

SENATE, No. 1905

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senator EWING

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

35 d. By issuing bonds, notes or other obligations to fund, in full or
36 in part, this unfunded accrued liability, the State will achieve
37 significant savings and will eliminate the need for pension

1 contributions on an annual basis to fund this unfunded accrued
2 liability.

3 e. It is intended that the proceeds from sale or sales of bonds, notes
4 or other obligations for the purposes of funding the unfunded accrued
5 pension liability shall not be less than approximately \$2.9 billion;
6 provided, however, that notwithstanding the foregoing, any series of
7 bonds, notes or other obligations issued under this act, whether or not
8 yielding proceeds of \$2.9 billion or less, shall be authorized and valid
9 if issued in accordance with section 4 of this act.

10 f. It is anticipated that the bonds, notes or other obligations to be
11 issued will be amortized over a shorter period of time than the
12 actuarial amortization; and the difference between the payment of
13 principal and interest on the bonds, notes or other obligations and the
14 estimated contributions by the State under the actuarial amortization
15 will provide significant savings to the State.

16

17 3. As used in this act:

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

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

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

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

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

44 a. The authority shall have the power, pursuant to the provisions
45 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
46 refunding bonds, incur indebtedness and borrow money secured, in

1 whole or in part, by monies received pursuant to sections 5 and 6 of
2 this act, for the purpose of providing funds for the payment, in full or
3 in part, of the unfunded accrued pension liability, as such unfunded
4 accrued pension liability is certified by the State Treasurer and
5 reported to the authority, and any costs related to the issuance thereof.
6 The authority may establish reserve or other funds to further secure
7 bonds and refunding bonds.

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

40 c. In connection with any bonds or refunding bonds issued
41 pursuant to this act, the authority may also enter into any revolving
42 credit agreement, agreement establishing a line of credit or letter of
43 credit, reimbursement agreement, interest rate exchange agreement,
44 currency exchange agreement, interest rate floor or cap, options, puts
45 or calls to hedge payment, currency, rate, spread or similar exposure,
46 or similar agreements, float agreements, forward agreements,

1 insurance contract, surety bond, commitment to purchase or sell
2 bonds, purchase or sale agreement, or commitments or other contracts
3 or agreements and other security agreements approved by the
4 authority.

5 d. No resolution adopted by the authority authorizing the issuance
6 of bonds or refunding bonds pursuant to this act shall be adopted or
7 otherwise made effective without the approval in writing of the State
8 Treasurer. Except as provided by subsection i. of section 4 of
9 P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued
10 without obtaining the consent of any department, division,
11 commission, board, bureau or agency of the State, other than the
12 approval as required by this subsection, and without any other
13 proceedings or the occurrence of any other conditions or other things
14 other than those proceedings, conditions or things which are
15 specifically required by this act.

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

31 f. The authority is authorized to engage, subject to the approval of
32 the State Treasurer and in such manner as the State Treasurer shall
33 determine, the services of financial advisors and experts, placement
34 agents, underwriters, appraisers, and such other advisors, consultants
35 and agents as may be necessary to effectuate the purposes of this act.

36 g. The proceeds from the sale of the bonds, other than refunding
37 bonds, issued pursuant to this act, after payment of any costs related
38 to the issuance of such bonds, shall be paid by the authority to the
39 Teachers' Pension and Annuity Fund, the Judicial Retirement System,
40 the Prison Officers' Pension Fund, the Public Employees' Retirement
41 System, the Consolidated Police and Firemen's Pension Fund, the
42 Police and Firemen's Retirement System, and the State Police
43 Retirement System to be applied to the payment, in full or in part, of
44 the unfunded accrued pension liability of the State under these funds
45 and systems as directed by the State Treasurer, or in such other
46 manner as the State Treasurer and the authority may determine.

1 h. All bonds or refunding bonds issued by the authority are deemed
2 to be issued by a body corporate and politic of the State for an
3 essential governmental purpose, and the interest thereon and the
4 income derived from all funds, revenues, incomes and other moneys
5 received for or to be received by the authority and pledged and
6 available to pay or secure the payment on bonds or refunding bonds
7 and the interest thereon, shall be exempt from all taxes levied pursuant
8 to the provisions of Title 54 of the Revised Statutes or Title 54A of
9 the New Jersey Statutes, except for transfer, inheritance and estate
10 taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

11 i. The State hereby pledges and covenants with the holders of any
12 bonds or refunding bonds issued pursuant to the provisions of this act,
13 that it will not limit or alter the rights or powers vested in the
14 authority by this act, nor limit or alter the rights or powers of the State
15 Treasurer in any manner which would jeopardize the interest of the
16 holders or any trustee of such holders, or inhibit or prevent
17 performance or fulfillment by the authority or the State Treasurer with
18 respect to the terms of any agreement made with the holders of these
19 bonds or refunding bonds or agreements made pursuant to subsection
20 c. of section 4 of this act except that the failure of the Legislature to
21 appropriate moneys for any purpose of this act shall not be deemed a
22 violation of this section.

