

ASSEMBLY, No. 4496

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 29, 2022

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

SYNOPSIS

Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/27/2022)

1 AN ACT concerning the construction of school facilities projects,
2 supplementing P.L.2000, c.72 (C.18A:7G-1 et al.) and chapter
3 18A of Title 18A of the New Jersey Statutes, and amending
4 various parts of the statutory law.

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

8
9 1. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to
10 read as follows:

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

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

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

28 "Charter school" means a school established pursuant to
29 P.L.1995, c.426 (C.18A:36A-1 et seq.);

30 "Commissioner" means the Commissioner of Education;

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

34 "Cost index" means the average annual increase, expressed as a
35 decimal, in actual construction cost factors for the New York City
36 and Philadelphia areas during the second fiscal year preceding the
37 budget year as determined pursuant to regulations promulgated by
38 the development authority pursuant to section 26 of P.L.2000, c.72
39 (C.18A:7G-26);

40 "Debt service" means and includes payments of principal and
41 interest upon school bonds issued to finance the acquisition of
42 school sites and the purchase or construction of school facilities,
43 additions to school facilities, or the reconstruction, remodeling,
44 alteration, modernization, renovation or repair of school facilities,
45 including furnishings, equipment, architect fees and the costs of
46 issuance of such obligations and shall include payments of principal
47 and interest upon school bonds heretofore issued to fund or refund

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

Matter underlined thus is new matter.

1 such obligations, and upon municipal bonds and other obligations
2 which the commissioner approves as having been issued for such
3 purposes. Debt service pursuant to the provisions of P.L.1978, c.74
4 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.)
5 and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

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

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

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

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

27 "Excess costs" means the additional costs, if any, which shall be
28 borne by the district, of a school facilities project which result from
29 design factors that are not required to meet the facilities efficiency
30 standards and not approved pursuant to paragraph (1) of subsection
31 g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized
32 as community design features included in final eligible costs
33 pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-
34 6);

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

38 "Final eligible costs" means for school facilities projects to be
39 constructed by the development authority, the final eligible costs of
40 the school facilities project as determined by the commissioner, in
41 consultation with the development authority, pursuant to section 5
42 of P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the
43 final eligible costs of the project as determined by the commissioner
44 and reviewed by the development authority which may include the
45 cost of community design features determined by the commissioner
46 to be an integral part of the school facility and which do not exceed
47 the facilities efficiency standards, and which were reviewed by the

1 development authority and approved by the State Treasurer
2 pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6); **and** for
3 districts other than SDA districts, final eligible costs as determined
4 pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000,
5 c.72 (C.18A:7G-5) ; for school facilities projects of charter schools
6 and renaissance school projects located in SDA districts, final
7 eligible costs as determined pursuant to subsection c. of section 4 of
8 P.L. , c. (C.) (pending before the Legislature as this bill);

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

12 "FTE" means a full-time equivalent student which shall be
13 calculated as follows: each student in grades 1 through 12 shall be
14 counted at **100%** 100 percent of the actual count of students, in
15 the case of districts which operate a half-day kindergarten program
16 each kindergarten student shall be counted at **50%** 50 percent of
17 the actual count of kindergarten students, in the case of districts
18 which operate a full-day kindergarten program or which currently
19 operate a half-day kindergarten program but propose to build
20 facilities to house a full-day kindergarten program each
21 kindergarten student shall be counted at **100%** 100 percent of the
22 actual count of kindergarten students, and each preschool student
23 who is enrolled in a full-day preschool program pursuant to section
24 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at **100%**
25 100 percent of the actual count of preschool students. In addition,
26 each preschool disabled child who is entitled to receive a full-time
27 program pursuant to N.J.S.18A:46-6 shall be counted at **100%**
28 100 percent of the actual count of these students in the district;

29 "Functional capacity" means the number of students that can be
30 housed in a building in order to have sufficient space for it to be
31 educationally adequate for the delivery of programs and services
32 necessary for student achievement of the core curriculum content
33 standards. Functional capacity is determined by dividing the
34 existing gross square footage of a school building by the minimum
35 area allowance per FTE student pursuant to subsection b. of section
36 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students
37 contained therein. The difference between the projected enrollment
38 determined pursuant to subsection a. of section 8 of P.L.2000, c.72
39 (C.18A:7G-8) and the functional capacity is the unhoused students
40 that are the basis upon which the additional costs of space to
41 provide educationally adequate facilities for the entire projected
42 enrollment are determined. The existing gross square footage for
43 the purposes of defining functional capacity is exclusive of existing
44 spaces that are not contained in the facilities efficiency standards
45 but which are used to deliver programs and services aligned to the
46 core curriculum content standards, used to provide support services
47 directly to students, or other existing spaces that the district can

1 demonstrate would be structurally or fiscally impractical to convert
2 to other uses contained in the facilities efficiency standards;

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

13 "Local share" means, in the case of a school facilities project to
14 be constructed by the development authority, the total costs less the
15 State share as determined pursuant to section 5 of P.L.2000, c.72
16 (C.18A:7G-5); in the case of a demonstration project, the total costs
17 less the State share as determined pursuant to sections 5 and 6 of
18 P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a
19 school facilities project which shall be financed pursuant to section
20 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State
21 share as determined pursuant to that section;

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

26 "Local unit obligations" means bonds, notes, refunding bonds,
27 refunding notes, lease obligations and all other obligations of a
28 local unit which are issued or entered into for the purpose of paying
29 for all or a portion of the costs of a school facilities project,
30 including moneys payable to the development authority;

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

34 "Maintenance" means expenditures which are approved for
35 repairs and replacements for the purpose of keeping a school
36 facility open and safe for use or in its original condition, including
37 repairs and replacements to a school facility's heating, lighting,
38 ventilation, security and other fixtures to keep the facility or
39 fixtures in effective working condition. Maintenance shall not
40 include capital maintenance or contracted custodial or janitorial
41 services, expenditures for the cleaning of a school facility or its
42 fixtures, the care and upkeep of grounds or parking lots, and the
43 cleaning of, or repairs and replacements to, movable furnishings or
44 equipment, or other expenditures which are not required to maintain
45 the original condition over the school facility's useful life.
46 Approved maintenance expenditures shall be as determined by the
47 commissioner pursuant to regulations to be adopted by the

1 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-
2 26);

3 "Model school design" means the design standards developed by
4 the development authority pursuant to paragraph (2) of subsection
5 h. of section 4 of P.L.2000, c.72 (C.18A:7G-4);

6 "Other allowable costs" means the costs of temporary facilities,
7 site development, acquisition of land or other real property interests
8 necessary to effectuate the school facilities project, fees for the
9 services of design professionals, including architects, engineers,
10 construction managers and other design professionals, legal fees,
11 financing costs and the administrative costs of the development
12 authority and the financing authority or the district, charter school,
13 or renaissance school project incurred in connection with the school
14 facilities project;

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

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

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

32 "Renaissance school project" means a school established
33 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.);

34 "School bonds" means, in the case of a school facilities project
35 which is to be constructed by the development authority, a
36 redevelopment entity, or a district under section 15 of P.L.2000,
37 c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a
38 district to finance the local share; and, in the case of a school
39 facilities project which is not to be constructed by the development
40 authority or a redevelopment entity, or financed under section 15 of
41 P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations
42 issued by a district to finance the total costs;

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

1 "School facility" means and includes any structure, building or
2 facility used wholly or in part for educational purposes by a district
3 and facilities that physically support such structures, buildings and
4 facilities, such as district wastewater treatment facilities, power
5 generating facilities, and steam generating facilities, but shall
6 exclude other facilities. "School facility" shall also mean any
7 structure, building, or facility used wholly or in part for educational
8 purposes that is owned or leased and operated by a charter school or
9 renaissance school project and facilities that physically support such
10 structures, buildings and facilities;

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

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

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

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

27 "State debt service aid" means for school bonds issued for school
28 facilities projects approved by the commissioner after the effective
29 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect
30 not to have a redevelopment entity construct the project or which
31 elect not to finance the project under section 15 of P.L.2000, c.72
32 (C.18A:7G-15), the amount of State aid determined pursuant to
33 section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or
34 certificates of participation issued for school facilities projects
35 approved by the commissioner prior to the effective date of
36 P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid
37 determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-
38 10);

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

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

1 "State share" means the State's proportionate share of the final
2 eligible costs of a school facilities project to be constructed by the
3 development authority as determined pursuant to section 5 of
4 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration
5 project, the State's proportionate share of the final eligible costs of
6 the project as determined pursuant to sections 5 and 6 of P.L.2000,
7 c.72 (C.18A:7G-5 and C.18A:7G-6); **[and]** in the case of a school
8 facilities project to be financed pursuant to section 15 of P.L.2000,
9 c.72 (C.18A:7G-15), the State share as determined pursuant to that
10 section ; and in the case of a school facilities project of a charter
11 school or renaissance school project in an SDA district, the State
12 share as determined pursuant to section 4 of P.L. , c. (C.)
13 (pending before the Legislature as this bill);

14 "Total costs" means, in the case of a school facilities project
15 which is to be constructed by the development authority or a
16 redevelopment entity or financed pursuant to section 15 of
17 P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess
18 costs if any; and in the case of a school facilities project which is
19 not to be constructed by the development authority or a
20 redevelopment entity or financed pursuant to section 15 of
21 P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as
22 determined by the district.

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

24
25 2. Section 4 of P.L.2000, c.72 (C.18A:7G-4) is amended to
26 read as follows:

27 4. a. (1) By December 15, 2000 and by October 1, 2005, each
28 district shall prepare and submit to the commissioner a long-range
29 facilities plan that details the district's school facilities needs and
30 the district's plan to address those needs for the ensuing five years.
31 Following the approval of the 2005 long-range facilities plan, each
32 district shall amend its long-range facilities plan at least once every
33 five years to update enrollment projections, building capacities, and
34 health and safety conditions. The long-range facilities plan shall
35 incorporate the facilities efficiency standards and shall be filed with
36 the commissioner for approval in accordance with those standards.
37 For those Abbott districts that have submitted long-range facilities
38 plans to the commissioner prior to the effective date of P.L.2000,
39 c.72 (C.18A:7G-1 et al.), this subsection shall not be read to require
40 an additional filing by October 1, 2000.

41 (2) Every long-rang facilities plan submitted to the
42 commissioner after the effective date of P.L. , c. (C.)
43 (pending before the Legislature as this bill), including any
44 amendment thereto, shall include a capital improvement plan for
45 each public school within the district. At a minimum, the capital
46 improvement plan shall indicate the enrollment projections,
47 building capacities, and health and safety conditions of each public

1 school within the district, as well as the school facilities needs of
2 each school.

3 b. Notwithstanding any other law or regulation to the contrary,
4 an application for a school facilities project pursuant to section 5 of
5 P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the
6 district has filed a long-range facilities plan that is consistent with
7 the application and the plan has been approved by the
8 commissioner; except that prior to October 1, 2000, the
9 commissioner may approve an application if the project is necessary
10 to protect the health or safety of occupants of the school facility, or
11 is related to required early childhood education programs, or is
12 related to a school facility in which the functional capacity is less
13 than **【90%】** 90 percent of the facilities efficiency standards based
14 on current school enrollment, or the district received bids on the
15 school facilities project prior to the effective date of P.L.2000, c.72
16 (C.18A:7G-1 et al.) and the district demonstrates that further delay
17 will negatively affect the cost of the project.

18 c. An amendment to a long-range facilities plan may be
19 submitted at any time to the commissioner for review and
20 determination on the approval or disapproval of the amendment.

21 d. Each long-range facilities plan shall include a cohort
22 survival methodology or other methodology approved by the
23 commissioner, accompanied by a certification by a qualified
24 demographer retained by the district that serves as the basis for
25 identifying the capacity and program needs detailed in the long-
26 range facilities plan.

27 e. The long-range facilities plan shall include an educational
28 adequacy inventory of all existing school facilities in the district
29 including the adequacy of school facilities to educate within the
30 district the existing and projected number of pupils with disabilities,
31 the identification of all deficiencies in the district's current
32 inventory of school facilities, which includes the identification of
33 those deficiencies that involve emergent health and safety concerns,
34 and the district's proposed plan for future construction and
35 renovation. The long-range facilities plan submissions shall
36 conform to the guidelines, criteria and format prescribed by the
37 commissioner.

38 f. Each district shall determine the number of "unhoused
39 students" for the ensuing five-year period calculated pursuant to the
40 provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).

41 g. Each district shall submit the long-range facilities plan to the
42 planning board of the municipality or municipalities in which the
43 district is situate for the planning board's review and findings and
44 the incorporation of the plan's goals and objectives into the
45 municipal master plan adopted by the municipality pursuant to
46 section 19 of P.L.1975, c.291 (C.40:55D-28).

