ASSEMBLY, No. 1449



STATE OF NEW JERSEY

219th LEGISLATURE



PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Eliminates NJ Schools Development Authority and transfers its school construction responsibilities to Division of Property Management and Construction in Department of Treasury.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



An Act concerning the construction of school facilities projects, revising various parts of the statutory law, and supplementing chapter 7G of Title 18A of the New Jersey Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 21 of P.L.2007, c.21 (C.18A:7F-63) is amended to read as follows:

21. a. Notwithstanding any provision of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) to the contrary, an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) may include in its annual capital outlay budget and construct one or more school facilities projects if the commissioner, in consultation with the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury, approves the inclusion of the project upon a demonstration by the district that its budget includes sufficient funds to finance the project. The commissioner's approval of the inclusion of the school facilities project in the district's annual capital outlay budget may also contain specific conditions including, but not limited to, a requirement that the district follow the design requirements and materials and system standards established by the **[**development authority**]** division. A district may also withdraw funds from a capital reserve account for such purpose with the approval of the commissioner.

b. A school facilities project that is not financed and constructed pursuant to subsection a. of this section, shall continue to be financed and constructed in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.).

(cf: P.L.2015, c.257, s.1)

2. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to read as follows:

3. As used in sections 1 through 30 and 57 through 71 of P.L.2000, c.72 (C.18A:7G-1 et al.) and sections 14 through 17 of P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), unless the context clearly requires a different meaning:

"Area cost allowance" means $138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be established by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project;

"Capital maintenance project" means a school facilities project intended to extend the useful life of a school facility, including up-grades and replacements of building systems, such as structure, enclosure, mechanical, plumbing and electrical systems;

"Commissioner" means the Commissioner of Education;

"Core curriculum content standards" means the standards established pursuant to the provisions of subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46);

"Cost index" means the average annual increase, expressed as a decimal, in actual construction cost factors for the New York City and Philadelphia areas during the second fiscal year preceding the budget year as determined pursuant to regulations promulgated by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon school bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"Demonstration project" means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

**[**"Development authority" means the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237);**]**

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.);

"District aid percentage" means the number expressed as a percentage derived from dividing the district's equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) as of the date of the commissioner's determination of preliminary eligible costs by the district's adequacy budget calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the commissioner's determination of preliminary eligible costs;

“Division” means the Division of Property Management and Construction in the Department of the Treasury;

"Excess costs" means the additional costs, if any, which shall be borne by the district, of a school facilities project which result from design factors that are not required to meet the facilities efficiency standards and not approved pursuant to paragraph (1) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized as community design features included in final eligible costs pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Facilities efficiency standards" means the standards developed by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Final eligible costs" means for school facilities projects to be constructed by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury, the final eligible costs of the school facilities project as determined by the commissioner, in consultation with the **[**development authority**]** division, pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final eligible costs of the project as determined by the commissioner and reviewed by the **[**development authority**]** division which may include the cost of community design features determined by the commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards, and which were reviewed by the **[**development authority**]** division and approved by the State Treasurer pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6); and for districts other than SDA districts, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000, c.72 (C.18A:7G-5);

"Financing authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"FTE" means a full-time equivalent student which shall be calculated as follows: each student in grades 1 through 12 shall be counted at 100% of the actual count of students, in the case of districts which operate a half-day kindergarten program each kindergarten student shall be counted at 50% of the actual count of kindergarten students, in the case of districts which operate a full-day kindergarten program or which currently operate a half-day kindergarten program but propose to build facilities to house a full-day kindergarten program each kindergarten student shall be counted at 100% of the actual count of kindergarten students, and each preschool student who is enrolled in a full-day preschool program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at 100% of the actual count of preschool students. In addition, each preschool disabled child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual count of these students in the district;

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8) and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

"Lease purchase payment" means and includes payment of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection (f) of N.J.S.18A:20-4.2 prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Local share" means, in the case of a school facilities project to be constructed by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury, the total costs less the State share as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the total costs less the State share as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project which shall be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State share as determined pursuant to that section;

"Local unit" means a county, municipality, board of education or any other political subdivision or instrumentality authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law;

"Local unit obligations" means bonds, notes, refunding bonds, refunding notes, lease obligations and all other obligations of a local unit which are issued or entered into for the purpose of paying for all or a portion of the costs of a school facilities project, including moneys payable to the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury;

"Long-range facilities plan" means the plan required to be submitted to the commissioner by a district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Maintenance" means expenditures which are approved for repairs and replacements for the purpose of keeping a school facility open and safe for use or in its original condition, including repairs and replacements to a school facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition. Maintenance shall not include capital maintenance or contracted custodial or janitorial services, expenditures for the cleaning of a school facility or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings or equipment, or other expenditures which are not required to maintain the original condition over the school facility's useful life. Approved maintenance expenditures shall be as determined by the commissioner pursuant to regulations to be adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Other allowable costs" means the costs of temporary facilities, site development, acquisition of land or other real property interests necessary to effectuate the school facilities project, fees for the services of design professionals, including architects, engineers, construction managers and other design professionals, legal fees, financing costs and the administrative costs of the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury and the financing authority or the district incurred in connection with the school facilities project;

"Other facilities" means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration;

"Preliminary eligible costs" means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise provided pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall be deemed to include the costs of construction and other allowable costs;

"Redevelopment entity" means a redevelopment entity authorized by a municipal governing body to implement plans and carry out redevelopment projects in the municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

"School bonds" means, in the case of a school facilities project which is to be constructed by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury, a redevelopment entity, or a district under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the local share; and, in the case of a school facilities project which is not to be constructed by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury or a redevelopment entity, or financed under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the total costs;

"School enrollment" means the number of FTE students other than evening school students, including post-graduate students and post-secondary vocational students, who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities;

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project;

"SDA district" is a district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year;

"Special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"State aid" means State municipal aid and State school aid;

"State debt service aid" means for school bonds issued for school facilities projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not to have a redevelopment entity construct the project or which elect not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), the amount of State aid determined pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or certificates of participation issued for school facilities projects approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10);

"State municipal aid" means business personal property tax replacement revenues, State urban aid and State revenue sharing, as these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or other similar forms of State aid payable to the local unit and to the extent permitted by federal law, federal moneys appropriated or apportioned to the municipality or county by the State;

"State school aid" means the funds made available to school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the State share as determined pursuant to that section;

"Total costs" means, in the case of a school facilities project which is to be constructed by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess costs if any; and in the case of a school facilities project which is not to be constructed by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as determined by the district.

(cf: P.L.2007, c.260, s.39)

3. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read as follows:

5. a. The **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury shall undertake and the financing authority shall finance the school facilities projects of SDA districts.

b. In the case of a district other than an SDA district, State support for the project shall be determined pursuant to section 9 or section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as applicable.

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in this act; provided that any district whose school facilities project is not constructed by the **[**development authority**]** division shall also be required to comply with the provisions of N.J.S.18A:18A-16.

d. (1) Any district seeking to initiate a school facilities project shall apply to the commissioner for approval of the project. The application may include, but not be limited to: a description of the school facilities project; a schematic drawing of the project or, at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional components of the project; educational specifications detailing the programmatic needs of each proposed space; the number of unhoused students to be housed in the project; the area allowances per FTE student as calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8); and the estimated cost to complete the project as determined by the district.

(2) In the case of an SDA district school facilities project, based upon its educational priority ranking and the Statewide strategic plan established pursuant to subsection m. of this section, the commissioner may authorize the **[**development authority**]** division to undertake preconstruction activities which may include, but need not be limited to, site identification, investigation, and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition, and acquisition of temporary facilities. Upon receipt of the authorization, the **[**development authority**]** division may initiate the preconstruction activities required to prepare the application for commissioner approval of the school facilities project.

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards; and in the case of an SDA district the commissioner shall also review the project's educational priority ranking and the Statewide strategic plan developed pursuant to paragraphs (2) and (3) of subsection m. of this section; and in the case of a district other than an SDA district the commissioner shall also review the project's priority pursuant to paragraph (4) of subsection m. of this section. The commissioner shall make a decision on a district's application within 90 days from the date he determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, he shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.

f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1) in the case of a county special services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district, the commissioner shall calculate the preliminary eligible costs to equal the estimated cost as determined by the **[**development authority**]** division.

g. If the commissioner determines that the school facilities project is inconsistent with the facilities efficiency standards or exceeds the area allowances per FTE student derived from those standards, the commissioner shall notify the district.

(1) The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the board of education or State district superintendent, as appropriate, demonstrates that school facilities needs related to required programs cannot be addressed within the facilities efficiency standards and that all other proposed spaces are consistent with those standards. The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the additional area allowances are necessary to accommodate centralized facilities to be shared among two or more school buildings within the district and the centralized facilities represent a more cost effective alternative.

(2) The commissioner may waive a facilities efficiency standard if the board of education or State district superintendent, as appropriate, demonstrates to the commissioner's satisfaction that the waiver will not adversely affect the educational adequacy of the school facility, including the ability to deliver the programs and services necessary to enable all students to achieve the core curriculum content standards.

(3) To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the projected total district school enrollment if the proposed administrative offices will be housed in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. To the extent that existing administrative space will continue to be used for administrative purposes, the space shall be included in the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

If the commissioner approves excess facilities efficiency standards or additional area allowances pursuant to paragraph (1), (2), or (3) of this subsection, the commissioner shall calculate the preliminary eligible costs based upon the additional area allowances or excess facilities efficiency standards pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that the commissioner does not approve the excess facilities efficiency standards or additional area allowances, the district may either: modify its submission so that the school facilities project meets the facilities efficiency standards; or pay for the excess costs.

(4) The commissioner shall approve spaces in excess of, or inconsistent with, the facilities efficiency standards, hereinafter referred to as nonconforming spaces, upon a determination by the district that the spaces are necessary to comply with State or federal law concerning individuals with disabilities, including that the spaces are necessary to provide in-district programs and services for current disabled pupils who are being served in out-of-district placements or in-district programs and services for the projected disabled pupil population. A district may apply for additional State aid for nonconforming spaces that will permit pupils with disabilities to be educated to the greatest extent possible in the same buildings or classes with their nondisabled peers. The nonconforming spaces may: (a) allow for the return of pupils with disabilities from private facilities; (b) permit the retention of pupils with disabilities who would otherwise be placed in private facilities; (c) provide space for regional programs in a host school building that houses both disabled and nondisabled pupils; and (d) provide space for the coordination of regional programs by a county special services school district, educational services commission, jointure commission, or other agency authorized by law to provide regional educational services in a school building that houses both disabled and nondisabled pupils. A district's State support ratio shall be adjusted to equal the lesser of the sum of its district aid percentage as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

h. Upon approval of a school facilities project and determination of the preliminary eligible costs:

(1) In the case of a district other than an SDA district, the commissioner shall notify the district whether the school facilities project is approved and, if so approved, the preliminary eligible costs and the excess costs, if any. Following the determination of preliminary eligible costs and the notification of project approval, the district may appeal to the commissioner for an increase in those costs if the detailed plans and specifications completed by a design professional for the school facilities project indicate that the cost of constructing that portion of the project which is consistent with the facilities efficiency standards and does not exceed the area allowances per FTE student exceeds the preliminary eligible costs as determined by the commissioner for the project by 10% or more. The district shall file its appeal within 30 days of the preparation of the plans and specifications. If the district chooses not to file an appeal, then the final eligible costs shall equal the preliminary eligible costs.

