

# SENATE, No. 3637

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 19, 2021

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

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

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

“New Jersey Retirement Infrastructure Collateralized Holdings Fund Act”; creates trust fund for conveyance of certain assets for benefit of State-administered retirement systems; requires remediation of emergent conditions for certain public assets; appropriates \$20,000,000.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 4/19/2021)**

1 AN ACT concerning the conveyance of certain assets to a trust fund  
2 for the benefit of the State-administered retirement systems,  
3 requiring the remediation of emergent conditions for certain  
4 public assets, amending and supplementing various parts of the  
5 statutory law, and making an appropriation  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

10 1. (New section) This act shall be known and may be cited as  
11 the “Retirement Infrastructure Collateralized Holdings (RICH)  
12 Fund Act.”  
13

14 2. (New section) As used in sections 1 through 10 of P.L. ,  
15 c. (C. ) (pending before the Legislature as this bill):

16 “360 review” means a comprehensive analysis that includes an  
17 assessment of a public entity’s fiscal condition, an inventory of  
18 asset optimization opportunities as established in section 6 of  
19 P.L. , c. (C. ) (pending before the Legislature as this bill),  
20 and an initial due diligence review of any public asset proposed for  
21 conveyance to the trust fund.

22 “Administrator” means the New Jersey Infrastructure Bank  
23 created pursuant to section 4 of P.L1985, c.334 (C.58:11B-4).

24 “Asset” means title to real and personal property, leaseholds,  
25 licenses, franchises, easements, concessions, and any other right,  
26 title or interest deemed appropriate by the New Jersey Infrastructure  
27 Bank; land, including improvements and fixtures thereon, and  
28 property of any nature appurtenant thereto or used in connection  
29 therewith, and every estate, interest and right, legal or equitable,  
30 therein, including terms for years and liens by way of judgment,  
31 mortgage or otherwise, and indebtedness secured by such liens; and  
32 any other enterprise or asset, tangible or intangible, deemed  
33 appropriate by the New Jersey Infrastructure Bank under rules  
34 issued pursuant hereto.

35 “Asset conveyance” means the transfer and conveyance of all or  
36 any part of a public or non-public entity’s ownership interest in an  
37 asset to the trust fund.

38 “Benefitting public entity” means a public entity, including any  
39 associated public entity, that would benefit from an asset  
40 conveyance by means of a reduction in that public entity’s required  
41 contribution to a State-administered retirement system.

42 “Certificate of trust” means a document providing the fractional  
43 beneficial or economic interest in assets or income of the fund or  
44 any of its subaccounts.

**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 “Fund” or “trust fund” means the New Jersey Retirement  
2 Infrastructure Collateralized Holdings Fund established pursuant to  
3 section 3 of P.L. , c. (C. ) (pending before the Legislature  
4 as this bill).

5 “New Jersey Infrastructure Bank” or “bank” means the New  
6 Jersey Infrastructure Bank created pursuant to section 4 of P.L.1985,  
7 c.334 (C.58:11B-4).

8 “Non-public asset” means an asset, no part of which is held by a  
9 public entity.

10 “Public asset” means an asset held by a public entity, including  
11 public infrastructure, as that term is defined in section 10 of  
12 P.L.2014, c.63 (C.34:1B-251).

13 “Public entity” means the State, and any county, municipality,  
14 district, or political subdivision, and any authority, agency,  
15 instrumentality, board or body of any of the foregoing. “Public  
16 entity” shall also mean any school district, community college, or  
17 public university.

18 “Public-private partnership agreement” means an agreement  
19 entered into by a public entity and a non-public entity for the  
20 purpose of permitting the non-public entity to assume full financial  
21 and administrative responsibility for the development, construction,  
22 reconstruction, repair, alteration, improvement, extension,  
23 operation, and maintenance of a public asset.

24 “Qualified independent valuation agent” or “valuation agent”  
25 means an entity or person who is (1) accredited by the American  
26 Society of Appraisers to conduct appraisals or (2) an investment  
27 bank, trust company, accountant, engineer, or financial advisor  
28 qualified to perform fair market valuations of public or non-public  
29 assets or render fairness opinions on the valuation of public or non-  
30 public assets; and who is independent of the public or non-public  
31 entity making, and the trust fund receiving, a conveyance of one or  
32 more assets.

33 “Real property” means any or all real property, any  
34 improvements thereon, and any easements rights appertaining  
35 thereto.

36 “State-administered retirement systems” means the Public  
37 Employees’ Retirement System, established pursuant to P.L.1954,  
38 c.84 (C.43:15A-1 et seq.), the Teachers’ Pension and Annuity Fund,  
39 established pursuant to N.J.S.18A:66-1 et seq., the State Police  
40 Retirement System, established pursuant to P.L.1965, c.89  
41 (C.53:5A-1 et seq.) and the Judicial Retirement System, established  
42 pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.).

43  
44 3. (New section) a. There is established in, but not of, the  
45 Department of the Treasury a fund to be known as the Retirement  
46 Infrastructure Collateralized Holdings Fund, intended to operate  
47 consistent with section 115 of the federal Internal Revenue Code  
48 (26 U.S.C. s.115). The fund shall be a trust, trust account, or

1 custodial account, the assets of which shall be deemed an  
2 arrangement equivalent to a trust for all legal purposes, and shall be  
3 established by means of appropriate documentation so as to comply  
4 with and be exempt from taxation under applicable provisions of  
5 federal and State law. The fund shall be administered by the New  
6 Jersey Infrastructure Bank. The assets of the fund shall be  
7 maintained as a separate account segregated from all other funds of  
8 the State, the bank, and the non-State public employers  
9 participating in State-administered retirement systems. The fund  
10 shall be legally independent and separate, regardless of its treatment  
11 for tax, accounting, reporting, securities law, or other purposes.

12 The fund shall maintain appropriate books and records in  
13 compliance with generally accepted accounting principles and  
14 subject to annual financial audit by a nationally recognized  
15 accounting firm.

16 No person shall use or authorize the use of the assets in the fund,  
17 or the investment earnings thereon, for any purpose other than for  
18 the maximization of the value of the assets in the fund, including  
19 the delivery of the level of service required pursuant to State and  
20 federal law and regulations, and for the benefit of members and  
21 retirees in the State-administered retirement systems, and for  
22 defraying the reasonable costs of administering the fund.

23 The Retirement Infrastructure Collateralized Holdings Fund  
24 Board, created pursuant to section 4 of this act, P.L. , c.  
25 (C. ) (pending before the Legislature as this bill) shall and is  
26 authorized to undertake any administrative action necessary to  
27 establish the fund in any form suitable to carry out the purposes of  
28 this act. The fund may be subdivided as appropriate.