1 h. (1) The commissioner shall develop, for the March 2002
2 Report on the Cost of Providing a Thorough and Efficient
3 Education issued by the commissioner pursuant to section 4 of
4 P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for
5 elementary, middle, and high schools consistent with the core
6 curriculum school delivery assumptions in the report and sufficient
7 for the achievement of the core curriculum content standards,
8 including the provision of required programs in Abbott districts and
9 early childhood education programs in the districts in which these
10 programs are required by the State. The area allowances per FTE
11 student in each class of the district shall be derived from these
12 facilities efficiency standards. The commissioner shall revise the
13 facilities efficiency standards and the area cost allowance in
14 accordance with such schedule as the commissioner deems
15 necessary. The commissioner shall publish the revised facilities
16 efficiency standards and the area cost allowance in the New Jersey
17 Register and, within a reasonable period of time after 30 days
18 following publication, shall file the revised facilities efficiency
19 standards and the area cost allowance with the Office of
20 Administrative Law for publication in the New Jersey Register and
21 those standards shall become effective immediately upon filing.
22 During the 30-day period the commissioner shall provide an
23 opportunity for public comment on the proposed facilities
24 efficiency standards and the area cost allowance.

25 The facilities efficiency standards developed by the
26 commissioner shall not be construction design standards but rather
27 shall represent the instructional spaces, specialized instructional
28 areas, and administrative spaces that are determined by the
29 commissioner to be educationally adequate to support the
30 achievement of the core curriculum content standards including the
31 provision of required programs in Abbott districts and early
32 childhood education programs in the districts in which these
33 programs are required by the State. A district may design, at its
34 discretion, the educational and other spaces to be included within
35 the school facilities project. The design of the project may
36 eliminate spaces in the facilities efficiency standards, include
37 spaces not in the facilities efficiency standards, or size spaces
38 differently than in the facilities efficiency standards upon a
39 demonstration of the adequacy of the school facilities project to
40 deliver the core curriculum content standards pursuant to paragraph
41 (2) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

42 Within a reasonable period of time after the effective date of
43 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish
44 the facilities efficiency standards developed for the 2000-2001,
45 2001-2002, and 2002-2003 school years in the New Jersey Register.
46 Within a reasonable period of time after 30 days after publication in
47 the New Jersey Register, the commissioner shall file the facilities

1 efficiency standards with the Office of Administrative Law and
2 those standards shall become effective immediately upon filing with
3 the Office of Administrative Law. During the 30-day period the
4 commissioner shall provide an opportunity for public comment on
5 the proposed facilities efficiency standards.

6 (2) Within 120 days of the effective date of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), the
8 development authority, in consultation with the commissioner, shall
9 develop three model school designs for the construction of
10 elementary, middle, and high schools, respectively. The model
11 school designs shall establish uniform standards for the exterior and
12 interior design of each category of school facilities projects. The
13 development authority, in consultation with the commissioner, may
14 revise the model school designs as the development authority deems
15 necessary. In addition to any other considerations that the
16 development authority may deem appropriate, the model school
17 designs shall: (a) not include immodest or irregularly-shaped
18 structures, including facades, windows, and courtyards, which
19 contribute to unnecessary and imprudent construction costs; and (b)
20 prioritize the utilization of vertical construction designs over
21 horizontal construction designs, which designs preserve green space
22 and maximize land use.

23 i. Within 90 days of the commissioner's receipt of a long-range
24 facilities plan for review, the commissioner shall determine whether
25 the plan is fully and accurately completed and whether all
26 information necessary for a decision on the plan has been filed by
27 the district. If the commissioner determines that the plan is
28 complete, the commissioner shall promptly notify the district in
29 writing and shall have 60 days from the date of that notification to
30 determine whether to approve the plan or not. If the commissioner
31 determines that the plan is not complete, the commissioner shall
32 notify the district in writing. The district shall provide to the
33 commissioner whatever information the commissioner determines is
34 necessary to make the plan accurate and complete. The district
35 shall submit that information to the commissioner, and the
36 commissioner shall have 60 days from the date of receipt of
37 accurate and complete information to determine whether to approve
38 the plan or not.

39 j. Notwithstanding any provision in subsection i. of this
40 section, if at any time the number of long-range facilities plans filed
41 by school districts with the commissioner and pending review
42 exceeds **【20%】** 20 percent of the number of school districts in New
43 Jersey, the commissioner may extend by 60 days the deadline for
44 reviewing each plan pending at that time.

45 k. (Deleted by amendment, P.L.2007, c.260).

46 l. By July 1, 2001, the commissioner shall provide the
47 Legislature with recommendations to address the circumstances of

1 districts which are contiguous with two or more Abbott districts.
2 The recommendations shall address the issues of the financing of
3 school facilities projects and the funding of the educational and
4 other programs required within these districts as a result of their
5 unique demographic situation.

6 m. By July 1, 2001, the commissioner shall study the Safe
7 Schools Design Guidelines, prepared by the Florida Center for
8 Community Design and Research, which address the issues of
9 school safety and security through the design of school facilities.
10 Based upon the commissioner's study, the commissioner shall issue
11 recommendations to districts on the appropriateness of including
12 the Safe Schools Design Guidelines in the design and construction
13 of school facilities projects.

14 (cf: P.L.2007, c.260, s.40)

15
16 3. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to
17 read as follows:

18 5. a. The development authority shall undertake and the
19 financing authority shall finance the school facilities projects of
20 SDA districts.

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

25 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
26 contrary, the procedures for obtaining approval of a school facilities
27 project shall be as set forth in **【this act】** P.L.2000, c.72 (C.18A:7G-
28 1 et al.); provided that any district whose school facilities project is
29 not constructed by the development authority shall also be required
30 to comply with the provisions of N.J.S.18A:18A-16 and shall be
31 overseen by a non-conflicted construction management service
32 provider, which may include a county improvement authority and
33 private professional service firm, who shall serve from initial
34 application to the commissioner for approval of the project through
35 project completion.

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

1 (2) (a) In the case of an SDA district school facilities project,
2 **【based upon its educational priority ranking and the Statewide**
3 **strategic plan established pursuant to subsection m. of this section,**
4 **the commissioner may authorize】** the district shall not submit an
5 application for commissioner approval until the project has been
6 authorized by the Legislature pursuant to subparagraph (e) of
7 paragraph (3) of subsection m. of this section. If the district
8 submits an application before the project has been authorized
9 pursuant to that subparagraph, the application shall not be deemed
10 to be fully and accurately completed until the date of such
11 authorization. The development authority 【to】 may undertake
12 **【preconstruction activities which may include, but need not be**
13 **limited to, site identification, investigation, and acquisition,**
14 **feasibility studies, land-related design work, design work, site**
15 **remediation, demolition, and acquisition of temporary facilities】**
16 site identification and investigation for the project before a staff
17 allocation plan has been authorized by the Legislature. Upon
18 receipt of the authorization, the development authority may 【initiate
19 the】 undertake any other preconstruction activities required to
20 prepare the application for commissioner approval of the school
21 facilities project, which activities may include, but need not be
22 limited to, site acquisition, feasibility studies, land-related design
23 work, design work, site remediation, demolition, and acquisition of
24 temporary facilities.

25 (b) In the case of an SDA district school facilities project, the
26 project design shall conform to a model school design developed by
27 the development authority pursuant to paragraph (2) of subsection
28 h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), except that the
29 model school design may be modified to accommodate the capacity
30 needs of the project, provided that such modifications shall comply
31 with the facilities efficiency standards and the area allowances per
32 FTE student derived from those standards. In the event that the
33 SDA district school facilities project requires the implementation of
34 certain immodest or irregularly-shaped structures, but otherwise
35 conforms to a model school design, the development authority shall
36 approve the immodest or irregularly-shaped structures prior to the
37 submission of the project to the Legislature for authorization
38 pursuant to subparagraph (e) of paragraph (3) of subsection m. of
39 this section and shall provide an attestation that the implementation
40 of the structures is necessary for the purposes of completing the
41 SDA district school facilities project.

42 (c) In the case of a district other than an SDA district, the
43 project design of the school facilities project may conform to a
44 model school design developed by the development authority
45 pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000,
46 c.72 (C.18A:7G-4), with any modifications authorized under
47 subparagraph (b) of this paragraph. If the project conforms to a

1 model school design or conforms to a model design with any
2 modification authorized under subparagraph (b) of this paragraph,
3 the district's district aid percentage shall be increased by 15
4 percent. In the event that the school facilities project requires the
5 implementation of certain immodest or irregularly-shaped
6 structures, but otherwise conforms to a model school design, the
7 development authority shall review the immodest or irregularly-
8 shaped structures under the district's proposal. If the development
9 authority approves the immodest or irregularly-shaped structures
10 under the proposed school facilities project, the district shall
11 continue to be eligible for the increased district aid percentage
12 provided under this subparagraph.

13 e. (1) The commissioner shall review each proposed school
14 facilities project to determine whether it is consistent with the
15 district's long-range facilities plan and whether it complies with the
16 facilities efficiency standards and the area allowances per FTE
17 student derived from those standards; and in the case of an SDA
18 district, the commissioner shall also review **the** project's
19 educational priority ranking and the Statewide strategic plan
20 developed **whether the project complies with the model school**
21 design standards and contains any modifications authorized
22 pursuant to subparagraph (b) of paragraph (2) of subsection d. of
23 this section, whether the project received the necessary approvals
24 for the implementation of immodest or irregularly-shaped structures
25 under subparagraph (b) of paragraph (2) of subsection d. of this
26 section, and whether the project has been authorized by the
27 Legislature pursuant to **paragraphs (2) and** subparagraph (e) of
28 paragraph (3) of subsection m. of this section; and in the case of a
29 district other than an SDA district the commissioner shall also
30 review the project's priority pursuant to paragraph (4) of subsection
31 m. of this section.

32 (2) The commissioner shall make a decision on a district's
33 application within 90 days from the date **he** the commissioner
34 determines that the application is fully and accurately completed
35 and that all information necessary for a decision has been filed by
36 the district, or from the date of the last revision made by the district.
37 If the commissioner is not able to make a decision within 90 days,
38 **he** the commissioner shall notify the district in writing explaining
39 the reason for the delay and indicating the date on which a decision
40 on the project will be made, provided that the date shall not be later
41 than 60 days from the expiration of the original 90 days set forth in
42 this subsection. If the decision is not made by the subsequent date
43 indicated by the commissioner, then the project shall be deemed
44 approved and the preliminary eligible costs for new construction
45 shall be calculated by using the proposed square footage of the
46 building as the approved area for unhoused students.

1 f. If the commissioner determines that the school facilities
2 project complies with the facilities efficiency standards and the
3 district's long-range facilities plan and does not exceed the area
4 allowance per FTE student derived from those standards, the
5 commissioner shall calculate the preliminary eligible costs of the
6 project pursuant to the formulas set forth in section 7 of P.L.2000,
7 c.72 (C.18A:7G-7); except that (1) in the case of a county special
8 services school district or a county vocational school district, the
9 commissioner shall calculate the preliminary eligible costs to equal
10 the amount determined by the board of school estimate and
11 approved by the board of chosen freeholders pursuant to section 14
12 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as
13 appropriate, and (2) in the case of an SDA district, the
14 commissioner shall calculate the preliminary eligible costs to equal
15 the estimated cost as determined by the development authority,
16 provided that such costs shall not exceed the amounts authorized by
17 the Legislature pursuant to subparagraph (e) of paragraph (3) of
18 subsection m. of this section.

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

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

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

43 (3) To house the district's central administration, a district may
44 request an adjustment to the approved areas for unhoused students
45 of 2.17 square feet for each FTE student in the projected total
46 district school enrollment if the proposed administrative offices will
47 be housed in a school facility and the district demonstrates either

1 that the existing central administrative offices are obsolete or that it
2 is more practical to convert those offices to instructional space. To
3 the extent that existing administrative space will continue to be used
4 for administrative purposes, the space shall be included in the
5 formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

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

16 (4) The commissioner shall approve spaces in excess of, or
17 inconsistent with, the facilities efficiency standards, hereinafter
18 referred to as nonconforming spaces, upon a determination by the
19 district that the spaces are necessary to comply with State or federal
20 law concerning individuals with disabilities, including that the
21 spaces are necessary to provide in-district programs and services for
22 current disabled pupils who are being served in out-of-district
23 placements or in-district programs and services for the projected
24 disabled pupil population. A district may apply for additional State
25 aid for nonconforming spaces that will permit pupils with
26 disabilities to be educated to the greatest extent possible in the same
27 buildings or classes with their nondisabled peers. The
28 nonconforming spaces may: (a) allow for the return of pupils with
29 disabilities from private facilities; (b) permit the retention of pupils
30 with disabilities who would otherwise be placed in private facilities;
31 (c) provide space for regional programs in a host school building
32 that houses both disabled and nondisabled pupils; and (d) provide
33 space for the coordination of regional programs by a county special
34 services school district, educational services commission, jointure
35 commission, or other agency authorized by law to provide regional
36 educational services in a school building that houses both disabled
37 and nondisabled pupils. A district's State support ratio shall be
38 adjusted to equal the lesser of the sum of its district aid percentage
39 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or
40 **【100%】 100 percent** for any nonconforming spaces approved by the
41 commissioner pursuant to this paragraph.

