

# SENATE, No. 1657

---

## STATE OF NEW JERSEY 216th LEGISLATURE

---

INTRODUCED MARCH 17, 2014

**Sponsored by:**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

Establishes public-private partnership for certain transportation projects; requires 10% of public-private partnership projects to be set aside for small businesses.

**CURRENT VERSION OF TEXT**

As introduced.



1   **AN ACT** concerning public-private partnerships for transportation  
2       projects, supplementing Title 27 of the Revised Statutes and  
3       amending various parts of the statutory law.

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8       1. (New section) As used in this act:

9       "Commissioner" means the Commissioner of Transportation.

10      "Corporation" means the New Jersey Transit Corporation.

11      "Department" means the Department of Transportation.

12      "Developer" means a public or private entity or consortia thereof  
13 selected by the public partner from among proposers to develop a  
14 public-private partnership project.

15      "Intelligent transportation systems" means the equipment,  
16 facilities, property, information management, and communications  
17 resources which are necessary or desirable for the advancement,  
18 management, or operation of a multi-modal transportation network.

19      "Project agreement" or "public-private partnership project  
20 agreement" means a contract or agreement entered into by the  
21 commissioner with a developer providing the terms and conditions  
22 under which the developer shall undertake a public-private  
23 partnership project.

24      "Public highways" means public roads, streets, expressways,  
25 freeways, parkways, motorways and boulevards, including bridges,  
26 tunnels, overpasses, underpasses, interchanges, rest areas, express  
27 bus roadways, bus pullouts and turnarounds, park and ride facilities,  
28 traffic circles, grade separations, intelligent transportation systems,  
29 traffic control devices, the elimination or improvement of crossings  
30 of railroads and highways, whether at grade or not at grade, and any  
31 facilities, equipment, property, rights of way, easements and  
32 interests therein needed for the construction, improvement, and  
33 maintenance of highways or intelligent transportation systems.

34      "Public partner" means the Department of Transportation or the  
35 New Jersey Transit Corporation, as the case may be.

36      "Public-private partnership project" means a transportation  
37 project selected by the commissioner pursuant to section 2 of this  
38 act.

39      "Public transportation project" means, in connection with public  
40 transportation service, passenger stations, shelters and terminals,  
41 automobile parking facilities, ramps, track connections, signal  
42 systems, power systems, information and communication systems,  
43 roadbeds, transit lanes or rights of way, equipment storage and  
44 servicing facilities, bridges, grade crossings, rail cars, locomotives,  
45 motorbuses and other motor vehicles, maintenance and garage

**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.

1 facilities, revenue handling equipment, and any other equipment,  
2 facility, or property useful for or related to the provision of public  
3 transportation service.

4 "Transportation project" means, in addition to public highways  
5 and public transportation projects, any equipment, facility, or  
6 property useful or related to the provision of any ground,  
7 waterborne, or air transportation for the movement of people and  
8 goods.

9  
10 2. (New section) a. Commencing with the State fiscal year  
11 beginning after the effective date of P.L. , c. (C. ) (pending  
12 before the Legislature as this bill), the commissioner is authorized  
13 in each State fiscal year to select any transportation project from the  
14 list of transportation projects for which monies have been  
15 appropriated in the annual appropriations act to serve as a public-  
16 private partnership project.

17 b. Selection by the commissioner of public-private partnership  
18 projects pursuant to subsection a. of this section which are public  
19 transportation projects shall be made with the approval of the board  
20 of the corporation.

21 c. If, in any State fiscal year in which the commissioner is  
22 authorized to select a transportation project pursuant to subsection  
23 a. of this section, a transportation project is not listed in the annual  
24 appropriations act, the commissioner may submit that project as a  
25 public-private partnership project to the Legislature for approval.  
26 The commissioner shall make the submission to the President of the  
27 Senate and the Speaker of the General Assembly on a day when  
28 both houses of the Legislature are meeting. The President and the  
29 Speaker shall cause the date of submission to be entered upon the  
30 Senate Journal and the Minutes of the General Assembly,  
31 respectively. Unless the project as described in the submission is  
32 disapproved by adoption of a concurrent resolution to this effect by  
33 the affirmative vote of a majority of the authorized membership of  
34 both houses within the time period prescribed in this subsection, the  
35 project shall be deemed approved and the public partner shall be  
36 authorized to undertake the project. The time period shall  
37 commence on the day of submission and expire on the 45th day  
38 after submission or for a house not meeting on the 45th day, on the  
39 next meeting day of that house.