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the **[**development authority**]** division for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the **[**development authority**]** division shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the **[**development authority**]** division determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the **[**development authority**]** division shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

(2) In the case of an SDA district, the commissioner shall promptly prepare and submit to the **[**development authority**]** division a preliminary project report which shall consist, at a minimum, of the following information: a complete description of the school facilities project; the actual location of the project; the total square footage of the project together with a breakdown of total square footage by functional component; the preliminary eligible costs of the project; the project's priority ranking determined pursuant to subsection m. of this section; any other factors to be considered by the **[**development authority**]** division in undertaking the project; and the name and address of the person from the district to contact in regard to the project.

i. Upon receipt by the **[**development authority**]** division of the preliminary project report, the **[**development authority**]** division, upon consultation with the district, shall prepare detailed plans and specifications and schedules which contain the **[**development authority's**]** division’s estimated cost and schedule to complete the school facilities project. The **[**development authority**]** division shall transmit to the commissioner its recommendations in regard to the project which shall, at a minimum, contain the detailed plans and specifications; whether the school facilities project can be completed within the preliminary eligible costs; and any other factors which the **[**development authority**]** division determines should be considered by the commissioner.

(1) In the event that the **[**development authority**]** division determines that the school facilities project can be completed within the preliminary eligible costs: the final eligible costs shall be deemed to equal the preliminary eligible costs; the commissioner shall be deemed to have given final approval to the project; and the preliminary project report shall be deemed to be the final project report delivered to the **[**development authority**]** division pursuant to subsection j. of this section.

(2) In the event that the **[**development authority**]** division determines that the school facilities project cannot be completed within the preliminary eligible costs, prior to the submission of its recommendations to the commissioner, the **[**development authority**]** division shall, in consultation with the district and the commissioner, determine whether changes can be made in the project which will result in a reduction in costs while at the same time meeting the facilities efficiency standards approved by the commissioner.

(a) If the **[**development authority**]** division determines that changes in the school facilities project are possible so that the project can be accomplished within the scope of the preliminary eligible costs while still meeting the facilities efficiency standards, the **[**development authority**]** division shall so advise the commissioner, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs; give final approval to the project with the changes noted; and issue a final project report to the **[**development authority**]** division pursuant to subsection j. of this section.

(b) If the **[**development authority**]** division determines that it is not possible to make changes in the school facilities project so that it can be completed within the preliminary eligible costs either because the additional costs are the result of factors outside the control of the district or the additional costs are required to meet the facilities efficiency standards, the **[**development authority**]** division shall recommend to the commissioner that the preliminary eligible costs be increased accordingly, whereupon the commissioner shall: calculate the final eligible costs to equal the sum of the preliminary eligible costs plus the increase recommended by the **[**development authority**]** division; give final approval to the project; and issue a final project report to the **[**development authority**]** division pursuant to subsection j. of this section.

(c) If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards or approved pursuant to paragraph (1) of subsection g. of this section, the **[**developmentauthority**]** division shall recommend to the commissioner that the preliminary eligible costs be accepted, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs and specify the excess costs which are to be borne by the district; give final approval to the school facilities project; and issue a final project report to the **[**development authority**]** division pursuant to subsection j. of this section; provided that the commissioner may approve final eligible costs which are in excess of the preliminary eligible costs if, in his judgment, the action is necessary to meet the educational needs of the district.

(d) For a school facilities project undertaken by the **[**development authority**]** division, the **[**development authority**]** division shall be responsible for any costs of construction, but only from the proceeds of bonds issued by the financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount originally projected by the **[**development authority**]** division and approved for financing by the **[**development authority**]** division, provided that the excess is the result of an underestimate of labor or materials costs by the **[**development authority**]** division. After receipt by the **[**development authority**]** division of the final project report, the district shall be responsible only for the costs associated with changes, if any, made at the request of the district to the scope of the school facilities project.

j. The **[**development authority**]** division shall not commence the construction of a school facilities project unless the commissioner transmits to the **[**development authority**]** division a final project report and the district complies with the approval requirements for the local share, if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11). The final project report shall contain all of the information contained in the preliminary project report and, in addition, shall contain: the final eligible costs; the excess costs, if any; the total costs which equals the final eligible costs plus excess costs, if any; the State share; and the local share.

k. For the SDA districts, the State share shall be 100% of the final eligible costs. Except as otherwise provided pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9) , for all other districts, the State share shall be an amount equal to the district aid percentage; except that the State share shall not be less than 40% of the final eligible costs.

If any district which is included in district factor group A or B, other than an SDA district, is having difficulty financing the local share of a school facilities project, the district may apply to the commissioner to receive 100% State support for the project and the commissioner may request the approval of the Legislature to increase the State share of the project to 100%.

l. The local share for school facilities projects constructed by the **[**authority**]** division or a redevelopment entity shall equal the final eligible costs plus any excess costs less the State share.

m. (1) Within 90 days of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner shall develop an educational facilities needs assessment for each SDA district. The assessment shall be updated periodically by the commissioner in accordance with the schedule the commissioner deems appropriate for the district; except that each assessment shall at a minimum be updated within five years of the development of the district's most recent prior educational facilities needs assessment. The assessment shall be transmitted to the **[**development authority**]** division to be used to initiate the planning activities required prior to the establishment of the educational priority ranking of school facilities projects pursuant to paragraph (2) of this subsection.

(2) Following the approval of an SDA district's long-range facilities plan or of an amendment to that plan, but prior to authorization of preconstruction activities for a school facilities project included in the plan or amendment, the commissioner shall establish, in consultation with the SDA district, an educational priority ranking of all school facilities projects in the SDA district based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the early childhood, elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, rehabilitation, and educational adequacy.

(3) Upon the commissioner's determination of the educational priority ranking of school facilities projects in SDA districts pursuant to paragraph (2) of this subsection, the **[**development authority**]** division, in consultation with the commissioner, the SDA districts, and the governing bodies of the municipalities in which the SDA districts are situate, shall establish a Statewide strategic plan to be used in the sequencing of SDA district school facilities projects based upon the projects' educational priority rankings and issues which impact the **[**development authority's**]** division’s ability to complete the projects including, but not limited to, the construction schedule and other appropriate factors. The **[**development authority**]** division shall revise the Statewide strategic plan and the sequencing of SDA district school facilities projects in accordance with that plan no less than once every five years.

Any amendment to an SDA district's long-range facilities plan that is submitted to the commissioner in the period between the five-year updates of the long-range facilities plan shall be considered by the **[**development authority**]** division, in consultation with the commissioner, for incorporation into the Statewide strategic plan. In making a determination on whether or not to amend the Statewide strategic plan, the **[**development authority**]** division shall consider the cost of the amendment, the impact of the amendment upon the school development plans for other districts, and other appropriate factors.

(4) In the case of a district other than an SDA district, the commissioner shall establish a priority process for the financing of school facilities projects based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, and full-day kindergarten facilities in the case of school districts required to provide full-day preschool pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

n. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities project constructed by a district but shall not be applicable to projects constructed by the **[**development authority**]** division or a redevelopment entity pursuant to the provisions of this act.

o. In the case of a school facilities project of a district other than an SDA district, any proceeds of school bonds issued by the district for the purpose of funding the project which remain unspent upon completion of the project shall be used by the district to reduce the outstanding principal amount of the school bonds.

p. Upon completion by the **[**development authority**]** division of a school facilities project, if the cost of construction and completion of the project is less than the total costs, the district shall be entitled to receive a portion of the local share based on a pro rata share of the difference based on the ratio of the State share to the local share.

q. The **[**development authority**]** division shall determine the cause of any costs of construction which exceed the amount originally projected by the **[**development authority**]** division and approved for financing by the financing authority.

r. (Deleted by amendment, P.L.2007, c.137).

s. (Deleted by amendment, P.L.2007, c.137).

(cf: P.L.2009, c.185, s.1)

4. Section 1 of P.L.2015, c.68 (C.18A:7G-5a) is amended to read as follows:

1. a. Notwithstanding the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to the contrary, the board of education of a county vocational school district may request a county improvement authority to construct a county vocational school district school facilities project and to issue its bonds to finance the local share of a project that is to be financed under section 15 of P.L.2000, c.72 (C.18A:7G-15), or to finance the total costs of a project that is not to be financed under section 15 of P.L.2000, c.72 (C.18A:7G-15). The bonds of a county improvement authority issued to finance the total costs of a county vocational school district school facilities project that is not to be financed under section 15 of P.L.2000, c.72 (C.18A:7F-15) shall be eligible for State debt service aid in accordance with the formula established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

b. A county vocational school district may lease its lands or facilities to the county improvement authority which may construct the school facilities project through a design-build contract. Whenever a school facilities project is constructed by a county improvement authority through a design-build contract: (1) The county improvement authority shall follow the procedures established by the rules and regulations of the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury for the procurement of design-build contracts; (2) The county improvement authority shall follow the design requirements and materials and system standards established by the **[**development authority**]** division; (3) The provisions of the "Public School Contracts Law," (N.J.S.18A:18A-1 et seq.), and the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), shall not apply; and (4) A county vocational school district shall comply with the procedures for obtaining approval of the project under P.L.2000, c.72 (C.18A:7G-1 et al.), but shall not be required to comply with the provisions of N.J.S.18A:18A-16.

c. The county improvement authority shall lease the county vocational school district school facilities project to the county which shall then lease it for nominal consideration to the county vocational school district for as long as the county improvement authority bonds or refunding bonds are outstanding. Nothing in this section shall be construed to authorize a county to require a county vocational school district to bear any portion of the cost of the debt service on the county improvement authority bonds issued to fund the county vocational school district school facilities project or on any refunding bonds.

d. The county lease payments made to the county improvement authority pursuant to subsection c. of this section shall not be subject to any cap on appropriations or on spending or to any tax levy cap. The county lease payments shall be sufficient to pay debt service on the county improvement authority bonds issued to fund the county vocational school district school facilities project or on any refunding bonds, that remains after the application of any State debt service aid paid on those bonds pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9). The county lease payments shall be payable over the life of the bonds.

e. When the bonds issued by a county improvement authority are no longer outstanding, the leases and liens of the county and the county improvement authority shall expire and the county vocational school district school facilities project shall be solely vested in the county vocational school district. The county vocational school district shall be responsible for the operation, maintenance, and improvement of the school facility upon the completion of the school facilities project.

