

SENATE, No. 3247

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 27, 2022

Sponsored by:

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and 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

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

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

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

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

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

28 "Excess costs" means the additional costs, if any, which shall be
29 borne by the district, of a school facilities project which result from
30 design factors that are not required to meet the facilities efficiency
31 standards and not approved pursuant to paragraph (1) of subsection
32 g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized
33 as community design features included in final eligible costs
34 pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-
35 6);

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

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

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

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

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

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

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

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

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

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

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

32 "Maintenance" means expenditures which are approved for
33 repairs and replacements for the purpose of keeping a school
34 facility open and safe for use or in its original condition, including
35 repairs and replacements to a school facility's heating, lighting,
36 ventilation, security and other fixtures to keep the facility or
37 fixtures in effective working condition. Maintenance shall not
38 include capital maintenance or contracted custodial or janitorial
39 services, expenditures for the cleaning of a school facility or its
40 fixtures, the care and upkeep of grounds or parking lots, and the
41 cleaning of, or repairs and replacements to, movable furnishings or
42 equipment, or other expenditures which are not required to maintain
43 the original condition over the school facility's useful life.
44 Approved maintenance expenditures shall be as determined by the
45 commissioner pursuant to regulations to be adopted by the
46 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-
47 26);

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

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

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

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

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

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

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

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

46 "School facility" means and includes any structure, building or
47 facility used wholly or in part for educational purposes by a district
48 and facilities that physically support such structures, buildings and
49 facilities, such as district wastewater treatment facilities, power

1 generating facilities, and steam generating facilities, but shall
2 exclude other facilities. “School facility” shall also mean any
3 structure, building, or facility used wholly or in part for educational
4 purposes that is owned or leased and operated by a charter school or
5 renaissance school project and facilities that physically support such
6 structures, buildings and facilities;

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

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

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

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

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

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

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

43 "State share" means the State's proportionate share of the final
44 eligible costs of a school facilities project to be constructed by the
45 development authority as determined pursuant to section 5 of
46 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration
47 project, the State's proportionate share of the final eligible costs of
48 the project as determined pursuant to sections 5 and 6 of P.L.2000,
49 c.72 (C.18A:7G-5 and C.18A:7G-6); **[and]** in the case of a school

1 facilities project to be financed pursuant to section 15 of P.L.2000,
2 c.72 (C.18A:7G-15), the State share as determined pursuant to that
3 section ; and in the case of a school facilities project of a charter
4 school or renaissance school project in an SDA district, the State
5 share as determined pursuant to section 4 of P.L. , c. (C.)
6 (pending before the Legislature as this bill);

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

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

17

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

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

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

43 b. Notwithstanding any other law or regulation to the contrary,
44 an application for a school facilities project pursuant to section 5 of
45 P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the
46 district has filed a long-range facilities plan that is consistent with
47 the application and the plan has been approved by the
48 commissioner; except that prior to October 1, 2000, the
49 commissioner may approve an application if the project is necessary

1 to protect the health or safety of occupants of the school facility, or
2 is related to required early childhood education programs, or is
3 related to a school facility in which the functional capacity is less
4 than **【90%】** 90 percent of the facilities efficiency standards based
5 on current school enrollment, or the district received bids on the
6 school facilities project prior to the effective date of P.L.2000, c.72
7 (C.18A:7G-1 et al.) and the district demonstrates that further delay
8 will negatively affect the cost of the project.

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

12 d. Each long-range facilities plan shall include a cohort
13 survival methodology or other methodology approved by the
14 commissioner, accompanied by a certification by a qualified
15 demographer retained by the district that serves as the basis for
16 identifying the capacity and program needs detailed in the long-
17 range facilities plan.

18 e. The long-range facilities plan shall include an educational
19 adequacy inventory of all existing school facilities in the district
20 including the adequacy of school facilities to educate within the
21 district the existing and projected number of pupils with disabilities,
22 the identification of all deficiencies in the district's current
23 inventory of school facilities, which includes the identification of
24 those deficiencies that involve emergent health and safety concerns,
25 and the district's proposed plan for future construction and
26 renovation. The long-range facilities plan submissions shall
27 conform to the guidelines, criteria and format prescribed by the
28 commissioner.