40 d. Notwithstanding the provisions of this section to the  
41 contrary, a public-private partnership project shall be subject to the  
42 approval of the Joint Budget Oversight Committee or its successor.

43  
44 3. (New section) a. A public partner is authorized to solicit  
45 proposals from developers to plan, design, construct, equip, operate,  
46 finance, improve, and maintain, or any combination thereof, public-  
47 private partnership projects selected by the commissioner pursuant

1 to section 2 of this P.L. , c. (C. ) (pending before the  
2 Legislature as this bill).

3 b. A public partner shall select proposals for negotiation of  
4 public-private partnership project agreements based on the overall  
5 benefit to the State, the qualifications, and financial strength of the  
6 proposer, the proposer's responsiveness to the public partner's  
7 requirements, the total project cost to be incurred by the public  
8 partner, the nature of project financing, the revenues to be generated  
9 by the project on behalf of and in support of the State, the impact of  
10 any direct or indirect user fees, and any other evaluation criteria the  
11 public partner deems appropriate. The public partner shall  
12 negotiate with one or more proposers to reach a project agreement  
13 in the best interests of the State, except that in the event that a  
14 private developer, private entity, or private consortia benefits from  
15 the use of public monies for the construction of a public-private  
16 partnership project pursuant to P.L. , c. (C. ) (pending before  
17 the Legislature as this bill), the project agreement with the  
18 developer shall provide that any construction contract entered into  
19 by the developer, a private entity, or private consortia, to effectuate  
20 the agreement shall conform to those requirements concerning  
21 advertisement, pre-qualification, bid, and award provided for by law  
22 for construction contracts entered into by the department or  
23 corporation, as the case may be.

24 c. Any power possessed by a public partner pursuant to  
25 P.L. , c. (C. ) (pending before the Legislature as this bill) or  
26 any other act or any function performed by the department or the  
27 corporation, as the case may be, with respect to transportation  
28 projects may be used by that public partner to facilitate the  
29 planning, designing, construction, equipment, financing,  
30 improvement, maintenance, and operation, or any combination  
31 thereof, of public-private partnership projects selected pursuant to  
32 P.L. , c. (C. ) (pending before the Legislature as this bill).  
33 Project agreements entered into pursuant to P.L. , c. (C. )  
34 (pending before the Legislature as this bill) may provide for full  
35 reimbursement to the State for services rendered by the public  
36 partner or other State entities or agencies or for the provision of  
37 revenues generated to the State. The public partner is authorized to  
38 enter into financing, funding, and credit agreements on such terms  
39 as the commissioner deems favorable to the State to promote the  
40 purposes of P.L. , c. (C. ) (pending before the Legislature as  
41 this bill). All credit agreements entered into by the public partner  
42 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
43 this bill) shall be subject to concurrence by the State Treasurer.

44 d. A project agreement entered into pursuant to P.L. ,  
45 c. (C. ) (pending before the Legislature as this bill) shall  
46 provide for a public involvement and information process to apply  
47 to each public-private partnership project. The purpose of the  
48 public involvement and information process shall be to disseminate

1 and provide information about the public-private partnership project  
2 to the public, prospective project users, and the residents of  
3 communities affected by the project, and to establish a formal  
4 means by which interested persons may comment upon the project  
5 and make suggestions.

6 e. Upon entering into a project agreement pursuant to P.L. ,  
7 c. (C. ) (pending before the Legislature as this bill), the public  
8 partner shall publish a notice in a newspaper circulating in the  
9 county in which the public-private partnership project will be  
10 located describing the project and the responsibilities of the  
11 developer and the public partner with respect to the project. If a  
12 public-private partnership project will be located in more than one  
13 county or have a regional impact, the notice shall also be published  
14 in a publication circulating in the region in which the public-private  
15 partnership will be located.

