

[First Reprint]

ASSEMBLY, No. 5819

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 2, 2021

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Senator VIN GOPAL

District 11 (Monmouth)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblyman Benson, Assemblywomen Lopez, Jasey and Senator Pou

SYNOPSIS

Authorizes NJ Infrastructure Bank to expend certain sums to make loans for transportation infrastructure projects for FY2022.

CURRENT VERSION OF TEXT

As reported by the Assembly Transportation and Independent Authorities Committee on June 14, 2021, with amendments.

(Sponsorship Updated As Of: 6/30/2021)

1 AN ACT authorizing the expenditure of funds by the New Jersey
 2 Infrastructure Bank for the purpose of making loans to eligible
 3 project sponsors to finance the cost to construct transportation
 4 infrastructure projects, and making an appropriation.

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

8
 9 1. a. The New Jersey Infrastructure Bank, established pursuant to
 10 P.L.1985, c.334 (C.58:11B-1 et seq.), is authorized to expend the
 11 aggregate sum of \$68,349,007 or such amounts as can be supported
 12 through balances in the State Transportation Infrastructure Bank Fund,
 13 established pursuant to section 34 of P.L.2016, c.56 (C.58:11B-10.4),
 14 and via direct appropriation through the State transportation capital
 15 program for the purpose of making loans to or, on behalf of, local
 16 government units to finance all or a portion of the cost of construction
 17 of transportation infrastructure projects listed in ¹**sections** section¹ 3
 18 of this act.

19 b. The bank is authorized to increase the aggregate sums specified
 20 in subsection a. of this section for the bank's costs to acquire lending
 21 capital, specifically:

22 (1) the amounts of capitalized interest and the bond issuance
 23 expenses as provided in subsection b. of section 6 of this act;

24 (2) the amounts of reserve capacity expenses and debt service
 25 reserve fund requirements as provided in subsection c. of section 6 of
 26 this act;

27 (3) the interest earned on amounts deposited for project costs
 28 pending their distribution to project sponsors as provided in subsection
 29 d. of section 6 of this act;

30 (4) the amounts of the loan origination fee as provided in
 31 subsection e. of section 6 of this act.

32 c. For the purposes of this act:

33 "bank" means the New Jersey Infrastructure Bank, established
 34 pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4);

35 "capitalized interest" means an amount equal to interest paid on
 36 bank transportation bonds which is funded with bank transportation
 37 bond proceeds and the earnings thereon;

38 "debt service reserve fund expenses" means the debt service
 39 reserve fund costs associated with reserve capacity expenses ¹**L.**¹;

40 "issuance expenses" means any costs related to the issuance of
 41 bank transportation bonds and includes, but is not limited to, the costs
 42 of financial document printing, bond insurance premiums or other
 43 credit enhancement, underwriters' discount, verification of financial
 44 calculations, the services of bond rating agencies and trustees, the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ATR committee amendments adopted June 14, 2021.

1 employment of accountants, attorneys, financial advisors, loan
2 servicing agents, registrars, and paying agents '1.1':1

3 "loan origination fee" means the fee charged by the bank to pay a
4 portion of the costs incurred by the bank and the Department of
5 Transportation in the implementation of the New Jersey Transportation
6 Infrastructure Financing Program;

7 "project sponsor" means a local government unit receiving a loan
8 from the bank pursuant to this act; and

9 "reserve capacity expenses" means those project costs for reserve
10 capacity which are eligible for loans from the bank in accordance with
11 the requirements of subsection g. of section 9 of P.L.1985, c.334
12 (C.58:11B-9) and any policy statements relating to the Transportation
13 Bank Infrastructure Financing Program to be set forth in the State
14 fiscal year 2022 Transportation Infrastructure Financing Program
15 Financial Plan.

16

17 2. The New Jersey Infrastructure Bank is authorized to make
18 loans to or on behalf of the project sponsors for the transportation
19 projects listed in subsection a. of section 3 of this act up to the
20 individual amounts indicated and in the priority stated, except that
21 any such amount may be reduced by the bank pursuant to
22 subsection a. of section 6 of this act, or if a project fails to meet the
23 requirements of section 5 of this act. The bank is authorized to
24 increase any such amount pursuant to subsection b. through
25 subsection e. of section 6 or section 7 of this act.