(cf: P.L.2015, c.68, s.1)

5. Section 1 of P.L.2016, c.79 (C.18A:7G-5.2) is amended to read as follows:

1. a. In the case of new school construction undertaken by a district or the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury, in addition to the Best Practices Standards for Schools under Construction or Being Planned for Construction set forth by the Department of Community Affairs, the district or the **[**development authority**]** division, as applicable, shall provide in the architectural design for the new construction that:

(1) wherever possible, a building site shall be chosen with adequate space to accommodate bus and vehicular traffic separately and permit additional space for the proper evacuation of occupants;

(2) wherever possible, bus drop-off/pick-up areas shall be separated from other vehicular drop-off/pick-up areas;

(3) wherever possible, pedestrian routes shall be separated from vehicular routes, and crossing of the two shall be minimized;

(4) the number of anterior doors shall be kept to a minimum as necessary to satisfy operational considerations and meet code requirements, and wherever possible exterior door hardware shall be eliminated from doors that are intended only for emergency egress;

(5) there is a single public entrance to be used during the school day which shall be equipped with a security vestibule with interior doors that must be released by school security or other staff. The district or **[**development authority**]** division shall give consideration to providing bullet resistant glazing in the interior vestibule doors and windows;

(6) all marked entrances shall conform to a uniform numbering system in order to assist emergency responders in locating particular areas. The principal's office shall have a secondary exit;

(7) interior door locks on spaces that will serve as safe havens during lockdowns shall have a keyless locking mechanism;

(8) new school buildings shall be provided with access control systems which allow for remote locking and unlocking of all building access doors; and

(9) new school buildings shall be designed and built in such a manner that areas intended for public use may be separated and secured from all other areas.

b. In the case of new school construction undertaken by a district or the **[**development authority**]** division, and in the case of existing school buildings, a district or the **[**development authority**]** division, as applicable, shall:

(1) employ the Crime Prevention through Environmental Design principles;

(2) require security personnel to be in uniform;

(3) make driveways one way, if possible, that lead to a clearly marked visitor parking area. STOP signs and other traffic calming devices shall be used to keep vehicles at a reasonable speed;

(4) place bollards along the roadway or curb line in front of the school to prevent vehicles from gaining access to exterior walls, windows, and doors, or in areas of the property where vehicles are prohibited;

(5) clearly mark the school's main entrance and make it easily visible and recognizable;

(6) limit the number of doors for access by staff;

(7) lock exterior doors, and when they are in use for a large entry/exit provide that they are staffed and monitored;

(8) utilize an access control system with remote unlocking features, an intercom, and fixed cameras at the school's main entrance and for other entrances as funding permits;

(9) clearly mark all entrances with a numerical sequence to allow for specific response by police, fire, and emergency medical services responders;

(10) maintain a parking decal or tag system for all staff and students who park on campus in order to easily identify unauthorized vehicles on the property;

(11) locate enclosures for utilities that are outside a school building away from the building to ensure that they do not provide roof access;

(12) provide adequate and properly maintained lighting around the buildings and parking lots;

(13) if funding, staffing, and site approval are possible, provide a guard shack and gate on the school campus as an effective perimeter control;

(14) where the footprint of the school allows, and if funding is available, create secure vestibules at the main entrance of the school building. The exterior door entrance to the school shall allow access by a visitor only to the vestibule and the doors to the remainder of the building shall be locked;

(15) adopt school district policies and procedures to clearly indicate that propping open doors is strictly prohibited, and that students and staff shall not open a door for anyone. All persons seeking entry to the building shall be directed to the main entrance;

(16) use surveillance cameras as a target-hardening tool;

(17) provide a dedicated server and generator for security systems, such as access control and surveillance cameras, in order to secure information and ensure efficient operation in an emergency;

(18) use ballistic or shatter resistant film for glass entrance door sidelights and other vulnerable first floor areas; and

(19) maintain a strict key distribution protocol that requires staff to sign for keys and return them at the end of each school year.

c. The commissioner, in consultation with the **[**development authority**]** division, may revise the architectural design standards for new school construction established pursuant to subsection a. of this section and the standards for new school construction and existing school buildings established pursuant to subsection b. of this section, to reflect new recommendations or changes in best practices for school security.

(cf: P.L.2016, c.79, s.1)

6. Section 12 of P.L.2000, c.72 (C.18A:7G-12) is amended to read as follows:

12. A district, other than a district under full State intervention, that sought approval pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11) of a school facilities project without excess costs but failed to receive that approval, and within the three years prior to that, sought and failed to receive approval of that school facilities project with or without excess costs, may submit the project to the commissioner and request that the commissioner approve the project and authorize the issuance of school bonds for the local share of the project. Upon receipt of the request, the commissioner shall review the school facilities project and determine whether the project is necessary for the provision of a thorough and efficient system of education in the district. If the commissioner concludes that the project is necessary, the commissioner may approve the project without excess costs and authorize the issuance of school bonds to fund the local share. In addition to the amount of taxes determined by the legal voters of the district at the annual school election, the secretary of the board of education shall certify the amount required for the repayment of the interest and principal of the bonds required to fund the local share amount approved by the commissioner in the same manner required for interest and debt redemption charges pursuant to N.J.S.18A:22-33, and the amount so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the school district for those purposes.

Any school facilities project authorized pursuant to this section shall be undertaken by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury in accordance with an agreement between the **[**development authority**]** division and the district. Nothing in this section shall preclude a school district under full State intervention from using the process established pursuant to section 2 of P.L.1991, c.139 (C.18A:7A-46.2) to obtain the approval of the commissioner to undertake a school facilities project.

(cf: P.L.2007, c.137, s.23)

7. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to read as follows:

13. a. The financing authority shall be responsible for the issuance of bonds pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury shall be responsible for the planning, design, construction management, acquisition, construction, and completion of school facilities projects. In the case of a capital maintenance project, the **[**development authority**]** division may, in its discretion, authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete the capital maintenance project and shall enter into a grant agreement with the district for the payment of the State share. The **[**development authority**]** division may also authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete any other school facilities project in accordance with the procedures established pursuant to subsection e. of this section.

b. The financing authority shall undertake the financing of school facilities projects pursuant to the provisions of this act. The financing authority shall finance the State share of a school facilities project and may, in its discretion and upon consultation with the district, finance the local share of the project. In the event that the financing authority finances only the State share of a project, the **[**development authority**]** division shall not commence acquisition or construction of the project until the **[**development authority**]** division receives the local share from the district.

c. In order to implement the arrangements established for school facilities projects which are to be constructed by the **[**development authority**]** division and financed pursuant to this section, a district shall enter into an agreement with the **[**development authority**]** division and the commissioner containing the terms and conditions determined by the parties to be necessary to effectuate the project.

d. Upon completion by the **[**development authority**]** division of a school facilities project, the district shall enter into an agreement with the **[**development authority**]** division to provide for the maintenance of the project by the district. In the event that the school facilities project is constructed by a district, upon the completion of the project, the district shall submit to the commissioner a plan to provide for the maintenance of the project by the district. Any agreement or plan shall contain, in addition to any other terms and provisions, a requirement for the establishment of a maintenance reserve fund consistent with the appropriation and withdrawal requirements for capital reserve accounts established pursuant to section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be as set forth in regulations adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26).

e. (1) **[**Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the**]** The commissioner, in consultation with the **[**development authority**]** division, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the commissioner shall determine whether an SDA district is eligible to be considered by the **[**development authority**]** division to manage a school facilities project or projects. In making the determination, the commissioner shall consider the district's fiscal integrity and operations, the district's performance in each of the five key components of school district effectiveness under the New Jersey Quality Single Accountability Continuum (NJQSAC) in accordance with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant factors.

(2) **[**Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the development authority**]** The division, in consultation with the commissioner, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the **[**development authority**]** division shall determine the capacity of an SDA district, deemed eligible by the commissioner pursuant to paragraph (1) of this subsection, to manage a school facilities project or projects identified by the **[**development authority**]** division. In making the determination, the **[**development authority**]** division shall consider the experience of the SDA district, the size, complexity, and cost of the project, time constraints, and other relevant factors.

(3) The **[**development authority**]** division, in consultation with the commissioner, shall develop and implement training programs, seminars, or symposia to provide technical assistance to SDA districts deemed to lack the capacity to manage a school facility project or projects; except that nothing herein shall be construed to require the **[**development authority**]** division or the commissioner to authorize an SDA district to hire additional staff in order to achieve capacity.

(4) If the **[**development authority**]** division determines to delegate a school facilities project to an SDA district in accordance with paragraph (2) of this subsection, the **[**development authority**]** division, the commissioner, and the district shall enter into a grant agreement.

(cf: P.L.2007, c.260, s.44)

8. Section 9 of P.L.2008, c.39 (C.18A:7G-13.1) is amended to read as follows:

9. The **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury, in consultation with the State Comptroller, shall cause an audit to be conducted of a school facilities project financed pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) which has a State share that exceeds $10,000,000. This provision shall not be construed to limit the authority of the **[**development authority**]** division or the State Comptroller to conduct audits of other school facilities projects as provided by law.

(cf: P.L.2008, c.39, s.9)

9. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to read as follows:

14. Notwithstanding any other provisions of law to the contrary:

a. The financing authority shall have the power, pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.) **[**and**]** , P.L.2007, c.137 (C.52:18A-235 et al.) , and P.L. , c. (C. ) (pending before the Legislature as this bill) , to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19) for the purposes of: financing all or a portion of the costs of school facilities projects and any costs related to the issuance thereof, including, but not limited to, the administrative, insurance, operating and other expenses of the financing authority to undertake the financing, and the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury to undertake the planning, design, and construction of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects and any costs related to the issuance thereof; funding the grants to be made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of the bonds, notes or other obligations issued by the financing authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed: $100,000,000 for the State share of costs for county vocational school district school facilities projects; $6,000,000,000 for the State share of costs for Abbott district school facilities projects; and $2,500,000,000 for the State share of costs for school facilities projects in all other districts. The aggregate principal amount of the bonds, notes or other obligations issued by the financing authority as authorized pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed: $2,900,000,000 for the State share of costs of SDA district school facilities projects; and $1,000,000,000 for the State share of costs for school facilities projects in all other districts, $50,000,000 of which shall be allocated for the State share of costs for county vocational school district school facilities projects. This limitation shall not include any bonds, notes or other obligations issued for refunding purposes.