16  
17 4. (New section) a. The department's financial participation  
18 in any public-private partnership project undertaken pursuant to  
19 P.L. , c. (C. ) (pending before the Legislature as this bill)  
20 shall be subject to legislative appropriation. The corporation's  
21 financial participation in any public-private partnership project  
22 undertaken pursuant to P.L. , c. (C. ) (pending before the  
23 Legislature as this bill) shall be subject to the availability of funds.  
24 Participation by a public partner may take the form of loans or such  
25 other financial credit arrangements as may be appropriate to  
26 advance an approved project. Agreements entered into pursuant to  
27 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
28 facilitate such participation shall provide that such loans or other  
29 credit arrangements made by the public partner shall yield a  
30 reasonable return and be amortized over the term of such  
31 agreement, or such lesser period as may be agreed to by the parties.

32 b. A project agreement entered into pursuant to P.L. ,  
33 c. (C. ) (pending before the Legislature as this bill) shall  
34 provide for the allocation of ownership, leasehold, and other  
35 property interests in public-private partnership projects.

36 c. The project agreement may authorize the developer to set  
37 and impose rents, fares, or user fees for use of a facility constructed  
38 by it and may require that over the term of the agreement, the rent,  
39 fare, or fee revenues received by the developer be applied to  
40 repayment of the developer's capital outlay costs, interest expense,  
41 costs associated with operations, fare or user fee collection, facility  
42 management, reimbursement of the State's project review and  
43 oversight costs, repayment of loans, revenues to the State, technical  
44 and law enforcement services, and a reasonable return on  
45 investment to the developer.

46 d. The project agreement shall specify the manner in which  
47 rents, fares, or user fees are to be established or revised, the  
48 procedures for receiving public comment on the establishment or

1 revision of fares or user fees, including the holding of a public  
2 hearing thereon, and the procedures by which the public partner  
3 shall oversee the establishment or revision of fares or user fees  
4 provided, however, that no fares or user fees shall be subject to  
5 oversight unless the developer receives public monies for 10  
6 percent or greater of its operating expenses.

7  
8 5. (New section) Any law pertaining to traffic control and  
9 other laws applicable on the State transportation system shall be  
10 enforceable, as appropriate, on public-private partnership projects  
11 constructed by and leased by a developer pursuant to P.L. ,  
12 c. (C. ) (pending before the Legislature as this bill).

13  
14 6. (New section) a. A public-private partnership project  
15 selected pursuant to P.L. , c. (C. ) (pending before the  
16 Legislature as this bill) shall be designed, constructed, operated,  
17 and maintained in accordance with all applicable environmental  
18 requirements and all other applicable State and federal laws and  
19 regulations necessary to the protection of the public health, safety,  
20 and welfare.

21 b. Unless determined otherwise by the corporation, in its sole  
22 discretion, the plans and specifications for each public-private  
23 partnership project shall comply with the corporation's standards for  
24 public transportation projects.

25 c. Unless determined otherwise by the commissioner, in the  
26 commissioner's sole discretion, the plans and specifications for  
27 each transportation project other than public transportation projects  
28 shall comply with the department's standards for transportation  
29 projects.

30  
31 7. (New section) All absolute and qualified immunities and  
32 defenses provided to public entities and public employees by the  
33 "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the "New  
34 Jersey Contractual Liability Act," N.J.S.59:13-1 et seq., and any  
35 other law shall apply to all interests held and activities performed  
36 by the department, the corporation and other State agencies in  
37 connection with the demonstration projects selected pursuant to  
38 P.L. , c. (C. ) (pending before the Legislature as this bill).

39  
40 8. (New section) a. The public partner may agree to defend  
41 and indemnify any person, who, pursuant to a written agreement  
42 with the public partner entered into in accordance with P.L. ,  
43 c. (C. ) (pending before the Legislature as this bill), designs,  
44 constructs, operates, maintains, leases, or otherwise holds an  
45 interest in a public-private partnership project, against claims,  
46 causes of action, demands, costs, or judgments against that person  
47 arising as a direct result of the design, construction, interest,  
48 operation, or maintenance of that public-private partnership project.

1 The public partner is authorized to reach agreements to defend and  
2 indemnify a person upon the terms and limitations the public  
3 partner deems reasonable and appropriate.

