

ASSEMBLY, No. 2793

STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1997

By Assemblymen KAVANAUGH, MALONE, Augustine, Blee
and Assemblywoman Murphy

1 AN ACT authorizing the issuance of bonds, notes or other obligations
2 by the New Jersey Economic Development Authority for the
3 purposes of financing, in full or in part, the State's portion of the
4 unfunded accrued liability under the State retirement systems and
5 supplementing Title 34 of the Revised Statutes.
6

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

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10 1. This act shall be known and may be cited as the "Pension Bond
11 Financing Act of 1997."
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13 2. The Legislature finds and declares that:

14 a. The State currently makes contributions on an annual basis to
15 fund the State's obligations under its various pension funds and
16 retirement systems, consisting, in part, of the "unfunded accrued
17 liability contribution" representing pension benefits earned in prior
18 years which, pursuant to standard actuarial practices, are not yet fully
19 funded.

20 b. The State's current unfunded accrued liability is approximately
21 \$3.2 billion for the following State pension funds and retirement
22 systems: the Teachers' Pension and Annuity Fund; the Public
23 Employees' Retirement System - State portion only; the Police and
24 Firemen's Retirement System - State portion only; the State Police
25 Retirement System; the Judicial Retirement System; the Prison
26 Officers' Pension Fund; and the Consolidated Police and Firemen's
27 Pension Fund, and the primary reason for this unfunded accrued
28 liability is the required inclusion of funding for pension adjustment or
29 cost-of-living-adjustment benefits within these funds or systems.

30 c. It is in the public interest to fully fund this unfunded accrued
31 liability through the issuance of bonds, notes or other obligations by
32 the New Jersey Economic Development Authority which shall be
33 retired through annual payments to be made by the State, subject to
34 appropriation by the State Legislature.

35 d. By issuing bonds, notes or other obligations to fully fund this
36 unfunded accrued liability, the State will achieve significant savings

1 and will eliminate the need for pension contributions on an annual
2 basis to fund this unfunded accrued liability.

3 e. It is anticipated that the bonds, notes or other obligations to be
4 issued will be amortized over a shorter period of time than the
5 actuarial amortization; and the difference between the payment of
6 principal and interest on the bonds, notes or other obligations and the
7 estimated contributions by the State under the actuarial amortization
8 will provide significant savings to the State.

9
10 3. As used in this act:

11 a. "Bonds" means bonds, notes or other obligations issued by the
12 authority pursuant to this act.

13 b. "New Jersey Economic Development Authority" or "authority"
14 means the New Jersey Economic Development Authority created
15 pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

16 c. "Refunding bonds" means bonds, notes or other obligations
17 issued to refinance bonds, notes or other obligations previously issued
18 by the authority pursuant to section 4 of this act.

19 d. "Unfunded accrued pension liability" means the unfunded
20 accrued liability of the State under: the Teachers' Pension and Annuity
21 Fund, determined as of March 31, 1996 under N.J.S.18A:66-18; the
22 Judicial Retirement System, determined as of June 30, 1996 under
23 section 33 of P.L.1973, c.140 (C.43:6A-33); the Prison Officers'
24 Pension Fund, determined as of June 30, 1996 under P.L.1941, c.220
25 (C.42:7-7 et seq.); the Public Employees' Retirement System,
26 determined as of March 31, 1996 under section 24 of P.L.1954, c.84
27 (C.43:15A-24); the Consolidated Police and Firemen's Pension Fund,
28 determined as of June 30, 1996 under R.S.43:16-5; the Police and
29 Firemen's Retirement System, determined as of June 30, 1995 under
30 section 15 of P.L.1944, c.255 (C.43:16A-15); and the State Police
31 Retirement System, determined as of June 30, 1996 under section 34
32 of P.L.1965, c.89 (C.53:5A-34), and certified by the State Treasurer
33 to the authority pursuant to section 4 of this act.

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35 4. Notwithstanding the provisions of any law, rule, regulation or
36 order to the contrary:

37 a. The authority shall have the power, pursuant to the provisions
38 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
39 refunding bonds, incur indebtedness and borrow money secured, in
40 whole or in part, by monies received pursuant to sections 5 and 6 of
41 this act, for the purpose of providing funds for the payment, in full or
42 in part, of the unfunded accrued pension liability, as such unfunded
43 accrued pension liability is certified by the State Treasurer, and any
44 costs related to the issuance thereof. The authority may establish
45 reserve or other funds to further secure bonds and refunding bonds.