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

44 (1) In the case of a district other than an SDA district, the
45 commissioner shall notify the district whether the school facilities
46 project is approved and, if so approved, the preliminary eligible
47 costs and the excess costs, if any. Following the determination of

1 preliminary eligible costs and the notification of project approval,
2 the district may appeal to the commissioner for an increase in those
3 costs if the detailed plans and specifications completed by a design
4 professional for the school facilities project indicate that the cost of
5 constructing that portion of the project which is consistent with the
6 facilities efficiency standards and does not exceed the area
7 allowances per FTE student exceeds the preliminary eligible costs
8 as determined by the commissioner for the project by **【10%】 10**
9 percent or more. The district shall file its appeal within 30 days of
10 the preparation of the plans and specifications. If the district
11 chooses not to file an appeal, then the final eligible costs shall equal
12 the preliminary eligible costs.

13 The appeal shall outline the reasons why the preliminary eligible
14 costs calculated for the project are inadequate and estimate the
15 amount of the adjustment which needs to be made to the
16 preliminary eligible costs. The commissioner shall forward the
17 appeal information to the development authority for its review and
18 recommendation. If the additional costs are the result of factors
19 that are within the control of the district or are the result of design
20 factors that are not required to meet the facilities efficiency
21 standards, the development authority shall recommend to the
22 commissioner that the preliminary eligible costs be accepted as the
23 final eligible costs. If the development authority determines the
24 additional costs are not within the control of the district or are the
25 result of design factors required to meet the facilities efficiency
26 standards, the development authority shall recommend to the
27 commissioner a final eligible cost based on its experience for
28 districts with similar characteristics, provided that, notwithstanding
29 anything to the contrary, the commissioner shall not approve an
30 adjustment to the preliminary eligible costs which exceeds **【10%】**
31 10 percent of the preliminary eligible costs. The commissioner
32 shall make a determination on the appeal within 30 days of its
33 receipt. If the commissioner does not approve an adjustment to the
34 school facilities project's preliminary eligible costs, the
35 commissioner shall issue his findings in writing on the reasons for
36 the denial and on why the preliminary eligible costs as originally
37 calculated are sufficient.

38 (2) In the case of an SDA district, the commissioner shall
39 promptly prepare and submit to the development authority a
40 preliminary project report which shall consist, at a minimum, of the
41 following information: a complete description of the school
42 facilities project; the actual location of the project; the total square
43 footage of the project together with a breakdown of total square
44 footage by functional component; the preliminary eligible costs of
45 the project; the maximum final eligible costs of the project, as
46 authorized by the Legislature; the maximum full-time equivalent
47 employees who may be allocated to the project, as authorized by the

1 Legislature; the project's priority ranking determined pursuant to
2 subsection m. of this section; any other factors to be considered by
3 the development authority in undertaking the project; and the name
4 and address of the person from the district to contact in regard to
5 the project.

6 i. Upon receipt by the development authority of the
7 preliminary project report, the development authority, upon
8 consultation with the district, shall prepare detailed plans and
9 specifications and schedules which contain the development
10 authority's estimated cost and schedule to complete the school
11 facilities project. The development authority shall transmit to the
12 commissioner its recommendations in regard to the project which
13 shall, at a minimum, contain the detailed plans and specifications;
14 whether the school facilities project can be completed within the
15 preliminary eligible costs; and any other factors which the
16 development authority determines should be considered by the
17 commissioner.

18 (1) In the event that the development authority determines that
19 the school facilities project can be completed within the preliminary
20 eligible costs: the final eligible costs shall be deemed to equal the
21 preliminary eligible costs; the commissioner shall be deemed to
22 have given final approval to the project; and the preliminary project
23 report shall be deemed to be the final project report delivered to the
24 development authority pursuant to subsection j. of this section.

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

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

42 (b) If the development authority determines that it is not
43 possible to make changes in the school facilities project so that it
44 can be completed within the preliminary eligible costs either
45 because the additional costs are the result of factors outside the
46 control of the district or the additional costs are required to meet the
47 facilities efficiency standards, the development authority shall

1 recommend to the commissioner that the preliminary eligible costs
2 be increased accordingly, whereupon the commissioner shall:
3 calculate the final eligible costs to equal the sum of the preliminary
4 eligible costs plus the increase recommended by the development
5 authority; give final approval to the project, provided that the final
6 eligible costs do not exceed the amounts authorized for expenditure
7 by the Legislature pursuant to subparagraph (e) of paragraph (3) of
8 subsection m. of this section; and issue a final project report to the
9 development authority pursuant to subsection j. of this section.

10 (c) If the additional costs are the result of factors that are within
11 the control of the district or are the result of design factors that are
12 not required to meet the facilities efficiency standards or approved
13 pursuant to paragraph (1) of subsection g. of this section, the
14 development authority shall recommend to the commissioner that
15 the preliminary eligible costs be accepted, whereupon the
16 commissioner shall: calculate the final eligible costs to equal the
17 preliminary eligible costs and specify the excess costs which are to
18 be borne by the district; give final approval to the school facilities
19 project; and issue a final project report to the development authority
20 pursuant to subsection j. of this section; provided that the
21 commissioner may approve final eligible costs which are in excess
22 of the preliminary eligible costs if, in his judgment, the action is
23 necessary to meet the educational needs of the district, provided
24 that such costs shall not exceed the amounts authorized for
25 expenditure by the Legislature pursuant to subparagraph (e) of
26 paragraph (3) of subsection m. of this section.

27 (d) For a school facilities project undertaken by the
28 development authority, the development authority shall be
29 responsible for any costs of construction, but only from the
30 proceeds of bonds issued by the financing authority pursuant to
31 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
32 235 et al.), which exceed the amount originally projected by the
33 development authority and approved for financing by the
34 development authority, provided that the excess is the result of an
35 underestimate of labor or materials costs by the development
36 authority. After receipt by the development authority of the final
37 project report, the district shall be responsible only for the costs
38 associated with changes, if any, made at the request of the district to
39 the scope of the school facilities project.

40 j. The development authority shall not commence the
41 construction of a school facilities project unless the commissioner
42 transmits to the development authority a final project report and the
43 district complies with the approval requirements for the local share,
44 if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11).
45 The final project report shall contain all of the information
46 contained in the preliminary project report and, in addition, shall
47 contain: the final eligible costs; the excess costs, if any; the total

1 costs which equals the final eligible costs plus excess costs, if any;
2 the State share; and the local share.

3 k. For the SDA districts, the State share shall be ~~【100%】~~ 100
4 percent of the final eligible costs. Except as otherwise provided
5 pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9), for all other
6 districts, the State share shall be an amount equal to the district aid
7 percentage; except that the State share shall not be less than ~~【40%】~~
8 40 percent of the final eligible costs.

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

16 l. The local share for school facilities projects constructed by
17 the authority or a redevelopment entity shall equal the final eligible
18 costs plus any excess costs less the State share.

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

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

46 (3) (a) Upon the commissioner's determination of the
47 educational priority ranking of school facilities projects in SDA

1 districts pursuant to paragraph (2) of this subsection, the
2 development authority, in consultation with the commissioner, the
3 SDA districts, and the governing bodies of the municipalities in
4 which the SDA districts are situate, shall establish a Statewide
5 strategic plan to be used in the sequencing of SDA district school
6 facilities projects based upon the projects' educational priority
7 rankings and issues which impact the development authority's
8 ability to complete the projects including, but not limited to, the
9 construction schedule and other appropriate factors. The
10 development authority shall revise the Statewide strategic plan and
11 the sequencing of SDA district school facilities projects in
12 accordance with that plan no less than once every five years, except
13 that the plan shall be updated within 120 days of the effective date
14 of P.L. , c. (C.) (pending before the Legislature as this
15 bill). In addition to any other information that the development
16 authority may deem appropriate, the Statewide strategic plan shall
17 include the following information for each project: (i) a description
18 of the project, which shall indicate whether the project will be new
19 construction or renovation and whether the project will require the
20 acquisition of land; (ii) the total estimated project costs; and (iii) the
21 number of full-time equivalent staff needed to support the project.

22 (b) In developing the Statewide strategic plan, the development
23 authority shall prioritize: (i) new construction projects; (ii) projects
24 located on land owned by the school district or other public entities;
25 and (iii) projects needed to replace school buildings that have been
26 in use for 50 or more years.

27 (c) Any amendment to an SDA district's long-range facilities
28 plan that is submitted to the commissioner in the period between the
29 five-year updates of the long-range facilities plan shall be
30 considered by the development authority, in consultation with the
31 commissioner, for incorporation into the Statewide strategic plan.
32 In making a determination on whether or not to amend the
33 Statewide strategic plan, the development authority shall consider
34 the cost of the amendment, the impact of the amendment upon the
35 school development plans for other districts, and other appropriate
36 factors.

37 (d) Within 10 days following any update to the Statewide
38 strategic plan, the development authority shall transmit the plan to
39 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
40 19.1), and to the members of the Senate Education Committee and
41 the Assembly Education Committee, or any successor committees.

42 (e) The development authority shall not expend any monies
43 from the SDA District Project Fund, established pursuant to
44 subsection i. of section 14 of P.L.2000, c.72 (C.18A:7G-14), and
45 shall not conduct any activities related to the construction of an
46 SDA district school facilities projects, except for site identification
47 and investigation activities, until the project is authorized by a

1 specific appropriation of the Legislature. Any act authorizing one
2 or more SDA district school facilities projects shall identify the
3 project to be funded, the maximum final eligible costs permitted for
4 the project, and the maximum full-time equivalent employees that
5 the development authority may allocate to the project.

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

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

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

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

34 q. The development authority shall determine the cause of any
35 costs of construction which exceed the amount originally projected
36 by the development authority and approved for financing by the
37 financing authority.

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

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

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

41
42 4. (New section) a. The State share of a school facilities project
43 undertaken by a charter school or renaissance school project located
44 in an SDA district shall be 100 percent of the final eligible costs as
45 determined pursuant to subsection c. of this section.
46 Notwithstanding the provisions of section 5 of P.L.2000, c.72
47 (C.18A:7G-5) or of any other section of law, rule, or regulation to

1 the contrary, a charter school or renaissance school project located
2 in an SDA district seeking to initiate a school facilities project, and
3 that is seeking the State share of the school facilities project, shall
4 apply to the development authority for approval of the project. In
5 the case of a charter school or renaissance school project
6 established after the effective date of P.L. , c. (C.)
7 (pending before the Legislature as this bill), the development
8 authority shall not approve a school facilities project until after the
9 charter school's first renewal under section 17 of P.L.1995, c.426
10 (C.18A:36A-17) or after the renaissance school project's first
11 renewal under section 10 of P.L.2011, c.176 (C.18A:36C-10).

12 b. (1) The development authority shall annually review the
13 applications for school facilities projects submitted pursuant to
14 subsection a. of this section and, upon such review, create a
15 Statewide charter school and renaissance school project facilities
16 strategic plan to be used in the sequencing of school facilities
17 projects of charter schools and renaissance school projects in SDA
18 districts. The Statewide charter school and renaissance school
19 project facilities strategic plan shall include a Statewide educational
20 priority ranking of the school facilities projects based upon the
21 development authority's determination of critical need, the criteria
22 and methodology of which shall be established by the development
23 authority pursuant to regulations promulgated by the development
24 authority pursuant to subsection g. of this section. At a minimum,
25 the criteria and methodology established by the development
26 authority for the determination of critical need shall prioritize: (a)
27 new construction projects; and (b) major renovation and
28 rehabilitation projects that seek to expand the capacity of a charter
29 school or renaissance school project facility used for education
30 purposes.

31 (2) In the event that a school facilities project for which a charter
32 school or renaissance school project is seeking State support
33 pursuant to this section is requested for a leased facility, the
34 applicant charter school or renaissance school project shall submit
35 the lease agreement or lease agreement addendum that stipulates
36 that the expiration of the term of the lease is no less than 10 years
37 from the effective date of P.L. , c. (C.) (pending before the
38 Legislature as this bill) and subject to an additional five year
39 renewal term at the option of the charter school or renaissance
40 school project.

41 c. If the school facilities project of a charter school or
42 renaissance school project located in an SDA district is approved
43 pursuant to this section, the development authority, in consultation
44 with the charter school or renaissance school project, shall
45 determine the final eligible costs of the approved school facilities
46 project, which final eligible costs shall be the reasonable estimated
47 costs of providing a school facility under the school facilities

1 project proposal that is structurally adequate and safe and that is
2 capable of providing an educational program which enables
3 students enrolled in the charter school or renaissance school project
4 to meet the core curriculum content standards. The development
5 authority, however, shall not expend any monies from the Charter
6 School and Renaissance School Project Construction and
7 Maintenance Fund, established pursuant to subsection i. of section
8 14 of P.L.2000, c.72 (C.18A:7G-14), and the charter school or
9 renaissance school project shall not conduct any activities related to
10 the construction of an approved school facilities project under this
11 section, except for site identification and investigation activities,
12 until the project is authorized by a specific appropriation of the
13 Legislature. Any act authorizing one or more school facilities
14 projects approved under this section shall identify the project to be
15 funded and the maximum final eligible costs permitted for the
16 project.