26

27 3. a. The following transportation infrastructure projects shall
28 be known and may be cited as the "State Fiscal Year 2022
29 Transportation Financing Program Project Eligibility List":

Applicant	Project No.	Total Allowable State Loan Amount	Estimated Total Allowable Loan Amount
Burlington County	TB0300-001	\$ 1,662,500	\$ 3,325,000
Bayonne City	TB0901-001	\$ 1,460,615	\$ 2,921,230
Cape May County	TB0500-007	\$ 5,050,000	\$ 10,100,000
Essex County	TB0700-003	\$ 1,125,000	\$ 2,250,000
Camden County	TB0400-001	\$ 1,250,000	\$ 2,500,000
Orange City	TB0717-001	\$ 4,955,000	\$ 9,910,000
Little Silver Borough	TB1325-002	\$ 1,195,500	\$ 2,391,000
Hackensack City	TB0223-001	\$ 1,960,890	\$ 3,921,780
Little Silver Borough	TB1325-001	\$ 229,500	\$ 459,000
Somerdale Borough	TB0431-002	\$ 526,775	\$ 1,053,550
Somerdale Borough	TB0431-001	\$ 500,000	\$ 1,000,000
Essex County	TB0700-004	\$ 2,586,269	\$ 5,172,537
Orange City	TB0717-002	\$ 4,606,000	\$ 9,212,000
Flemington Borough	TB1009-001	\$ 835,775	\$ 1,671,550
Raritan Township	TB1021-001	\$ 1,411,475	\$ 2,822,950
Bloomfield Township	TB0702-001	\$ 3,490,352	\$ 6,980,703
Orange City	TB0717-003	\$ 934,250	\$ 1,868,500
Raritan Township	TB1021-004	\$ 394,604	\$ 789,207
Total Projects: 18		\$34,174,505	\$68,349,007

1

2 b. The bank is authorized to adjust the allowable State loan
3 amount and estimated total allowable loan amount for each project
4 authorized in this section as appropriate, provided that the total
5 amount of loan issuance remains within available funds and that
6 each loan is issued pursuant to the terms and conditions of the
7 financing program from the year in which each construction
8 contract for a project was certified, if subject to an interim
9 financing program loan or, in the absence of an interim financing
10 program loan, the terms and conditions of the State Fiscal Year
11 2022 Financing Program.

12 c. The bank is authorized to increase the loan amount of
13 projects authorized pursuant to this section in the future to
14 compensate for a refunding of the issue, provided adequate savings
15 are achieved, for the loans issued pursuant to this act.

1 4. In accordance with and subject to the provisions of sections
2 5, 6, and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and
3 58:11B-23), and as set forth in the financial plan required pursuant
4 to section 37 of P.L.2016, c.56 (C.58:11B-22.3), any proceeds from
5 bonds issued by the bank to make loans for priority transportation
6 infrastructure projects listed in section 3 of this act which are not
7 expended for that purpose may be applied for the payment of all or
8 any part of the principal of, or interest and premium on, the bank
9 transportation bonds whether due at stated maturity, the interest
10 payment dates, or earlier upon redemption. A portion of the
11 proceeds from bonds issued by the bank to make loans for priority
12 transportation infrastructure projects pursuant to this act may be
13 applied for the payment of capitalized interest and for the payment
14 of any issuance expenses; for the payment of reserve capacity
15 expenses; for the payment of debt service reserve fund expenses;
16 for the payment of the loan origination fees; and for the payment of
17 increased costs, as defined and determined in accordance with the
18 rules and regulations adopted by the bank pursuant to section 27 of
19 P.L.1985, c.334 (C.58:11B-27) and satisfies the requirements of
20 subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any
21 policy statements relating to the Transportation Bank Infrastructure
22 Financing Program to be set forth in the State Fiscal Year 2022
23 Transportation Infrastructure Financing Program Financial Plan.