29 The fund shall be established to receive public and non-public  
30 assets and to issue certificates of trust conveying beneficial  
31 ownership of those assets to the State-administered retirement  
32 system or systems in which the public entities participate. Assets in  
33 the fund shall be maintained in one or more segregated subaccounts  
34 in a manner determined by the administrator. The comingling of  
35 any assets or holdings in a subaccount shall not alter any underlying  
36 beneficial interest assigned in certificates of trust issued pursuant to  
37 this act.

38 The fund and the assets therein shall be maintained such that any  
39 bond issuance will qualify as a "State or local bond" as that term is  
40 defined in paragraph (1) of subsection (c) of section 103 of the  
41 Internal Revenue Code (26 U.S.C. s.103(c)(1)), and any similar  
42 provisions under the laws of this State.

43 b. This act shall not be construed to prohibit the holding of any  
44 assets in any special purpose entity, limited liability corporation,  
45 limited partnership, or any other arrangement deemed appropriate  
46 by the board.

47 c. Except as otherwise specified herein, the fund shall be exempt  
48 from the provisions of the "Local Public Contracts Law," P.L.1971,

1 c.198 (C.40A:11-1 et seq.), and any ordinances or resolutions  
2 adopted pursuant thereto, with respect to any asset conveyed to the  
3 fund.

4  
5 4. (New section) a. The Retirement Infrastructure  
6 Collateralized Holdings Fund shall have a board, comprised of three  
7 members as follows: the chairperson of the New Jersey  
8 Infrastructure Bank, serving ex officio, the director of the Division  
9 of Investments, established pursuant to section 1 of P.L.1950, c.270  
10 (C.52:18A-79), and one member of the public appointed by the  
11 Governor with the advice and consent of the Senate. The board shall  
12 be constituted as an instrumentality of the State exercising public  
13 and essential governmental functions, and the exercise by the board  
14 of the powers conferred by this act shall be deemed and held to be  
15 an essential governmental function of the State. Notwithstanding  
16 the existence of common management, the board shall be treated  
17 and accounted for as a separate legal entity.

18 b. The board shall possess all executive powers, duties, and  
19 responsibilities over the fund and all of the assets contained therein,  
20 and all the powers as a body corporate necessary and convenient to  
21 accomplish the purposes of P.L. , c. (C. ) (pending before  
22 the Legislature as this bill), including, but not limited to, the power  
23 to enter into loans, contracts, agreements, and mortgages; to invest  
24 its funds; to sue and be sued; and to retain agents and independent  
25 contractors necessary to carry out its purposes. The board may  
26 employ such professional and clerical staff as it deems necessary  
27 and may call upon the employees of the New Jersey Infrastructure  
28 Bank and the Division of Investments for such assistance as it  
29 deems necessary and as may be available to it.

30 c. The board shall serve as the fund fiduciary and representative  
31 of the holders of certificates of trust, and shall represent the  
32 interests thereof in financial dealings of the fund and its assets. The  
33 board shall be responsible to perform all duties otherwise necessary  
34 to effectuate the purposes of this act, including the duty to  
35 maximize the long-term value of assets in the fund. The board, as  
36 fiduciary, shall:

37 (1) in the event of a conflict of interest or other circumstance  
38 preventing the fund administrator from exercising any of its powers  
39 or duties as established herein, exercise such powers and  
40 responsibilities;

41 (2) review and approve or reject the report issued by the  
42 qualified independent valuation agent, which approval shall not be  
43 unreasonably withheld;

44 (3) review and approve or reject the terms of the certificates of  
45 trust and any financial transaction involving a change in beneficial  
46 ownership of fund assets pursuant to such certificates. The board  
47 shall ensure that the rights conveyed to a State-administered  
48 retirement system in a certificate of trust includes the right to

1 receive monetary distributions in proportion to the system's  
2 respective interests, and generally protects the liquidity of pension  
3 assets, given that conveyance in a certificate of trust may restrict  
4 the right to transfer or otherwise dispose of interest in, or to  
5 withdraw from, the fund; and

6 (4) meet at least once per calendar quarter.

7  
8 5. (New section) a. The New Jersey Infrastructure Bank shall  
9 serve as the fund administrator of the Retirement Infrastructure  
10 Collateralized Holdings Fund, and shall carry out its powers and  
11 duties pursuant to a services agreement with the board. The  
12 administrator shall have a fiduciary duty, which shall include  
13 maximization of the value of an asset over the long-term, to the  
14 holders of certificates of trust issued pursuant to this act, P.L. , c.  
15 (C. ) (pending before the Legislature as this bill). The  
16 administrator shall take any and all necessary action to protect the  
17 rights of the holders of certificates of trust and shall, in exercising  
18 the duties and responsibilities under this section, be liable for  
19 breach of a duty arising from P.L. , c. (C. ) (pending before  
20 the Legislature as this bill).

21 The administrator shall consult with the board prior to entering  
22 into any contract to obtain a fair market valuation entering into any  
23 asset transfer agreement, or determining the terms for the  
24 certificates of trust, including any transfer, sale, or assignment  
25 thereof. The administrator shall notify the board of any conflict or  
26 other circumstance that prevents or could reasonably prevent the  
27 administrator from exercising any powers or duties

28 b. The powers of the administrator shall include, but may not be  
29 limited to:

30 (1) notwithstanding any other provision of State law to the  
31 contrary, establishing the terms and conditions of any transaction to  
32 effectuate an asset conveyance consistent with the provisions of  
33 sections 7 and 8 of this act, P.L. , c. (C. ) (pending before  
34 the Legislature as this bill);

35 (2) investing and managing the proceeds of and investment  
36 earnings on assets in the fund, and distributing proceeds and  
37 investment earnings to the holders of the certificates of trust in  
38 proportion to their relative equitable interests in the account or  
39 subaccount from which the disbursement is made, consistent with  
40 the provisions of section 10 of this act, P.L. , c. (C. )  
41 (pending before the Legislature as this bill);

42 (3) selling, exchanging, or re-investing the assets of the fund;

43 (4) operating, improving, developing, redeveloping,  
44 constructing, reconstructing, maintaining, renovating, rehabilitating,  
45 repositioning, managing, leasing, and mortgaging the assets of the  
46 fund;

47 (5) selecting and contracting with consultants, including  
48 independent fiduciaries, and other services providers with respect to

1 the administration of the fund in accordance with federal and State  
2 law, including, but not limited to, conducting 360 reviews pursuant  
3 to section 6 of this act, P.L. , c. (C. ) (pending before the  
4 Legislature as this bill), due diligence reviews on prospective asset  
5 conveyances, and, in consultation with the board, any fair market  
6 valuations pursuant to sections 7 or 8 of this act, P.L. , c.  
7 (C. ) (pending before the Legislature as this bill);

8 (6) charging and collecting fees and expense reimbursements  
9 against an asset of the fund or of a public or non-public entity  
10 conveying an asset for the smooth and efficient administration of  
11 the fund. Any funds so collected, including all interest and  
12 investment income earned on these funds, must be used for the  
13 benefit of the fund; and

14 (7) borrowing money, issuing bonds, notes and other  
15 obligations, securing the same, and providing for the rights of the  
16 holders thereof. The administrator may, as legally permissible,  
17 pledge assets of the fund as security for such bonds, notes and other  
18 obligations, for any of the following purposes: paying the costs of  
19 acquiring, constructing, renovating, equipping, expanding,  
20 improving, or operating the assets of, or assets to be transferred to,  
21 the fund; paying expenses incident to or incurred in connection  
22 therewith; facilitating the transfer of any asset to the fund, including  
23 but not limited to, the refinance, extension, or reissuance of debt of  
24 the asset in the name of the fund.