The financing authority may establish reserve funds to further secure bonds and refunding bonds issued pursuant to this section and may issue bonds to pay for the administrative, insurance and operating costs of the financing authority and the **[**development authority**]** division in carrying out the provisions of this act. In addition to its bonds and refunding bonds, the financing authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or refunding bonds as the financing authority may determine.

b. The financing authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.), **[**and**]** P.L.2007, c.137 (C.52:18A-235 et al.) , and P.L. , c. (C. ) (pending before the Legislature as this bill); provided that notwithstanding any other law to the contrary, no resolution adopted by the financing authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the financing authority and the State Treasurer. The financing authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the financing authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the financing authority for the purposes set forth in this act may be paid by the financing authority from amounts it receives from the proceeds of the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the financing authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section.

c. Each issue of bonds or refunding bonds of the financing authority shall be special obligations of the financing authority payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds or refunding bonds, and may be secured by other sources of revenue, including, but not limited to, one or more of the following:

(1) Pledge of the revenues and other receipts to be derived from the payment of local unit obligations and any other payment made to the financing authority pursuant to agreements with any local unit, or a pledge or assignment of any local unit obligations, and the rights and interest of the financing authority therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interests of the financing authority therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds;

(4) Pledge of the receipts to be derived from payments of State aid to the financing authority pursuant to section 21 of P.L.2000, c.72 (C.18A:7G-21);

(5) Pledge of the contract or contracts with the State Treasurer pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

(6) Pledge of any sums remitted to the local unit by donation from any person or entity, public or private, subject to the approval of the State Treasurer;

(7) A mortgage on all or any part of the property, real or personal, comprising a school facilities project then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the financing authority by any person or entity, public or private, including one or more local units and rights and interests of the financing authority therein; and

(8) The receipt of any grants, reimbursements or other payments from the federal government.

d. The resolution authorizing the issuance of bonds or refunding bonds pursuant to this section may also provide for the financing authority to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contracts, surety bonds, commitments to purchase or sell bonds, purchase or sale agreements, or commitments or other contracts or agreements and other security agreements approved by the financing authority in connection with the issuance of the bonds or refunding bonds pursuant to this section. In addition, the financing authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including, without limitation, grants from the federal government for school facilities projects, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the financing authority or appropriations, grants, reimbursements or other funds or revenues of the financing authority.

e. The financing authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of financial advisors and experts, placement agents, underwriters, appraisers, and other advisors, consultants and agents as may be necessary to effectuate the financing of school facilities projects.

f. Bonds and refunding bonds issued by the financing authority pursuant to this section shall be special and limited obligations of the financing authority payable from, and secured by, funds and moneys determined by the financing authority in accordance with this section. Notwithstanding any other provision of law or agreement to the contrary, any bonds and refunding bonds issued by the financing authority pursuant to this section shall not be secured by the same property as bonds and refunding bonds issued by the financing authority to finance projects other than school facilities projects. Neither the members of the financing authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the financing authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the financing authority shall contain a statement to that effect on their face.

g. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to this act that it will not limit or alter the rights or powers vested in the financing authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of the holders, or inhibit or prevent performance or fulfillment by the financing authority or the State Treasurer with respect to the terms of any agreement made with the holders of the bonds or refunding bonds or agreements made pursuant to subsection d. of this section; except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

h. The financing authority and the **[**development authority**]** division may charge to and collect from local units, districts, the State and any other person, any fees and charges in connection with the financing authority's or **[**development authority's**]** division’s actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the financing authority's administrative, organization, insurance, operating and other expenses incident to the financing of school facilities projects, and the **[**development authority's**]** division’s administrative, organization, insurance, operating, planning, design, construction management, acquisition, construction, completion and placing into service and maintenance of school facilities projects. Notwithstanding any provision of this act to the contrary, no SDA district shall be responsible for the payment of any fees and charges related to the **[**development authority's**]** division’s operating expenses.

i. Upon the issuance by the financing authority of bonds pursuant to this section, other than refunding bonds, the net proceeds of the bonds shall be transferred to the **[**development authority**]** division.

(cf: P.L.2008, c.39, s.4)

10. Section 15 of P.L.2000, c.72 (C.18A:7G-15) is amended to read as follows:

15. a. In the case of a district other than an SDA district, for any project approved by the commissioner after the effective date of this act, the district may elect to receive a one-time grant for the State share of the project in accordance with the provisions of subsection b. of this section rather than annual debt service aid under section 9 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the district shall equal the product of the project's final eligible costs and the district aid percentage or 40%, whichever is greater.

b. The commissioner shall establish a process for the annual allocation of grant funding. Under that process, the commissioner shall annually notify districts of the date on which the commissioner shall begin to receive applications for grant funding. A district shall have 90 days from that date to submit an application to the commissioner. The commissioner shall make a decision on a district's application within 90 days of the submission of all such applications and shall allocate the grant funding in accordance with the priority process established pursuant to paragraph (4) of subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

c. The **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury shall provide grant funding for the State's share of the final eligible costs of a school facilities project pursuant to an agreement between the district and the **[**development authority**]** division which shall, in addition to other terms and conditions, set forth the terms of disbursement of the State share. The funding of the State share shall not commence until the district secures financing for the local share.

(cf: P.L.2008, c.39, s.5)

11. Section 17 of P.L.2000, c.72 (C.18A:7G-17) is amended to read as follows:

17. In each fiscal year the State Treasurer shall pay from the General Fund to the financing authority, in accordance with a contract between the State Treasurer and the financing authority as authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), an amount equal to the debt service amount due to be paid in the State fiscal year on the bonds or refunding bonds of the financing authority issued or incurred pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and any additional costs authorized pursuant to that section; provided that all such payments from the General Fund shall be subject to and dependent upon appropriations being made from time to time by the Legislature for those purposes, and provided further that all payments shall be used only to pay for the costs of school facilities projects and the costs of financing those projects.

In regard to the increase in the amount of bonds authorized to be issued by the financing authority pursuant to P.L.2008, c.39 for the State share of costs for school facilities projects, debt service on the bonds or refunding bonds issued or incurred by the financing authority pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and any additional costs authorized pursuant to that section shall first be payable from revenues received from the gross income tax pursuant to the "New Jersey Gross Income Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), except for debt service and additional costs for the administrative, insurance, operating, and other expenses of the financing authority and the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury incurred in connection with school facilities projects.

(cf: P.L.2008, c.39, s.6)

12. Section 20 of P.L.2000, c.72 (C.18A:7G-20) is amended to read as follows:

20. A local unit may purchase, lease, rent, sublease or otherwise acquire any school facilities project or any space within a project and pay the amounts as may be agreed upon between the local unit and the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury as the purchase price, rent or other charge therefor; provided that the terms and conditions of the agreement between the **[**development authority**]** division and the local unit relating to the purchase, lease, rental or sublease shall be subject to the approval of the State Treasurer.

(cf: P.L.2007, c.137, s.31)

13. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to read as follows:

21. a. In the event that a local unit has failed or is unable to pay to the financing authority or the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury in full when due any local unit obligations issued by the local unit to the financing authority, including, but not limited to, any lease or sublease obligations, or any other moneys owed by the district to the financing authority, to assure the continued operation and solvency of the authority, the State Treasurer shall pay directly to the financing authority an amount sufficient to satisfy the deficiency from State aid payable to the local unit; provided that if the local unit is a school district, the State aid shall not include any State aid which may otherwise be restricted pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). As used in this section, local unit obligations include the principal or interest on local unit obligations or payment pursuant to a lease or sublease of a school facilities project to a local unit, including the subrogation of the financing authority to the right of the holders of those obligations, any fees or charges payable to the financing authority, and any amounts payable by a local unit under a service contract or other contractual arrangement the payments under which are pledged to secure any local unit obligations issued to the financing authority by another local unit.

b. If the financing authority requires, and if there has been a failure or inability of a local unit to pay its local unit obligations to the financing authority for a period of 30 days, the chairman or the executive director of the financing authority shall certify to the State Treasurer, with written notice to the fiscal officer of the local unit, the amount remaining unpaid, and the State Treasurer shall pay that amount to the financing authority; or if the right to receive those payments has been pledged or assigned to a trustee for the benefit of the holders of bonds or refunding bonds of the financing authority, to that trustee, out of the State aid payable to the local unit, until the amount so certified has been paid. Notwithstanding any provision of this act to the contrary, the State Treasurer's obligation to pay the financing authority pursuant to this section shall not extend beyond the amount of State aid payable to the local unit.

c. The amount paid to the financing authority pursuant to this section shall be deducted from the appropriation or apportionment of State aid payable to the local unit and shall not obligate the State to make, nor entitle the local unit to receive, any additional appropriation or apportionment. The obligation of the State Treasurer to make payments to the financing authority or trustee and the right of the financing authority or trustee to receive those payments shall be subject and subordinate to the rights of holders of qualified bonds issued prior to the effective date of this act pursuant to P.L.1976, c.38 (C.40A:3-1 et seq.) and P.L.1976, c.39 (C.18A:24-85 et seq.).

(cf: P.L.2007, c. 260, s.47)

14. Section 22 of P.L.2000, c.72 (C.18A:7G-22) is amended to read as follows:

22. a. The financing authority and the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury shall have the power to accept and use any funds appropriated and paid by the State to the financing authority and the **[**development authority**]** division for the purposes for which the appropriations are made. The financing authority and the **[**development authority**]** division shall have the power to apply for and receive and accept appropriations or grants of property, money, services or reimbursements for money previously spent and other assistance offered or made available to it by or from any person, government agency, public authority or any public or private entity whatever for any lawful corporate purpose of the financing authority or the **[**development authority**]** division, including, without limitation, grants, appropriations or reimbursements from the federal government, and to apply and negotiate for the same upon such terms and conditions as may be required by any person, government agency, authority or entity as the financing authority or the **[**development authority**]** division may determine to be necessary, convenient or desirable.

b. The **[**development authority and the**]** State Treasurer may establish a financial incentive program for the purpose of promoting donations to school facilities projects. Any entity which makes a donation approved by the State Treasurer to the preliminary eligible costs of a school facilities project shall receive an incentive payment pursuant to the provisions of this subsection. The amount of the incentive payment shall equal 50% of the fair market value of the donation but shall not in any one year exceed one-half of the amount of taxes paid or otherwise due from the donor pursuant to the provisions of the "New Jersey Gross Income Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation Business Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), as applicable, for the tax year in which the donation is made. The fair market value of a non-cash donation shall be determined by the State Treasurer. The carry-forward for incentive payments shall not be inconsistent with that allowed by P.L.1976, c.47 (C.54A:1-1 et seq.) in the case of a donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.) in the case of a donation by a corporation.

All incentive payments made pursuant to this section shall be funded by and shall be subject to annual appropriations for this purpose, and shall in no way rely upon funds raised by the issuance of bonds for school facilities projects.

(cf: P.L.2007, c.137, s.33)

15. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to read as follows:

23. a. Not less than the prevailing wage rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in the performance of construction contracts in connection with any school facilities project that is undertaken by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury, a redevelopment entity, or a district and any contractor who violates the provisions of this subsection shall be prohibited from subsequently bidding on any State or district contract.

b. Registration fees collected pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and administrative costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the Department of Labor and Workforce Development.

(cf: P.L.2007, c.137, s.34)

16. Section 24 of P.L.2000, c.72 (C.18A:7G-24) is amended to read as follows:

24. The **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury, in consultation with the State Treasurer, the financing authority, and the commissioner, shall biannually submit to the Governor, the Joint Budget Oversight Committee, the President of the Senate and the Speaker of the General Assembly a report on the school facilities construction program established pursuant to the provisions of this act. The report shall be submitted no later than June 1 and December 1 of each year and shall include, but not be limited to, the following information for the prior six-month period: the number of school facilities projects approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); the number of projects undertaken and funded by the **[**development authority**]** division; the information on construction contracts required to be compiled pursuant to section 1 of P.L.2010, c.96 (C.18A:7G-24.1); the aggregate principal amount of bonds, notes or other obligations issued by the financing authority for the State share of construction and renovation of school facilities and whether there is a need to adjust the aggregate principal amount of bonds, notes or other obligations authorized for issuance pursuant to subsection a. of section 14 of P.L.2000, c.72 (C.18A:7G-14); the number of approved projects which exceeded the facilities efficiency standards, the components of those projects which exceeded the standards, and the amount of construction by individual districts and Statewide estimated to have exceeded the standards; and recommendations for changes in the school facilities construction program established pursuant to this act which have been formulated as a result of its experience with the program or through collaboration with program stakeholders.