4 b. A determination by the public partner to defend and  
5 indemnify pursuant to this section does not bar, reduce, limit, or  
6 affect any remedies which the public partner may have to enforce  
7 the agreement between the public partner and the developer to  
8 assert a claim for damages to which the public partner may be  
9 entitled arising out of the developer's failure to perform the  
10 agreement, or for the recovery of funds expended for the defense of  
11 the developer if the defense was undertaken in response to a claim  
12 or cause of action brought against the developer which is proven to  
13 have arisen from gross negligence, willful misconduct, fraud,  
14 intentional tort, bad faith, or criminal conduct.

15 c. No one other than the person operating, maintaining, leasing,  
16 or otherwise holding an interest in the public-private partnership  
17 project pursuant to an agreement with the public partner has the  
18 right to enforce any agreement for defense or indemnification  
19 between that person and the public partner.  
20

21 9. (New section) a. Notwithstanding the provisions of any  
22 State bidding or public contracts laws to the contrary, but subject to  
23 any supervening federal statutes or rules, a public partner may  
24 designate a project agreement, or a portion thereof, entered into  
25 between a public partner and a developer pursuant to the provisions  
26 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
27 as a small business set-aside contract. The designation shall be  
28 made prior to the advertisement for bids.

29 b. A public partner shall award at least 10 percent of their  
30 contracts to a small business. For purposes of meeting this  
31 requirement, a public partner shall, when necessary, specifically set  
32 aside a contract or a portion of a contract for which only a small  
33 business may bid.  
34

35 10. (New section) The advertisement for bids on a set-aside  
36 contract shall indicate the invitation to bid as a set-aside. The  
37 advertisement shall be in such newspaper or newspapers as will best  
38 give notice thereof to appropriate bidders and shall be sufficiently  
39 in advance of the project agreement to promote competitive bidding  
40 among those businesses for whom the project agreement is being set  
41 aside. The newspaper or newspapers in which the advertisement  
42 shall appear shall be selected by the public partner. The  
43 advertisement shall designate the time and place at which sealed  
44 proposals shall be received and publicly opened and read, the  
45 amount of the cash or certified check, if any, which shall  
46 accompany each bid and such other items as the public partner may  
47 deem proper. The advertisement shall be made by the public

1 partner pursuant to the procedure set forth in the law governing  
2 State contracts, where this act is inconsistent with that law.

3 11. Section 5 of P.L.1966, c.301 (C.27:1A-5) is amended to read  
4 as follows:

5 5. The commissioner, as head of the department, shall have all  
6 of the functions, powers and duties heretofore vested in the State  
7 Highway Commissioner and shall, in addition to the functions,  
8 powers and duties vested in him by this act or by any other law:

9 (a) Develop and maintain a comprehensive master plan for all  
10 modes of transportation development, with special emphasis on  
11 public transportation. Such plan shall be revised and updated at  
12 least every five years;

13 (b) Develop and promote programs to foster efficient and  
14 economical transportation services in the State;

15 (c) Prepare plans for the preservation, improvement and  
16 expansion of the public transportation system, with special  
17 emphasis on the coordination of transit modes and the use of rail  
18 rights of way, highways and public streets for public transportation  
19 purposes;

20 (d) Enter into contracts with the New Jersey Transit Corporation  
21 for the provision and improvement of public transportation services;

22 (e) Coordinate the transportation activities of the department  
23 with those of other public agencies and authorities;

24 (f) Cooperate with interstate commissions and authorities, State  
25 departments, councils, commissions and other State agencies, with  
26 appropriate federal agencies, and with interested private individuals  
27 and organizations in the coordination of plans and policies for the  
28 development of air commerce and air facilities;

29 (g) Make an annual report to the Governor and the Legislature  
30 on the department's operations, and render such other reports as the  
31 Governor shall from time to time request or as may be required by  
32 law;

33 (h) Promulgate regulations providing for the charging of and  
34 setting the amount of fees for certain services performed by and  
35 permits issued by the department, including but not limited to the  
36 following:

37 (1) Providing copies of documents prepared by or in the custody  
38 of the department;

39 (2) Aeronautics permits;

40 (3) Right of way permits;

41 (4) Traffic signal control systems;