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

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

38 h. (1) The commissioner shall develop, for the March 2002
39 Report on the Cost of Providing a Thorough and Efficient
40 Education issued by the commissioner pursuant to section 4 of
41 P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for
42 elementary, middle, and high schools consistent with the core
43 curriculum school delivery assumptions in the report and sufficient
44 for the achievement of the core curriculum content standards,
45 including the provision of required programs in Abbott districts and
46 early childhood education programs in the districts in which these
47 programs are required by the State. The area allowances per FTE
48 student in each class of the district shall be derived from these
49 facilities efficiency standards. The commissioner shall revise the

1 facilities efficiency standards and the area cost allowance in
2 accordance with such schedule as the commissioner deems
3 necessary. The commissioner shall publish the revised facilities
4 efficiency standards and the area cost allowance in the New Jersey
5 Register and, within a reasonable period of time after 30 days
6 following publication, shall file the revised facilities efficiency
7 standards and the area cost allowance with the Office of
8 Administrative Law for publication in the New Jersey Register and
9 those standards shall become effective immediately upon filing.
10 During the 30-day period the commissioner shall provide an
11 opportunity for public comment on the proposed facilities
12 efficiency standards and the area cost allowance.

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

30 Within a reasonable period of time after the effective date of
31 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish
32 the facilities efficiency standards developed for the 2000-2001,
33 2001-2002, and 2002-2003 school years in the New Jersey Register.
34 Within a reasonable period of time after 30 days after publication in
35 the New Jersey Register, the commissioner shall file the facilities
36 efficiency standards with the Office of Administrative Law and
37 those standards shall become effective immediately upon filing with
38 the Office of Administrative Law. During the 30-day period the
39 commissioner shall provide an opportunity for public comment on
40 the proposed facilities efficiency standards.

41 (2) Within 120 days of the effective date of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), the
43 development authority, in consultation with the commissioner, shall
44 develop three model school designs for the construction of
45 elementary, middle, and high schools, respectively. The model
46 school designs shall establish uniform standards for the exterior and
47 interior design of each category of school facilities projects. The
48 development authority, in consultation with the commissioner, may
49 revise the model school designs as the development authority deems

1 necessary. In addition to any other considerations that the
2 development authority may deem appropriate, the model school
3 designs shall: (a) not include immodest or irregularly-shaped
4 structures, including facades, windows, and courtyards, which
5 contribute to unnecessary and imprudent construction costs; and (b)
6 prioritize the utilization of vertical construction designs over
7 horizontal construction designs, which designs preserve green space
8 and maximize land use.

9 i. Within 90 days of the commissioner's receipt of a long-range
10 facilities plan for review, the commissioner shall determine whether
11 the plan is fully and accurately completed and whether all
12 information necessary for a decision on the plan has been filed by
13 the district. If the commissioner determines that the plan is
14 complete, the commissioner shall promptly notify the district in
15 writing and shall have 60 days from the date of that notification to
16 determine whether to approve the plan or not. If the commissioner
17 determines that the plan is not complete, the commissioner shall
18 notify the district in writing. The district shall provide to the
19 commissioner whatever information the commissioner determines is
20 necessary to make the plan accurate and complete. The district
21 shall submit that information to the commissioner, and the
22 commissioner shall have 60 days from the date of receipt of
23 accurate and complete information to determine whether to approve
24 the plan or not.

25 j. Notwithstanding any provision in subsection i. of this
26 section, if at any time the number of long-range facilities plans filed
27 by school districts with the commissioner and pending review
28 exceeds **[20%]** 20 percent of the number of school districts in New
29 Jersey, the commissioner may extend by 60 days the deadline for
30 reviewing each plan pending at that time.

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

32 l. By July 1, 2001, the commissioner shall provide the
33 Legislature with recommendations to address the circumstances of
34 districts which are contiguous with two or more Abbott districts.
35 The recommendations shall address the issues of the financing of
36 school facilities projects and the funding of the educational and
37 other programs required within these districts as a result of their
38 unique demographic situation.