17 d. Following the authorization by the Legislature of a school
18 facilities project pursuant to subsection c. of this section, the
19 development authority shall authorize the charter school or
20 renaissance school project to undertake the school facilities project.
21 Nothing in this section shall be construed as requiring the
22 development authority to undertake any school facilities projects
23 approved pursuant to this section.

24 e. The development authority shall require, as a condition of
25 providing the State share of funds for a school facilities project
26 approved pursuant to this section that includes school facilities
27 owned by the charter school or renaissance school project, that,
28 notwithstanding the provisions of section 7 of P.L.2013, c.149
29 (C.18A:36C-16) or of any other law, rule, or regulation to the
30 contrary, the fee simple title of the facility shall revert to the State,
31 except that the board of education of the district in which the
32 charter school or renaissance school project is located shall have the
33 right of first refusal of the school facilities project prior to the
34 reversion to the State. The provisions of this subsection shall apply
35 in the following instances:

36 (1) upon the revocation or surrendering of a charter school's
37 charter, the non-renewal of a charter school's charter or of a
38 renaissance school project, or the closure of a charter school or
39 renaissance school project. In the case of the revocation,
40 surrendering, or non-renewal of a charter school's charter or the
41 closure of a charter school, the fee simple title shall revert to the
42 State during and as part of the comprehensive closure plan
43 implemented by the charter school's board of trustees pursuant to
44 section 17 of P.L.1995, c.426 (C.18A:36A-17) and regulations
45 promulgated thereto; or

1 (2) in the event that the school facilities project is no longer
2 being utilized for the purposes for which it was intended under the
3 application approved pursuant to this section.

4 f. No charter school or renaissance school project that is operated
5 by a for-profit management company shall be eligible to apply to
6 the development authority for the State share of a school facilities
7 project pursuant to this section.

8 g. The authority shall promulgate, pursuant to the
9 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
10 seq.), such rules and regulations as may be necessary to implement
11 the provisions of this section, which rules and regulations shall
12 establish at a minimum:

13 (1) the process for review and approval of school facilities
14 projects undertaken by charter schools or renaissance school
15 projects;

16 (2) the specific criteria and methodology that the development
17 authority shall implement in creating an educational priority
18 ranking under the Statewide charter school and renaissance school
19 project facilities strategic plan pursuant to subsection b. of this
20 section;

21 (3) the process for the determination of final eligible costs for
22 which a charter school or renaissance school project would receive
23 State support pursuant to this section; and

24 (4) the process for the reversion to the State of a school facilities
25 project pursuant to subsection e. of this section.

26

27 5. (New section) a. Notwithstanding the provisions of P.L.2000,
28 c.72 (C.18A:7G-1 et al.) or any other section of law to the contrary,
29 the board of education of a district other than an SDA district may
30 enter into an agreement with a county improvement authority or a
31 municipal redevelopment agency to construct a school facilities
32 project and to issue its bonds to finance the local share of a project
33 that is to be financed under section 15 of P.L.2000, c.72 (18A:7G-
34 15), or to finance the total costs of a project that is not to be
35 financed under section 15 of P.L.2000, c.72 (C.18A:7G-15). The
36 bonds of a county improvement authority or municipal
37 redevelopment agency issued to finance the total costs of a school
38 facilities project that is not to be financed under section 15 of
39 P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt
40 service aid in accordance with the formula established under section
41 9 of P.L.2000, c.72 (C.18A:7G-9).

42 b. A district other than an SDA district may lease its lands or
43 facilities to the county improvement authority or municipal
44 redevelopment agency, which may construct the school facilities
45 project through a design build contract. Whenever a school
46 facilities project is constructed by a county improvement authority
47 or municipal redevelopment agency through a design-build

1 contract: (1) the county improvement authority or municipal
2 redevelopment agency shall follow the procedures established by
3 the rules and regulations of the New Jersey Schools Development
4 Authority for the procurement of design-build contracts; (2) the
5 county improvement authority or municipal redevelopment agency
6 shall follow the design requirements and materials and system
7 standards established by the development authority; (3) the
8 provisions of the “Public School Contracts Law,” (N.J.S.18A:18A-1
9 et seq.), and the “Local Public Contracts Law,” P.L.1971, c.198
10 (C.40A:11-1 et seq.), shall not apply; and (4) a district other than an
11 SDA district shall comply with the procedures for obtaining
12 approval of the project under P.L.2000, c.72 (C.18A:7G-1 et al.),
13 but shall not be required to comply with the provisions of
14 N.J.S.18A:18A-16.

15 c. The county improvement authority or municipal
16 redevelopment agency shall lease the school facilities project to the
17 county, which shall then lease it for nominal consideration to the
18 district for as long as the county improvement authority or
19 municipal redevelopment agency bonds or refunding bonds are
20 outstanding. Nothing in this section shall be construed to authorize
21 a county to require the district to bear any portion of the cost of the
22 debt service on the county improvement authority or municipal
23 redevelopment agency bonds issued to fund the school facilities
24 project or any refunding bonds.

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

36 e. When the bonds issued by a county improvement authority
37 or municipal redevelopment authority are no longer outstanding, the
38 leases and liens of the county and the county improvement authority
39 or municipal redevelopment agency shall expire and the school
40 facilities project shall be solely vested in the school district. The
41 school district shall be responsible for the operation, maintenance,
42 and improvement of the school facility upon the completion of the
43 school facilities project.

44

45 6. (New section) a. Notwithstanding any provision of law to the
46 contrary, when the development authority undertakes a school
47 facilities project on behalf of a district, and the project will be

1 constructed on a brownfield site, the development authority shall
2 not be responsible for any remediation costs associated with the
3 brownfield site.

4 b. The development authority shall not commence the
5 construction of the school facilities project until all remediation of
6 the brownfield site has been completed, which remediation costs
7 shall be supported by the local share of the project or any other
8 funding provided by the State or federal government to address the
9 remediation of brownfield sites.

10 c. As used in this section, the terms “brownfield site,”
11 “remediation,” “remediation costs” shall have the same meanings as
12 defined in section 10 of P.L.2020, c.156 (C.34:1B-278).

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

15 9. a. State debt service aid for capital investment in school
16 facilities for a district other than an SDA district which elects not to
17 finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-
18 15), shall be distributed upon a determination of preliminary
19 eligible costs by the commissioner, according to the following
20 formula:

21 Aid is the sum of A for each issuance of school bonds issued for
22 a school facilities project approved by the commissioner after the
23 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

24 where

25 $A = B \times AC/P \times DAP \times M$, with $AC/P = 1$

26 whenever AC/P would otherwise yield a number greater than one,

27 and where:

28 B is the district's debt service for the individual issuance for the
29 fiscal year;

30 AC is the preliminary eligible costs determined pursuant to
31 section 7 of P.L.2000, c.72 (C.18A:7G-7);

32 P is the principal of the individual issuance plus any other
33 funding sources approved for the school facilities project;

34 DAP is the district's district aid percentage as defined pursuant to
35 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not
36 be less than **40%** 40 percent, except that if the project's design
37 conforms to a model school design established by the development
38 authority pursuant to paragraph (2) of subsection h. of section 4 of
39 P.L.2000, c.72 (C.18A:7G-4), the DAP shall be increased by 15
40 percent; and

41 M is a factor representing the degree to which a district has
42 fulfilled maintenance requirements for a school facilities project
43 determined pursuant to subsection b. of this section.

44 For county special services school districts, DAP shall be that of
45 the county vocational school district in the same county.

46 Notwithstanding the provisions of this subsection to the contrary,
47 DAP for a county vocational school district school facilities project

1 that is approved by the commissioner following the effective date of
 2 P.L.2009, c.185 shall equal the greater of the district's district aid
 3 percentage as defined pursuant to section 3 of P.L.2000, c.72
 4 (C.18A:7G-3) or the percentage of the students in the county
 5 vocational school district's resident enrollment who reside in SDA
 6 districts; except that DAP shall not be less than ~~40%~~ 40 percent
 7 or greater than ~~90%~~ 90 percent.

8 b. The maintenance factor (M) shall be 1.0 except when one of
 9 the following conditions applies, in which case the maintenance
 10 factor shall be as specified:

11 (1) Effective ten years from the date of the enactment of
 12 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid
 13 for reconstruction, remodeling, alteration, modernization,
 14 renovation or repair, or for an addition to a school facility, shall be
 15 zero for all school facilities projects for which the district fails to
 16 demonstrate over the ten years preceding issuance a net investment
 17 in maintenance of the related school facility of at least ~~2%~~ two
 18 percent of the replacement cost of the school facility, determined
 19 pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-
 20 7) using the area cost allowance of the year ten years preceding the
 21 year in which the school bonds are issued.

22 (2) For new construction, additions, and school facilities aided
 23 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)
 24 supported by financing issued for projects approved by the
 25 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-
 26 1 et al.), beginning in the fourth year after occupancy of the school
 27 facility, the maintenance factor shall be reduced according to the
 28 following schedule for all school facilities projects for which the
 29 district fails to demonstrate in the prior fiscal year an investment in
 30 maintenance of the related school facility of at least two-tenths of
 31 ~~1%~~ one percent of the replacement cost of the school facility,
 32 determined pursuant to subsection b. of section 7 of P.L.2000, c.72
 33 (C.18A:7G-7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%
Less than .100%	Zero

38 (3) Within one year of the enactment of P.L.2000, c.72
 39 (C.18A:7G-1 et al.), the commissioner shall promulgate rules
 40 requiring districts to develop a long-range maintenance plan and
 41 specifying the expenditures that qualify as an appropriate
 42 investment in maintenance for the purposes of this subsection.

43 c. Any district which obtained approval from the commissioner
 44 since September 1, 1998 and prior to the effective date of P.L.2000,
 45 c.72 (C.18A:7G-1 et al.) of the educational specifications for a
 46 school facilities project or obtained approval from the Department
 47 of Community Affairs or the appropriately licensed municipal code

1 official since September 1, 1998 of the final construction plans and
2 specifications, and the district has issued debt, may elect to have the
3 final eligible costs of the project determined pursuant to section 5 of
4 P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under
5 this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

6 Any district which received approval from the commissioner for
7 a school facilities project at any time prior to the effective date of
8 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other
9 than short term notes, may submit an application pursuant to section
10 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of
11 the project determined pursuant to that section and to have the New
12 Jersey Economic Development Authority construct the project; or,
13 at its discretion, the district may choose to receive debt service aid
14 under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-
15 10) or to receive a grant under section 15 of P.L.2000, c.72
16 (C.18A:7G-15).

17 For the purposes of this subsection, the "issuance of debt" shall
18 include lease purchase agreements in excess of five years.

19 d. For school bonds issued for a school facilities project after
20 the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to
21 the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State
22 debt service aid shall be calculated in accordance with the
23 provisions of this section as the same read before the effective date
24 of P.L.2008, c.39 (C.18A:7G-14.1 et al.).
25 (cf: P.L.2009, c.185, s.2)

26

27 8. (New section) a. Notwithstanding any provision of law to the
28 contrary, when the board of education of a district determines that it
29 is necessary to sell bonds to raise money for a school facilities
30 project, the board of education may issue such bonds as are
31 necessary to fund the project without the approval of the voters of
32 the district, provided that before issuing the bonds:

33 (1) the board of education has entered into a written contract
34 with one or more municipalities, wherein the municipality shall
35 annually remit to the board of education not less than 60 percent of
36 the payments in lieu of taxes received by the municipality from one
37 or more designated properties, and the board of education shall
38 pledge all remittances to the repayment of the bonds; and

39 (2) the bond issuance and contract has been approved by the
40 commissioner pursuant to subsection b. of this section.

41 b. (1) If a board of education elects to issue bonds pursuant to
42 this section, the board of education shall apply to the commissioner
43 for approval of the bond issuance. In addition to any other
44 information that the commissioner may deem appropriate, the
45 application shall include: a description of the school facilities
46 project; a certification of the amount to raised by the bonds; a
47 description of the anticipated annual debt service costs, including

1 the amounts to be supported by municipal remittances; and a copy
2 of the contract.

3 (2) Within 30 days of receiving the application, the
4 commissioner shall approve, conditionally approve, or reject the
5 application. If the application is conditionally approved, the
6 commissioner shall state, in writing, the revisions that shall be made
7 to the contract in order for the application to be approved. If the
8 commissioner does not approve, conditionally approve, or reject the
9 application within 30 days of the date of receipt, the commissioner
10 shall be deemed to have approved the application.

11 c. The commissioner, in consultation with the Local Finance
12 Board, shall promulgate, pursuant to "Administrative Procedure
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and
14 regulations as may be necessary to implement the provisions of this
15 section. At a minimum, the rules and regulations shall establish
16 requirements and procedures concerning the process by which
17 municipalities and districts may enter into contracts pursuant to this
18 section.