24
25 5. Any loan made by the New Jersey Infrastructure Bank pursuant
26 to this act shall be subject to the following requirements:

27 a. The chairperson, vice-chairperson or secretary of the bank
28 ¹~~['has certified']~~ shall certify¹ that the project is in compliance with the
29 provisions of P.L.1984, c.73, P.L.1985, c.334, P.L.2016, c.56, and any
30 amendatory and supplementary acts thereto, and any rules and
31 regulations adopted pursuant thereto, as applicable, and satisfies the
32 requirements of subsection g. of section 9 of P.L.1985, c.334
33 (C.58:11B-9) and any policy statements relating to the Transportation
34 Bank Infrastructure Financing Program to be set forth in the State
35 Fiscal Year 2022 Transportation Infrastructure Financing Program
36 Financial Plan. In making this certification, the chairperson, vice-
37 chairperson or secretary may conclusively rely on the project review
38 conducted by the Department of Transportation without any
39 independent review thereof by the bank;

40 b. The loan shall be conditioned upon inclusion of the project on
41 a project eligibility list approved pursuant to section 36 of P.L.2016,
42 c.56 (C.58:11B-20.2);

43 c. The loan shall be repaid within a period not to exceed 31 years
44 of the making of the loan or, for loans funded pursuant to the
45 “Transportation Infrastructure Finance and Innovation Act” (TIFIA),
46 23 U.S.C. s.601 et seq., as amended and superseded, not later than the
47 maximum time period allowed by the TIFIA;

1 d. The loan shall not exceed the allowable project cost of the
2 transportation infrastructure project, exclusive of capitalized interest,
3 administrative expenses associated with federal funding programs, if
4 applicable, and issuance expenses as provided in subsection b. of
5 section 6 of this act, reserve capacity expenses and the debt service
6 reserve fund expenses as provided in subsection c. of section 6 of this
7 act, interest earned on project costs as provided in subsection d. of
8 section 6 of this act, the amounts of the loan origination fee as
9 provided in subsection e. of section 6 of this act, refunding increases as
10 provided in section 7 of this act, and increased costs as defined and
11 determined in accordance with the rules and regulations adopted by the
12 bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and
13 satisfies the requirements of subsection g. of section 9 of P.L.1985,
14 c.334 (C.58:11B-9) and any policy statements relating to the
15 Transportation Bank Infrastructure Financing Program to be set forth
16 in the State Fiscal Year 2022 Transportation Infrastructure Financing
17 Program Financial Plan;

18 e. The loan shall bear interest, exclusive of any, cost of issuance
19 charges, late charges or administrative fees payable to the bank
20 pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5)
21 by the project sponsors receiving bank transportation loans, at or
22 below the interest rate paid by the bank on the bonds issued to make or
23 refund the loans authorized by this act, adjusted for underwriting
24 discount and original issue discount or premium, in accordance with
25 the terms and conditions set forth in the financial plan required
26 pursuant to section 37 of P.L.2016, c.56 (C.58:11B-22.3); and

27 f. The loan shall be subject to all other terms and conditions as
28 the bank shall determine to be consistent with the provisions of
29 P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations
30 adopted pursuant thereto, the requirements of subsection g. of section
31 9 of P.L.1985, c.334 (C.58:11B-9), any policy statements relating to
32 the Transportation Bank Infrastructure Financing Program and with
33 the financial plan required by section 37 of P.L.2016, c.56 (C.58:11B-
34 22.3). The eligibility lists and authorization for the making of loans
35 pursuant to this act shall expire on July 1, 2022, and any project
36 sponsor which has not executed and delivered a loan agreement with
37 the bank for a loan authorized in this act shall no longer be entitled to
38 that loan.