25 c. The administrator may procure an independent fund manager  
26 that shall carry out the duties and obligations set forth by the  
27 administrator and approved by the board. The fund manager shall  
28 ensure the independent performance of all duties delegated to it by  
29 the administrator, and shall operate, manage, conduct, and control  
30 assets of the fund, and the subaccounts thereof, with the goal of  
31 maximizing the value of the assets in the fund over the long term.  
32 The fund manager shall be, or be affiliated with, a registered  
33 investment adviser under the "Investment Advisers Act of 1940,"  
34 15 U.S.C. s.80b-1 et seq., and shall have considerable public  
35 finance and public infrastructure experience. The manager shall be  
36 a fiduciary with respect to the fund and any appropriate subaccounts  
37 thereof. The administrator may delegate certain of its  
38 responsibilities to the manager, which may include but not be  
39 limited to, asset management, reporting requirements, procurement  
40 of consultants and legal services, and conducting, managing, and  
41 overseeing 360 reviews.

42 d. The administrator and the benefitting public entity, or its  
43 successor, shall meet annually with the fund manager to conduct a  
44 comprehensive contract review of the asset transfer agreement as  
45 follows, but not limited to: the prior year's management  
46 performance, including financial operations, capital investment, and  
47 future capital needs; the current year's budget; compliance with  
48 operating and performance standards as enumerated in the asset

1 transfer agreement; a forecast of future financial operations,  
2 including, if appropriate, projected user rates and charges; and  
3 recommendations for any amendments to the asset transfer  
4 agreement.

5  
6 6. (New section) a. The administrator shall ensure that every  
7 public entity that proposes an asset conveyance receives a 360  
8 review prior to completion of the conveyance. The administrator  
9 shall provide a report detailing the review to the board upon  
10 completion. The administrator shall retain, appoint, or procure a  
11 qualified contractor or vendor, which may include the fund  
12 manager, to conduct the 360 review, the performance of which shall  
13 be deemed the rendering of services of a technical and professional  
14 nature under subsection (a) of section 4 of P.L.1954, c.48 (C.52:34-  
15 9). A benefitting public entity shall provide to the qualified  
16 contractor or vendor any information necessary to allow for the  
17 conduct of a comprehensive 360 review, including but not limited  
18 to, fiscal information requested by the contractor or vendor, and an  
19 inventory of assets necessary to perform an enterprise asset  
20 optimization analysis pursuant to subsection b. of this section.

21 b. The report shall include, as appropriate:

22 (1) a credit and financial analysis that uses data and models  
23 comparable to those used by ratings agencies and private vendors to  
24 compare the benefitting public entity's current fiscal condition and  
25 projected baseline fiscal projections against the projected fiscal  
26 condition of the benefitting public entity with optimized assets and  
27 liabilities pursuant to the findings of the review;

28 (2) an enterprise asset optimization analysis that explores  
29 alternate organizational structures of revenue-generating assets,  
30 which may include, but not be limited to, alternate business plans,  
31 ownership structures, engineering analysis of underlying asset  
32 conditions, monetization strategies, and State and federal programs  
33 that can be leveraged to further enhance the revenue possibilities for  
34 the assets, as well as a list of findings for any asset optimization  
35 plan that may include, but not be limited to:

36 (a) the projected impact on customer rates and charges, both  
37 short-term and long-term;

38 (b) a list of risks, liabilities and responsibilities to be transferred  
39 to the fund or to other parties and those to be retained by the  
40 transferring entity;

41 (c) a preliminary estimate of the fair market value of the asset;

42 (d) an assessment of the impact that conveyance of the asset will  
43 have on the benefitting public entity's annual pension contributions  
44 to State-administered retirement systems and on its share of  
45 unfunded actuarial accrued liabilities;

46 (e) an estimate of the overall financial benefits that the  
47 conveyance may provide to a benefitting public entity;



1 (f) a comparison of the financial and non-financial benefits of  
2 the conveyance as compared to other options, including, without  
3 limitation, a continuation under the then existing public entity  
4 structure;

5 (g) a list of conditions precedent to the acceptance by the fund  
6 of an asset pursuant to a transfer agreement;

7 (3) a pension funding alternatives analysis that outlines how  
8 unfunded actuarial accrued liabilities and annual employer  
9 contributions would change under various funding scenarios,  
10 including through the conveyance of public assets; and

11 (4) a liability optimization analysis that examines current and  
12 future liabilities of the benefitting public entity and various  
13 alternatives available to a benefitting public entity to address those  
14 liabilities, including alternate debt structures and budgeting  
15 practices.

16 c. The administrator shall use the report in structuring any  
17 agreement governing the conveyance by a public entity of an asset  
18 to the fund. The board shall use the report when determining  
19 whether to accept an asset or an independent valuation thereof.

20 d. Notwithstanding that a public entity has not sought to make  
21 an asset conveyance, the administrator may nonetheless cause a 360  
22 review of a public entity to be conducted when:

23 (1) the administrator or board determines that emergent  
24 conditions, as described under section 5 of P.L.2015, c.18 (C.58:30-  
25 5), exist; or

26 (2) the board determines that a 360 review of a public entity  
27 with a public asset of regional or statewide significance is in the  
28 best interests of the State.

29

30 7. (New section) a. A public entity may convey to the fund an  
31 asset held by the public entity. The conveyance shall be governed  
32 by a transfer agreement, which shall be proposed by the  
33 administrator, in consultation with the board, and approved by the  
34 public entity. The transfer agreement shall apply the fair market  
35 valuation of the asset toward the payment of all or a portion of  
36 benefitting public entity's actuarially determined employer  
37 contribution, and share of any unfunded actuarial accrued liability,  
38 to the State-administered retirement systems in proportion to the  
39 share of the public entity's annual cash contribution to those  
40 systems. The State-administered retirement systems shall not be  
41 required or permitted to pay any expenses incurred in connection  
42 with the conveyance of an asset pursuant to this act, P.L. , c.  
43 (C. ) (pending before the Legislature as this bill.