19

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

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

23 a. The financing authority shall have the power, pursuant to the
24 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
25 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to
26 issue bonds and refunding bonds, incur indebtedness and borrow
27 money secured, in whole or in part, by moneys received pursuant to
28 sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-
29 18 and C.18A:7G-19) for the purposes of: financing all or a portion
30 of the costs of school facilities projects and any costs related to the
31 issuance thereof, including, but not limited to, the administrative,
32 insurance, operating and other expenses of the financing authority
33 to undertake the financing, and the development authority to
34 undertake the planning, design, and construction of school facilities
35 projects; lending moneys to local units to pay the costs of all or a
36 portion of school facilities projects and any costs related to the
37 issuance thereof; funding the grants to be made pursuant to section
38 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition
39 of school facilities projects to permit the refinancing of debt by the
40 district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16).
41 Notwithstanding the provisions of this section to the contrary,
42 bonds and refunding bonds, or any indebtedness or other borrowed
43 moneys, secured, in whole or in part, by moneys received pursuant
44 to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17,
45 C.18A:7G-18 and C.18A:7G-19) under this section after the
46 effective date of P.L. , c. (C.) (pending before the
47 Legislature as this bill) shall not be issued for the purposes of

1 financing costs related to the issuance of the bonds, indebtedness, or
2 other borrowed moneys including, but not limited to, the
3 administrative, insurance, operating and other expenses of the
4 financing authority to undertake the financing and the development
5 authority to undertake the planning, design, and construction of
6 school facilities projects. Bonds, indebtedness, or other borrowed
7 moneys issued pursuant to this section shall also not be issued for
8 the purposes of financing any costs related to the issuance of
9 moneys lent to local units to pay the costs of all or a portion of
10 school facilities projects. The administrative, insurance, operating,
11 and other expenses of the financing authority related to undertaking
12 the financing of school facilities projects pursuant to this section
13 shall be supported by State appropriations. The administrative,
14 insurance, operating, and other expenses of the development
15 authority to undertake the planning, design, and construction of
16 school facilities projects shall be funded by State appropriations
17 pursuant to paragraph (2) of subsection o. of section 4 of P.L.2007,
18 c.137, (C.52:18A-238). Bonds and refunding bonds, or any
19 indebtedness or other borrowed moneys issued pursuant to this
20 section after the effective date of P.L. , c. (C.) (pending
21 before the Legislature as this bill) shall only be issued for the
22 purposes of: financing all or a portion of the costs of school
23 facilities projects; lending moneys to local units to pay the costs of
24 all or a portion of school facilities projects; funding the grants to be
25 made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and
26 financing the acquisition of school facilities projects to permit the
27 refinancing of debt by the district pursuant to section 16 of
28 P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of
29 the bonds, notes or other obligations issued by the financing
30 authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et
31 al.) shall not exceed: \$100,000,000 for the State share of costs for
32 county vocational school district school facilities projects;
33 \$6,000,000,000 for the State share of costs for Abbott district
34 school facilities projects; and \$2,500,000,000 for the State share of
35 costs for school facilities projects in all other districts. The
36 aggregate principal amount of the bonds, notes or other obligations
37 issued by the financing authority as authorized pursuant to
38 P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:
39 \$2,900,000,000 for the State share of costs of SDA district school
40 facilities projects; and \$1,000,000,000 for the State share of costs
41 for school facilities projects in all other districts, \$50,000,000 of
42 which shall be allocated for the State share of costs for county
43 vocational school district school facilities projects. This limitation
44 shall not include any bonds, notes or other obligations issued for
45 refunding purposes.

46 The financing authority may establish reserve funds to further
47 secure bonds and refunding bonds issued pursuant to this section

1 and may issue bonds to pay for the administrative, insurance and
2 operating costs of the financing authority and the development
3 authority in carrying out the provisions of this act. Notwithstanding
4 the provisions of this section to the contrary, the proceeds of bonds
5 issued pursuant to this section after the effective date of P.L. , c.
6 (C.) (pending before the Legislature as this bill) shall not pay
7 for any costs related to the issuance of the bonds, including the
8 administrative, insurance and operating costs of the financing
9 authority and the development authority in carrying out the
10 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.). Such costs of the
11 financing authority shall be supported by State appropriations. Such
12 costs of the development authority shall be funded by State
13 appropriations pursuant to paragraph (2) of subsection o. of section
14 4 of P.L.2007, c.137, (C.52:18A-238). In addition to its bonds and
15 refunding bonds, the financing authority shall have the power to
16 issue subordinated indebtedness, which shall be subordinate in lien
17 to the lien of any or all of its bonds or refunding bonds as the
18 financing authority may determine.

19 b. The financing authority shall issue the bonds or refunding
20 bonds in such manner as it shall determine in accordance with the
21 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
22 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);
23 provided that notwithstanding any other law to the contrary, no
24 resolution adopted by the financing authority authorizing the
25 issuance of bonds or refunding bonds pursuant to this section shall
26 be adopted or otherwise made effective without the approval in
27 writing of the State Treasurer; and refunding bonds issued to refund
28 bonds issued pursuant to this section shall be issued on such terms
29 and conditions as may be determined by the financing authority and
30 the State Treasurer. The financing authority may, in any resolution
31 authorizing the issuance of bonds or refunding bonds issued
32 pursuant to this section, pledge the contract with the State Treasurer
33 provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-
34 18), or any part thereof, or may pledge all or any part of the
35 repayments of loans made to local units pursuant to section 19 of
36 P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the
37 bonds or refunding bonds, and covenant as to the use and
38 disposition of money available to the financing authority for
39 payment of the bonds and refunding bonds. All costs associated
40 with the issuance of bonds and refunding bonds by the financing
41 authority for the purposes set forth in this act may be paid by the
42 financing authority from amounts it receives from the proceeds of
43 the bonds or refunding bonds, and from amounts it receives
44 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-
45 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but
46 shall not be limited to, any costs relating to the issuance of the
47 bonds or refunding bonds, administrative costs of the financing

1 authority attributable to the making and administering of loans and
2 grants to fund school facilities projects, and costs attributable to the
3 agreements entered into pursuant to subsection d. of this section.
4 Notwithstanding the provisions of this section to the contrary, the
5 proceeds of bonds and refunding bonds that are issued pursuant to
6 this section after the effective date of P.L. _____, c. _____ (C. _____)
7 (pending before the Legislature as this bill) shall not pay for the
8 administrative costs of the financing authority associated with the
9 issuance of the bonds and refunding bonds, including, but not
10 limited to, administrative costs of the financing authority
11 attributable to the making and administering of loans and grants to
12 fund school facilities projects, and costs attributable to the
13 agreements entered into pursuant to subsection d. of this section.
14 Such costs of the financing authority shall be supported by State
15 appropriations.

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

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

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

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

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

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

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

43 (7) A mortgage on all or any part of the property, real or
44 personal, comprising a school facilities project then owned or
45 thereafter to be acquired, or a pledge or assignment of mortgages
46 made to the financing authority by any person or entity, public or

1 private, including one or more local units and rights and interests of
2 the financing authority therein; and

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

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

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

32 f. Bonds and refunding bonds issued by the financing authority
33 pursuant to this section shall be special and limited obligations of
34 the financing authority payable from, and secured by, funds and
35 moneys determined by the financing authority in accordance with
36 this section. Notwithstanding any other provision of law or
37 agreement to the contrary, any bonds and refunding bonds issued by
38 the financing authority pursuant to this section shall not be secured
39 by the same property as bonds and refunding bonds issued by the
40 financing authority to finance projects other than school facilities
41 projects. Neither the members of the financing authority nor any
42 other person executing the bonds or refunding bonds shall be
43 personally liable with respect to payment of interest and principal
44 on these bonds or refunding bonds. Bonds or refunding bonds
45 issued pursuant to this section shall not be a debt or liability of the
46 State or any agency or instrumentality thereof, except as otherwise
47 provided by this subsection, either legal, moral or otherwise, and

1 nothing contained in this act shall be construed to authorize the
2 financing authority to incur any indebtedness on behalf of or in any
3 way to obligate the State or any political subdivision thereof, and
4 all bonds and refunding bonds issued by the financing authority
5 shall contain a statement to that effect on their face.

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

18 h. The financing authority and the development authority may
19 charge to and collect from local units, districts, the State and any
20 other person, any fees and charges in connection with the financing
21 authority's or development authority's actions undertaken with
22 respect to school facilities projects, including, but not limited to,
23 fees and charges for the financing authority's administrative,
24 organization, insurance, operating and other expenses incident to
25 the financing of school facilities projects, and the development
26 authority's administrative, organization, insurance, operating,
27 planning, design, construction management, acquisition,
28 construction, completion and placing into service and maintenance
29 of school facilities projects. Notwithstanding any provision of this
30 act to the contrary, no SDA district shall be responsible for the
31 payment of any fees and charges related to the development
32 authority's operating expenses.

33 i. Upon the issuance by the financing authority of bonds
34 pursuant to this section, other than refunding bonds, the net
35 proceeds of the bonds shall be transferred to the development
36 authority. The development authority shall establish five funds in
37 which the net proceeds of the bonds issued pursuant to this section,
38 and any State appropriations for school facilities projects, shall be
39 deposited. The five funds shall be as follows:

40 (1) the SDA District Project Fund, in which shall be deposited
41 any funds made available for the State share of costs for SDA
42 district school facilities projects, which funds shall include, but not
43 be limited to, the proceeds of bonds issued pursuant to subsection a.
44 of this section for the State share of costs for SDA district school
45 facilities projects, the proceeds of any general obligation or other
46 bonds that may be authorized for SDA district school facilities
47 projects, and any State appropriations for SDA district school

1 facilities projects; the development authority shall not expend any
2 monies from the SDA District Project Fund and shall not conduct
3 any activities related to the construction of an SDA district school
4 facilities projects, except for site identification and investigation,
5 until the project is authorized by a specific appropriation of the
6 Legislature in accordance with subparagraph (e) of paragraph (3) of
7 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5);

8 (2) the Regular Operating District Construction and Maintenance
9 Grants Fund, in which shall be deposited any funds made available
10 for the State share of costs for school facilities projects in districts
11 other than SDA districts, which funds shall include, but not be
12 limited to, the proceeds of bonds issued pursuant to subsection a. of
13 this section for the State share of costs for school facilities projects
14 in districts other than SDA districts, the proceeds of any general
15 obligation or other bonds that may be authorized for school
16 facilities projects in districts other than SDA districts, and any State
17 appropriations for school facilities projects in districts other than
18 SDA districts;

19 (3) the Vocational-Technical School District Project Fund, in
20 which shall be deposited any funds made available for the State
21 share of costs for school facilities projects in county vocational
22 school districts, which funds shall include, but not be limited to, the
23 proceeds of bonds issued pursuant to subsection a. of this section
24 for the State share of costs for county vocational school district
25 school facilities projects, the proceeds of any general obligation or
26 other bonds that may be authorized for county vocational school
27 district school facilities projects, and any State appropriations for
28 school facilities projects in county vocational school districts;

29 (4) (a) the SDA District Emergent Project Fund, in which shall
30 be deposited any funds made available for emergent projects in
31 SDA districts, which funds shall include, but not be limited to, the
32 proceeds of bonds issued pursuant to subsection a. of this section
33 for the State share of costs for SDA district emergent projects, the
34 proceeds of any general obligation or other bonds that may be
35 authorized for SDA district emergent projects, and any State
36 appropriations for SDA district emergent projects;

37 (b) as used in this paragraph, “emergent project” means a school
38 facilities project or other capital project eligible for State funding
39 that would alleviate a condition that, if not corrected on an
40 expedited basis, would render a building or facility so potentially
41 injurious or hazardous that it causes an imminent peril to the health
42 and safety of students or staff; and

43 (5) the Charter School and Renaissance School Project
44 Construction and Maintenance Fund in which shall be deposited any
45 funds made available for school facilities projects of charter schools
46 or renaissance school projects located in SDA districts approved
47 pursuant to section 4 of P.L. , c. (C.) (pending before the

1 Legislature as this bill), which funds shall include, but not be
2 limited to, the proceeds of any general obligation bonds that may be
3 authorized for SDA district charter school or renaissance school
4 project school facilities projects or any State appropriations for
5 SDA district charter school or renaissance school project school
6 facilities projects.

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

8
9 10. Section 15 of P.L.2000, c.72 (C.18A:7G-15) is amended to
10 read as follows:

11 15. a. In the case of a district other than an SDA district, for any
12 project approved by the commissioner after the effective date of
13 **【this act】** P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect
14 to receive a one-time grant for the State share of the project in
15 accordance with the provisions of subsection b. of this section
16 rather than annual debt service aid under section 9 of P.L.2000, c.72
17 (C.18A:7G-9). The State share payable to the district shall equal
18 the product of the project's final eligible costs and the district aid
19 percentage or **【40%】** 40 percent, whichever is greater, except that if
20 the project's design conforms to a model school design established
21 by the development authority pursuant to paragraph (2) of
22 subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), the
23 district aid percentage shall be increased by 15 percent above the
24 amount calculated under section 3 of P.L.2000, c.72 (C.18A:7G-3).

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

35 c. The development authority shall provide grant funding for
36 the State's share of the final eligible costs of a school facilities
37 project pursuant to an agreement between the district and the
38 development authority which shall, in addition to other terms and
39 conditions, set forth the terms of disbursement of the State share.
40 The funding of the State share shall not commence until the district
41 secures financing for the local share.

