

# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4496

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 8, 2022

The Assembly Education Committee adopts amendments to Assembly Bill No. 4496.

As amended by the committee, the bill provides various changes to the laws governing the construction of school facilities projects and the operations of the New Jersey Schools Development Authority (SDA).

#### *Model School Designs*

The amended bill requires the SDA, in consultation with the Commissioner of Education, to establish a model school design program that would establish uniform standards for the exterior and interior design of school facilities projects. The bill defines the components of the model school design program.

The amended bill requires all projects in SDA districts to conform to the standards of the model school design program, one of these model school designs. In addition, if a non-SDA district constructs a project that conforms to the standards of the model school design program, the district aid percentage, which is used to calculate the district's debt service aid, would be increased by 15 percent.

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

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

Under the amended bill, charter schools and renaissance school projects located in SDA districts would be eligible to receive funding for 100 percent of the final eligible costs of the project. To secure the funding, a charter school or renaissance school project would submit an application to the SDA. The SDA, in consultation with the Department of Education, would annually review the applications and thereafter create a Statewide charter school and renaissance school project facilities strategic plan to be used in the sequencing of school

facilities projects of charter schools and renaissance school projects in SDA districts. The Statewide charter school and renaissance school project facilities strategic plan would include a Statewide educational priority ranking of the school facilities projects based upon the SDA's determination of critical need.

Under the amended bill, the SDA would authorize a charter school or renaissance school project to undertake a school facilities project following the determination of final eligible costs for the project. A charter school or renaissance school project authorized to undertake a school facilities project under the bill would be subject to the provisions of the "Public School Contracts Law."

#### *Non-SDA Projects*

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

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

Additionally, the amended bill permits the board of education of a district other than an SDA district to enter into an agreement with a county improvement authority to construct a school facilities project and to issue bonds to finance certain portions of the project.

The amended bill also permits a board of education of a school district to draw against its capital reserve account in order to finance a portion of a project for which a school district and private entity enter into a public-private partnership agreement pursuant to current law.

The amended bill also requires the commissioner, in consultation with the SDA, to promulgate regulations concerning the incorporation of construction contract provisions that encourage the completion of construction projects on schedule.

#### *SDA Finances and Operations*

This bill, as amended, provides that bonds issued by the New Jersey Economic Development Authority (EDA) for the State share of school facilities projects, the proceeds of which are transferred to SDA, will not support the costs of either agency related to the issuance of the bonds. Bonds issued after the effective date of the bill will not support the administrative, insurance, operating and other expenses of the EDA to issue the bonds. Under the amended bill, the costs related to the undertaking of the planning, design, and construction of school

facilities projects will also not be supported by bonds issued after the effective date of the bill. These administrative costs would instead be annually supported by State appropriations.

The amended bill also requires the SDA to establish four funds in which the net proceeds of the bonds issued for school facilities projects, and any State appropriations for school facilities projects, would be deposited. The four funds are as follows: (1) the SDA District Project Fund; (2) the Regular Operating District Construction and Maintenance Grants Fund; (3) the SDA District Emergent Project Fund; and (4) the Charter School and Renaissance School Project Construction and Maintenance Fund.

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

- the Civil Service Commission, for human resource management;
- the Office of the Attorney General, for the handling of the legal affairs of the SDA;
- the Department of the Treasury, for facilities management and other administrative functions; and
- the Office of Information Technology, for the technological and information systems needs of the SDA.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

- remove provisions of the bill that required legislative prior authorization of SDA district school facilities projects and school facilities projects of charter schools and renaissance school projects in SDA districts;
- require the SDA to develop a model school design program that would be utilized in SDA district school facilities projects and that may be utilized in the school facilities projects of districts other than SDA districts. The bill, as introduced, would have required the SDA to develop three model school designs for the construction of elementary, middle, and high schools, respectively;
- require a school district, as part of its comprehensive review under the New Jersey Quality Single Accountability Continuum, to certify that it has included in its most recent long-range facilities plan a capital improvement plan for each school of the district;
- require that a non-conflicted construction management service provider would oversee a school facilities project, which is not constructed by the SDA, only in the case of a project that has total estimated costs over \$5 million;

- remove provisions of the bill that would have permitted the board of education of a district other than an SDA district to enter into an agreement with a municipal redevelopment agency to construct a school facilities project and to issue bonds to finance certain portions of the project;
- require a charter school or renaissance school project authorized to undertake a school facilities project pursuant to the bill to be subject to public bidding requirements under the “Public School Contracts Law;”
- remove a section of the bill that provided that the SDA would not be responsible for remediation costs in the event that the SDA, on behalf of a district, undertakes a school facilities project on a brownfield site;
- specify that a bond issued for a school facilities project, which is to be supported by municipal remittances of payments in lieu of taxes, would be eligible for State debt service aid;
- remove a provision of the bill establishing a Vocational-Technical School District Project Fund;
- provide that no less than 50 percent of direct appropriations or funding for school facilities projects would be appropriated to the SDA District Project Fund and the SDA District Emergent Project Fund established under the bill. The remaining funds would be utilized in a manner to be determined by the SDA;
- establish an “Emergent Condition Remediation Program” in the SDA;
- establish an Office of Contracting Accountability within the SDA;
- provide that the SDA would not prequalify a contractor to bid on a school facilities project without first seeking certification that the contractor is not the subject of certain labor investigations or proceedings;
- permit the SDA to revoke a contractor’s prequalification status following the opportunity for the contractor to respond to an adverse reaction in a performance evaluation;
- prohibit the SDA and an SDA district that has been delegated management of a school facilities project from entering into a contract for work with any person or firm that has been debarred, suspended, or disqualified from State, SDA, or federal government contracting;
- prohibit an SDA district that has been delegated management of a school facilities project from entering into a cooperative pricing system or agreement;
- provide that a board of education may disqualify a bidder that would otherwise be determined to be the lowest responsible bidder for a school facilities project contract if there has been at least one instance of prior negative experience with the bidder by any board of education, or by the New Jersey

Economic Development Authority or the New Jersey Schools Development Authority;

- expand the criteria for what may constitute “prior negative experience” under the “Public School Contracts Law;”
- provide that the Commissioner of Education would promulgate regulations, rather than guidance, for school districts concerning the incorporation of construction contract provisions that encourage the completion of construction projects on schedule;
- expand the SDA board membership to include two public members, one appointed by the Senate President and one appointed by the Speaker of the General Assembly; and
- provide that an affirmative vote of the SDA board would be required in the hiring, termination, and disciplining of employees of the SDA, as well as in the transfer of any employees of the development authority among different subunits.