44 b. An asset conveyance shall meet all of the following  
45 conditions:

46 (1) the fair market value of the public asset conveyed has been  
47 established by a qualified independent valuation agent unaffiliated  
48 with any of the State-administered retirement systems or with the

1 public entity making the conveyance, which valuation shall have  
2 been affirmed as acceptable by both the public entity and the  
3 administrator;

4 (2) the terms and conditions of the asset conveyance transaction  
5 will be no less favorable to the applicable retirement system than  
6 those in any transaction with a willing buyer;

7 (3) a retirement system will not pay any commission, fee, or  
8 other expense related to the asset conveyance transaction, other than  
9 the fee of a fund manager, associated experts, or any management  
10 or other fee or expense incurred in developing, operating, or  
11 managing the public asset, which fee shall exclude any fees,  
12 charges or expense reimbursements provided in section 6 of P.L. ,  
13 c. (C. ) (pending before the Legislature as this bill);

14 (4) the asset conveyance transaction is administratively feasible;

15 (5) the asset conveyance transaction is in the best interests of the  
16 retirement system or systems and its members and retirees and  
17 sufficiently protects the rights of such persons; and

18 (6) the asset conveyance transaction is consistent with all other  
19 standards and requirements provided under this act.

20 c. Should the administrator or board determine that emergent  
21 conditions, as described under section 5 of P.L.2015, c.18 (C.58:30-  
22 5), exist pursuant to paragraph (2) of subsection e. of section 6 of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill),  
24 and that action is necessary to address the emergent conditions, the  
25 following shall occur:

26 (1) the administrator shall ensure that a 360 review is performed  
27 pursuant to section 6 of P.L. , c. (C. ) (pending before the  
28 Legislature as this bill), which review shall be transmitted to the  
29 board and the public entity and available for public review; and

30 (2) the public entity shall, within 120 days of receipt of the  
31 report produced pursuant to the 360 review, undertake remedial  
32 action as necessary to address the emergent conditions, including,  
33 but not limited to:

34 (a) funding necessary capital and operational improvements  
35 through (i) necessary legislative or executive action to effectuate an  
36 increase in the charges, rates, or fees that will be paid for services  
37 generated by the public asset by users in the applicable jurisdiction  
38 or service area, (ii) entering into financing agreements, (iii)  
39 applying for and receiving grants, donations or other financial  
40 assistance from available public or private sources, (iv) procuring  
41 qualified vendors to make necessary improvements, or (v) any other  
42 action necessary to secure such funding;

43 (b) entering into a sale or long-term lease of the asset pursuant  
44 to applicable State law and any local ordinances or regulations,  
45 including under the "Water Infrastructure Protection Act,"  
46 P.L.2015, c.18 (C.58:30-2) or under any other law governing  
47 applicable public-private partnership agreements, as appropriate; or

1 (c) propose the asset for conveyance to the New Jersey  
2 Retirement Infrastructure Collateralized Holdings Fund pursuant to  
3 subsections a. and b. of this section; and

4 (3) The public entity shall provide notice to the public of its  
5 decision on its official Internet website. If an applicable official  
6 website does not exist, the public entity shall contact the  
7 Department of Community Affairs, and the notice shall be  
8 published on the official Internet website of the Department of  
9 Community Affairs.

10 d. Beneficial interests of 25 percent or more in a public asset  
11 held by the New Jersey Retirement Infrastructure Collateralized  
12 Holdings Fund may not be granted by the fund to a non-public  
13 entity until after the first day of the fifth year following conveyance  
14 of the asset to the fund.

15

16 8. (New section) a. A non-public entity may convey an asset to  
17 the fund pursuant to the provisions of this act, P.L. , c. (C. )  
18 (pending before the Legislature as this bill). The conveyance shall  
19 be governed by a transfer agreement, which shall be proposed by  
20 the administrator, in consultation with the board, and approved by  
21 the non-public entity. The State-administered retirement systems  
22 shall not be required or permitted to pay any expenses incurred in  
23 connection with the conveyance of an asset pursuant to this section.

24 b. An asset conveyance shall meet all of the following  
25 conditions:

26 (1) the fair market value of the asset conveyed has been  
27 established by a qualified independent valuation agent unaffiliated  
28 with any of the State-administered retirement systems or with the  
29 non-public entity making the conveyance, which valuation shall  
30 have been affirmed as acceptable by both the non-public entity and  
31 the administrator;

32 (2) the terms and conditions of the asset conveyance transaction  
33 will be no less favorable to the applicable retirement system than  
34 those in any transaction with a willing buyer;

35 (3) a retirement system will not pay any commission, fee, or  
36 other expense related to the asset conveyance transaction, other than  
37 the fee of a fund manager, associated experts, or any management  
38 or other fee or expense incurred in developing, operating, or  
39 managing the asset, which fee shall exclude any fees, charges or  
40 expense reimbursements provided in section 6 of P.L. , c.  
41 (C. ) (pending before the Legislature as this bill);

42 (4) the asset conveyance is administratively feasible;

43 (5) the asset conveyance is in the best interests of the retirement  
44 system or systems and its members and retirees and sufficiently  
45 protects the rights of such persons; and

46 (6) the asset conveyance transaction is consistent with all other  
47 standards and requirements provided under this act.

1 c. The administrator shall ensure that due diligence similar to  
2 that conducted pursuant to the 360 review provided in section 6 of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill),  
4 as applicable, is conducted for the conveyance of any asset by a  
5 non-public entity prior to completion of such conveyance. The  
6 administrator shall use the report generated by such due diligence in  
7 structuring any agreement governing the conveyance by a non-  
8 public entity of an asset to the fund. The board shall use the report  
9 when determining whether to accept an asset or an independent  
10 valuation thereof.

11

12 9. (New section) a. (1) An asset proposed for conveyance to  
13 the fund shall be valued by an independent valuation agent pursuant  
14 to paragraph (2) of this subsection, and shall be revalued  
15 periodically (a) if and as requested by the administrator, which  
16 revaluation shall not occur more than quarterly in any State fiscal  
17 year, (b) as deemed necessary by the board, and (c) at least once  
18 every year, whether discretionary or otherwise.

19 (2) Upon receipt of a written notice by a public or non-public  
20 entity of its intention to make an asset conveyance, which notice  
21 shall identify the asset, the administrator shall contract for the  
22 services of a qualified independent valuation agent to evaluate and  
23 conduct a valuation of the proposed conveyance.

24 The qualified independent valuation agent shall issue a report  
25 representing its opinion as to the valuation of the asset in  
26 accordance with an asset conveyance.