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

43
44 11. Section 23 of P.L.2000, c.23 (C.18A:7G-23) is amended to
45 read as follows:

46 23. a. Not less than the prevailing wage rate determined by the
47 Commissioner of Labor and Workforce Development pursuant to

1 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be
2 paid to workers employed in the performance of construction
3 contracts in connection with any school facilities project that is
4 undertaken by the development authority, a redevelopment entity,
5 **【or】** a district, or a charter school or renaissance school project and
6 any contractor who violates the provisions of this subsection shall
7 be prohibited from subsequently bidding on any State or district
8 contract.

9 b. Registration fees collected pursuant to P.L.1999, c.238
10 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and
11 administrative costs of the Division of Workplace Standards, Office
12 of Wage and Hour Compliance, Public Contracts section and
13 Registration section within the Department of Labor and Workforce
14 Development.
15 (cf: P.L.2007, c.137, s.34)

16
17 12. Section 57 of P.L.2000, c.72 (C.18A:7G-31) is amended to
18 read as follows:

19 57. a. Notwithstanding any provision of this act or any other law
20 or regulation to the contrary, a board of education or a board of
21 school estimate, as appropriate, may, through the adoption of a
22 board resolution, establish a capital reserve account. The account
23 shall be established and held in accordance with GAAP and shall be
24 subject to annual audit. The funds in the capital reserve account
25 shall be used to finance the district's long-range facilities plan
26 required pursuant to subsection a. of section 4 of **【this act】**
27 P.L.2000, c.72 (C.18A:7G-4) and the amount in the account shall
28 not exceed the total amount of local funds required to implement
29 the plan.

30 b. A board of education or a board of school estimate, as
31 appropriate, may appropriate funds in the district's annual budget
32 for the establishment of the capital reserve account pursuant to
33 subsection a. of this section or to supplement the funds in the
34 account as required to meet the needs of the long-range facilities
35 plan.

36 c. A board of education may, by resolution of the board:
37 transfer funds from the capital reserve account to the appropriate
38 line item account for the funding of capital projects as contained in
39 the district's long-range facilities plan; and transfer funds from the
40 capital reserve account to the debt service account for the purpose
41 of offsetting principal and interest payments for bonded projects
42 which are included in the district's long-range facilities plan.

43 d. A board of education may, by resolution of the board:
44 transfer funds from the capital reserve account to the appropriate
45 line item account for the funding of capital projects subject to a
46 public-private partnership agreement entered into pursuant to
47 section 2 of P.L.2018, c.90 (C.18A:18A-60); and transfer funds

1 from the capital reserve account to the debt service account for the
2 purpose of offsetting principal and interest payments for bonded
3 projects subject to a public-private partnership agreement entered
4 into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60).
5 (cf: P.L.2004, c.73, s.5)
6

7 13. (New section) a. Within 120 days of the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 the Commissioner of Education, in consultation with the New
10 Jersey Schools Development Authority, shall develop guidance for
11 school districts concerning the incorporation of construction
12 contract provisions that encourage the completion of construction
13 projects on schedule. The commissioner, in consultation with the
14 development authority, may update the guidance as the
15 commissioner deems necessary.

16 b. At a minimum, the guidance shall include sample provisions
17 that school districts may include in future issuances of construction
18 contracts. In addition to any other considerations that the
19 commissioner may deem appropriate, guidance shall prescribe:

20 (1) industry-leading penalties for the late delivery of projects by
21 contractors; and

22 (2) incentives for contractors who deliver projects on time and
23 under budget.

24 c. Within five days of developing the guidance, or any revision
25 thereto, the commissioner shall post the guidance on the official
26 Internet website of the department.
27

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

30 2. a. As used in this section:

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

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

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

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

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

12 b. (1) A school district may enter into a contract with a private
13 entity, subject to subsection f. of this section, to be referred to as a
14 public-private partnership agreement, that permits the private entity
15 to assume full financial and administrative responsibility for a
16 project of, or for the benefit of, the school district~~], provided that~~
17 ~~the project is financed in whole by the private entity]~~, except that a
18 school district may, by resolution, draw against its capital reserve
19 account in order to finance a portion of a project for which a school
20 district and private entity enter into a public-private partnership
21 agreement pursuant to the provisions of this section.

22 (2) A public-private partnership agreement may include an
23 agreement under which a school district and a private entity enter
24 into a lease of a revenue-producing public building, structure, or
25 facility in exchange for up-front or structured financing by the
26 private entity for the project. Under the lease agreement, the
27 private entity shall be responsible for the management, operation,
28 and maintenance of the building, structure, or facility. The private
29 entity shall receive some or all, as per the agreement, of the revenue
30 generated by the building, structure, or facility, and shall operate
31 the building, structure, or facility in accordance with school district
32 standards. At the end of the lease term, subsequent revenue
33 generated by the building, structure, or facility, along with
34 management, operation, and maintenance responsibility, shall revert
35 to the school district. A lease agreement entered into pursuant to
36 this section shall be limited in duration to a term of not more than
37 30 years. A lease agreement shall be subject to all applicable
38 provisions of current law governing leases by a school district not
39 inconsistent with the provisions of this section.

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

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

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

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

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

43 e. (1) All building construction projects under a public-private
44 partnership agreement entered into pursuant to this section shall
45 contain a project labor agreement. The project labor agreement
46 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
47 seq.), and shall be in a manner that to the greatest extent possible

1 enhances employment opportunities for individuals residing in the
2 county of the project's location. The general contractor,
3 construction manager, design-build team, or subcontractor for a
4 construction project proposed in accordance with this paragraph
5 shall be registered pursuant to the provisions of P.L.1999, c.238
6 (C.34:11-56.48 et seq.), and shall be classified by the Division of
7 Property Management and Construction, or shall be prequalified by
8 the Department of Transportation, as appropriate, to perform work
9 on a public-private partnership project.

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

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

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

38 (5) Prior to entering into a public -private partnership, the
39 school district must determine: (i) the benefits to be realized by the
40 project, (ii) the cost of the project if it is developed by the public
41 sector supported by comparisons to comparable projects, (iii) the
42 maximum public contribution that the school district will allow
43 under the public -private partnership, (iv) a comparison of the
44 financial and non-financial benefits of the public-private
45 partnership compared to other options including the public sector
46 option, (v) a list of risks, liabilities and responsibilities to be
47 transferred to the private entity and those to be retained by the

1 school district, and (vi) if the project has a high, medium or low
2 level of project delivery risk and how the public is protected from
3 these risks.

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

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

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

34 (3) (a) In order for an application to be complete and considered
35 by the State Treasurer, the application shall include, but not be
36 limited to: (i) a full description of the proposed public-private
37 partnership agreement between the school district and the private
38 developer, including all information obtained by and findings of the
39 school district pursuant to paragraphs (4) and (5) of subsection (e)
40 of this section; (ii) a full description of the project, including a
41 description of any agreement for the lease of a revenue-producing
42 facility related to the project; (iii) the estimated costs and financial
43 documentation for the project showing the underlying financial
44 models and assumptions that determined the estimated costs. The
45 financial documentation must include at least three different
46 projected estimated costs showing scenarios in which materially
47 different economic circumstances are assumed and an explanation

1 for how the estimated costs were determined based on the three
2 scenarios; (iv) a timetable for completion of the construction of the
3 project; (v) an analysis of all available funding options for the
4 project, including an analysis of the financial viability and
5 advisability of such project, along with evidence of the public
6 benefit in advancing the project as a public-private partnership; (vi)
7 a record of the public hearing held pursuant to paragraph (4) of
8 subsection e. of this section, which shall have been kept open for a
9 period of seven days following the conclusion of the hearing; (vii)
10 any other requirements that the State Treasurer deems appropriate
11 or necessary. The application shall also include a resolution by the
12 school district's governing body of its intent to enter into a public-
13 private partnership agreement pursuant to this section.

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

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

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

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

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

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

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

46 (2) A request for qualifications for a public-private partnership
47 agreement shall be advertised at least 45 days prior to the

1 anticipated date of receipt. The advertisement of the request for
2 qualifications shall be published on the official Internet website of
3 the school district and at least one or more newspapers with
4 Statewide circulation.

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

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

42 (5) After the proposal or proposals have been received, and any
43 public notification period has expired, the school district shall rank
44 the proposals in order of preference. In ranking the proposals, the
45 school district shall rely upon, at minimum, the evaluation criteria
46 promulgated by the State Treasurer, in consultation with the New
47 Jersey Economic Development Authority, Department of Education,

1 and Schools Development Authority. In addition, the local school
2 district may consider factors that include, but may not be limited to,
3 professional qualifications, general business terms, innovative
4 engineering, architectural services, or cost-reduction terms, finance
5 plans, and the need for school district funds to deliver the project
6 and discharge the agreement. The private entity selected shall
7 comply with all laws and regulations required by the State
8 government entity, including but not limited to section 1 of
9 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,
10 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25-24.2),
11 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-
12 51 et al.), Executive Order No. 117 of 2008, Executive Order No.
13 118 of 2008, Executive Order No. 189, prior to executing the public
14 private partnership agreement. If only one proposal is received, the
15 school district shall negotiate in good faith and, if not satisfied with
16 the results of the negotiations, the school district may, at its sole
17 discretion, terminate negotiations.

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

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

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

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

34

35 15. N.J.S.18A:21-4 is amended to read as follows:

36 18A:21-4. A board of education may in any school year draw
37 against its capital reserve account, up to the amount of the balance
38 therein, to the extent that the withdrawal is anticipated as a revenue
39 in the school budget for the then current school year or approved by
40 the commissioner for good cause; provided, that no money drawn
41 from the account may be used for current expenses of the general
42 fund or debt service payments but shall be used exclusively for
43 capital expenses of the general fund or capital projects fund when
44 expressly authorized as part of a referendum, except as provided for
45 in section 2 of P.L.2018, c.90 (C.18A:18A-60).

46 (cf: P.L.1996, c.138, s.52)

47

1 16. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended to
2 read as follows:

3 10. A charter school may be located in part of an existing public
4 school building, in space provided on a public work site, in a public
5 building, or any other suitable location. In the case of a nonpublic
6 school that converts to a charter school pursuant to the provisions of
7 section 1 of P.L.2011, c.140 (C.18A:36A-4.1), the charter school
8 may be located in the same school building in which the nonpublic
9 school was located. The facility shall be exempt from public school
10 facility regulations except those pertaining to the health or safety of
11 the pupils. A charter school shall not construct a facility with
12 public funds other than federal funds. Notwithstanding the
13 provisions of this section to the contrary, a charter school located in
14 an SDA district may construct a facility with public funds, provided
15 that the public funds are provided for a school facilities project
16 approved pursuant to the provisions of section 4 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).
18 (cf: P.L.2011, c.140, s.3)
19

20 17. Section 7 of P.L.2011, c.176 (C.18A:36C-7) is amended to
21 read as follows:

22 7. a. Notwithstanding that a renaissance school project shall be
23 constructed, controlled, operated, and managed by a nonprofit
24 entity, and not the local board of education, it shall be a public
25 school. However nothing contained herein shall restrict a for-profit
26 entity from constructing a renaissance school project, or a
27 renaissance school project from being located on land owned by a
28 for-profit entity. Further, the renaissance school project shall be
29 authorized to retain any business entity, however formed, whose
30 primary purpose is the staffing, operation, and management of
31 elementary schools, middle schools, or high schools in the United
32 States, except as it relates to instructional services.

33 b. The costs of a renaissance school project including, but not
34 limited to, the costs of land acquisition, site remediation, site
35 development, design, construction, and any other costs required to
36 place into service the school facility or facilities constituting the
37 renaissance school project shall be at the sole expense of the
38 nonprofit entity, except that a renaissance school project located in
39 an SDA district may receive funds for the State share of a school
40 facilities project pursuant to the provisions of section 4 of P.L. , c.
41 (C.) (pending before the Legislature as this bill). The
42 nonprofit entity may use State funds to pay for a lease, debt service,
43 or mortgage for any facility constructed or otherwise acquired.

44 c. Notwithstanding the provisions of the "Educational Facilities
45 Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et
46 al.), or any other law or regulation to the contrary, there shall be no
47 State share for the costs of a renaissance school project, except that

1 a renaissance school project located in an SDA district may receive
2 funds for the State share of a school facilities project approved
3 pursuant to the provisions of section 4 of P.L. , c. (C.)
4 (pending before the Legislature as this bill).

5 d. Notwithstanding the provisions of the "Public School
6 Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or
7 regulation to the contrary, the nonprofit entity or any entity acting
8 in cooperation with a renaissance school project shall not be subject
9 to public bidding for goods and services, and any contracts entered
10 into by the nonprofit entity shall not be deemed public contracts or
11 public works; except that any contract entered into by the nonprofit
12 entity or any entity acting in cooperation with a renaissance school
13 project shall be deemed a public work for the purposes of the "New
14 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et
15 seq.), and subject to the applicable provisions of that act.

16 e. The renaissance school district in which a renaissance school
17 project is located shall pay to the nonprofit entity in 12 equal
18 monthly installments an amount per pupil equal to 95% of the
19 district's per pupil expenditure. In addition the 12 monthly
20 installments shall include the security categorical aid attributable to
21 the student, a percentage of the district's special education
22 categorical aid equal to the percentage of the district's special
23 education students enrolled in the renaissance school project, and if
24 applicable 100% of preschool education aid. The district shall also
25 pay directly to the renaissance school project any federal funds
26 attributable to the student.