In addition, the biannual report shall include a comparison of the costs of school facilities projects undertaken and funded by the **[**development authority**]** division to similar school facilities projects constructed in the New York City Metropolitan Statistical Area and the Philadelphia Metropolitan Statistical Area as defined by the United States Department of Labor. The **[**development authority**]** division shall include in the report an explanation of the methodology used in making the comparison.

(cf: P.L.2010, c.96, s.2)

17. Section 1 of P.L.2010, c.96 (C.18A:7G-24.1) is amended to read as follows:

1. Notwithstanding any provision of law, rule, or regulation to the contrary, the **[**New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237),**]** Division of Property Management and Construction in the Department of the Treasury shall biannually compile information for inclusion in the biannual report required to be submitted by the **[**development authority**]** division pursuant to section 24 of P.L.2000, c.72 (C.18A:7G-24) on the number of school facilities project construction contracts entered into between the **[**development authority**]** division and minority and women contractors during the prior six-month period covered in the report. The information shall include the total value of the contracts and the percentage that those contracts represent of all school facilities project contracts entered into between the **[**development authority**]** division and contractors in the prior six-month period.

(cf: P.L.2010, c.96, s.1)

18. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to read as follows:

26. a. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of sections 1 through 12 and 57 and 58 and 64 of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.); except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of sections 1 through 12 and 57 and 58 and 64 of this act which shall be effective for a period not to exceed 12 months. Determinations made by the commissioner pursuant to this act and the rules and regulations adopted by the commissioner to implement this act shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The regulations shall thereafter be amended, adopted or re-adopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) **[**and**]** , P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the Legislature as this bill) that apply to the **[**development authority**]** division; except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the **[**development authority**]** division may adopt immediately upon filing with the Office of Administrative Law, such rules and regulations as the **[**development authority**]** division deems necessary which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted by the authority, in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

The rules and regulations promulgated by the New Jersey Schools **[**Construction Corporation**]** Development Authority pursuant to the provisions of **[**P.L.2000, c.72 (C.18A:7G-1 et al.)**]** P.L.2007, c.137 (C.52:18A-235 et al.) shall remain in full force and effect unless subsequently revised by the **[**development authority**]** division following the enactment of **[**P.L.2007, c.137 (C.52:18A-235 et al.)**]** P.L. , c. (C. ) (pending before the Legislature as this bill).

c. Any regulations adopted to implement this act shall include provisions to ensure that all programs necessary to comply with Abbott v. Burke, 153 N.J. 480 (1998) (Abbott V), are approved.

(cf: P.L.2007, c.137, s.36)

19. Section 27 of P.L.2000, c.72 (C.18A:7G-27) is amended to read as follows:

27. All property of the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury and the financing authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the **[**development authority**]** division or the financing authority be a charge or lien upon its property; provided that nothing herein contained shall apply to or limit the rights of the holder of any bonds, notes or other obligations to pursue any remedy for the enforcement of any pledge or lien given by the **[**development authority**]** division or the financing authority on or with respect to any project, school facilities project, or any revenues or other moneys.

(cf: P.L.2007, c.137, s.37)

20. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to read as follows:

59. The **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury shall establish a process for the prequalification of contractors that desire to bid on school facilities projects. A contractor shall not be permitted to bid on such a school facilities project unless the contractor has been prequalified pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

The prequalification process shall apply to general contractors, construction managers, and contractors including those in the following areas:

(1) plumbing and gas fitting and all work and materials kindred thereto;

(2) steam and hot water heating and ventilating apparatus, steam power plants and all work and materials kindred thereto;

(3) electrical work; and

(4) structural steel and miscellaneous iron work and materials.

The prequalification process established by the New Jersey Schools **[**Construction Corporation**]** Development Authority pursuant to the provisions of **[**P.L.2000, c.72 (C.18A:7G-1 et al.)**]** P.L.2007, c.137 (C.52:18A-235 et al.) shall remain in full force and effect unless subsequently revised by the **[**development authority**]** division following the enactment of **[**P.L.2007, c.137 (C.52:18A-235 et al.)**]** P.L. , c. (C. ) (pending before the Legislature as this bill).

(cf: P.L.2007, c.137, s.38)

21. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to read as follows:

60. a. The prequalification process shall include a requirement that the contractor proposing to submit bids on a school facilities project submit a statement under oath on a form designated by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury. The form shall fully describe and establish the financial ability, responsibility, plant and equipment, organization, ownership, relationships and prior experience of the prospective bidder and any other pertinent and material facts as may be deemed necessary by the **[**development authority**]** division. The submission shall include:

(1) A certified, audited financial statement or compilation of financial statements or other documentation of financial status acceptable to the **[**development authority**]** division;

(2) Proof of any contractor or trade license required by law for any trade or specialty area in which the contractor is seeking prequalification and a statement as to whether any contractor or trade license has been revoked;

(3) A statement as to bonding capacity, which shall be from a surety authorized to issue bid, performance and payment bonds in the State of New Jersey in accordance with N.J.S.2A:44-143 through N.J.S.2A:44-147 to the contractor, and shall indicate aggregate bonding limits;

(4) A list of the names and titles of all individuals who own 10% or more of any class of stock in the corporation or are a 10% or more partner in the firm. If any of the aforementioned stockholders or partners is itself a corporation, or a partnership, that entity shall also provide the information specified herein;

(5) Disclosure of any judgments, convictions or criminal indictments for any conduct constituting a crime under local, State or federal law;

(6) Disclosure of any unsatisfied judgments, injunctions or liens obtained by a governmental agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any government agency;

(7) Disclosure of any determination for violations of federal, State or local laws, rules or regulations, including health laws, unemployment insurance or workers' compensation coverage or claim requirements, the "Employee Retirement Income Security Act of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws, environmental laws, safety laws, licensing laws, tax laws and antitrust laws;

(8) Disclosure of any federal, State or local debarments, non-responsibility findings or denials of prequalification;

(9) Disclosure of any bankruptcy filings or proceedings;

(10) A statement as to past performance, which shall give an accurate and complete record of work completed in the past five years by the contractor giving the names of the projects, type of work, location, contract price, bid and final contract amount paid and the names of the owner and of the architect or engineer in charge for the owner. This statement shall also disclose any labor problems experienced, any failure to complete a contract on schedule, any penalties, judgments, orders or liens imposed by reason of any contract undertaken within the five-year period and whether the contractor has been defaulted for cause on any project as determined by an unappealed or nonappealable decision. This statement shall also indicate the status of any litigation pending against the potential bidder. The contractor shall be required to attach to this statement all performance evaluations in his possession for any work performed by the contractor on any public or private projects;

(11) A statement as to organization, which shall demonstrate the adequacy of such organization to undertake a school facilities project. This statement shall include the resumes of the management and professional staff;

(12) A statement setting forth the contractor's equipment inventory and technical resources; and

(13) A statement on staffing capabilities, including labor sources, staffing plans, turnover rates, and any use of registered apprenticeship programs and journeyman training programs.

b. After the receipt of the submission provided for in subsection a. of this section, the **[**development authority**]** division may verify information provided in the contractor's submission, including applicable license and certificate requirements, federal or State debarments and violations of law. The **[**development authority**]** division may also conduct random inquiries or surveys of the contractor's prior customers.

c. Based upon the submission provided for in subsection a. of this section the **[**development authority**]** division shall assign a contractor the following classification and limits for the purpose of determining the types of projects for which a contractor is entitled to bid:

(1) a trade or work classification; and

(2) an aggregate rating limit.

To effectuate these requirements of the prequalification process, the **[**development authority**]** division shall develop rules and regulations for assigning classifications and aggregate limits.

d. The classification shall be made and an immediate notice thereof shall be sent to the contractor by registered or certified mail or other legally valid methods.

e. The **[**development authority**]** division shall establish procedures to permit contractors to challenge a classification made pursuant to this section.

f. The prequalification submission shall include an affidavit which acknowledges receipt of information regarding the appropriate federal Bureau of Apprenticeship and Training apprenticeship laws and regulations as adopted by the State and information regarding the county apprenticeship coordinators and the federal Bureau of Apprenticeship and Training.

g. The **[**development authority**]** division shall maintain a registry of all contractors prequalified to bid on school facilities projects. The registry shall include the classification of the bidder and aggregate building limit.

(cf: P.L.2007, c.137, s.39)

22. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to read as follows:

61. a. A contractor's prequalification classification shall be valid for 24 months. A contractor shall be reclassified after the 24-month period in order to remain eligible to bid on school facilities projects.

b. Any material changes relevant to the prequalification process shall be reported by the contractor to the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury in writing within 10 days. Based on

the information provided, the **[**development authority**]** division may change the classification or revoke prequalification for cause.

(cf: P.L.2007, c.137, s.40)

23. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to read as follows:

62. a. A mandatory uniform performance evaluation shall be conducted on all school facilities projects undertaken by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury. The evaluation shall, at a minimum, include cost, schedule adherence and quality.

b. A contractor shall be notified of a performance evaluation. The contractor shall be afforded an opportunity to respond to an adverse evaluation.

c. The contractor performance evaluations shall be utilized in reviewing bid submissions.

(cf: P.L.2007, c.137, s.41)

24. Section 66 of P.L.2000, c.72 (C.18A:7G-40) is amended to read as follows:

66. A contractor who has been prequalified as a bidder on school facilities projects in accordance with the process established by the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury pursuant to section 59 of P.L.2000, c.72 (C.18A:7G-33) shall not be required to undergo any other prequalification process to bid on a school facilities project.

(cf: P.L.2007, c.137, s.42)

25. Section 1 of P.L.2009, c.225 (C.18A:7G-41.1) is amended to read as follows:

1. a. As used in this section:

"affiliate" means any firm or person having an overt or covert relationship such that any one of them directly or indirectly controls or has power to control another;

"firm" or "person" means any natural person, association, company, contractor, corporation, joint stock company, limited liability company, partnership, sole proprietorship, or other business entity, including their assignees, lessees, receivers, or trustees.

b. **[**The New Jersey Schools Development Authority shall not restrict the ability of a firm or person that holds a valid classification or a valid prequalification, as applicable, issued by the Division of Property Management and Construction in the Department of the Treasury from competing for contracts or other work in any of the construction categories or trades or specific professional disciplines for which the firm or person holds a classification or prequalification.

Nothing in this section shall be construed to prohibit the development authority from requiring the prequalification of a firm or person by the development authority in accordance with the provisions of section 59 of P.L.2000, c.72 (C.18A:7G-33).**]** (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

c. **[**Notwithstanding any provision of subsection b. of this section to the contrary, a**]** A firm or person or an affiliate thereof shall not serve as a general contractor or as a subcontractor or as a subconsultant on **[**an authority**]** a Division of Property Management and Construction in the Department of the Treasury project for which the firm or person serves as the construction manager.

(cf: P.L.2009, c.225, s.1)

26. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to read as follows:

71. a. In the case of any school facilities project which has a State share of 100%, the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury may require the use of wrap-up insurance coverage for the project and shall establish the terms and requirements for any such coverage.

b. For any school facilities project which has a State share of less than 100%, the district may elect to purchase wrap-up insurance coverage for the school facilities project. A district may purchase the coverage on its own or may enter into a joint purchasing agreement with one or more other districts to purchase coverage.

c. As used in this section, "wrap-up insurance coverage" means a single insurance and loss control program for all parties involved in the school facilities project, including the owners, administrators, contractors and all tiers of subcontractors, which is controlled and authorized by the owner or financing administrator and applicable to defined construction work sites. Wrap-up insurance coverage may include, but not be limited to, workers' compensation and employers' liability, commercial general liability, umbrella/excess liability, builder's risk, architects' and engineers' errors and omissions, liability, environmental liability, and force majeure.

