

P.L. 1997, CHAPTER 114, *approved June 5, 1997*
Senate, No. 1905 (*First Reprint*)

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:

9
10 1. This act shall be known and may be cited as the "Pension Bond
11 Financing Act of 1997."

12
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 fund this unfunded accrued liability,
31 in full or in part, through the issuance of bonds, notes or other

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted April 17, 1997.

1 obligations by the New Jersey Economic Development Authority
2 which shall be retired through annual payments to be made by the
3 State, subject to appropriation by the State Legislature.

4 d. By issuing bonds, notes or other obligations to fund, in full or
5 in part, this unfunded accrued liability, the State will achieve
6 significant savings and will eliminate the need for pension
7 contributions on an annual basis to fund this unfunded accrued
8 liability.

9 e. It is intended that the proceeds from sale or sales of bonds, notes
10 or other obligations for the purposes of funding the unfunded accrued
11 pension liability shall not be less than approximately ¹[\$2.9] \$2.7¹
12 billion; provided, however, that notwithstanding the foregoing, any
13 series of bonds, notes or other obligations issued under this act,
14 whether or not yielding proceeds of ¹[\$2.9] \$2.7¹ billion or less, shall
15 be authorized and valid if issued in accordance with section 4 of this
16 act.

17 f. It is anticipated that the bonds, notes or other obligations to be
18 issued will be amortized over a shorter period of time than the
19 actuarial amortization ¹of the unfunded liability¹; and the difference
20 between the payment of principal and interest on the bonds, notes or
21 other obligations and the estimated contributions by the State under
22 the actuarial amortization will provide significant savings to the State.

23

24 3. As used in this act:

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

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

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

33 d. "Unfunded accrued pension liability" means the unfunded
34 accrued liability of the State under: the Teachers' Pension and Annuity
35 Fund, determined as of March 31, 1996 under N.J.S.18A:66-18; the
36 Judicial Retirement System, determined as of June 30, 1996 under
37 section 33 of P.L.1973, c.140 (C.43:6A-33); the Prison Officers'
38 Pension Fund, determined as of June 30, 1996 under P.L.1941, c.220
39 (C.42:7-7 et seq.); the Public Employees' Retirement System,
40 determined as of March 31, 1996 under section 24 of P.L.1954, c.84
41 (C.43:15A-24); the Consolidated Police and Firemen's Pension Fund,
42 determined as of June 30, 1996 under R.S.43:16-5; the Police and
43 Firemen's Retirement System, determined as of June 30, 1995 under
44 section 15 of P.L.1944, c.255 (C.43:16A-15); and the State Police
45 Retirement System, determined as of June 30, 1996 under section 34
46 of P.L.1965, c.89 (C.53:5A-34), and certified by the State Treasurer

1 and reported to the authority pursuant to section 4 of this act.

2

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

5 a. The authority shall have the power, pursuant to the provisions
6 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
7 refunding bonds, incur indebtedness and borrow money secured, in
8 whole or in part, by monies received pursuant to sections 5 and 6 of
9 this act, for the purpose of providing funds for the payment, in full or
10 in part, of the unfunded accrued pension liability, as such unfunded
11 accrued pension liability is certified by the State Treasurer and
12 reported to the authority, and any costs related to the issuance thereof.
13 The authority may establish reserve or other funds to further secure
14 bonds and refunding bonds. ¹The bonds shall be in the amount to yield
15 proceeds of \$2.75 billion to fund, all or in part, the unfunded accrued
16 pension liability, plus additional bonds to pay for the costs of
17 issuance.¹

18 b. The authority may, in any resolution authorizing the issuance of
19 bonds or refunding bonds, pledge the contract with the State
20 Treasurer, provided for in section 6 of this act, or any part thereof, for
21 the payment or redemption of the bonds or refunding bonds, and
22 covenant as to the use and disposition of money available to the
23 authority for payments of bonds and refunding bonds. All costs
24 associated with the issuance of bonds and refunding bonds by the
25 authority for the purposes set forth in this act may be paid by the
26 authority from amounts it receives from the proceeds of the bonds or
27 refunding bonds and from amounts it receives pursuant to sections 5
28 and 6 of this act, which costs may include, but are not limited to, any
29 costs relating to the issuance of the bonds or refunding bonds,
30 administrative costs of the authority attributable to the payment of the
31 unfunded accrued pension liability, and costs attributable to the
32 agreements described in subsection c. of this section. The bonds or
33 refunding bonds shall be authorized by resolution, which shall stipulate
34 the manner of execution and form of the bonds, whether the bonds are
35 in one or more series, the date or dates of issue, time or times of
36 maturity, ¹which shall not exceed 38 years.¹ the rate or rates of interest
37 payable on the bonds, which may be at fixed rates or variable rates,
38 and which interest may be current interest or may accrue, the
39 denomination or denominations in which the bonds are issued,
40 conversion or registration privileges, the sources and medium of
41 payment and place or places of payment, terms of redemption,
42 privileges of exchangeability or interchangeability, and entitlement to
43 priorities of payment or security in the amounts to be received by the
44 authority pursuant to sections 5 and 6 of this act. The bonds may be
45 sold at a public or private sale at a price or prices determined by the
46 authority. The authority is authorized to enter into any agreements

1 necessary or desirable to effectuate the purposes of this section,
2 including agreements to sell bonds or refunding bonds to any person
3 and to comply with the laws of any jurisdiction relating thereto.