42 (i) Develop and promote programs for the preservation,  
43 improvement and expansion of freight railroads, with special  
44 emphasis on the use of rail rights of way for the purpose of  
45 providing rail freight service;

46 (j) Develop and promote a program to ensure the safety and  
47 continued operation of aviation facilities in New Jersey;



1 (k) Enter into agreements with a public or private entity or  
2 consortia thereof to provide for the development of demonstration  
3 projects through the use of public-private partnerships pursuant to  
4 **【sections 1 through 9 of P.L.1997, c.136 (C.27:1D-1 et seq.)】**  
5 sections 1 through 10 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill);

7 (l) Do any and all things necessary, convenient or desirable to  
8 effectuate the purposes of P.L.1966, c.301 (C.27:1A-1 et seq.) and  
9 to exercise the powers given and granted in that act; and

10 (m) Enter into agreements or contracts with a private entity and  
11 charge and collect fees or other payments for the placement of  
12 sponsorship acknowledgment and advertising on signs, equipment,  
13 materials, and vehicles used for a safety service patrol or emergency  
14 service patrol program operated by the department, or operated by a  
15 private entity under contract with the department or through the use  
16 of a public-private partnership or demonstration project.

17 (cf: P.L.2011, c.133, s.1)

18  
19 12. Section 5 of P.L.1979, c.150 (C.27:25-5) is amended to read  
20 as follows:

21 5. In addition to the powers and duties conferred upon it  
22 elsewhere in this act, the corporation may do all acts necessary and  
23 reasonably incident to carrying out the objectives of this act,  
24 including but not in limitation thereof the following:

25 a. Sue and be sued;

26 b. Have an official seal and alter the same at pleasure;

27 c. Make and alter bylaws for its organization and internal  
28 management and for the conduct of its affairs and business;

29 d. Maintain an office at such place or places within the State as  
30 it may determine;

31 e. Adopt, amend and repeal such rules and regulations as it  
32 may deem necessary to effectuate the purposes of this act, which  
33 shall have the force and effect of law; it shall publish the same and  
34 file them in accordance with the "Administrative Procedure Act,"  
35 P.L.1968, c.410 (C.52:14B 1 et seq.) with the Director of the Office  
36 of Administrative Law;

37 f. Call to its assistance and avail itself of the service of such  
38 employees of any federal, State, county or municipal department or  
39 agency as it may require and as may be available to it for said  
40 purpose;

41 g. Apply for, accept and expend money from any federal, State,  
42 county or municipal agency or instrumentality and from any private  
43 source; comply with federal statutes, rules and regulations, and  
44 qualify for and receive all forms of financial assistance available  
45 under federal law to assure the continuance of, or for the support or  
46 improvement of public transportation and as may be necessary for  
47 that purpose to enter into agreements, including federally required  
48 labor protective agreements;

- 1       h. Plan, design, construct, equip, operate, improve and  
2 maintain, either directly or by contract with any public or private  
3 entity, public transportation services, capital equipment and  
4 facilities or any parts or functions thereof, and other transportation  
5 projects, or any parts or functions thereof, which may be funded  
6 under section 3 of the federal Urban Mass Transportation Act of  
7 1964, Pub.L.88 365 (49 U.S.C. s.1602), or any successor or  
8 additional federal act having substantially the same or similar  
9 purposes or functions; the operation of the facilities of the  
10 corporation, by the corporation or any public or private entity, may  
11 include appropriate and reasonable limitations on competition in  
12 order that maximum service may be provided most efficiently to the  
13 public;
- 14       i. Apply for and accept, from appropriate regulatory bodies,  
15 authority to operate public transportation services where necessary;
- 16       j. Purchase, lease as lessee, or otherwise acquire, own, hold,  
17 improve, use and otherwise deal in and with real or personal  
18 property, or any interest therein, from any public or private entity,  
19 wherever situated;
- 20       k. Lease as lessor, sell or otherwise dispose of on terms which  
21 the corporation may prescribe, real and personal property, including  
22 tangible or intangible property and consumable goods, or any  
23 interest therein, to any public or private entity, in the exercise of its  
24 powers and the performance of its duties under this act. In order to  
25 provide or encourage adequate and efficient public transportation  
26 service, the corporation may lease or otherwise permit the use or  
27 occupancy of property without cost or at a nominal rental;
- 28       l. Restrict the rights of persons to enter upon or construct any  
29 works in or upon any property owned or leased by the corporation,  
30 except under such terms as the corporation may prescribe; perform  
31 or contract for the performance of all acts necessary for the  
32 management, maintenance and repair of real or personal property  
33 leased or otherwise used or occupied pursuant to this act;
- 34       m. Establish one or more operating divisions as deemed  
35 necessary. Upon the establishment of an operating division, there  
36 shall be established a geographically coincident advisory committee  
37 to be appointed by the Governor with the advice and consent of the  
38 Senate. The committee shall consist of county and municipal  
39 government representatives and concerned citizens, in the number  
40 and for such terms as may be fixed by the corporation, and shall  
41 advise the corporation as to the public transportation service  
42 provided in the operating division. At least two members of each  
43 advisory committee shall be public transportation riders, including  
44 but not limited to urban transit users and suburban commuters as  
45 appropriate. One public member from the board of the corporation  
46 shall serve as a liaison to each advisory committee;
- 47       n. Set and collect fares and determine levels of service for  
48 service provided by the corporation either directly or by contract