46 b. The authority may, in any resolution authorizing the issuance of

1 bonds or refunding bonds, pledge the contract with the State
2 Treasurer, provided for in section 6 of this act, or any part thereof, for
3 the payment or redemption of the bonds or refunding bonds, and
4 covenant as to the use and disposition of money available to the
5 authority for payments of bonds and refunding bonds. All costs
6 associated with the issuance of bonds and refunding bonds by the
7 authority for the purposes set forth in this act may be paid by the
8 authority from amounts it receives from the proceeds of the bonds or
9 refunding bonds and from amounts it receives pursuant to sections 5
10 and 6 of this act, which costs may include, but are not limited to, any
11 costs relating to the issuance of the bonds or refunding bonds,
12 administrative costs of the authority attributable to the payment of the
13 unfunded accrued pension liability, and costs attributable to the
14 agreements described in subsection c. of this section. The bonds or
15 refunding bonds shall be authorized by resolution, which shall stipulate
16 the manner of execution and form of the bonds, whether the bonds are
17 in one or more series, the date or dates of issue, time or times of
18 maturity, the rate or rates of interest payable on the bonds, which may
19 be at fixed rates or variable rates, and which interest may be current
20 interest or may accrue, the denomination or denominations in which
21 the bonds are issued, conversion or registration privileges, the sources
22 and medium of payment and place or places of payment, terms of
23 redemption, privileges of exchangeability or interchangeability, and
24 entitlement to priorities of payment or security in the amounts to be
25 received by the authority pursuant to sections 5 and 6 of this act. The
26 bonds may be sold at a public or private sale as a price or prices
27 determined by the authority. The authority is authorized to enter into
28 any agreements necessary or desirable to effectuate the purposes of
29 this section, including agreements to sell bonds or refunding bonds to
30 any person and to comply with the laws of any jurisdiction relating
31 thereto.

32 c. In connection with any bonds or refunding bonds issued
33 pursuant to this act, the authority may also enter into any revolving
34 credit agreement, agreement establishing a line of credit or letter of
35 credit, reimbursement agreement, interest rate exchange agreement,
36 currency exchange agreement, interest rate floor or cap, options, puts
37 or calls to hedge payment, currency, rate, spread or similar exposure,
38 or similar agreements, float agreements, forward agreements,
39 insurance contract, surety bond, commitment to purchase or sell
40 bonds, purchase or sale agreement, or commitments or other contracts
41 or agreements and other security agreements approved by the
42 authority.

43 d. No resolution adopted by the authority authorizing the issuance
44 of bonds or refunding bonds pursuant to this act shall be adopted or
45 otherwise made effective without the approval in writing of the State
46 Treasurer. Bonds or refunding bonds may be issued without obtaining

1 the consent of any department, division, commission, board, bureau or
2 agency of the State, other than the approval as required by this
3 subsection, and without any other proceedings or the occurrence of
4 any other conditions or other things other than those proceedings,
5 conditions or things which are specifically required by this act.

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

21 f. The authority is authorized to engage, subject to the approval of
22 the State Treasurer and in such manner as the State Treasurer shall
23 determine, the services of financial advisors and experts, placement
24 agents, underwriters, appraisers, and such other advisors, consultants
25 and agents as may be necessary to effectuate the purposes of this act.

26 g. The proceeds from the sale of the bonds, other than refunding
27 bonds, issued pursuant to this act, after payment of any costs related
28 to the issuance of such bonds, shall be paid by the authority to the
29 Teachers' Pension and Annuity Fund, the Judicial Retirement System,
30 the Prison Officers' Pension Fund, the Public Employees' Retirement
31 System, the Consolidated Police and Firemen's Pension Fund, the
32 Police and Firemen's Retirement System, and the State Police
33 Retirement System to be applied to the payment, in full or in part, of
34 the unfunded accrued pension liability of the State under these funds
35 and systems as directed by the State Treasurer, or in such other
36 manner as the State Treasurer and the authority may determine.

