

ASSEMBLY, No. 2711

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1997

By Assemblymen GREGG, GARRETT, Sacco, DeCroce,
Bateman, Bodine, Augustine, Lance, Assemblywomen Murphy,
Myers and Assemblyman Malone

1 AN ACT concerning the approval of certain board of education lease
2 purchase agreements, supplementing chapter 20 of Title 18A of the
3 New Jersey Statutes and amending N.J.S.18A:20-4.2.

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

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8 1. N.J.S.18A:20-4.2 is amended to read as follows:

9 18A:20-4.2. The board of education of any school district may, for
10 school purposes:

11 (a) Purchase, take and condemn lands within the district and lands
12 not exceeding 50 acres in extent without the district but situate in a
13 municipality or municipalities adjoining the district, but no more than
14 25 acres may be so acquired in any one such municipality, without the
15 district, except with the consent, by ordinance, of such municipality;

16 (b) Grade, drain and landscape lands owned or to be acquired by
17 it and improve the same in like manner;

18 (c) Erect, lease for a term not exceeding 50 years, enlarge,
19 improve, repair or furnish buildings;

20 (d) Borrow money therefor, with or without mortgage; in the case
21 of a type II district without a board of school estimate, when
22 authorized so to do at any annual or special school election; and in the
23 case of a type II district having a board of school estimate, when the
24 amount necessary to be provided therefor shall have been fixed,
25 determined and certified by the board of school estimate; and in the
26 case of a type I district, when an ordinance authorizing expenditures
27 for such purpose is finally adopted by the governing body of a
28 municipality comprised within the district; provided, however, that no
29 such election shall be held nor shall any such resolution of a school
30 estimate board or ordinance of a municipal governing body be
31 introduced to authorize any lease of any building for a term exceeding
32 one year, until the proposed terms of such lease have been reviewed

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

Matter underlined thus is new matter.

1 and approved by the Commissioner of Education and the Local
2 Finance Board in the Department of Community Affairs;

3 (e) Construct, purchase, lease or otherwise acquire a building with
4 the federal government, the State, a political subdivision thereof or any
5 other individual or entity properly authorized to do business in the
6 State; provided that: (1) the noneducational uses of the building are
7 compatible with the establishment and operation of a school, as
8 determined by the Commissioner of Education; (2) the portion of the
9 building to be used as a school meets regulations of the Department of
10 Education; (3) the board of education has complied with the
11 provisions of law and regulations relating to the selection and approval
12 of sites; and (4) in the case of a lease, that any lease in excess of five
13 years shall be approved by the Commissioner of Education and the
14 Local Finance Board in the Department of Community Affairs;

15 (f) Acquire by lease purchase agreement a site and school building
16 in accordance with the procedures established pursuant to section 2 of
17 P.L. c. (C.) (now pending before the Legislature as this bill);
18 provided that the site and building meet guidelines and regulations of
19 the Department of Education and that any lease purchase agreement
20 in excess of five years shall be approved by the Commissioner of
21 Education as in the best interest of the school district after determining
22 that the relationship of the proposed lease purchase project to the
23 district's goals and objectives established pursuant to P.L.1975, c.212
24 (C.18A:7A-1 et seq.) has clearly been established; and provided that
25 for any lease purchase agreement in excess of five years the Local
26 Finance Board in the Department of Community Affairs shall
27 determine within 30 days that the cost and the financial terms and
28 conditions of the agreement are reasonable. As used herein, a "lease
29 purchase agreement" refers to any agreement which gives the board of
30 education as lessee the option of purchasing the leased premises during
31 or upon termination of the lease, with credit toward the purchase price
32 of all or part of rental payments which have been made by the board
33 of education in accordance with the lease. As part of such a
34 transaction approved by the Commissioner of Education, the board of
35 education may transfer or lease land or rights in land, including any
36 building thereon, after publicly advertising for proposals for the
37 transfer for nominal or fair market value, to the party selected by the
38 board of education, by negotiation or otherwise, after determining that
39 the proposal is in the best interest of the taxpayers of the district, to
40 construct or to improve and to lease or to own or to have ownership
41 interests in the site and the school building to be leased pursuant to
42 such lease purchase agreement, notwithstanding the provisions of any
43 other law to the contrary. The land and any building thereon which is
44 described in a lease purchase agreement entered into pursuant to this
45 amendatory act, shall be deemed to be and treated as property of the
46 school district, used for school purposes pursuant to R.S.54:4-3.3, and

1 shall not be considered or treated as property leased to another whose
2 property is not exempt, and shall not be assessed as real estate
3 pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease
4 purchase agreement authorized by this section shall contain a provision
5 making payments thereunder subject to the annual appropriation of
6 funds sufficient to meet the required payments or shall contain an
7 annual cancellation clause and shall require all construction contracts
8 let by public school districts or let by developers or owners of
9 property used for school purposes to be competitively bid, pursuant to
10 P.L.1977, c.114 (N.J.S.18A:18A-1 et seq.);

11 (g) Establish with an individual or entity authorized to do business
12 in the State a tenancy in common, condominium, horizontal property
13 regime or other joint ownership arrangement on a site contributed by
14 the school district; provided the following conditions are met:

15 (1) The individual or entity agrees to construct on the site, or
16 provide for the construction thereon, a building or buildings for use of
17 the board of education separately or jointly with the individual or
18 entity, which shall be subject to the joint ownership arrangement;

19 (2) The provision of the building shall be at no cost or at a reduced
20 cost to the board of education;

21 (3) The school district shall not make any payment for use of the
22 building other than its pro rata share of costs of maintenance and
23 improvements;

24 (4) The noneducational uses of the building are compatible with the
25 establishment and operation of a school, as determined by the
26 Commissioner of Education;

27 (5) The portion of the building to be used as a school, and the site,
28 meet regulations of the Department of Education; and

29 (6) Any such agreement shall be approved by the Commissioner of
30 Education and the Local Finance Board in the Department of
31 Community Affairs.

32 (cf: P.L.1991,c.477)

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34 2. (New section) Prior to voting on a resolution to enter into a
35 lease purchase agreement pursuant to subsection (f) of
36 N.J.S.18A:40-4.2, a board of education shall have published a legal
37 notice and shall hold a public hearing to discuss and to receive public
38 comment on lease purchase agreements and other means of financing
39 school facilities. Not sooner than 14 days after the public hearing, the
40 board may adopt, by a majority vote, a resolution proposing a lease
41 purchase agreement. Following the adoption of the resolution, the
42 board shall have published a legal notice and shall hold a second public
43 hearing at which the lease purchase proposal shall be explained and the
44 public shall be afforded the opportunity to ask questions and comment.
45 Not sooner than 14 days after the second public hearing the board
46 may, by an affirmative vote by two-thirds of the members of the board,

1 adopt a resolution authorizing the chief school administrator and the
2 board secretary or business administrator to submit the question of
3 entering into the lease purchase agreement to the voters of the school
4 district at a regular or special school election. If a majority of the
5 voters approve, the district may proceed with the lease purchase
6 agreement as provided in subsection (f) of N.J.S.18A:40-4.2.

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8 3. This act shall take effect immediately.

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STATEMENT

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13 This bill requires voter approval before a school district may enter
14 into a lease purchase agreement for the construction or renovation of
15 a school building. The bill also provides that prior to placing the lease
16 purchase proposal on the ballot, a board of education would be
17 required to hold two public hearings and secure an affirmative vote
18 from two-thirds of the board's membership. In addition, the bill
19 requires that all construction contracts let by boards of education be
20 competitively bid.

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25 Requires voter approval of a school district lease purchase agreement.