4 c. In connection with any bonds or refunding bonds issued
5 pursuant to this act, the authority may also enter into any revolving
6 credit agreement, agreement establishing a line of credit or letter of
7 credit, reimbursement agreement, interest rate exchange agreement,
8 currency exchange agreement, interest rate floor or cap, options, puts
9 or calls to hedge payment, currency, rate, spread or similar exposure,
10 or similar agreements, float agreements, forward agreements,
11 insurance contract, surety bond, commitment to purchase or sell
12 bonds, purchase or sale agreement, or commitments or other contracts
13 or agreements and other security agreements approved by the
14 authority.

15 d. No resolution adopted by the authority authorizing the issuance
16 of bonds or refunding bonds pursuant to this act shall be adopted or
17 otherwise made effective without the approval in writing of the State
18 Treasurer. Except as provided by subsection i. of section 4 of
19 P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued
20 without obtaining the consent of any department, division,
21 commission, board, bureau or agency of the State, other than the
22 approval as required by this subsection, and without any other
23 proceedings or the occurrence of any other conditions or other things
24 other than those proceedings, conditions or things which are
25 specifically required by this act.

26 e. Bonds and refunding bonds issued by the authority pursuant to
27 this act shall be special and limited obligations of the authority payable
28 from, and secured by, such funds and moneys determined by the
29 authority in accordance with this section. Neither the members of the
30 authority nor any other person executing the bonds or refunding bonds
31 shall be personally liable with respect to payment of interest and
32 principal on these bonds or refunding bonds. Bonds or refunding
33 bonds issued pursuant to the provisions of this act shall not be a debt
34 or liability of the State or any agency or instrumentality thereof, except
35 as otherwise provided by this subsection, either legal, moral or
36 otherwise, and nothing contained in this act shall be construed to
37 authorize the authority to incur any indebtedness on behalf of or in any
38 way to obligate the State or any political subdivision thereof, and all
39 bonds and refunding bonds issued by the authority shall contain a
40 statement to that effect on their face.

41 f. The authority is authorized to engage, subject to the approval of
42 the State Treasurer and in such manner as the State Treasurer shall
43 determine, the services of financial advisors and experts, placement
44 agents, underwriters, appraisers, and such other advisors, consultants
45 and agents as may be necessary to effectuate the purposes of this act.

46 g. The proceeds from the sale of the bonds, other than refunding

1 bonds, issued pursuant to this act, after payment of any costs related
2 to the issuance of such bonds, shall be paid by the authority to the
3 Teachers' Pension and Annuity Fund, the Judicial Retirement System,
4 the Prison Officers' Pension Fund, the Public Employees' Retirement
5 System, the Consolidated Police and Firemen's Pension Fund, the
6 Police and Firemen's Retirement System, and the State Police
7 Retirement System to be applied to the payment, in full or in part, of
8 the unfunded accrued pension liability of the State under these funds
9 and systems as directed by the State Treasurer, or in such other
10 manner as the State Treasurer and the authority may determine.

11 h. All bonds or refunding bonds issued by the authority are deemed
12 to be issued by a body corporate and politic of the State for an
13 essential governmental purpose, and the interest thereon and the
14 income derived from all funds, revenues, incomes and other moneys
15 received for or to be received by the authority and pledged and
16 available to pay or secure the payment on bonds or refunding bonds
17 and the interest thereon, shall be exempt from all taxes levied pursuant
18 to the provisions of Title 54 of the Revised Statutes or Title 54A of
19 the New Jersey Statutes, except for transfer, inheritance and estate
20 taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

21 i. The State hereby pledges and covenants with the holders of any
22 bonds or refunding bonds issued pursuant to the provisions of this act,
23 that it will not limit or alter the rights or powers vested in the
24 authority by this act, nor limit or alter the rights or powers of the State
25 Treasurer in any manner which would jeopardize the interest of the
26 holders or any trustee of such holders, or inhibit or prevent
27 performance or fulfillment by the authority or the State Treasurer with
28 respect to the terms of any agreement made with the holders of these
29 bonds or refunding bonds or agreements made pursuant to subsection
30 c. of section 4 of this act except that the failure of the Legislature to
31 appropriate moneys for any purpose of this act shall not be deemed a
32 violation of this section.