39
40 6. a. The New Jersey Infrastructure Bank is authorized to
41 reduce the individual amount of loan funds made available to or on
42 behalf of project sponsors pursuant to section 3 of this act based
43 upon final building costs defined in and determined in accordance
44 with rules and regulations adopted by the bank pursuant to section
45 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of
46 subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any
47 policy statements relating to the Transportation Bank Infrastructure
48 Financing Program to be set forth in the State Fiscal Year 2022

1 Transportation Infrastructure Financing Program Financial Plan.
2 The bank is authorized to use any such reduction in the loan amount
3 made available to a project sponsor to cover that project sponsor's
4 increased costs due to differing site conditions or other allowable
5 expenses as defined and determined in accordance with the rules
6 and regulations adopted by the bank pursuant to section 27 of
7 P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection
8 g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy
9 statements relating to the Transportation Bank Infrastructure
10 Financing Program to be set forth in the State Fiscal Year 2022
11 Transportation Infrastructure Financing Program Financial Plan.

12 b. The bank is authorized to increase each loan amount
13 authorized in section 3 of this act by the amount of capitalized
14 interest, issuance expenses and administrative expenses associated
15 with federal funding programs allocable to each loan made by the
16 bank pursuant to this act,

17 c. The bank is authorized to increase each loan amount
18 authorized in section 3 of this act by the amount of reserve capacity
19 expenses, and by the debt service reserve fund expenses associated
20 with the costs identified in subsection b. of section 1 of this act.

21 d. The bank is authorized to increase each loan amount
22 authorized in section 3 of this act by the interest earned on amounts
23 deposited for project costs pending their distribution to project
24 sponsors.

25 e. The bank is authorized to increase each loan amount
26 authorized in section 3 of this act by the loan origination fee.

27
28 7. The New Jersey Infrastructure Bank is authorized to utilize
29 the proceeds from the refunding of bank transportation bonds to
30 increase the individual amount of loan funds made available to
31 project sponsors by the bank pursuant to this act provided that the
32 amount of the increase is limited to the amount of savings achieved
33 by the refunding of bank transportation bonds issued to make loans
34 authorized by this act.

35
36 8. The expenditure of funds authorized pursuant to this act is
37 subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) as
38 amended and supplemented by P.L.2016, c.56, and the requirements
39 of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and
40 any policy statements relating to the Transportation Bank
41 Infrastructure Financing Program to be set forth in the State Fiscal
42 Year 2022 Transportation Infrastructure Financing Program
43 Financial Plan, as appropriate.

44
45 9. a. There is appropriated to the New Jersey Infrastructure
46 Bank for deposit in the transportation subaccount of the special
47 fund created and established by the bank for the short-term or
48 temporary loan financing or refinancing under the "Disaster Relief

1 Emergency Financing Program,” program authorized pursuant to
2 subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5), such
3 sums as needed consisting of:

4 (1) sums from the “Interim Transportation Financing Program
5 Fund” as needed by the bank to make short-term or temporary loans
6 pursuant to the “Disaster Relief Emergency Financing Program” to
7 any one or more of the project sponsors, for the respective projects
8 thereof; and

9 (2) such other amounts to be deposited in the “Disaster Relief
10 Emergency Financing Program Fund,” established pursuant to
11 subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5),
12 provided that the amount so appropriated to the bank for deposit in
13 the “Disaster Relief Emergency Financing Program Fund” shall be
14 utilized by the bank to make short-term or temporary loans pursuant
15 to the “Disaster Relief Emergency Financing Program” to any one
16 or more of the project sponsors, for the respective projects thereof.
17 Any transportation projects funded by the “Disaster Relief
18 Emergency Financing Program” shall be subject to the approval of
19 the Commissioner of Transportation.

20 b. The Transportation Disaster Relief Emergency Financing
21 Program Project Priority List shall be submitted to the Legislature
22 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least
23 once in each fiscal year. Any transportation infrastructure project or
24 the project sponsor thereof not identified in the Transportation
25 Disaster Relief Emergency Financing Program Project Priority List
26 shall not be eligible for a short-term or temporary loan from the
27 Transportation Disaster Relief Emergency Financing Program Fund.
28

29 10. Notwithstanding the provisions of the "Administrative
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
31 contrary, the bank shall not be required to adopt rules and
32 regulations governing the issuance of loans under the “Disaster
33 Relief Emergency Financing Program.”
34

35 11. This act shall take effect immediately.