- 1 including, but not limited to, such reduced fare programs as deemed  
2 appropriate by the corporation; revenues derived from such service  
3 may be collected by the corporation and shall be available to the  
4 corporation for use in furtherance of any of the purposes of this act;
- 5 o. Set and collect rentals, fees, charges or other payments from  
6 the lease, use, occupancy or disposition of properties owned or  
7 leased by the corporation; such revenues shall be available to the  
8 corporation for use in furtherance of any of the purposes of this act;
- 9 p. Deposit corporate revenues in interest bearing accounts or in  
10 the State of New Jersey Cash Management Fund established  
11 pursuant to section 1 of P.L.1977, c.281 (C.52:18A 90.4);
- 12 q. Delegate to subordinate officers of the corporation such  
13 powers and duties as the corporation shall deem necessary and  
14 proper to carry out the purposes of this act;
- 15 r. Procure and enter into contracts for any type of insurance  
16 and indemnify against loss or damage to property from any cause,  
17 including loss of use and occupancy, against death or injury of any  
18 person, against employees' liability, against any act of any member,  
19 officer, employee or servant of the corporation, whether part time,  
20 full time, compensated or noncompensated, in the performance of  
21 the duties of his office or employment or any other insurable risk.  
22 In addition, the corporation may carry its own liability insurance;
- 23 s. Promote the use of public transportation services, coordinate  
24 ticket sales and passenger information and sell, lease or otherwise  
25 contract for advertising in or on the equipment or facilities of the  
26 corporation;
- 27 t. Adopt and maintain employee benefit programs for  
28 employees of the corporation including, but not limited to, pension,  
29 deferred compensation, medical disability, and death benefits, and  
30 which programs may utilize insurance contracts, trust funds, and  
31 any other appropriate means of providing the stipulated benefits,  
32 and may involve new plans or the continuation of plans previously  
33 established by entities acquired by the corporation;
- 34 u. Own, vote, and exercise all other rights incidental to the  
35 ownership of shares of the capital stock of any incorporated entity  
36 acquired by the corporation pursuant to the powers granted by this  
37 act;
- 38 v. Enter into any and all agreements or contracts, execute any  
39 and all instruments, and do and perform any and all acts or things  
40 necessary, convenient or desirable for the purposes of the  
41 corporation, or to carry out any power expressly or implicitly given  
42 in this act;
- 43 w. Notwithstanding the provisions of section 17 of P.L.1979,  
44 c.150 (C.27:25-17) or any other law to the contrary, (1) issue  
45 operating grant anticipation notes which shall be secured and retired  
46 from operating assistance grants authorized under section 9 of the  
47 federal Urban Mass Transportation Act of 1964, Pub.L.88 365 (49  
48 U.S.C. s.1602), or any successor or additional federal act having