27 f. Renaissance school projects shall be required to meet the
28 same testing and academic performance standards established by
29 law and regulation for public school students, and shall meet any
30 additional testing and academic performance standards established
31 by the nonprofit entity and approved by the commissioner.

32 g. The nonprofit entity shall have complete discretion in
33 naming the renaissance school project. The nonprofit entity may
34 not realize a net profit from its operation of a renaissance school
35 project. A private or parochial school shall not be eligible for
36 renaissance school project status.

37 h. A nonprofit entity shall operate a renaissance school project
38 in accordance with the contract entered into pursuant to section 6 of
39 this act, the provisions of this act, and the laws and regulations that
40 govern charter schools which are not inconsistent with this act.
41 (cf: P.L.2014, c.61, s.3)

42
43 18. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
44 read as follows:

45 12. The rehabilitation or improvements made in the development
46 or redevelopment of a redevelopment area or area appurtenant
47 thereto or for a redevelopment relocation housing project, pursuant

1 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
2 taxation for a limited period as hereinafter provided. When housing
3 is to be constructed, acquired or rehabilitated by an urban renewal
4 entity, the land upon which that housing is situated shall be exempt
5 from taxation for a limited period as hereinafter provided. The
6 exemption shall be allowed when the clerk of the municipality
7 wherein the property is situated shall certify to the municipal tax
8 assessor that a financial agreement with an urban renewal entity for
9 the development or the redevelopment of the property, or the
10 provision of a redevelopment relocation housing project, or the
11 provision of a low and moderate income housing project has been
12 entered into and is in effect as required by P.L.1991, c.431
13 (C.40A:20-1 et seq.).

14 Delivery by the municipal clerk to the municipal tax assessor of
15 a certified copy of the ordinance of the governing body approving
16 the tax exemption and financial agreement with the urban renewal
17 entity shall constitute the required certification. For each
18 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et
19 al.), upon certification as required hereunder, the tax assessor shall
20 implement the exemption and continue to enforce that exemption
21 without further certification by the clerk until the expiration of the
22 entitlement to exemption by the terms of the financial agreement or
23 until the tax assessor has been duly notified by the clerk that the
24 exemption has been terminated.

25 Within 10 calendar days following the later of the effective date
26 of an ordinance following its final adoption by the governing body
27 approving the tax exemption or the execution of the financial
28 agreement by the urban renewal entity, the municipal clerk shall
29 transmit a certified copy of the ordinance and financial agreement
30 to the chief financial officer of the county and to the county counsel
31 for informational purposes.

32 Whenever an exemption status changes during a tax year, the
33 procedure for the apportionment of the taxes for the year shall be
34 the same as in the case of other changes in tax exemption status
35 during the tax year. Tax exemptions granted pursuant to P.L.2003,
36 c.125 (C.40A:12A-4.1 et al.) represent long term financial
37 agreements between the municipality and the urban renewal entity
38 and as such constitute a single continuing exemption from local
39 property taxation for the duration of the financial agreement. The
40 validity of a financial agreement or any exemption granted pursuant
41 thereto may be challenged only by filing an action in lieu of
42 prerogative writ within 20 days from the publication of a notice of
43 the adoption of an ordinance by the governing body granting the
44 exemption and approving the financial agreement. Such notice
45 shall be published in a newspaper of general circulation in the
46 municipality and in a newspaper of general circulation in the county
47 if different from the municipal newspaper.

1 a. The financial agreement shall specify the duration of the
2 exemption for urban renewal entities in accordance with the
3 parameters of either paragraph (1) or paragraph (2) of this
4 subsection:

5 (1) the financial agreement may specify a duration of not more
6 than 30 years from the completion of the entire project, or unit of
7 the project if the project is undertaken in units, or not more than 35
8 years from the execution of the financial agreement between the
9 municipality and the urban renewal entity; or

10 (2) for each project undertaken pursuant to a redevelopment
11 agreement which allows the redeveloper to undertake two or more
12 projects sequentially, the financial agreement may specify a
13 duration of not more than 30 years from the completion of a project,
14 or unit of the project if the project is undertaken in units, or not
15 more than 50 years from the execution of the first financial
16 agreement implementing a project under the redevelopment
17 agreement. As used in this subsection, "redevelopment agreement"
18 means an agreement entered into pursuant to subsection f. of section
19 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
20 redevelopment entity and a redeveloper.

21 A financial agreement may provide for an exemption period of
22 less than 30 years from the completion of the entire project, less
23 than 35 years from the execution of the financial agreement, or less
24 than 50 years from the execution of the first financial agreement
25 implementing a project under the redevelopment agreement.
26 Nothing in this subsection shall be construed as requiring a
27 financial agreement for a project undertaken pursuant to a
28 redevelopment agreement which allows the redeveloper to
29 undertake two or more projects sequentially to specify a duration
30 within the parameters of paragraph (2) of this subsection.

31 b. During the term of any exemption, in lieu of any taxes to be
32 paid on the buildings and improvements of the project and, to the
33 extent authorized pursuant to this section, on the land, the urban
34 renewal entity shall make payment to the municipality of an annual
35 service charge, which shall remit a portion of that revenue to the
36 county as provided hereinafter. In addition, the municipality may
37 assess an administrative fee, not to exceed two percent of the annual
38 service charge, for the processing of the application. The annual
39 service charge for municipal services supplied to the project to be
40 paid by the urban renewal entity for any period of exemption, shall
41 be determined as follows:

42 (1) An annual amount equal to a percentage determined
43 pursuant to this subsection and section 11 of P.L.1991, c.431
44 (C.40A:20-11), of the annual gross revenue from each unit of the
45 project, if the project is undertaken in units, or from the total
46 project, if the project is not undertaken in units. The percentage of
47 the annual gross revenue shall not be more than 15% in the case of

1 a low and moderate income housing project, nor less than 10% in
2 the case of all other projects.

3 At the option of the municipality, or where because of the nature
4 of the development, ownership, use or occupancy of the project or
5 any unit thereof, if the project is to be undertaken in units, the total
6 annual gross rental or gross shelter rent or annual gross revenue
7 cannot be reasonably ascertained, the governing body shall provide
8 in the financial agreement that the annual service charge shall be a
9 sum equal to a percentage determined pursuant to this subsection
10 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total
11 project cost or total project unit cost determined pursuant to
12 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day
13 of the month following the substantial completion of the project or
14 any unit thereof, if the project is undertaken in units. The
15 percentage of the total project cost or total project unit cost shall not
16 be more than 2% in the case of a low and moderate income housing
17 project, and shall not be less than 2% in the case of all other
18 projects.

19 (2) In either case, the financial agreement shall establish a
20 schedule of annual service charges to be paid over the term of the
21 exemption period, which shall be in stages as follows:

22 (a) For the first stage of the exemption period, which shall
23 commence with the date of completion of the unit or of the project,
24 as the case may be, and continue for a time of not less than six years
25 nor more than 15 years, as specified in the financial agreement, the
26 urban renewal entity shall pay the municipality an annual service
27 charge for municipal services supplied to the project in an annual
28 amount equal to the amount determined pursuant to paragraph (1) of
29 this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11).
30 For the remainder of the period of the exemption, if any, the annual
31 service charge shall be determined as follows:

32 (b) For the second stage of the exemption period, which shall
33 not be less than one year nor more than six years, as specified in the
34 financial agreement, an amount equal to either the amount
35 determined pursuant to paragraph (1) of this subsection and section
36 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of
37 taxes otherwise due on the value of the land and improvements,
38 whichever shall be greater;

39 (c) For the third stage of the exemption period, which shall not
40 be less than one year nor more than six years, as specified in the
41 financial agreement, an amount equal to either the amount
42 determined pursuant to paragraph (1) of this subsection and section
43 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of
44 taxes otherwise due on the value of the land and improvements,
45 whichever shall be greater;

46 (d) For the fourth stage of the exemption period, which shall not
47 be less than one year nor more than six years, as specified in the

1 financial agreement, an amount equal to either the amount
2 determined pursuant to paragraph (1) of this subsection and section
3 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of
4 taxes otherwise due on the value of the land and improvements,
5 whichever shall be greater; and

6 (e) For the final stage of the exemption period, the duration of
7 which shall not be less than one year and shall be specified in the
8 financial agreement, an amount equal to either the amount
9 determined pursuant to paragraph (1) of this subsection and section
10 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
11 taxes otherwise due on the value of the land and improvements,
12 whichever shall be greater.

13 If the financial agreement provides for an exemption period of
14 less than 30 years from the completion of the entire project, less
15 than 35 years from the execution of the financial agreement, or less
16 than 50 years from the execution of the first financial agreement
17 implementing a project under the redevelopment agreement, the
18 financial agreement shall set forth a schedule of annual service
19 charges for the exemption period which shall be based upon the
20 minimum service charges and staged adjustments set forth in this
21 section.

22 The annual service charge shall be paid to the municipality on a
23 quarterly basis in a manner consistent with the municipality's tax
24 collection schedule.

25 Each municipality which enters into a financial agreement on or
26 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)
27 shall remit 5 percent of the annual service charge collected by the
28 municipality to the county in accordance with the provisions of
29 R.S.54:4-74. If the municipality enters into a contract with a board
30 of education pursuant to section 8 of P.L. , c. (C.) (pending
31 before the Legislature as this bill), the municipality shall also remit
32 to the board of education such amounts as may be required under
33 the contract.

34 Against the annual service charge the urban renewal entity shall
35 be entitled to credit for the amount, without interest, of the real
36 estate taxes on land paid by it in the last four preceding quarterly
37 installments.

38 Notwithstanding the provisions of this section or of the financial
39 agreement, the minimum annual service charge shall be the amount
40 of the total taxes levied against all real property in the area covered
41 by the project in the last full tax year in which the area was subject
42 to taxation, and the minimum annual service charge shall be paid in
43 each year in which the annual service charge calculated pursuant to
44 this section or the financial agreement would be less than the
45 minimum annual service charge.

1 c. All exemptions granted pursuant to the provisions of
2 P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time
3 prescribed in the financial agreement.

4 Upon the termination of the exemption granted pursuant to the
5 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
6 affected parcels, land and all improvements made thereto shall be
7 assessed and subject to taxation as are other taxable properties in
8 the municipality. After the date of termination, all restrictions and
9 limitations upon the urban renewal entity shall terminate and be at
10 an end upon the entity's rendering its final accounting to and with
11 the municipality.

12 (cf: P.L.2018, c.97, s.17)

13
14 19. Section 4 of P.L.2007, c.137 (C.52:18A-238) is amended to
15 read as follows:

16 4. The development authority shall have the following powers:

17 a. To adopt bylaws for the regulation of its affairs and the
18 conduct of its business;

19 b. To adopt and have a seal and to alter the same at pleasure;

20 c. To sue and be sued;

21 d. To acquire in the name of the development authority by
22 purchase or otherwise, on such terms and conditions and such
23 manner as it may deem proper, or by the exercise of the power of
24 eminent domain in the manner provided by the "Eminent Domain
25 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or
26 interests therein or other property which it may determine is
27 reasonably necessary for any school facilities project;

28 e. To enter into contracts with a person upon such terms and
29 conditions as the development authority shall determine to be
30 reasonable, including, but not limited to, for the planning, design,
31 construction, reconstruction, improvement, equipping, furnishing,
32 operation and maintenance of a school facilities project and the
33 reimbursement thereof, and to pay or compromise any claims
34 arising therefrom;

35 f. To sell, convey or lease to any person all or any portion of
36 its property, for such consideration and upon such terms as the
37 development authority may determine to be reasonable;

38 g. To mortgage, pledge or assign or otherwise encumber all or
39 any portion of any property or revenues, whenever it shall find such
40 action to be in furtherance of the purposes of P.L.2000, c.72
41 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

42 h. To grant options to purchase or renew a lease for any of its
43 property on such terms as the development authority may determine
44 to be reasonable;

45 i. To contract for and to accept any gifts or grants or loans of
46 funds or property or financial or other aid in any form from the
47 United States of America or any agency or instrumentality thereof,

1 or from the State or any agency, instrumentality or political
2 subdivision thereof, or from any other source and to comply,
3 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and
4 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
5 conditions thereof;

6 j. In connection with any application for assistance under
7 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-
8 235 et al.) or commitments therefor, to require and collect such fees
9 and charges as the development authority shall determine to be
10 reasonable;

11 k. To adopt, amend and repeal regulations to carry out the
12 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007,
13 c.137 (C.52:18A-235 et al.);

14 l. To acquire, purchase, manage and operate, hold and dispose
15 of real and personal property or interests therein, take assignments
16 of rentals and leases and make and enter into all contracts, leases,
17 agreements and arrangements necessary or incidental to the
18 performance of its duties;

19 m. To purchase, acquire and take assignments of notes,
20 mortgages and other forms of security and evidences of
21 indebtedness;