27 The asset value shall exclude proceeds counted in any prior  
28 actuarial valuation as a receivable and may be in an amount less any  
29 costs associated with consummating the asset conveyance.

30 An asset conveyance shall not be effectuated until after the  
31 report has been issued and both the administrator, upon approval  
32 from the board, and the public entity or non-public entity accept the  
33 proposed value. If either rejects the proposed value, the  
34 conveyance shall not be effectuated, and any written agreement for  
35 the conveyance of an asset shall be void.

36 d. The valuation shall serve as the basis for the beneficial  
37 interest assigned in corresponding certificates of trust to the State  
38 administered retirement accounts, accounting for the fair market  
39 value of the asset, less any costs associated with consummating the  
40 asset conveyance.

41 Upon execution of an asset transfer agreement, and pursuant  
42 thereto, the administrator shall provide for the transfer into the fund  
43 of the asset. Ownership in the trust fund shall be delineated by units  
44 which shall be evidenced by certificates issued by the trust fund to  
45 the State-administered retirement systems.

46 During such time as an asset remains in the fund, all new assets  
47 acquired by or for the asset shall be owned by the fund, the  
48 beneficial interests in which assets shall be in such amounts as are

1 dictated by the certificates of trust, except those assets which may  
2 only be held, licensed, acquired, or procured by a public entity  
3 making the conveyance, in which case such assets shall be held,  
4 licensed, acquired, or procured thereby on behalf of and for the  
5 benefit of the fund.

6 e. With respect to an asset conveyance by a benefitting public  
7 entity, a participating State-administered retirement system shall  
8 prepare and submit an annual supplemental report to the  
9 administrator and to holders of a certificate of trust that are  
10 members of the State-administered retirement system providing the  
11 following information: (1) an estimate of a member benefitting  
12 public entity's legacy pension liabilities less actuarial assets both  
13 without the value of the certificates of trust and including the value  
14 of the certificates of trust; and (2) the estimated employer  
15 contribution both without and including the anticipated cash  
16 distribution or any actuarially determined credit associated with the  
17 certificates of trust that the board, in consultation with the  
18 administrator and the Division of Investments, deems appropriate.  
19 For budgeting purposes, a benefitting public entity may apply the  
20 current year's value of the certificates of trust to its legacy pension  
21 liabilities and employer contributions for either the current or the  
22 following year.

23

24 10. (New section) a. The beneficial interests in all assets of the  
25 fund are to be accounted for in certificates of trust, which shall  
26 outline the terms by which that beneficial interest is to be realized  
27 and exercised.

28 b. Upon acceptance of an asset into the fund, the administrator  
29 shall assign the entire beneficial interest in that asset to the State-  
30 administered retirement system, as designated in a transfer  
31 agreement. A holder of a certificate of trust may sell or convey  
32 those beneficial interests to other entities, in consultation with the  
33 administrator and the board, for the purpose of ensuring the long-  
34 term viability of a retirement system or improving the financial  
35 returns and liquidity thereof.

36 c. The administrator shall ensure that the terms and conditions  
37 of the certificates of trust allow the underlying assets to be  
38 comingled or divided amongst accounts and subaccounts of the  
39 fund, or to be distributed to outside entities by the administrator, as  
40 necessary to provide for the most efficient management of the  
41 assets practicable. The terms of the certificates of trust shall  
42 provide for a continuous accurate reflection of the proportional  
43 beneficial interest in each asset pursuant to the certificates of trust  
44 for the various fund subaccounts.

45 d. Beneficial interests assigned by certificates of trust shall be  
46 in the same amount as the accepted fair market value of the asset,  
47 which shall exclude any fees, charges or expense reimbursements  
48 provided in section 6 of P.L. , c. (C. ) (pending before the

1 Legislature as this bill). The certificates of trust shall be issued to,  
2 or for the benefit of, the State-administered retirement system  
3 pursuant to written agreement. If the agreement designates more  
4 than one State-administered retirement system as the intended  
5 beneficiary of the transfer, the agreement shall also apportion the  
6 fund interest among them, and the fund interest shall be issued to,  
7 or for the benefit of, them in such proportion.

8  
9 11. Section 3 of P.L.2015, c.18 (C.58:30-3) is amended to read  
10 as follows:

11 3. As used in this act,

12 "Administrator" means the New Jersey Infrastructure Bank,  
13 created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4).

14 "360 review" means a comprehensive analysis that includes an  
15 assessment of a public entity's fiscal condition, an inventory of  
16 asset optimization opportunities as established in section 6 of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill),  
18 and an initial due diligence review of any public asset proposed for  
19 conveyance to the New Jersey Retirement Infrastructure  
20 Collateralized Holdings Fund, established pursuant to section 3 of  
21 P.L. , c. (C. ) (pending before the Legislature as this bill).

22 "Board" means the Board of Public Utilities.

23 "Capable private or public entity" means any private or public  
24 water system owner who, at the time of submitting a proposal to  
25 long-term lease or purchase public water or wastewater assets,  
26 currently (1) owns a system serving no less than the number of  
27 residential and commercial accounts as the system which the entity  
28 is proposing to lease or purchase, and (2) is not a significant  
29 noncomplier, as defined pursuant to section 3 of P.L.1977, c.7  
30 (C.58:10A-3), is not currently the subject of a formal enforcement  
31 action initiated by the New Jersey Department of Environmental  
32 Protection to address a material violation by the entity which has  
33 not been corrected over a reasonable period of time given the  
34 specific situation, or is not substantially out of compliance with an  
35 administrative consent order, settlement agreement, stipulation of  
36 settlement or judicial consent order entered into with the  
37 department. The term shall also mean and include the New Jersey  
38 Retirement Infrastructure Collateralized Holdings Fund, established  
39 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill).

41 "Department" means the Department of Environmental  
42 Protection.

43 "Director" means the Director of the Division of Local  
44 Government Services in the Department of Community Affairs.

45 "Governing body" means a "governing body" as defined in  
46 section 3 of the "New Jersey Wastewater Treatment Public-Private  
47 Contracting Act," P.L.1995, c.216 (C.58:27-19 through C.58:27-  
48 27).

1 "Licensed engineer" means a professional engineer licensed  
2 pursuant to P.L.1938, c.342 (C.45:8-27 et seq.).

3 "Long-term lease" means a lease of longer than 30 years under  
4 which the municipal owner seeks to transfer ownership of the  
5 system at the end of the lease term.

6 "Owner" means any municipality, except a municipality that is a  
7 city of the first class with a population of 270,000 or more  
8 according to the latest federal decennial census, that owns water or  
9 wastewater assets. Municipalities constituting a joint meeting, and  
10 the joint meeting itself shall not be considered an owner for the  
11 purposes of this definition.

