completion of the construction of the
21 new school facilities project if the **【development authority】** division
22 deems it necessary in order to complete additional school facilities
23 projects within the district.

24 (cf: P.L.2007, c.137, s.14)

25

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

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

43 (cf: P.L.2007, c.260, s.48)

44

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

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

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

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

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

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

1 notice the municipal approving authority shall be free to act upon
2 the pending application in such manner as may be provided by law.
3 (cf: P.L.2007, c.260, s.49)
4

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

7 2. a. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 entity and a provision for the distribution of excess earnings to the
2 local government unit or to the private party for debt reduction.

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

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

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

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

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

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

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

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

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

1 employee thereof with respect to the participation in or approval of
2 all or any part of the public-private project.
3 (cf: P.L.2018, c.90, s.2)
4

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

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

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

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

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

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

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

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

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

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

1 (4) any testing and academic performance standards to be
2 mandated by the renaissance school project beyond those required
3 by State law and regulation;

4 (5) the admission policy and criteria for evaluating the
5 admission of students to the renaissance school project, which shall
6 comply with the provisions of section 8 of this act;

7 (6) the age or grade range of students to be enrolled in the
8 renaissance school project;

9 (7) the total number of students to be enrolled in each grade
10 level of the renaissance school project;

11 (8) the renaissance school project calendar and school day
12 schedule;

13 (9) the financial plan for the renaissance school project and the
14 provisions that will be made for auditing pursuant to N.J.S.18A:23-
15 1;

16 (10) a description of, and address for, the initial school facility in
17 which the renaissance school project will be located and an
18 affirmation that any other school facility or facilities in which the
19 renaissance school project will be located will be in the required
20 urban campus area. For any school facility other than the initial
21 school facility included in the application pursuant to this
22 paragraph, the nonprofit entity shall notify the Commissioner of
23 Education of the location of the facility at least one year prior to the
24 opening of the facility;

25 (11) documentation that the proposed renaissance school project
26 meets school facility regulations promulgated by the State Board of
27 Education pertaining to the health and safety of the pupils;

28 (12) documentation of a funding plan to acquire necessary lands
29 and to construct a renaissance school project thereon, including the
30 terms of any financing secured for such purpose;

31 (13) (Deleted by amendment, P.L.2013, c.149)

32 (14) identification of the attendance area of the renaissance
33 school project, if the renaissance school project will not be built on
34 land owned by the **【New Jersey Schools Development Authority】**
35 Division of Property Management and Construction in the
36 Department of the Treasury or the renaissance school district;

37 (15) a description of the process employed by the renaissance
38 school district to find and partner with the chosen nonprofit entity
39 to create a renaissance school project. The description shall be
40 sufficient to show that the process employed by the renaissance
41 school district was open, fair, and subject to public input and
42 comment. The description shall, at a minimum, include any
43 requests for proposals issued by the renaissance school district, the
44 number of responses received, and the process and criteria
45 employed by the renaissance school district to select the chosen
46 nonprofit entity among the respondents; and

47 (16) such other information as the commissioner may require.

48 (cf: P.L.2014, c.61, s.2)

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

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

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

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

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

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

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

19 (cf: P.L.2017, c.131, s.29)
20

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

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

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

45 (cf: P.L.2011, c.176, s.11)
46

47 35. Section 8 of P.L.2018, c.90 (C.52:18A-260) is amended to
48 read as follows:

1 8. a. There is hereby established in the Department of the
2 Treasury the Public-Private Partnership Review Fund. The purpose
3 of the fund will be to support financial and administrative review
4 functions associated with the Public-Private Partnership plan review
5 by the State Treasurer, along with the New Jersey Economic
6 Development Authority, the Department of Community Affairs, the
7 Department of Education, **the Schools Development Authority,**
8 and the Department of Transportation, established by P.L.2018,
9 c.90 (C.40A:11-52 et al.).

10 b. Notwithstanding the provisions of any law or regulation to
11 the contrary, upon entering into any public-private partnership
12 agreement which is backed, in whole or in part, by New Jersey
13 Economic Development Authority bonds pursuant to P.L.2018,
14 c.90 (C.40A:11-52 et al.), a public entity shall remit one percent of
15 the portion of the revenue established under the agreement to the
16 Department of the Treasury to be placed in the Public-Private
17 Partnership Review Fund.

18 c. The State Treasurer, in coordination with any relevant
19 agency, including the New Jersey Economic Development
20 Authority, Department of Transportation, and Department of
21 Community Affairs, shall provide, and make available to the public
22 on the Internet, an annual report, not later than December 31, 2019
23 and each year after that year, a list of all projects reviewed and the
24 percentage and amount of funds withheld and provided to the fund
25 pursuant to this section.

26 (cf: P.L.2018, c.90, s.8)

27
28 36. (New section) a. No municipality shall modify or change
29 the drawings, plans or specifications for the construction,
30 reconstruction, rehabilitation, alteration or improvement of any
31 school facilities project of the Division of Property Management
32 and Construction in the Department of the Treasury, or the
33 construction, plumbing, heating, lighting or other mechanical
34 branch of work necessary to complete the work in question, nor to
35 require that any person, firm or corporation employed on any such
36 work shall perform the work in any other or different manner than
37 that provided by the drawings, plans and specifications, nor to
38 require that any person, firm or corporation obtain any other or
39 additional authority, approval, permit or certificate from the
40 municipality in relation to the work being done, and the doing of
41 the work by any person, firm or corporation in accordance with the
42 terms of the drawings, plans, specifications or contracts shall not
43 subject the person, firm or corporation to any liability or penalty,
44 civil or criminal, other than as may be stated in the contracts or
45 incidental to the proper enforcement thereof; nor shall any
46 municipality require the division or any person, firm, partnership or
47 corporation which leases or purchases the school facilities project
48 for lease or purchase to a State agency, to obtain any other or

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

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

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

27

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

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

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

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

36
37 38. (New section) a. The New Jersey Schools Development
38 Authority established pursuant to section 3 of P.L.2007,
39 c.137 (C.52:18A-237) is abolished and all its functions, powers,
40 duties, and employees are transferred to the Division of Property
41 Management and Construction in the Department of the Treasury.

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

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

1 39. The following sections are repealed:
2 Section 68 of P.L.2000, c.72 (C.18A:7G-41); and
3 Sections 1 through 13 of P.L.2007, c.137 (C.52:18A-235 through
4 52:18A-247).

5

6 40. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill revises the school construction program established
12 under the “Educational Facilities Construction and Financing Act,”
13 (EFCFA) P.L.2000, c.72 (C.18A:7G-1 et al.). The bill will abolish
14 the New Jersey Schools Development Authority (SDA), which was
15 created pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) as a new
16 State authority responsible for the construction of schools in the
17 former Abbott districts. This bill transfers all the functions, powers,
18 duties, and employees of the SDA to the Division of Property
19 Management and Construction in the Department of the Treasury.
20 The New Jersey Economic Development Authority (EDA) will
21 retain its responsibility for the financing of school construction
22 projects.