22 n. To purchase, acquire, attach, seize, accept or take title to any
23 property by conveyance or by foreclosure, and sell, lease, manage
24 or operate any property for a use specified in P.L.2000, c.72
25 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

26 o. (1) To employ consulting engineers, architects, attorneys,
27 real estate counselors, appraisers, and such other consultants and
28 employees as may be required in the judgment of the development
29 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1
30 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay
31 their compensation from funds available to the development
32 authority therefor, all without regard to the provisions of Title 11A
33 of the New Jersey Statutes; except that, no later than one year
34 following the effective date of P.L. , c. (C.) (pending
35 before the Legislature as this bill), the development authority shall
36 only employ staff for the purposes of program operations,
37 construction operations, financial operations and compliance, and
38 grant administration. The human resources, legal affairs, facilities
39 management, administrative, and technological and information
40 systems operations of the development authority shall be managed
41 by the following State agencies in the manner specified:

42 (a) the Civil Service Commission shall exercise authority over
43 human resource management for employees of the development
44 authority, which shall include, but not be limited to, the process for
45 hiring the employees and terminating their employment, and
46 orienting, training, counseling, and appraising the employees;

1 **(b) the Office of the Attorney General shall exercise authority**
2 **over the legal affairs of the development authority, which shall**
3 **include, but not be limited to, legal counsel and advice and formal**
4 **representation of the development authority when needed;**

5 **(c) the Department of the Treasury shall exercise authority over**
6 **facilities management and other administrative functions not**
7 **identified in subparagraphs (a), (b), and (d) of this paragraph; and**

8 **(d) the Office of Information Technology shall exercise authority**
9 **over the technological and information systems needs of the**
10 **development authority, which shall include, but not be limited to,**
11 **developing technology plans, providing technical and general**
12 **technological support to employees of the development authority,**
13 **and maintaining information systems and other technological**
14 **infrastructure.**

15 **(2) Notwithstanding the provisions of P.L.2007, c.137**
16 **(C.52:18A-235 et al.) or any other law, rule, or regulation to the**
17 **contrary, the operations of the development authority shall be**
18 **funded annually through State appropriations. The Legislature shall**
19 **annually appropriate such sums as are necessary to finance the**
20 **operations of the development authority, as authorized under this**
21 **subsection.**

22 p. To do and perform any acts and things authorized by
23 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
24 235 et al.) under, through or by means of its own officers, agents
25 and employees, or by contract with any person;

26 q. To procure insurance against any losses in connection with
27 its property, operations or assets in such amounts and from such
28 insurers as it deems desirable;

29 r. To do any and all things necessary or convenient to carry out
30 its purposes and exercise the powers given and granted in P.L.2000,
31 c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

32 s. To construct, reconstruct, rehabilitate, improve, alter, equip,
33 maintain or repair or provide for the construction, reconstruction,
34 improvement, alteration, equipping or maintenance or repair of any
35 property and lot, award and enter into construction contracts,
36 purchase orders and other contracts with respect thereto, upon such
37 terms and conditions as the development authority shall determine
38 to be reasonable, including, but not limited to, reimbursement for
39 the planning, designing, construction, reconstruction, improvement,
40 equipping, furnishing, operation and maintenance of any such
41 property and the settlement of any claims arising therefrom;

42 t. To undertake school facilities projects and to enter into
43 agreements or contracts, execute instruments, and do and perform
44 all acts or things necessary, convenient or desirable for the purposes
45 of the development authority to carry out any power expressly
46 provided pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or
47 P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to,

1 entering into contracts with the State Treasurer, the New Jersey
2 Economic Development Authority, the Commissioner of Education,
3 districts, and any other entity which may be required in order to
4 carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or
5 P.L.2007, c.137 (C.52:18A-235 et al.);

6 u. To enter into leases, rentals or other disposition of a real
7 property interest in and of any school facilities project to or from
8 any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or
9 P.L.2007, c.137 (C.52:18A-235 et al.);

10 v. To make and contract to make loans or leases to local units
11 to finance the cost of school facilities projects and to acquire and
12 contract to acquire bonds, notes or other obligations issued or to be
13 issued by local units to evidence the loans or leases, all in
14 accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
15 al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

16 w. To charge to and collect from local units, the State, and any
17 other person, any fees and charges in connection with the
18 development authority's actions undertaken with respect to school
19 facilities projects including, but not limited to, fees and charges for
20 the development authority's administrative, organization, insurance,
21 operating and other expenses incident to the planning, design,
22 construction and placing into service and maintenance of school
23 facilities projects.

24 (cf: P.L.2007, c.137, s.4)

25
26 20. This act shall take effect immediately.

27 28 29 STATEMENT

30
31 This bill provides various changes to the laws governing the
32 construction of school facilities projects and the operations of the
33 New Jersey Schools Development Authority (SDA).

34 35 *Authorization of SDA School Facilities Projects*

36 The bill provides that all school facilities projects in SDA
37 districts would be subject to prior authorization by the Legislature.
38 Specifically, the SDA would be prohibited from expending any
39 monies or undertaking any activities, except for site identification
40 and investigation, related to the construction of the project until the
41 Legislature has authorized the project. Additionally, the SDA
42 district will not submit an application to the Commissioner of
43 Education (commissioner) for project approval until the Legislature
44 has authorized the project.

45 Under current law, the SDA is required to establish a Statewide
46 strategic plan, which is used to determine the sequencing of school
47 facilities projects in SDA districts and is revised no less than every
48 five years. Under the bill, the SDA would be required to update

1 this plan to include a description of each project, the total estimated
2 costs of each project, and the number of full-time equivalent staff
3 needed to support each project. In addition, the bill requires this
4 plan to prioritize : (1) new construction projects; (2) projects
5 located on land owned by the SDA district or other public entities;
6 and (3) projects needed to replace school buildings that have been
7 in use for 50 or more years.

8 After any update to the Statewide strategic plan, the SDA would
9 be required to transmit the plan to the Legislature. Thereafter, the
10 Legislature may enact legislation to authorize any school facilities
11 project in an SDA district, provided that the Legislature is required
12 to identify the project to be funded, the maximum final eligible
13 costs permitted for the project, and the maximum full-time
14 equivalent employees that the SDA may allocate to the project.

15 16 *Model School Designs*

17 The bill also requires the SDA, in consultation with the
18 commissioner, to establish three model school designs for the
19 construction of elementary, middle, and high school projects,
20 respectively. These model school designs would establish uniform
21 standards for the exterior and interior design of each category of
22 school facilities projects. At a minimum, these standards would: (1)
23 prohibit the inclusion of irregularly-shaped structures, facades, and
24 courtyards, which designs contribute to unnecessary and imprudent
25 construction costs; and (2) prioritize the utilization of vertical
26 construction designs over horizontal construction, which designs
27 preserve green space and maximize land use.

28 To standardize the construction of school facilities projects
29 throughout the State, the bill requires all projects in SDA districts to
30 conform to one of these model school designs. In addition, if a
31 non-SDA district constructs a project that conforms to a model
32 school design, the district aid percentage, which is used to calculate
33 the district's debt service aid, would be increased by 15 percent. In
34 the event that an SDA district or a non-SDA district school facilities
35 project requires the implementation of certain immodest or
36 irregularly-shaped structures, but otherwise conforms to a model
37 school design, the SDA is required to provide prior approval of the
38 structures.

39 40 *Brownfield Site Remediation – SDA Projects*

41 The bill provides that if the SDA undertakes a school facilities
42 project on behalf of a district, and the project will be constructed on
43 a brownfield site, the SDA cannot be responsible for any
44 remediation costs associated with the brownfield site. Under the
45 bill, all remediation costs must be supported by the local share of
46 the project or any other funding provided by the State or federal
47 government to address the remediation of brownfield sites. After

1 all remediation has been completed, the SDA may commence the
2 construction of the project.

3

4 *School Facilities Projects of Charter Schools and Renaissance*
5 *School Projects in SDA Districts*

6 The bill provides a State funding mechanism for school facilities
7 projects undertaken by charter schools and renaissance school
8 projects located in SDA districts. Under current law, charter schools
9 are prohibited from constructing a facility with public funds other
10 than federal funds and renaissance school projects are required to
11 build a school facility at the sole expense of the nonprofit entity that
12 created the school.

13 Under the bill, charter schools and renaissance school projects
14 located in SDA districts would be eligible to receive funding for
15 100 percent of the final eligible costs of the project. To secure the
16 funding, a charter school or renaissance school project would
17 submit an application to the SDA for approval. The SDA would
18 annually review the applications and thereafter create a Statewide
19 charter school and renaissance school project facilities strategic
20 plan to be used in the sequencing of school facilities projects of
21 charter schools and renaissance school projects in SDA districts.
22 The Statewide charter school and renaissance school project
23 facilities strategic plan would include a Statewide educational
24 priority ranking of the school facilities projects based upon the
25 SDA's determination of critical need. The SDA, however, is
26 prohibited from expending any funds for these projects, except for
27 site identification and investigation, related to the construction of
28 the project until the Legislature has authorized the project.

29

30 *Non-SDA Projects*

31 The bill also provides several changes to the laws governing the
32 construction of school facilities projects in non-SDA school
33 districts.

34 Notably, the bill allows a school district to raise bonds for a
35 school facilities project without the approval of the voters of the
36 district if the school district enters into a contract with one or more
37 municipalities, wherein the municipality provides the district with
38 not less than 60 percent of the payments in lieu of taxes received
39 from one or more designated properties, and the district pledge
40 those monies to the repayment of the bonds. However, after
41 entering into the contract, the school district would also be required
42 to submit an application to the commissioner before issuing the
43 bonds without voter approval.

44 Additionally, the bill permits the board of education of a district
45 other than an SDA district to enter into an agreement with a county
46 improvement authority or municipal redevelopment agency to

1 construct a school facilities project and to issue bonds to finance
2 certain portions of the project.

3 The bill also permits a board of education of a school district to
4 draw against its capital reserve account in order to finance a portion
5 of a project for which a school district and private entity enter into a
6 public-private partnership agreement pursuant to current law.
7 Currently, a school district may enter into a public-private
8 partnership with a private entity provided that the project is
9 financed in whole by the private entity. Under the bill, a board of
10 education could, by resolution, transfer funds from the capital
11 reserve account to the appropriate line item account for the funding
12 of capital projects subject to a public-private partnership agreement,
13 and transfer funds from the capital reserve account to the debt
14 service account for the purpose of offsetting principal and interest
15 payments for bonded projects subject to a public-private partnership
16 agreement.

17 Under the bill, a school district whose school facilities project is
18 not constructed by the development authority would also be
19 required to ensure the project is overseen by a non-conflicted
20 construction management service provider.

21 The bill also requires the commissioner, in consultation with the
22 SDA, to develop guidance concerning the provisions contained
23 within construction contracts. This guidance would be designed to
24 encourage the timely delivery of construction projects and would
25 include sample provisions that may be included in future contracts.
26 In addition to any other considerations that the commissioner may
27 deem appropriate, guidance would prescribe industry-leading
28 penalties for the late delivery of projects by contractors and
29 incentives for contractors who deliver projects on time and under
30 budget.

31

32 *SDA Finances and Operations*

33 This bill provides that bonds issued by the New Jersey Economic
34 Development Authority (EDA) for the State share of school
35 facilities projects, the proceeds of which are transferred to SDA,
36 will not support the costs of either agency related to the issuance of
37 the bonds. Bonds issued after the effective date of the bill will not
38 support the administrative, insurance, operating and other expenses
39 of the EDA to issue the bonds. Under the bill, the costs related to
40 the undertaking of the planning, design, and construction of school
41 facilities projects will also not be supported by bonds issued after
42 the effective date of the bill. These administrative costs would
43 instead be annually supported by State appropriations.

44 Under current law, the State budget does not generally support
45 the operations and administrative expenses of the SDA or the EDA;
46 as it relates to the State school construction program, those costs are
47 generally funded through bond proceeds issued for the purposes of

1 funding the State share of costs for school facilities projects. This
2 bill would amend current law to provide that, for bonds issued after
3 the effective date of the bill, no proceeds would fund the
4 administrative, insurance, operating and other expenses of the EDA
5 to issue the bonds or costs of the SDA related to the undertaking of
6 the planning, design, and construction of school facilities projects.

7 The bill also requires the SDA to establish four funds in which
8 the net proceeds of the bonds issued for school facilities projects,
9 and any State appropriations for school facilities projects, would be
10 deposited. The four funds are as follows: (1) the SDA District
11 Project Fund; (2) the Regular Operating District Construction and
12 Maintenance Grants Fund; (3) the Vocational-Technical School
13 District Project Fund; and (4) the SDA District Emergent Project
14 Fund.

15 The bill requires the SDA to only employ staff for the purposes
16 of program operations, construction operations, financial operations
17 and compliance, and grant administration. Other operations of the
18 SDA are to be managed by the following State agencies:

- 19 • the Civil Service Commission, for human resource
20 management;
- 21 • the Office of the Attorney General, for the handling of the
22 legal affairs of the SDA;
- 23 • the Department of the Treasury, for facilities management
24 and other administrative functions; and
- 25 • the Office of Information Technology, for the technological
26 and information systems needs of the SDA.