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

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42 5. The State Treasurer shall, in each State fiscal year, pay from the
43 General Fund to the authority, in accordance with a contract or
44 contracts between the State Treasurer and the authority, authorized
45 pursuant to section 6 of this act, an amount equivalent to the amount
46 due to be paid in such State fiscal year to pay the debt service incurred

1 for such State fiscal year on the bonds or refunding bonds of the
2 authority issued pursuant to this act and any additional costs
3 authorized by section 4 of this act. In addition to such terms and
4 conditions as are agreed upon pursuant to section 6 of this act, the
5 contract or contracts shall provide that in each State fiscal year,
6 amounts payable thereunder shall be equal to or more than the amount
7 that would be required in that State fiscal year to be applied toward
8 the amortization schedule of the unfunded accrued pension liability, as
9 that liability is defined in subsection d. of section 3 of this act and
10 actuarially determined as of the dates specified therein, and shall
11 further provide that all such payments from the General Fund shall be
12 subject to, and dependent upon, appropriations being made from time
13 to time by the Legislature for such purposes.

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

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

1 costs may include any costs relating to the issuance of the bonds or
2 refunding bonds, and administrative costs of the EDA attributable to
3 paying the unfunded accrued pension liability, and costs attributable to
4 such agreements as a revolving credit or a line of credit.

5 The bonds or refunding bonds must be authorized by resolution.
6 The resolution shall stipulate, among other things: the manner of
7 execution and form of the bonds; whether the bonds are in one or
8 more series; the date or dates of issue; the time or times of maturity;
9 the rate or rates of interest payable on the bonds, which may be fixed
10 or variable; the denominations in which the bonds are issued; the
11 conversion or registration privileges; the sources, medium and place
12 of payment; and the terms of redemption.

13 The bonds may be sold at a public or private sale at a price or
14 prices determined by the EDA. The EDA is authorized to enter into
15 any pertinent agreements, including agreements to sell bonds or
16 refunding bonds.

17 In connection with bonds or refunding bonds, the EDA may enter
18 into such agreements as revolving credit agreements, lines or letters of
19 credit, reimbursement agreements, interest rate exchange agreements,
20 insurance contracts, surety bonds, commitments to purchase or sell
21 bonds, purchase or sale agreements, or other contracts or agreements.
22 The EDA may establish reserve funds to further secure bonds and
23 refunding bonds.

24 No resolution authorizing the issuance of these bonds can be
25 adopted without the approval of the State Treasurer. The bonds may
26 be issued without obtaining the consent of any other department,
27 division, commission or State agency.

28 Subject to the approval of the State Treasurer, the EDA is
29 authorized to engage financial advisors, placement agents,
30 underwriters, appraisers and other necessary advisors.

31 The bonds issued under this act are deemed to be for an essential
32 governmental purpose, and the interest thereon and the income derived
33 from funds to pay or secure the payment of the bonds shall be exempt
34 from all State taxes, except transfer inheritance and estate taxes.

35 The State pledges with the holders of the bonds or refunding bonds
36 under this act that it will not change the rights or powers of the EDA
37 or the State Treasury in any way that would jeopardize the interest of
38 the holders or inhibit the EDA or the Treasurer from performing the
39 terms of the bond agreements. Failure of the State to appropriate
40 moneys for this act shall not be deemed a violation of this section.

41 The State Treasurer, under the contract or contracts with the EDA,
42 must pay each fiscal year from the General Fund to the EDA an
43 amount equal to the annual amount due to pay the debt service on the
44 bonds or refunding bonds issued under this act. Under the contract or
45 contracts, in each State fiscal year, the payments shall be equal to or
46 more than the amount that would be required under current law to be

1 applied in that State fiscal year toward the amortization of the
2 unfunded accrued liability. All such payments from the General Fund
3 are subject to appropriations made by the Legislature.

4 The contract or contracts shall also set forth procedures for
5 implementing the payment arrangement. The contract or contracts
6 shall require the State Treasurer to pay the proper amounts and shall
7 establish the procedures for transferring moneys for payment. The
8 incurrence of any obligation of the State under the contract, including
9 payments from the General Fund, shall be subject to appropriations
10 made by the Legislature.

11 Finally, this bill would require the State Treasurer to issue an
12 annual report on current, cumulative and projected future debt and
13 debt service related to the financing provided for under the bill.

14 The bill would take effect immediately.

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