1 substantially the same or similar purposes or functions and (2) issue  
2 capital grant anticipation notes which shall be secured and retired  
3 from capital assistance grants authorized under section 3 or section  
4 9 of the federal Urban Mass Transportation Act of 1964, Pub.L.88  
5 365 (49 U.S.C. s.1602), or any successor or additional federal act  
6 having substantially the same or similar purposes or functions. As  
7 used in this subsection, "operating grant anticipation notes" or  
8 "capital grant anticipation notes" (hereinafter referred to as "notes")  
9 means credit obligations issued in anticipation of these grants. The  
10 notes shall be authorized by a resolution or resolutions of the  
11 corporation, and may be issued in one or more series and shall bear  
12 the date, or dates, bear interest at the rate or rates of interest per  
13 annum, be in the denomination or denominations, be in the form,  
14 carry the conversion or registration privileges, have the rank or  
15 priority, be executed in such manner as the resolution or resolutions  
16 require. The notes may be sold at public or private sale at the price  
17 or prices and in the manner that the corporation determines. The  
18 notes of the corporation, the sale or transfer thereof, and the income  
19 derived therefrom by the purchasers of the notes, shall, at all times,  
20 be free from taxation for State or local purposes, under any law of  
21 the State or any political subdivision thereof. Notes may be issued  
22 under the provisions of P.L.1979, c.150 (C.27:25-1 et seq.) without  
23 obtaining the consent of any department, division, commission,  
24 board, bureau or agency of the State, and without any other  
25 proceedings, conditions, or things which are specifically required  
26 by P.L.1979, c.150 (C.27:25-1 et seq.). The notes issued pursuant  
27 to P.L.1979, c.150 (C.27:25-1 et seq.) shall not in any way create or  
28 constitute any indebtedness, liability or obligation of the State or of  
29 any political subdivision thereof or of the corporation, except as  
30 provided herein.

31 The notes shall be payable solely from (1) note proceeds, to the  
32 extent not disbursed to the corporation, (2) grant payments if, as,  
33 and when received from the federal government, and (3) investment  
34 earnings on note proceeds, to the extent not disbursed to the  
35 corporation. Each note shall contain on its face a statement to the  
36 effect that the corporation is obligated to pay the principal thereof  
37 or the interest thereon only from these grants to the corporation and  
38 from the proceeds of the notes and investment earnings on the  
39 proceeds of the notes, to the extent not disbursed to the corporation,  
40 and that neither the faith and credit nor the taxing power of the  
41 State or of any political subdivision thereof or of the corporation is  
42 pledged to the payment of the principal and interest on these notes.  
43 Neither the members of the corporation's board nor any person  
44 executing the transactions are personally liable on those notes nor  
45 are they otherwise liable for their actions; and

46 x. Enter into agreements with a public or private entity or  
47 consortia thereof to provide for the development of demonstration  
48 projects through the use of public-private partnerships pursuant to

1 **【sections 1 through 9 of P.L.1997,c.136 (C.27:1D-1 et seq.)】**  
2 sections 1 through 10 of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill).  
4 (cf: P.L.2004, c.1, s.1)  
5

6 13. Section 12 of P.L.1995, c.108 (C.27:1B-21.5) is amended to  
7 read as follows:

8 12. a. Notwithstanding the provisions of any other law to the  
9 contrary, the commissioner is authorized to enter into agreements  
10 with public or private entities or consortia thereof for the loan of  
11 federal funds appropriated to the department for the purpose of  
12 financing all, or a portion of, the costs incurred for the planning,  
13 acquisition, engineering, construction, reconstruction, repair and  
14 rehabilitation of a transportation project by that public or private  
15 entity or consortia thereof.

16 b. The commissioner, with the approval of the State Treasurer,  
17 shall establish rules and regulations governing the qualifications of  
18 the applicants, the application procedures, the criteria for awarding  
19 loans, and the standards for establishing the amount, terms and  
20 conditions of each loan. The rules and regulations shall provide  
21 that the term of the loan agreement shall be consistent with terms  
22 and conditions as provided by applicable federal law.

23 c. Loans granted pursuant to this section shall be considered an  
24 investment or reinvestment of Special Transportation Fund funds  
25 within the meaning of subsection a. of section 21 of P.L.1984, c.73  
26 (C.27:1B-21). Payments of interest and principal on loans granted  
27 pursuant to this section shall be credited to a special subaccount of  
28 the Special Transportation Fund and may be used for financing  
29 authorized projects. Monies appropriated from the special  
30 subaccount pursuant to this section shall be in addition to the total  
31 State amount authorized to be appropriated in a fiscal year pursuant  
32 to section 8 of P.L.1987, c.460 (C.27:1B-21.1).