39 m. By July 1, 2001, the commissioner shall study the Safe
40 Schools Design Guidelines, prepared by the Florida Center for
41 Community Design and Research, which address the issues of
42 school safety and security through the design of school facilities.
43 Based upon the commissioner's study, the commissioner shall issue
44 recommendations to districts on the appropriateness of including
45 the Safe Schools Design Guidelines in the design and construction
46 of school facilities projects.

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

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

3 5. a. The development authority shall undertake and the
4 financing authority shall finance the school facilities projects of
5 SDA districts.

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

10 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
11 contrary, the procedures for obtaining approval of a school facilities
12 project shall be as set forth in **【this act】** P.L.2000, c.72 (C.18A:7G-
13 1 et al.); provided that any district whose school facilities project is
14 not constructed by the development authority shall also be required
15 to comply with the provisions of N.J.S.18A:18A-16 and shall be
16 overseen by a non-conflicted construction management service
17 provider, which may include a county improvement authority and
18 private professional service firm, who shall serve from initial
19 application to the commissioner for approval of the project through
20 project completion.

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

33 (2) (a) In the case of an SDA district school facilities project,
34 **【based upon its educational priority ranking and the Statewide**
35 **strategic plan established pursuant to subsection m. of this section,**
36 **the commissioner may authorize】** the district shall not submit an
37 application for commissioner approval until the project has been
38 authorized by the Legislature pursuant to subparagraph (e) of
39 paragraph (3) of subsection m. of this section. If the district
40 submits an application before the project has been authorized
41 pursuant to that subparagraph, the application shall not be deemed
42 to be fully and accurately completed until the date of such
43 authorization. The development authority 【to】 may undertake
44 **【preconstruction activities which may include, but need not be**
45 **limited to, site identification, investigation, and acquisition,**
46 **feasibility studies, land-related design work, design work, site**
47 **remediation, demolition, and acquisition of temporary facilities】**
48 site identification and investigation for the project before a staff

1 allocation plan has been authorized by the Legislature. Upon
2 receipt of the authorization, the development authority may [initiate
3 the] undertake any other preconstruction activities required to
4 prepare the application for commissioner approval of the school
5 facilities project, which activities may include, but need not be
6 limited to, site acquisition, feasibility studies, land-related design
7 work, design work, site remediation, demolition, and acquisition of
8 temporary facilities.

9 (b) In the case of an SDA district school facilities project, the
10 project design shall conform to a model school design developed by
11 the development authority pursuant to paragraph (2) of subsection
12 h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), except that the
13 model school design may be modified to accommodate the capacity
14 needs of the project, provided that such modifications shall comply
15 with the facilities efficiency standards and the area allowances per
16 FTE student derived from those standards. In the event that the
17 SDA district school facilities project requires the implementation of
18 certain immodest or irregularly-shaped structures, but otherwise
19 conforms to a model school design, the development authority shall
20 approve the immodest or irregularly-shaped structures prior to the
21 submission of the project to the Legislature for authorization
22 pursuant to subparagraph (e) of paragraph (3) of subsection m. of
23 this section and shall provide an attestation that the implementation
24 of the structures is necessary for the purposes of completing the
25 SDA district school facilities project.

26 (c) In the case of a district other than an SDA district, the
27 project design of the school facilities project may conform to a
28 model school design developed by the development authority
29 pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000,
30 c.72 (C.18A:7G-4), with any modifications authorized under
31 subparagraph (b) of this paragraph. If the project conforms to a
32 model school design or conforms to a model design with any
33 modification authorized under subparagraph (b) of this paragraph,
34 the district's district aid percentage shall be increased by 15
35 percent. In the event that the school facilities project requires the
36 implementation of certain immodest or irregularly-shaped
37 structures, but otherwise conforms to a model school design, the
38 development authority shall review the immodest or irregularly-
39 shaped structures under the district's proposal. If the development
40 authority approves the immodest or irregularly-shaped structures
41 under the proposed school facilities project, the district shall
42 continue to be eligible for the increased district aid percentage
43 provided under this subparagraph.