12 "Qualified independent valuation agent" means an entity or  
13 person who is (1) accredited by the American Society of Appraisers  
14 to conduct appraisals or (2) an investment bank, trust company,  
15 accountant, engineer, or financial advisor qualified to perform fair  
16 market valuations of public assets or render fairness opinions on the  
17 valuation of public assets; and who is independent of the public  
18 entity making, and the trust fund receiving, a conveyance of one or  
19 more public assets.

20 "Registered apprenticeship program" means an apprenticeship  
21 program registered with and approved by the United States  
22 Department of Labor and which provides to each trainee combined  
23 classroom and on-the-job training under the direct and close  
24 supervision of a highly skilled worker in an occupation recognized  
25 as an apprenticeable trade, and which meets the program  
26 performance standards of enrollment and graduation under 29  
27 C.F.R. s.29.6.

28 "System" means the plants, structures, and other real and  
29 personal property of an owner that is, or is to be, acquired,  
30 constructed, or operated for the purpose of processing water or  
31 wastewater, including sewage, for distribution or treatment.

32 "Water or wastewater assets" means any system along with any  
33 other related buildings, equipment, or other infrastructure.  
34 (cf: P.L.2015, c.18, s.3)

35  
36 12. Section 5 of P.L.2015, c.18 (C.58:30-5) is amended to read  
37 as follows:

38 5. a. The determination that emergent conditions exist shall be  
39 made by certification of the mayor, the mayor's designee of the  
40 municipality, and a licensed engineer.

41 b. Emergent conditions shall exist if at least one of the  
42 following conditions is met:

43 (1) The system is located in an area designated by the  
44 Department of Environmental Protection as an Area of Critical  
45 Water Supply Concern I or II, or any future designation or newly  
46 added area of critical water supply concern;

47 (2) The owner of the system is a significant noncomplier, as  
48 defined pursuant to section 3 of P.L.1977, c.7 (C.58:10A-3), has

1 been the subject of a formal enforcement action initiated by the  
2 department, or is substantially out of compliance with an  
3 administrative consent order, settlement agreement, stipulation of  
4 settlement, or judicial consent order entered into with the  
5 department; or

6 (3) There is a present deficiency or violation of maximum  
7 contaminant levels established pursuant to the "Safe Drinking  
8 Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), concerning the  
9 availability or potability of water, or concerning the provision of  
10 water at adequate volume or pressure, or distribution or treatment of  
11 wastewater;

12 (4) There is a demonstrated lack of historical investment, repair,  
13 or sustainable maintenance as determined by the department, or  
14 material damage to the infrastructure of the system; or

15 (5) The system owner lacks the financial, technical, or  
16 managerial capacity to adequately address any of the foregoing on a  
17 sustainable basis or own and operate the system in a way that  
18 supports economic activity in the municipality on a sustainable  
19 basis.

20 c. Should the owner determine that one or more emergent  
21 conditions contained in subsection b. of this section exists and that  
22 it is necessary to take steps to effectuate the sale or long-term lease  
23 of its water or wastewater assets to a capable private or public  
24 entity pursuant to this act to address these emergent conditions and  
25 to operate and maintain the system, the owner shall: (1) through the  
26 utilization of applicable public procurement laws of the State of  
27 New Jersey retain the services of an independent financial advisor  
28 to review, analyze and report on the value of the system and the  
29 short and long term impacts to rate-payers of the cash-flow  
30 structure of the proposed transaction and to provide an estimate as  
31 to the financial requirements necessary to address the emergent  
32 conditions and to operate and maintain the system. Upon  
33 completion of the analysis and review, the independent financial  
34 advisor shall transmit its report to the owner; or (2) contact the  
35 administrator of the New Jersey Retirement Infrastructure  
36 Collateralized Holdings Fund and propose an asset conveyance  
37 pursuant to section 7 of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill). Within 10 days of the approval of the  
39 report [by] issued pursuant to this section, the owner shall transmit  
40 copies to the board, the director, and the department and shall make  
41 the report, available for public review.

42 d. After the independent financial advisor, or administrator, has  
43 completed its analysis of the financial aspects of the proposed  
44 transaction and has presented its report to the owner, a public  
45 hearing on the proposed emergent condition certification shall be  
46 held. The owner shall provide notice of the public hearing no less  
47 than 30 days prior to the date of the hearing. The notice shall  
48 prominently state the findings upon which the certification of



1 emergent conditions is based, a summary of the findings by the  
2 independent financial advisor, or administrator, and that the  
3 certification is in anticipation of a proposed long-term lease or sale  
4 of water or wastewater assets to a capable private or public entity.  
5 Notice of the public hearing shall be published on the official  
6 Internet website of the municipality and at least once in one or more  
7 newspapers circulating in the municipality. Notice of the public  
8 hearing shall be published on the official Internet website of the  
9 county and at least once in one or more newspapers circulating in  
10 the county. If an applicable official website does not exist, notice  
11 of the public hearing shall be published on the official Internet  
12 website of the Department of Community Affairs.

13 e. After the public hearing and after giving due consideration  
14 to the findings of the independent financial advisor or administrator,  
15 the governing body of the owner shall, by resolution adopted by at  
16 least two-thirds of its authorized membership, or, with respect to an  
17 asset conveyance to the Retirement Infrastructure Collateralized  
18 Holdings Fund, adopted by a majority of its authorized  
19 membership, certify that one or more emergent conditions exist and  
20 that the owner intends to sell or long-term lease its water or  
21 wastewater assets to a capable private or public entity to address  
22 these emergent conditions and to operate and maintain the system.  
23 Within five days of the adoption of the resolution, the governing  
24 body of the owner shall transmit a true copy of the resolution, to the  
25 department, the board, and the director. Within 30 days of receipt  
26 of the resolution by the department, the department shall approve or  
27 reject the owner's emergent conditions certification as contained in  
28 the resolution.

29 f. Upon receipt of the approval of the emergent conditions  
30 certification by the Department of Environmental Protection, the  
31 owner shall publish notice of the approval if the owner chooses to  
32 proceed with the sale or long-term lease of its water or wastewater  
33 assets to a capable private or public entity. The notice shall  
34 prominently state that the certification is in anticipation of a long-  
35 term lease or sale of water or wastewater assets to a capable private  
36 or public entity. Notice of the approval shall be published on the  
37 official Internet website of the municipality and at least once in one  
38 or more newspapers circulating in the municipality, and shall  
39 prominently state that a petition may be filed within 45 days after  
40 the publication of such notice to require a referendum before a  
41 resolution authorizing the long-term lease or sale of water or  
42 wastewater assets may take effect. If an applicable official website  
43 does not exist, notice of the approval shall be published on the  
44 official Internet website of the Department of Community Affairs.