33 d. Each loan made pursuant to this section shall require the  
34 specific approval of the Joint Budget Oversight Committee, except  
35 for those loans agreed to by the commissioner as part of an  
36 agreement for a demonstration project approved pursuant to  
37 **【P.L.1997, c.136 (C.27:1D-1 et al.)】** sections 1 through 10 of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill).  
39 The Chairman of the Joint Budget Oversight Committee may  
40 request periodic reports from the commissioner on the status of any  
41 or all loans. The commissioner shall provide reports so requested  
42 on a timely basis.

43 e. Transportation projects which are the subject of a loan  
44 agreement entered into pursuant to this section shall be included in  
45 the annual report of proposed projects prepared pursuant to section  
46 22 of P.L.1984, c.73 (C.27:1B-22) for the fiscal year in which the  
47 loan amount for those projects is to be appropriated.

48 (cf: P.L.1997, c.136, s.13)

1       14. The Commissioner of Transportation shall adopt rules and  
2 regulations pursuant to the "Administrative Procedure Act,"  
3 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the  
4 purposes of this act.

5  
6       15. This act shall take effect on the 365th day next following  
7 enactment.

8  
9  
10                               STATEMENT

11  
12       This bill authorizes the Commissioner of Transportation, in each  
13 State fiscal year to select any transportation project from the list of  
14 transportation projects for which monies have been appropriated in  
15 the annual appropriations act to serve as a public-private  
16 partnership project. A public-private partnership project is a  
17 transportation project entered into between a "public partner,"  
18 which is defined as the Department of Transportation or the New  
19 Jersey Transit Corporation and a "developer," which is defined in  
20 part as a public or private entity or consortia thereof.

21       The bill authorizes a public partner to solicit proposals from  
22 developers to plan, design, construct, equip, operate, finance,  
23 improve, and maintain, or any combination thereof, public-private  
24 partnership projects selected by the commissioner. A public partner  
25 then selects proposals for negotiation of public-private partnership  
26 project agreements based on the overall benefit to the State, the  
27 qualifications, and financial strength of the proposer, the proposer's  
28 responsiveness to the public partner's requirements, the total project  
29 cost to be incurred by the public partner, the nature of project  
30 financing, the revenues to be generated by the project on behalf of  
31 and in support of the State, the impact of any direct or indirect user  
32 fees, and any other evaluation criteria the public partner deems  
33 appropriate.

34       The public partner then negotiates with one or more proposers to  
35 reach a project agreement in the best interests of the State, except  
36 that in the event that a private developer, private entity, or private  
37 consortia benefits from the use of public monies for the  
38 construction of a public-private partnership project the project  
39 agreement with the developer shall provide that any construction  
40 contract entered into by the developer, a private entity, or private  
41 consortia, to effectuate the agreement shall conform to those  
42 requirements concerning advertisement, pre-qualification, bid, and  
43 award provided for by law for construction contracts entered into by  
44 the department or corporation, as the case may be.

45       Any financial participation by the Department of Transportation  
46 department's in any public-private partnership project shall be  
47 subject to legislative appropriation and financial participation by

1 the New Jersey Transit Corporation in any public-private  
2 partnership project shall be subject to the availability of funds.

3 The bill authorizes a public partner to designate a project  
4 agreement, or a portion thereof, entered into between a public  
5 partner and a developer as a small business set-aside contract. The  
6 designation shall be made prior to the advertisement for bids. A  
7 public partner shall award at least 10% of their contracts for small  
8 businesses. For purposes of meeting this requirement, a public  
9 partner shall, when necessary, specifically set aside contracts or  
10 portions of contracts for which only small businesses may bid.

11 The advertisement for bids on a set-aside contract shall indicate  
12 the invitation to bid as a set-aside. The advertisement shall be in  
13 such newspaper or newspapers as will best give notice thereof to  
14 appropriate bidders and shall be sufficiently in advance of the  
15 project agreement to promote competitive bidding among those  
16 businesses for whom the project agreement is being set aside.