(cf: P.L.2007, c.137, s.43)

27. Section 14 of P.L.2007, c.137 (C.18A:7G-45) is amended to read as follows:

14. a. In the event that the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury funds 100% of the cost of the acquisition of land for the construction of a school facilities project and as a result of the construction of that project a school building located in the district and the land upon which the school building is situate are no longer necessary for educational purposes, title to the land together with the school building on the land shall be conveyed to and shall vest in the **[**New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237)**]** division when it is determined by the **[**development authority**]** division that such conveyance is in the best interest of the **[**development authority**]** division. The district shall execute any documents including, but not limited to, a deed of conveyance necessary to accomplish the transfer of title.

b. The **[**development authority**]** division may retain or sell the land and buildings on that land acquired pursuant to subsection a. of this section. In the event the **[**development authority**]** division elects to sell, it shall use a competitive process. The proceeds of that sale shall be applied to the costs of school facilities projects of the district.

c. The transfer of title pursuant to subsection a. of this section shall occur in accordance with a schedule determined by the **[**development authority**]** division. The schedule may provide that the transfer occur prior to the completion of the construction of the new school facilities project if the **[**development authority**]** division deems it necessary in order to complete additional school facilities projects within the district.

(cf: P.L.2007, c.137, s.14)

28. Section 15 of P.L.2007, c.137 (C.18A:7G-46) is amended to read as follows:

15. If land is necessary to be acquired in connection with a school facilities project in an SDA district, the board of education of the district and the governing body of the municipality in which the district is situate shall jointly submit to the commissioner and to the **[**development authority**]** Division of Property Management and Construction in the Department of the Treasury a complete inventory of all district- and municipal-owned land located in the municipality. The inventory shall include a map of the district showing the location of each of the identified parcels of land. The board of education and the governing body of the municipality shall provide an analysis of why any district- or municipal-owned land is not suitable as a site for a school facilities project identified in the district's long-range facilities plan. The inventory shall be updated as needed in connection with any subsequent school facilities projects for which it is necessary to acquire land.

(cf: P.L.2007, c.260, s.48)

29. Section 16 of P.L.2007, c.137 (C.18A:7G-47) is amended to read as follows:

16. a. Whenever the board of education of an SDA district submits to the **[**New Jersey Schools Development Authority established pursuant to P.L.2007, c.137 (C.52:18A-235 et al.)**]** Division of Property Management and Construction in the Department of the Treasury information on a proposed preferred site for the construction of a school facilities project, the **[**development authority**]** division shall file a copy of a map, plan or report indicating the proposed preferred site with the county clerk of the county within which the site is located and with the municipal clerk, planning board, and building inspector of the municipality within which the site is located.

b. Whenever a map, plan, or report indicating a proposed preferred site for the construction of an SDA district school facilities project is filed by the **[**development authority**]** division pursuant to subsection a. of this section, any municipal approving authority before granting any site plan approval, building permit, or approval of a subdivision plat, or exercising any other approval power with respect to the development or improvement of any lot, tract, or parcel of land which is located wholly or partially within the proposed preferred site shall refer the site plan, application for a building permit or subdivision plat or any other application for proposed development or improvement to the **[**development authority**]** division for review and recommendation as to the effect of the proposed development or improvement upon the construction of the school facilities project.

c. A municipal approving authority shall not issue any site plan approval or building permit or approve a subdivision plat or exercise any other approval power with respect to the development or improvement of the lot, tract, or parcel of land without the recommendation of the **[**development authority**]** division until 45 days following referral to the **[**development authority**]** division pursuant to subsection b. of this section. Within that 45-day period, the **[**development authority**]** division may:

(1) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land of probable intention to acquire the whole or any part thereof, and no further action shall be taken by the approving authority for a further period of 180 days following receipt of notice from the **[**development authority**]** division. If within the 180-day period the **[**development authority**]** division has not acquired, agreed to acquire, or commenced an action to condemn the property, the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law; or

(2) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land that the **[**development authority**]** division has no objection to the granting of the permit or approval for which application has been made. Upon receipt of the notice the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law.

(cf: P.L.2007, c.260, s.49)

30. Section 2 of P.L.2018, c.90 (C.18A:18A-60) is amended to read as follows:

2. a. As used in this section:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Bundling" means the use of a solicitation for multiple projects in one single contract, through a public-private partnership project delivery method, the result of which restricts competition.

"Project" shall have the same meaning as provided in section 3 of P.L.2000, c.72 (C.18A:7G-3) for school facilities project, and shall include any infrastructure or facility used or to be used by the public or in support of a public purpose or activity.

"Public-private partnership agreement" means an agreement entered into by a school district and a private entity pursuant to this section for the purpose of permitting a private entity to assume full financial and administrative responsibility for the development, construction, reconstruction, repair, alteration, improvement, extension, operation, and maintenance of a school facilities project of, or for the benefit of, the school district.

"School district" shall have the same meaning as provided in section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local school district, regional school district, or county special services school district or county vocational school established and operating under the provisions of Title 18A of the New Jersey Statutes that can demonstrate to the satisfaction of the Commissioner of Education and the **[**Chief Executive Officer of the Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury that a school facility is necessary due to overcrowding or is in need of replacement. The term "school district" shall include a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.)

b. (1) A school district may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for a project of, or for the benefit of, the school district, provided that the project is financed in whole by the private entity.

(2) A public-private partnership agreement may include an agreement under which a school district and a private entity enter into a lease of a revenue-producing public building, structure, or facility in exchange for up-front or structured financing by the private entity for the project. Under the lease agreement, the private entity shall be responsible for the management, operation, and maintenance of the building, structure, or facility. The private entity shall receive some or all, as per the agreement, of the revenue generated by the building, structure, or facility, and shall operate the building, structure, or facility in accordance with school district standards. At the end of the lease term, subsequent revenue generated by the building, structure, or facility, along with management, operation, and maintenance responsibility, shall revert to the school district. A lease agreement entered into pursuant to this section shall be limited in duration to a term of not more than 30 years. A lease agreement shall be subject to all applicable provisions of current law governing leases by a school district not inconsistent with the provisions of this section.

(3) Bundling of projects shall be prohibited under this section.

c. (1) A private entity that assumes financial and administrative responsibility for a project pursuant to this section shall not be subject to, unless otherwise set forth herein, the procurement and contracting requirements of all statutes applicable to the school district at which the project is completed, including, but not limited to, the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

(2) For the purposes of facilitating the financing of a project pursuant to this section, a public entity may become the owner or lessee of the project or the lessee of the land, or both, may become the lessee of a building, structure, or facility to which the school district holds title, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the school district pursuant to a solicitation of proposals or qualifications from at least two private entities. For the purposes of this subsection, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under "The New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

(3) Prior to the commencement of work on a project, the private entity shall establish a construction account and appoint a third-party financial institution, who shall be prequalified by the State Treasurer to act as a collateral agent and manage the construction account. The construction account shall include the funding, financial instruments, or both, that shall be used to fully capitalize and fund the project, and the collateral agent shall maintain a full accounting of the funds and instruments in the account. The funds and instruments in the construction account shall be held in trust for the benefit of the contractor, construction manager, and design-build team involved in the project. The funds and instruments in the construction account shall not be the property of the private entity unless all amounts due to the construction account beneficiaries are paid in full. The construction account shall not be designated for more than one project.

d. Each worker employed in the construction, rehabilitation, or building maintenance services of facilities by a private entity that has entered into a public-private partnership agreement with a school district pursuant to this section shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

e. (1) All building construction projects under a public-private partnership agreement entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location. The general contractor, construction manager, design-build team, or subcontractor for a construction project proposed in accordance with this paragraph shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction, or shall be prequalified by the Department of Transportation, as appropriate, to perform work on a public-private partnership project.

(2) All projects proposed in accordance with this section shall be submitted to the State Treasurer, in consultation with the Department of Education **[**, Schools Development Authority,**]** and the New Jersey Economic Development Authority, for a review and approval in accordance with subsection f. of this section prior to the execution of the public-private partnership agreement and, when practicable, are encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council, the Green Globes Program adopted by the Green Building Initiative, or a comparable nationally recognized, accepted, and appropriate sustainable development rating system.

(3) The general contractor, construction manager, or design-build team shall be required to post a performance bond to ensure the completion of the project and a payment bond guaranteeing prompt payment of moneys due in accordance with and conforming to the requirements of N.J.S.2A:44-143 et seq.

(4) Prior to being submitted to the State Treasurer for review and approval, all projects proposed in accordance with this section shall be subject to a public hearing, the record of which shall have been kept open for a period of seven days following the conclusion of the hearing, after the ranking of proposals takes place pursuant to paragraph (5) of subsection j. of this section. The school district shall provide notice of the public hearing no less than 14 days prior to the date of the hearing. The notice shall prominently state the purpose and nature of the proposed project, and shall be published on the official Internet website of the school district and in at least one or more newspapers with Statewide circulation.

(5) Prior to entering into a public -private partnership, the school district must determine: (i) the benefits to be realized by the project, (ii) the cost of the project if it is developed by the public sector supported by comparisons to comparable projects, (iii) the maximum public contribution that the school district will allow under the public -private partnership, (iv) a comparison of the financial and non-financial benefits of the public-private partnership compared to other options including the public sector option, (v) a list of risks, liabilities and responsibilities to be transferred to the private entity and those to be retained by the school district, and (vi) if the project has a high, medium or low level of project delivery risk and how the public is protected from these risks.

(6) Prior to entering into a public- private partnership, the school district at a public hearing shall find that the project is in the best interest of the public by finding that (i) it will cost less than the public sector option, or if it costs more there are factors that warrant the additional expense (ii) there is a public need for the project and the project is consistent with existing long-term plans, (iii) there are specific significant benefits to the project, (iv) there are specific significant benefits to using the public-private partnership instead of other options including No-Build (v) the private development will result in timely and efficient development and operation and (vi) the risks, liabilities and responsibilities transferred to the private entity provide sufficient benefits to warrant not using other means of procurement.

f. (1) All projects proposed in accordance with this section shall be submitted to the State Treasurer for review and approval, which shall be conducted in consultation with the Commissioner of the Department of Education **[**and the Chief Executive Officer of the Schools Development Authority**]**. The Commissioner of the Department of Education shall determine if a project is subject to voter approval pursuant to N.J.S.**[**A.**]** 18A:24-10. If a project is subject to voter approval, such approval is required prior to progressing thru the procurement process. The projects are encouraged, when practicable, to adhere to the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).

(2) All projects proposed in accordance with this section that have a transportation component or impact the transportation infrastructure shall be submitted to the Department of Transportation. The State Treasurer shall consult with the Department of Transportation in making its final determination.