45 g. A petition may be filed with the municipal clerk, no later  
46 than 45 days after the notice of the approval of the emergent  
47 conditions certification is published, protesting the lease or sale of  
48 water or wastewater assets without a public referendum. If the

1 petition is signed by a number of legal voters of the municipality  
2 equal to at least 15% of the total votes cast in the municipality at  
3 the last election at which members of the General Assembly were  
4 elected, a resolution to lease or sell water or wastewater assets shall  
5 not take effect unless the lease or sale of such assets is approved  
6 pursuant to R.S.40:62-4 and R.S.40:62-5. If a petition is not filed  
7 pursuant to this subsection, a resolution to lease or sell water or  
8 wastewater assets shall not be subject to a public referendum.

9 (cf: P.L.2015, c.18, s.5)

10

11 13. Section 6 of P.L.2015, c.18 (C.58:30-6) is amended to read  
12 as follows:

13 6. a. A request for qualifications from a capable private or  
14 public entity wishing to be considered for the long-term lease or  
15 sale of the owner's system shall be advertised after the emergent  
16 conditions certification pursuant to subsection e. of section 5 of  
17 P.L.2015, c.18 (C.58:30-5), but no less than 30 days prior to the  
18 date on which responses to the request are due. The advertisement  
19 of the request for qualifications shall be published on the official  
20 Internet website of the municipality and at least once in one or more  
21 newspapers circulating in the municipality. An owner shall also  
22 publish the advertisement of the request for qualifications at least  
23 once in one or more newspapers with Statewide circulation. If an  
24 applicable official website does not exist, the advertisement of the  
25 request for qualifications shall be published on the official Internet  
26 website of the Department of Community Affairs.

27 b. After an emergent conditions certification is made pursuant  
28 to subsection e. of section 5 of P.L.2015, c.18 (C.58:30-5), the  
29 owner shall determine the qualified respondents. The owner shall  
30 issue a request for proposals to each qualified respondent no less  
31 than 14 days prior to the date established for submission of the  
32 proposals. The request for proposals shall include relevant  
33 technical submissions, documents, and criteria including but not  
34 limited to a description of the facilities and the debt related thereto  
35 and the evaluation criteria to be used in the selection of the  
36 designated respondent. The proposals shall include and shall be  
37 evaluated by, at a minimum, the following:

38 (1) the documented deficiencies of the owner's system upon  
39 which the emergent conditions certification is based and a  
40 description of the corrective measures to be undertaken by the  
41 respondent to address and correct the identified emergent  
42 conditions;

43 (2) a description of the financial, managerial, and technical  
44 capabilities of the respondent to operate and maintain the system in  
45 compliance with all applicable State and federal laws and  
46 regulations, as well as a description of all the respondent's  
47 outstanding and pending violations of the "Pollution Prevention  
48 Act," P.L.1991, c.235 (C.13:1D-35 et seq.); P.L.1942, c.308

1 (C.58:11-9.1 et seq.); "The Realty Improvement Sewerage and  
2 Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); and the  
3 "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.);

4 (3) an analysis of the relevant expenditures associated with such  
5 activities and the projected impact on customer rates;

6 (4) an analysis of any Internal Revenue Code or other tax code  
7 issues that may arise from the long-term lease or sale of a publicly  
8 funded water or wastewater asset, as well as any potential short-  
9 term or long-term costs arising there from;

10 (5) a long-term capital improvement or asset management plan;  
11 and

12 (6) any other pertinent information required of or deemed  
13 appropriate by the owner.

14 c. Upon a review of the proposals submitted by qualified  
15 respondents, the governing body of an owner shall, by resolution  
16 adopted by at least two-thirds of its authorized membership,  
17 designate one qualified respondent, whose proposal the governing  
18 body finds to be the most advantageous to the public, taking into  
19 consideration the evaluation criteria set forth in the request for  
20 proposals and as specified under subsection b. of this section. The  
21 resolution shall include a detailed summary of the governing body's  
22 findings that the proposal of the designated respondent is most  
23 advantageous to the public. The summary shall be published in  
24 accordance with the notification requirements of section 5 of  
25 P.L.2015, c.18 (C.58:30-5).

26 d. The administrator of the New Jersey Retirement Infrastructure  
27 Collateralized Holdings Fund shall not be subject to the  
28 requirements concerning qualifications and proposals in subsections  
29 a. or b. of this section.

30 When one of the proposals submitted by qualified respondents is  
31 from the administrator of such fund, the governing body, in  
32 deciding which proposal is most advantageous to the public under  
33 subsection c. of this section, shall consider the economic benefit  
34 accorded to the municipality and public, as determined through a  
35 360 review, and the value of the asset conveyance against any  
36 applicable pension liabilities.

37 (cf: P.L.2015, c.18, s.6)

38

39 14. Section 7 of P.L.2015, c.18 (C.58:30-7) is amended to read  
40 as follows:

41 7. a. After the designated respondent is selected, negotiations  
42 for a contract for the lease or sale of the water or wastewater assets  
43 may commence between the owner and the designated respondent.

44 b. (1) Every proposed contract shall include a clause stating that  
45 to the extent it does not violate any existing collective bargaining  
46 agreements between the capable private or public entity and its  
47 employees, the capable private or public entity shall give first

1 consideration in hiring to any public employees displaced by the  
2 long-term lease or sale of the water or waste water assets.

3 (2) After an agreement on a proposed contract is reached  
4 between the owner and the designated respondent, the governing  
5 body of the owner shall, by resolution adopted by at least two-thirds  
6 of its authorized membership, cause the proposed contract to be  
7 submitted to the board for approval and cause the proposed use of  
8 proceeds of the long-term lease or sale to be submitted to the  
9 director for approval.

10 c. (1) The proposed contract submitted to the board shall  
11 include the rent or sale price, any appraisals supporting the rent or  
12 sale price, documentation regarding the defeasance of debt, and any  
13 other information requested by the board. The board shall approve  
14 or reject the proposed contract within 90 days of receipt thereof. If  
15 no disposition is made within 90 days, the proposed contract shall  
16 be deemed approved.

17 (2) For the purposes of rate making and recovery, the board  
18 shall accept the negotiated sale price between the owner and the  
19 designated respondent as the new rate base effective as of the date  
20 of the approval of the long-term lease or sale, as may be the case,  
21 provided the price is deemed reasonable.

22 The rent or sale price shall be deemed reasonable if it meets the  
23 following conditions:

24 (a) The rent or sale price is sufficient to defease the debt of the  
25 owner; and either

26 (b) (i) The rent or sale price is within the range of any  
27 appraisals obtained with respect to the long-term lease or sale of the  
28 water or wastewater assets; or

29 (ii) If there is little or no established rate base for the water or  
30 wastewater assets, the rent or sale price is reasonably comparable to  
31 a proxy rate base equivalent to the rate base of the designated  
32 respondent.