37 h. All bonds or refunding bonds issued by the authority are deemed
38 to be issued by a body corporate and politic of the State for an
39 essential governmental purpose, and the interest thereon and the
40 income derived from all funds, revenues, incomes and other moneys
41 received for or to be received by the authority and pledged and
42 available to pay or secure the payment on bonds or refunding bonds
43 and the interest thereon, shall be exempt from all taxes levied pursuant
44 to the provisions of Title 54 of the Revised Statutes or Title 54A of
45 the New Jersey Statutes, except for transfer, inheritance and estate
46 taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

1 i. The State hereby pledges and covenants with the holders of any
2 bonds or refunding bonds issued pursuant to the provisions of this act,
3 that it will not limit or alter the rights or powers vested in the
4 authority by this act, nor limit or alter the rights or powers of the State
5 Treasurer in any manner which would jeopardize the interest of the
6 holders or any trustee of such holders, or inhibit or prevent
7 performance or fulfillment by the authority or the State Treasurer with
8 respect to the terms of any agreement made with the holders of these
9 bonds or refunding bonds or agreements made pursuant to subsection
10 c. of section 4 of this act except that the failure of the Legislature to
11 appropriate moneys for any purpose of this act shall not be deemed a
12 violation of this section.

13 j. Notwithstanding any restriction contained in any other law, rule,
14 regulation or order to the contrary, the State and all political
15 subdivisions of this State, their officers, boards, commissioners,
16 departments or other agencies, all banks, bankers, trust companies,
17 savings banks and institutions, building and loan associations, saving
18 and loan associations, investment companies and other persons
19 carrying on a banking or investment business, and all executors,
20 administrators, guardians, trustees and other fiduciaries, and all other
21 persons whatsoever who now are or may hereafter be authorized to
22 invest in bonds or other obligations of the State, may properly and
23 legally invest any sinking funds, moneys or other funds, including
24 capital, belonging to them or within their control, in any bonds or
25 refunding bonds issued by the authority under the provisions of this
26 act; and said bonds and refunding bonds are hereby made securities
27 which may properly and legally be deposited with, and received by any
28 State or municipal officers or agency of the State, for any purpose for
29 which the deposit of bonds or other obligations of the State is now, or
30 may hereafter be, authorized by law.

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32 5. The State Treasurer shall, in each State fiscal year, pay from the
33 General Fund to the authority, in accordance with a contract or
34 contracts between the State Treasurer and the authority, authorized
35 pursuant to section 6 of this act, an amount equivalent to the amount
36 due to be paid in such State fiscal year to pay the debt service incurred
37 for such State fiscal year on the bonds or refunding bonds of the
38 authority issued pursuant to this act and any additional costs
39 authorized by section 4 of this act, provided that all such payments
40 from the General Fund shall be subject to, and dependent upon,
41 appropriations being made from time to time by the Legislature for
42 such purposes.

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44 6. The State Treasurer and the authority are authorized to enter
45 into one or more contracts to implement the payment arrangement that
46 is provided for in section 5 of this act. The contract or contracts shall

1 provide for payment by the State Treasurer of the amounts required to
2 be paid pursuant to section 5 of this act and shall set forth the
3 procedure for the transfer of moneys for the purpose of paying such
4 moneys. The contract or contracts shall contain such terms and
5 conditions as are determined by the parties, and shall include, but not
6 be limited to, terms and conditions necessary and desirable to secure
7 any bonds or refunding bonds of the authority issued pursuant to this
8 act; provided, however, that notwithstanding any other provision of
9 any law, rule, regulation or order to the contrary, the authority shall
10 be paid only such funds as shall be determined by the contract or
11 contracts and further provided that the incurrence of any obligation of
12 the State under the contract or contracts, including any payments to
13 be made thereunder from the General Fund, shall be subject to and
14 dependent upon appropriations being made from time to time by the
15 Legislature for the purposes of this act.

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17 7. It is the intent of the Legislature that in the event of any conflict
18 or inconsistency between the provisions of this act and any other law
19 pertaining to the purposes of this act, to the extent of the conflict or
20 inconsistency, the provisions of this act shall be enforced and the
21 provisions of the other law shall be of no effect.

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23 8. If any clause, sentence, paragraph, section or part of this act
24 shall be adjudged by any court of competent jurisdiction to be invalid,
25 the judgment shall not affect, impair or invalidate the remainder
26 thereof, but shall be confined in its operation to the clause, sentence,
27 paragraph, section or part thereof directly involved in the controversy
28 in which the judgment shall have been rendered.

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30 9. This act shall be construed liberally to effectuate the purposes
31 thereof, and as complete and independent authorization for each action
32 and purpose set forth herein.

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34 10. This act shall take effect immediately.