(3) (a) In order for an application to be complete and considered by the State Treasurer, the application shall include, but not be limited to: (i) a full description of the proposed public-private partnership agreement between the school district and the private developer, including all information obtained by and findings of the school district pursuant to paragraphs (4) and (5) of subsection (e) of this section; (ii) a full description of the project, including a description of any agreement for the lease of a revenue-producing facility related to the project; (iii) the estimated costs and financial documentation for the project showing the underlying financial models and assumptions that determined the estimated costs. The financial documentation must include at least three different projected estimated costs showing scenarios in which materially different economic circumstances are assumed and an explanation for how the estimated costs were determined based on the three scenarios; (iv) a timetable for completion of the construction of the project; (v) an analysis of all available funding options for the project, including an analysis of the financial viability and advisability of such project, along with evidence of the public benefit in advancing the project as a public-private partnership; (vi) a record of the public hearing held pursuant to paragraph (4) of subsection e. of this section, which shall have been kept open for a period of seven days following the conclusion of the hearing; (vii) any other requirements that the State Treasurer deems appropriate or necessary. The application shall also include a resolution by the school district's governing body of its intent to enter into a public-private partnership agreement pursuant to this section.

(b) As part of the estimated costs and financial documentation for the project, the application shall contain a long-range maintenance plan and a long-range maintenance bond and shall specify the expenditures that qualify as an appropriate investment in maintenance. The long-range maintenance plan shall be approved by the State Treasurer pursuant to regulations promulgated by the State Treasurer that reflect national building maintenance standards and other appropriate building maintenance benchmarks.

(4) The State Treasurer, in consultation with the authority**[**,**]** and the Commissioner of the Department of Education**[**, and the Chief Executive Officer of the Schools Development Authority**]**, shall review all completed applications, and request additional information as is needed to make a complete assessment of the project. No public-private partnership agreement shall be executed until approval has been granted by the State Treasurer. Prior to a final decision by the State Treasurer on the application, the authority**[**,**]** and the Department of Education**[**, and the Schools Development Authority**]** shall be afforded the opportunity to provide comments on the application that they deem appropriate, and the State Treasurer shall consider any comments submitted by the authority**[**,**]** and the Department of Education**[**, and the Schools Development Authority**]** with respect to the application. The State Treasurer will find that: (i) the school district's assumptions regarding the project's scope, its benefits, its risks and the cost of the public sector option were fully and reasonably developed (ii) the design of the project is feasible; (iii) the experience and qualifications of the private entity; (iv) the financial plan is sound; (v) the long-range maintenance plan is adequate to protect the investment; (vi) the project is in the best interest of the public, using the criteria in paragraph (6) of subsection e. of this section; (vii) a resolution by the school district's governing body of its intent to enter into a public-private partnership agreement for the project has been received; and (viii) the term sheet for any proposed procurement contains all necessary elements.

(5) The State Treasurer, in consultation with the Commissioner of the Department of Education **[**and Chief Executive Officer of the Schools Development Authority**]**, may promulgate any rules and regulations necessary to implement this subsection, including, but not limited to, provisions for fees to cover administrative costs, and for the determination of minimum school district standards for the operation of the project, and for the qualification for professional services, construction contracting, and other relevant qualifications.

g. A project with an expenditure of under $50 million developed under a public-private partnership agreement shall include a requirement that precludes contractors from engaging in the project if the contractor has contributed to the private entity's financing of the project in an amount of more than 10% of the project's financing costs.

h. The power of eminent domain shall not be delegated to any private entity under the provisions of P.L.2018, c.90 (C.40A:11-52 et al.); however, a school district may dedicate any property interest, including improvements, and tangible personal property of the school district for public use in a qualifying project if the school district finds that so doing will serve the public purpose of the project by minimizing the cost of the project to the school district or reducing the delivery time of a project.

i. Any public-private partnership agreement, if appropriate, shall include provisions affirming that the agreement and any work performed under the agreement are subject to the provisions of the "Construction Industry Independent Contractor Act," P.L.2007, c.114 (C.34:20-1 et seq.). Any public-private partnership agreement will also include, at a minimum: (i) the term of the agreement, (ii) the total project cost, (iii) a completion date guarantee, (iv) a provision for damages if the private entity fails to meet the completion date and (v) a maximum rate of return to the private entity and a provision for the distribution of excess earnings to the local government unit or to the private party for debt reduction.

j. (1) A private entity seeking to enter into a public-private partnership agreement with the school district shall be qualified by the school district as part of the procurement process, provided such process ensures that the private entity and its subcontractors and consultants, where relevant, meet at least the minimum qualifications standards promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, Department of Education, **[**Schools Development Authority,**]** and such other school district standards for qualification for professional services, construction contracting, and other qualifications applicable to the project, prior to submitting a proposal under the procurement process.

(2) A request for qualifications for a public-private partnership agreement shall be advertised at least 45 days prior to the anticipated date of receipt. The advertisement of the request for qualifications shall be published on the official Internet website of the school district and at least one or more newspapers with Statewide circulation.

(3) After the school district determines the qualified respondents utilizing, at minimum, the qualification standards promulgated by the State Treasurer, the school district shall issue a request for proposals to each qualified respondent no less than 45 days prior to the date established for submission of the proposals. The request for proposals shall include relevant technical submissions, documents, and the evaluation criteria to be used in the selection of the designated respondent. The evaluation criteria shall be, at minimum, criteria promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority**[**,**]** and the Department of Education**[**, and Schools Development Authority**]**.

(4) The school district may accept unsolicited proposals from private entities for public-private partnership agreements. If the school district receives an unsolicited proposal and determines that it meets the standards of this section, the school district shall publish a notice of the receipt of the proposal on the Internet site of the school district and through advertisement in at least one or more newspapers with Statewide circulation. The school district shall also provide notice of the proposal at its next scheduled public meeting and to the State Treasurer. To qualify as an unsolicited proposal, the unsolicited proposal must at a minimum include a description of the public-private project, the estimated construction and life-cycle costs, a timeline for development, proposed plan of financing, including projected revenues, public or private, debt, equity investment, description of how the project meets needs identified in existing plans, the permits and approvals needed to develop the project from local, state and federal agencies and a projected schedule for obtaining such permits and approvals, a statement of risks, liabilities and responsibilities to be assumed by the private entity. The notice shall provide that the school district will accept, for 120 days after the initial date of publication, proposals meeting the standards of this section from other private entities for eligible projects that satisfy the same basic purpose and need. A copy of the notice shall be mailed to each municipal and county local government body in the geographic area affected by the proposal.

(5) After the proposal or proposals have been received, and any public notification period has expired, the school district shall rank the proposals in order of preference. In ranking the proposals, the school district shall rely upon, at minimum, the evaluation criteria promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority**[**,**]** and the Department of Education**[**, and Schools Development Authority**]**. In addition, the local school district may consider factors that include, but may not be limited to, professional qualifications, general business terms, innovative engineering, architectural services, or cost-reduction terms, finance plans, and the need for school district funds to deliver the project and discharge the agreement. The private entity selected shall comply with all laws and regulations required by the State government entity, including but not limited to section 1 of P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975, c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25.24-2), P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-51 et al.), Executive Order No. 117 of 2008, Executive Order No. 118 of 2008, Executive Order No. 189, prior to executing the public private partnership agreement. If only one proposal is received, the school district shall negotiate in good faith and, if not satisfied with the results of the negotiations, the school district may, at its sole discretion, terminate negotiations.

(6) The school district may require, upon receipt of one or more proposals, that the private entity assume responsibility for all costs incurred by the school district before execution of the public-private partnership agreement, including costs of retaining independent experts to review, analyze, and advise the school district with respect to the proposal.

(7) The school district shall set aside one percent of each project and remit it the Public-Private Partnership Review fund established pursuant to section 8 of P.L.2018, c.90 (C.52:18A-260), for purposes of plan review and analysis required under the bill.

(8) Nothing in this section shall be construed as or deemed a waiver of the sovereign immunity of the State, the local government unit or an affected locality or public entity or any officer or employee thereof with respect to the participation in or approval of all or any part of the public-private project.

(cf: P.L.2018, c.90, s.2)

31. N.J.S.18A:22-39 is amended to read as follows:

18A:22-39. Whenever the undertaking of any capital project or projects to be paid for from the proceeds of an issue or issue of bonds is submitted to the voters of a type II district at an annual or special school election for their approval or disapproval, the board shall frame and adopt by a recorded roll call majority vote of its full membership the question or questions to be submitted so that each project is submitted in a separate question, or all or any number of them are submitted in one question, which shall state the project or projects so submitted and the amounts to be raised for each of the projects so separately submitted or for each or for all of the projects so jointly submitted, as the case may be, but any proposal for the purchase of land shall be sufficient to authorize the taking and condemning of such land. If the project is to be constructed by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury or a redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the local share and shall disclose the final eligible costs of the project as approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and in the case of a demonstration project pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6), and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs. If the school facilities project is not to be constructed by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury or a redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the total costs of the project, shall disclose State debt service aid for the project and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs of the project. When a project is framed in more than one question, a summary shall be included in the explanatory statement which accompanies the questions that includes the total costs of the project, total State debt service aid, and, if applicable, the amount of the costs of the project which are in addition to the final eligible costs of the project, and any individual question containing costs in addition to the final eligible costs shall include the amount of those additional costs.

The statement of additional costs in any ballot question and in any explanatory statement that accompanies a ballot question shall describe the additional costs as follows: "This project includes $(insert amount) for school facility construction elements in addition to the facilities efficiency standards developed by the Commissioner of Education."

(cf: P.L.2007, c.137, s.50)

32. Section 4 of P.L.2011, c.176 (C.18A:36C-4) is amended to read as follows:

4. a. A nonprofit entity, in partnership with the renaissance school district, may submit to the commissioner an application to create a renaissance school project no later than three years following the effective date of P.L.2011, c.176 (C.18A:36C-1 et seq.); except that in the case of a project to be located in a renaissance school district which is in a municipality that is subject to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the application must be submitted no later than four years following the effective date of P.L.2011, c.176 (C.18A:36C-1 et seq.). A nonprofit entity seeking to create a renaissance school project shall have experience in operating a school in a high-risk, low-income urban district. In addition, an entity retained by the nonprofit entity for the purpose of financing or constructing the renaissance school project shall also have appropriate experience.

b. The application shall be in a form prescribed by the commissioner, but at a minimum it shall contain the following:

(1) except as otherwise provided in this paragraph, a resolution adopted in a public meeting by the board of education of the renaissance school district in which the renaissance school project will be located certifying the support of the board for the application. In the case of a district under full or partial State intervention with an advisory board of education, the application shall contain evidence that that State district superintendent or superintendent, as applicable, convened at least three public meetings to discuss the merits of the renaissance school project. The evidence shall include, at a minimum, any written public comments received during those meetings. In the case of these districts, the application shall contain a resolution from the advisory board of education reflecting the board's approval or disapproval of the renaissance school project. While a successful application does not require approval from the advisory board of education, the commissioner, in considering the application, shall give due consideration to any disapproval from the advisory board;

(2) a copy of the amendment to the renaissance school district's long-range facilities plan which has been submitted to the commissioner pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4) that includes the proposed renaissance school project;

(3) the educational goals of the renaissance school project, the curriculum to be offered, and the methods of assessing whether students are meeting the proffered educational goals;