33 (3) In valuing the water or wastewater assets, appraisers shall  
34 comply with the Uniform Standards of Professional Appraisal  
35 Practice promulgated by the Appraisal Standards Board of the  
36 Appraisal Foundation.

37 (4) In valuing the water or wastewater assets and for the  
38 purposes of rate making, the original source of funding for any part  
39 of the water or wastewater assets shall not be relevant.

40 (5) Reasonable and prudent transaction, closing, and transition  
41 costs incurred by the designated respondent shall be recoverable in  
42 rates.

43 (6) The proposed use of proceeds submitted to the director shall  
44 include the rent or sale price, the total amount required to defease  
45 debt, any costs associated with compliance with the Internal  
46 Revenue Code or other tax code that may arise from the long-term  
47 lease or sale of a publicly funded water or wastewater asset, the  
48 remaining proceeds after the defeasance of debt and Internal

1 Revenue Service compliance costs, the amount dedicated to the  
2 following, in order of priority: compliance with the provisions of  
3 the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et  
4 seq.); P.L.1942, c.308 (C.58:11-9.1 et seq.); "The Realty  
5 Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199  
6 (C.58:11-23 et seq.); and the "Safe Drinking Water Act," P.L.1977,  
7 c.224 (C.58:12A-1 et seq.), any outstanding fees or fines owed by  
8 the entity to any federal, State, county or local governmental units,  
9 capital improvements, community improvements, and general  
10 purposes of the owner. The amount dedicated to capital  
11 improvements shall comply with a previously adopted long-term  
12 capital improvement plan or asset management plan, and must  
13 represent at least 50 percent of the remaining proceeds once the  
14 debt is defeased. The director shall approve or reject the proposed  
15 use of proceeds within 30 days of receipt thereof. If no disposition  
16 is made within 30 days, the proposed use of proceeds shall be  
17 deemed approved.

18 d. The New Jersey Retirement Infrastructure Collateralized  
19 Holdings Fund shall not be subject to the requirements in this  
20 section for sale or lease of an asset.

21 (cf: P.L.2015, c.18, s.7)

22

23 15. There shall be appropriated from the General Fund to the  
24 New Jersey Retirement Investment Collateralized Holdings Fund  
25 \$20,000,000 for the operating and administrative expenses of the  
26 fund and for the performance by the administrator and the board of  
27 their responsibilities hereunder.

28

29 16. This act shall take effect immediately.

30

31

32

## STATEMENT

33

34 This bill, known as the "New Jersey Retirement Infrastructure  
35 Collateralized Holdings Fund Act," establishes a trust fund for the  
36 conveyance of certain assets for the benefit of the State-  
37 administered retirement systems and requires the remediation of  
38 emergent conditions for certain public assets.

39 The fund, known as the New Jersey Retirement Infrastructure  
40 Collateralized Holdings (RICH) Fund, is established in but not of  
41 the Department of the Treasury and is intended to operate as a trust.  
42 The fund and its assets are to be maintained as a separate account  
43 segregated from all other funds of the State, the bank, and the non-  
44 State public employers participating in State-administered  
45 retirement systems. Beneficial ownership of fund assets will be  
46 determined pursuant to certificates of trust issued to the State-  
47 administered retirement systems, and a certificate holder may sell or

1 convey its beneficial interest to other entities, in consultation with  
2 the administrator and the board for certain purposes.

3 The fund will be administered by the New Jersey Infrastructure  
4 Bank and will have a board comprised of the chairperson of the  
5 New Jersey Infrastructure Bank, the director of the Division of  
6 Investments, and one member of the public appointed by the  
7 Governor with the advice and consent of the Senate. The board is  
8 required to meet every calendar quarter and is to act as a fund  
9 fiduciary.

10 The bill permits the conveyance to the fund of assets by both  
11 public and non-public entities, which conveyance will be governed  
12 by an asset transfer agreement. For public entities, the  
13 administrator will retain a vendor to conduct a 360 review of the  
14 public entity, which will include:

15 (1) a credit and financial analysis to compare the public entity's  
16 current fiscal condition and fiscal projections against the projected  
17 fiscal condition of the public entity with optimized assets and  
18 liabilities;

19 (2) an enterprise asset optimization analysis that explores  
20 alternate organizational structures of revenue-generating assets;

21 (3) a pension funding alternatives analysis that outlines how  
22 unfunded actuarial accrued liabilities and annual employer  
23 contributions would change under various funding scenarios,  
24 including through the conveyance of public assets; and

25 (4) a liability optimization analysis that examines current and  
26 future liabilities of the public entity and various alternatives to  
27 address those liabilities.

28 The administrator will use the report to structure an agreement  
29 governing the asset conveyance, and the board will use the report  
30 when determining whether to accept an asset or its independent  
31 valuation. The fair market valuation of the asset will be applied  
32 toward the payment of all or a portion of the public entity's  
33 actuarially determined employer contribution, and share of any  
34 unfunded actuarial accrued liability, to the State-administered  
35 retirement systems in proportion to the share of the public entity's  
36 annual cash contribution to those systems. The State-administered  
37 retirement systems will not be required or permitted to pay any  
38 expenses incurred in connection with the conveyance of an asset  
39 under the bill.

40 Even if a public entity has not sought to make an asset  
41 conveyance, the administrator may nonetheless cause a 360 review  
42 of a public entity to be conducted when:

43 (1) the administrator or board determines that emergent  
44 conditions exist; or

45 (2) the board determines that a 360 review of a public entity  
46 with a public asset of regional or statewide significance is in the  
47 best interests of the State.

1 For a non-public entity, the fund administrator will ensure that  
2 due diligence similar the 360 review is conducted prior to  
3 completion of the conveyance.

4 For conveyances by both public and non-public entities, the fund  
5 administrator is required to procure a qualified independent  
6 valuation agent to conduct a valuation of the asset, and the asset  
7 must be revalued periodically and at least once every year. An asset  
8 conveyance cannot be effectuated until a valuation report has been  
9 issued and both the administrator, upon approval from the board,  
10 and the public entity or non-public entity accept the proposed value.

11 Finally, the bill amends the "Water Infrastructure Protection  
12 Act," N.J.S.A.58:30-1 et seq., to allow a municipality with a water  
13 or wastewater asset under emergent conditions to include  
14 conveyance of the asset to the RICH fund as an option under that  
15 law.

16 The bill appropriates \$20,000,000 for the operating and  
17 administrative expenses of the New Jersey Retirement Investment  
18 Collateralized Holdings Fund and for the performance by the  
19 administrator and the board of their responsibilities hereunder.