

[Passed Both Houses]

[First Reprint]

SENATE, No. 1905

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senator EWING, Assemblymen Kavanaugh and Malone

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

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 cost-of-living-adjustment benefits within these funds or systems.

2 c. It is in the public interest to fund this unfunded accrued liability,
3 in full or in part, through the issuance of bonds, notes or other
4 obligations by the New Jersey Economic Development Authority
5 which shall be retired through annual payments to be made by the
6 State, subject to appropriation by the State Legislature.

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

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

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

26

27 3. As used in this act:

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

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

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

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

1 section 15 of P.L.1944, c.255 (C.43:16A-15); and the State Police
2 Retirement System, determined as of June 30, 1996 under section 34
3 of P.L.1965, c.89 (C.53:5A-34), and certified by the State Treasurer
4 and reported to the authority pursuant to section 4 of this act.

5
6 4. Notwithstanding the provisions of any law, rule, regulation or
7 order to the contrary:

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

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

1 authority pursuant to sections 5 and 6 of this act. The bonds may be
2 sold at a public or private sale at a price or prices determined by the
3 authority. The authority is authorized to enter into any agreements
4 necessary or desirable to effectuate the purposes of this section,
5 including agreements to sell bonds or refunding bonds to any person
6 and to comply with the laws of any jurisdiction relating thereto.

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

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

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

44 f. The authority is authorized to engage, subject to the approval of
45 the State Treasurer and in such manner as the State Treasurer shall
46 determine, the services of financial advisors and experts, placement

1 agents, underwriters, appraisers, and such other advisors, consultants
2 and agents as may be necessary to effectuate the purposes of this act.

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

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

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

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

1 capital, belonging to them or within their control, in any bonds or
2 refunding bonds issued by the authority under the provisions of this
3 act; and said bonds and refunding bonds are hereby made securities
4 which may properly and legally be deposited with, and received by any
5 State or municipal officers or agency of the State, for any purpose for
6 which the deposit of bonds or other obligations of the State is now, or
7 may hereafter be, authorized by law.

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

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

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

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

38 (3) For each of the State fiscal years from 2005 through 2020,
39 inclusive, an amount not less than the respective unfunded accrued
40 pension liability payment:

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

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

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

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

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

42
43 8. It is the intent of the Legislature that in the event of any conflict
44 or inconsistency between the provisions of this act and any other law
45 pertaining to the purposes of this act, to the extent of the conflict or
46 inconsistency, the provisions of this act shall be enforced and the

1 provisions of the other law shall be of no effect.

2

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

9

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

13

14 11. This act shall take effect immediately.

15

16

17

18

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