(4) any testing and academic performance standards to be mandated by the renaissance school project beyond those required by State law and regulation;

(5) the admission policy and criteria for evaluating the admission of students to the renaissance school project, which shall comply with the provisions of section 8 of this act;

(6) the age or grade range of students to be enrolled in the renaissance school project;

(7) the total number of students to be enrolled in each grade level of the renaissance school project;

(8) the renaissance school project calendar and school day schedule;

(9) the financial plan for the renaissance school project and the provisions that will be made for auditing pursuant to N.J.S.18A:23-1;

(10) a description of, and address for, the initial school facility in which the renaissance school project will be located and an affirmation that any other school facility or facilities in which the renaissance school project will be located will be in the required urban campus area. For any school facility other than the initial school facility included in the application pursuant to this paragraph, the nonprofit entity shall notify the Commissioner of Education of the location of the facility at least one year prior to the opening of the facility;

(11) documentation that the proposed renaissance school project meets school facility regulations promulgated by the State Board of Education pertaining to the health and safety of the pupils;

(12) documentation of a funding plan to acquire necessary lands and to construct a renaissance school project thereon, including the terms of any financing secured for such purpose;

(13) (Deleted by amendment, P.L.2013, c.149)

(14) identification of the attendance area of the renaissance school project, if the renaissance school project will not be built on land owned by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury or the renaissance school district;

(15) a description of the process employed by the renaissance school district to find and partner with the chosen nonprofit entity to create a renaissance school project. The description shall be sufficient to show that the process employed by the renaissance school district was open, fair, and subject to public input and comment. The description shall, at a minimum, include any requests for proposals issued by the renaissance school district, the number of responses received, and the process and criteria employed by the renaissance school district to select the chosen nonprofit entity among the respondents; and

(16) such other information as the commissioner may require.

(cf: P.L.2014, c.61, s.2)

33. Section 8 of P.L.2011, c.176 (C.18A:36C-8) is amended to read as follows:

8. a. (1) In the case of a renaissance school project built on land owned by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury or the renaissance school district, students residing in the attendance area established by the renaissance school district for that property shall be automatically enrolled in the renaissance school project, except as otherwise provided in paragraph (2) of this subsection. The parent or guardian of the student may determine not to enroll the student in the renaissance school project, and in that case the student shall be eligible for enrollment in another school in the renaissance school district. If spaces remain available in the renaissance school project, students shall be selected for the remaining spaces through a lottery system. The first lottery shall include students who reside in the renaissance school district but outside the attendance area of the renaissance school. If space remains available, a second lottery shall be conducted that may include students who reside outside of the renaissance school district.

(2) A renaissance school project built on land owned by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury or the renaissance school district, shall allow any student who was enrolled in the renaissance school project in the immediately preceding school year to enroll in the renaissance school project in the appropriate grade unless the appropriate grade is not offered; and if a grade is at capacity, a student enrolled in the immediately preceding school year shall have priority for enrollment in that grade over a student who would otherwise be eligible for initial enrollment in the renaissance school project automatically based on the fact that he resides in the attendance area established by the renaissance school project for that property.

b. (1) In the case of a renaissance school project which is not built on land owned by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury or the renaissance school district, preference for enrollment in the renaissance school project shall be given to students who reside in the attendance area identified in the application submitted by the nonprofit entity and approved by the commissioner for the renaissance school project. In no case may an attendance area include an area outside of the renaissance school district. If spaces remain available in the renaissance school project, then the renaissance school project may select students for the remaining spaces through a lottery system. The first lottery shall include students who reside in the renaissance school district but outside the attendance area identified in the application approved by the commissioner for the renaissance school project. If space remains available, a second lottery shall be conducted that may include students who reside outside of the renaissance school district.

(2) A renaissance school project which is not built on land owned by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury or the renaissance school district shall allow any student who was enrolled in the renaissance school project in the immediately preceding school year to enroll in the renaissance school project in the appropriate grade unless the appropriate grade is not offered.

In developing and executing its selection process, the nonprofit entity shall not discriminate on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a person with a disability, proficiency in the English language, or any other basis that would be illegal if used by a school district. A nonprofit entity may, however, limit admission to a particular grade level or levels consistent with its organizational document.

(cf: P.L.2017, c.131, s.29)

34. Section 11 of P.L.2011, c.176 (C.18A:36C-11) is amended to read as follows:

11. a. Notwithstanding the provisions of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), or any other law or regulation to the contrary, when an entity seeks to build a renaissance school project on land owned by the **[**New Jersey Schools Development Authority**]** Division of Property Management and Construction in the Department of the Treasury, the authority may convey the land by ground lease or fee simple title to either the renaissance school district or the entity if the authority determines conveyance to be in the best interests of the State, provided that such conveyance, whether by ground lease or fee simple title shall (1) contain a restriction that the land be used solely for a school or it shall revert to the authority; and (2) be for such consideration and on such terms as the authority determines to be in the best interests of the State.

b. Notwithstanding any other law to the contrary, in the event of a conveyance by the authority to a renaissance school district pursuant to this section, the renaissance school district is authorized to enter into a sub-lease of the property to the entity as required to effectuate the renaissance school project. The sub-lease shall be submitted to the commissioner for his review and approval. The sub-lease shall contain a restriction that the land be used solely for the renaissance school project or it shall revert to the school district.

(cf: P.L.2011, c.176, s.11)

35. Section 8 of P.L.2018, c.90 (C.52:18A-260) is amended to read as follows:

8. a. There is hereby established in the Department of the Treasury the Public-Private Partnership Review Fund. The purpose of the fund will be to support financial and administrative review functions associated with the Public-Private Partnership plan review by the State Treasurer, along with the New Jersey Economic Development Authority, the Department of Community Affairs, the Department of Education, **[**the Schools Development Authority,**]** and the Department of Transportation, established by P.L.2018, c.90 (C.40A:11-52 et al.).

b. Notwithstanding the provisions of any law or regulation to the contrary, upon entering into any public-private partnership agreement which is backed, in whole or in part, by New Jersey Economic Development Authority bonds pursuant to P.L.2018, c.90 (C.40A:11-52 et al.), a public entity shall remit one percent of the portion of the revenue established under the agreement to the Department of the Treasury to be placed in the Public-Private Partnership Review Fund.

c. The State Treasurer, in coordination with any relevant agency, including the New Jersey Economic Development Authority, Department of Transportation, and Department of Community Affairs, shall provide, and make available to the public on the Internet, an annual report, not later than December 31, 2019 and each year after that year, a list of all projects reviewed and the percentage and amount of funds withheld and provided to the fund pursuant to this section.

(cf: P.L.2018, c.90, s.8)

36. (New section) a. No municipality shall modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, alteration or improvement of any school facilities project of the Division of Property Management and Construction in the Department of the Treasury, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform the work in any other or different manner than that provided by the drawings, plans and specifications, nor to require that any person, firm or corporation obtain any other or additional authority, approval, permit or certificate from the municipality in relation to the work being done, and the doing of the work by any person, firm or corporation in accordance with the terms of the drawings, plans, specifications or contracts shall not subject the person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in the contracts or incidental to the proper enforcement thereof; nor shall any municipality require the division or any person, firm, partnership or corporation which leases or purchases the school facilities project for lease or purchase to a State agency, to obtain any other or additional authority, approval, permit, certificate or certificate of occupancy from the municipality as a condition of owning, using, maintaining, operating or occupying any school facilities project acquired, constructed, reconstructed, rehabilitated, altered or improved by the division or by any subsidiary thereof. The foregoing provisions shall not preclude any municipality from exercising the right of inspection for the purpose of requiring compliance by any school facilities project with local requirements for operation and maintenance affecting the health, safety and welfare of the occupants thereof, provided that the compliance does not require changes, modifications or additions to the original construction of the school facilities project.

b. Each municipality in which any school facilities project of the division is located shall provide for the school facilities project, whether then owned by the authority, any subsidiary, any State agency or any person, firm, partnership or corporation, police, fire, sanitation, health protection and other municipal services of the same character and to the same extent as those provided for other residents of the municipality.

c. In carrying out any school facilities project, the division may enter into contractual agreements with local government agencies with respect to the furnishing of any community, municipal or public facilities or services necessary or desirable for the school facilities project, and any local government agency may enter into these contractual agreements with the division and do all things necessary to carry out its obligations.

37. (New section) a. If the Division of Property Management and Construction in the Department of the Treasury shall find it necessary in connection with the undertaking of any school facilities project to change the location of any portion of any public highway or road, it may contract with any government agency, or public or private corporation which may have jurisdiction over the public highway or road to cause the public highway or road to be constructed at such locations as the division shall deem most favorable. The cost of the reconstruction and any damage incurred in changing the location of the highway shall be ascertained and paid by the division as part of the cost of the school facilities project. Any public highway affected by the construction of any school facilities project may be vacated or relocated by the division in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the division as a part of the cost of the school facilities project. In all undertakings authorized by this subsection, the division shall consult and obtain the approval of the Commissioner of Transportation.

b. The division and its authorized agents and employees may enter upon any lands, waters and premises for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, all in accordance with due process of law, and this entry shall not be deemed a trespass nor shall an entry for this purpose be deemed an entry under any condemnation proceedings which may be then pending. The division shall make reimbursement for any actual damages resulting to the lands, waters and premises as a result of these activities.

c. The division shall have the power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, herein called "public utility facilities," or any public utility as defined in R.S.48:2-13, in, on, along, over or under any school facilities project. Whenever the division shall determine that it is necessary that any public utility facilities which now are, or hereafter may be, located in, on, along, over or under any school facilities project shall be relocated in the school facilities project, or should be removed from the school facilities project, the public utility owning or operating the facilities shall relocate or remove them in accordance with the order of the division. The cost and expenses of the relocation or removal, including the cost of installing the facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the division as a part of the cost of the school facilities project. In case of any relocation or removal of facilities, the public utility owning or operating them, its successors or assigns, may maintain and operate the facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in their former location or locations. In all undertakings authorized by this subsection the division shall consult and obtain the approval of the Board of Public Utilities.

38. (New section) a. The New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237) is abolished and all its functions, powers, duties, and employees are transferred to the Division of Property Management and Construction in the Department of the Treasury.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Schools Development Authority, the same shall mean and refer to the Division of Property Management and Construction in the Department of the Treasury.

c. This transfer shall be subject to the provisions of the “State Agency Transfer Act,” P.L.1971, c.375 (C.52:14D-1 et seq.).

39. The following sections are repealed:

Section 68 of P.L.2000, c.72 (C.18A:7G-41); and

Sections 1 through 13 of P.L.2007, c.137 (C.52:18A-235 through 52:18A-247).

40. This act shall take effect immediately.

STATEMENT

This bill revises the school construction program established under the “Educational Facilities Construction and Financing Act,” (EFCFA) P.L.2000, c.72 (C.18A:7G-1 et al.). The bill will abolish the New Jersey Schools Development Authority (SDA), which was created pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) as a new State authority responsible for the construction of schools in the former Abbott districts. This bill transfers all the functions, powers, duties, and employees of the SDA to the Division of Property Management and Construction in the Department of the Treasury. The New Jersey Economic Development Authority (EDA) will retain its responsibility for the financing of school construction projects.