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STATEMENT

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39 This bill authorizes the New Jersey Economic Development
40 Authority ("EDA") to issue bonds and refunding bonds to provide
41 funds for paying, in full or in part, the unfunded accrued pension
42 liability of the State in each State pension fund, as certified by the
43 State Treasurer, and any issuance costs. These bonds would be special
44 and limited obligations of the EDA. The bonds or refunding bonds
45 would not be a debt or liability of the State or any political subdivision
46 thereof, and they must contain a statement on their face to that effect.

1 The proceeds from the sale of the bonds under this act, after the
2 payment of issuance costs, shall be paid by the EDA to the Teachers'
3 Pension and Annuity Fund, the Judicial Retirement System, the Prison
4 Officers' Pension Fund, the Public Employees' Retirement System, the
5 Consolidated Police and Firemen's Pension Fund, the Police and
6 Firemen's Retirement System and the State Police Retirement System
7 to be applied to the payment of the unfunded accrued pension liability
8 of the State under these funds as directed by the State Treasurer.

9 To pay the unfunded accrued pension liability, the EDA is
10 authorized to issue bonds secured by moneys it receives from the
11 General Fund through contracts with the State Treasurer. All costs
12 associated with issuing these bonds may be paid by the EDA from
13 bond proceeds or amounts received from the General Fund. These
14 costs include any costs relating to the issuance of the bonds or
15 refunding bonds, operating costs of the EDA attributable to paying the
16 unfunded accrued pension liability, and costs attributable to such
17 agreements as a revolving credit or a line of credit.

18 The bonds or refunding bonds must be authorized by resolution.
19 The resolution shall stipulate, among other things: the manner of
20 execution and form of the bonds; whether the bonds are in one or
21 more series; the date or dates of issue; the time or times of maturity;
22 the rate or rates of interest payable on the bonds, which may be fixed
23 or variable; the denominations in which the bonds are issued; the
24 conversion or registration privileges; the sources, medium and place
25 of payment; and the terms of redemption.

26 The bonds may be sold at a public or private sale at a price or
27 prices determined by the EDA. The EDA is authorized to enter into
28 any pertinent agreements, including agreements to sell bonds or
29 refunding bonds.

30 In connection with bonds or refunding bonds, the EDA may enter
31 into such agreements as revolving credit agreements, lines or letters of
32 credit, reimbursement agreements, interest rate exchange agreements,
33 insurance contracts, surety bonds, commitments to purchase or sell
34 bonds, purchase or sale agreements, or other contracts or agreements.
35 The EDA may establish reserve funds to further secure bonds and
36 refunding bonds.

37 No resolution authorizing the issuance of these bonds can be
38 adopted without the approval of the State Treasurer. The bonds may
39 be issued without obtaining the consent of any other department,
40 division, commission or State agency.

41 Subject to the approval of the State Treasurer, the EDA is
42 authorized to engage financial advisors, placement agents,
43 underwriters, appraisers and other necessary advisors.

44 The bonds issued under this act are deemed to be for an essential
45 governmental purpose, and the interest thereon and the income derived
46 from funds to pay or secure the payment of the bonds shall be exempt

1 from all State taxes, except transfer inheritance and estate taxes.

2 The State pledges with the holders of the bonds or refunding bonds
3 under this act that it will not change the rights or powers of the EDA
4 or the State Treasure in any way that would jeopardize the interest of
5 the holders or inhibit the EDA or the Treasurer from performing the
6 terms of the bond agreements. Failure of the State to appropriate
7 moneys for this act shall not be deemed a violation of this section.

8 The State Treasurer, under contract with the EDA, must pay each
9 fiscal year from the General Fund to the EDA an amount equal to the
10 annual amount due to pay the debt service on the bonds or refunding
11 bonds issued under this act. All such payments from the General Fund
12 are subject to appropriations made by the Legislature.

13 The State Treasurer and the EDA are authorized to enter into
14 contracts to implement this payment arrangement. The contracts shall
15 require the State Treasurer to pay the proper amounts and shall
16 establish the procedures for transferring moneys for payment. The
17 incurrence of any obligation of the State under the contract, including
18 payments from the General Fund, shall be subject to appropriations
19 made by the Legislature.

20 The act would take effect immediately.

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25 Authorizes EDA to issue bonds and refunding bonds to provide funds
26 for paying, in full or in part, the unfunded accrued pension liability of
27 the State in each State pension fund.

WITHDRAWN