33 j. Notwithstanding any restriction contained in any other law, rule,
34 regulation or order to the contrary, the State and all political
35 subdivisions of this State, their officers, boards, commissioners,
36 departments or other agencies, all banks, bankers, trust companies,
37 savings banks and institutions, building and loan associations, saving
38 and loan associations, investment companies and other persons
39 carrying on a banking or investment business, and all executors,
40 administrators, guardians, trustees and other fiduciaries, and all other
41 persons whatsoever who now are or may hereafter be authorized to
42 invest in bonds or other obligations of the State, may properly and
43 legally invest any sinking funds, moneys or other funds, including
44 capital, belonging to them or within their control, in any bonds or
45 refunding bonds issued by the authority under the provisions of this
46 act; and said bonds and refunding bonds are hereby made securities

1 which may properly and legally be deposited with, and received by any
2 State or municipal officers or agency of the State, for any purpose for
3 which the deposit of bonds or other obligations of the State is now, or
4 may hereafter be, authorized by law.

5
6 5. ¹a.¹ The State Treasurer shall, in each State fiscal year, pay
7 from the General Fund to the authority, in accordance with a contract
8 or contracts between the State Treasurer and the authority, authorized
9 pursuant to section 6 of this act, an amount equivalent to the amount
10 due to be paid in such State fiscal year to pay the debt service incurred
11 for such State fiscal year on the bonds or refunding bonds of the
12 authority issued pursuant to this act and any additional costs
13 authorized by section 4 of this act.

14 ¹b.¹ In addition to such terms and conditions as are agreed upon
15 pursuant to section 6 of this act, the contract or contracts shall provide
16 that ¹[in each State fiscal year, amounts payable thereunder shall be
17 equal to or more than the amount that would be required in that State
18 fiscal year to be applied toward the amortization schedule of the
19 unfunded accrued pension liability, as that liability is defined in
20 subsection d. of section 3 of this act and actuarially determined as of
21 the dates specified therein, and shall further provide that]¹ all such
22 payments from the General Fund shall be subject to, and dependent
23 upon, appropriations being made from time to time by the Legislature
24 for such purposes ¹and shall further provide for a payment schedule
25 and requirements as follows:

26 (1) For State fiscal year 1998, an amount not less than the amount
27 that would be required to be applied in that State fiscal year to the
28 amortization schedule of the unfunded accrued pension liability, as that
29 liability is defined in subsection d. of section 3 of this act and
30 actuarially determined as of the dates specified therein (hereinafter
31 "unfunded accrued pension liability payment");

32 (2) For each of the State fiscal years from 1999 through 2004,
33 inclusive, an amount not less than the sum of the respective unfunded
34 accrued pension liability payment plus \$25 million;

35 (3) For each of the State fiscal years from 2005 through 2020,
36 inclusive, an amount not less than the respective unfunded accrued
37 pension liability payment;

38 (4) For each of the State fiscal years from 2021 through 2035, or
39 such State fiscal year after 2021 and prior to 2035 in which the last of
40 the bonds issued under this act are retired, as appropriate, an amount
41 not less than the unfunded accrued pension liability payment for State
42 fiscal year 2020 and not more than the unfunded accrued pension
43 liability payment for State fiscal year 2021;

44 (5) No payments under the contract or contracts shall be required
45 for bonds that are defeased or bonds for which a deposit sufficient to
46 provide for all payments on the bonds has been made; and

1 (6) Notwithstanding any other provision of this section to the
2 contrary, under all payment provisions set forth in this section, annual
3 amounts to be paid shall be sufficient to pay the debt service on the
4 bonds and any refunding bonds, and any additional costs authorized by
5 section 4 of this act for the appropriate years.¹

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

25
26 7. The State Treasurer shall, on or before April 1 of each year,
27 issue a report on the financing provided for in this act to the Governor,
28 the Senate President, the Speaker of the General Assembly, and the
29 chairs of the Senate Budget and Appropriations Committee and the
30 Assembly Appropriations Committee or the respective successor
31 committees. The report shall include, but not be limited to: the
32 outstanding debt and the payments provided for in section 5 of this act
33 for the current State fiscal year; the cumulative amount of debt
34 incurred, debt retired and payments and, as appropriate, debt
35 outstanding from prior State fiscal years for which bonds or refunding
36 bonds have been issued pursuant to this act; and estimates of same for
37 the remainder of time in which any debt incurred pursuant to this act
38 is outstanding.

39
40 8. It is the intent of the Legislature that in the event of any conflict
41 or inconsistency between the provisions of this act and any other law
42 pertaining to the purposes of this act, to the extent of the conflict or
43 inconsistency, the provisions of this act shall be enforced and the
44 provisions of the other law shall be of no effect.

45
46 9. If any clause, sentence, paragraph, section or part of this act

1 shall be adjudged by any court of competent jurisdiction to be invalid,
2 the judgment shall not affect, impair or invalidate the remainder
3 thereof, but shall be confined in its operation to the clause, sentence,
4 paragraph, section or part thereof directly involved in the controversy
5 in which the judgment shall have been rendered.

6

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

10

11 11. This act shall take effect immediately.

12

13

14

15

16 _____
17 Authorizes EDA to issue bonds and refunding bonds to provide funds
18 for paying, in full or in part, the unfunded accrued pension liability of
the State in each State pension fund.