44 e. (1) The commissioner shall review each proposed school
45 facilities project to determine whether it is consistent with the
46 district's long-range facilities plan and whether it complies with the
47 facilities efficiency standards and the area allowances per FTE
48 student derived from those standards; and in the case of an SDA

1 district, the commissioner shall also review **【**the project's
2 educational priority ranking and the Statewide strategic plan
3 developed**】** whether the project complies with the model school
4 design standards and contains any modifications authorized
5 pursuant to subparagraph (b) of paragraph (2) of subsection d. of
6 this section, whether the project received the necessary approvals
7 for the implementation of immodest or irregularly-shaped structures
8 under subparagraph (b) of paragraph (2) of subsection d. of this
9 section, and whether the project has been authorized by the
10 Legislature pursuant to **【**paragraphs (2) and**】** subparagraph (e) of
11 paragraph (3) of subsection m. of this section; and in the case of a
12 district other than an SDA district the commissioner shall also
13 review the project's priority pursuant to paragraph (4) of subsection
14 m. of this section.

15 (2) The commissioner shall make a decision on a district's
16 application within 90 days from the date **【**he**】** the commissioner
17 determines that the application is fully and accurately completed
18 and that all information necessary for a decision has been filed by
19 the district, or from the date of the last revision made by the district.
20 If the commissioner is not able to make a decision within 90 days,
21 **【**he**】** the commissioner shall notify the district in writing explaining
22 the reason for the delay and indicating the date on which a decision
23 on the project will be made, provided that the date shall not be later
24 than 60 days from the expiration of the original 90 days set forth in
25 this subsection. If the decision is not made by the subsequent date
26 indicated by the commissioner, then the project shall be deemed
27 approved and the preliminary eligible costs for new construction
28 shall be calculated by using the proposed square footage of the
29 building as the approved area for unhoused students.

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

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

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

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

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

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

45 (4) The commissioner shall approve spaces in excess of, or
46 inconsistent with, the facilities efficiency standards, hereinafter
47 referred to as nonconforming spaces, upon a determination by the
48 district that the spaces are necessary to comply with State or federal
49 law concerning individuals with disabilities, including that the

1 spaces are necessary to provide in-district programs and services for
2 current disabled pupils who are being served in out-of-district
3 placements or in-district programs and services for the projected
4 disabled pupil population. A district may apply for additional State
5 aid for nonconforming spaces that will permit pupils with
6 disabilities to be educated to the greatest extent possible in the same
7 buildings or classes with their nondisabled peers. The
8 nonconforming spaces may: (a) allow for the return of pupils with
9 disabilities from private facilities; (b) permit the retention of pupils
10 with disabilities who would otherwise be placed in private facilities;
11 (c) provide space for regional programs in a host school building
12 that houses both disabled and nondisabled pupils; and (d) provide
13 space for the coordination of regional programs by a county special
14 services school district, educational services commission, jointure
15 commission, or other agency authorized by law to provide regional
16 educational services in a school building that houses both disabled
17 and nondisabled pupils. A district's State support ratio shall be
18 adjusted to equal the lesser of the sum of its district aid percentage
19 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or
20 **【100%】** 100 percent for any nonconforming spaces approved by the
21 commissioner pursuant to this paragraph.

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

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

40 The appeal shall outline the reasons why the preliminary eligible
41 costs calculated for the project are inadequate and estimate the
42 amount of the adjustment which needs to be made to the
43 preliminary eligible costs. The commissioner shall forward the
44 appeal information to the development authority for its review and
45 recommendation. If the additional costs are the result of factors
46 that are within the control of the district or are the result of design
47 factors that are not required to meet the facilities efficiency
48 standards, the development authority shall recommend to the
49 commissioner that the preliminary eligible costs be accepted as the

1 final eligible costs. If the development authority determines the
2 additional costs are not within the control of the district or are the
3 result of design factors required to meet the facilities efficiency
4 standards, the development authority shall recommend to the
5 commissioner a final eligible cost based on its experience for
6 districts with similar characteristics, provided that, notwithstanding
7 anything to the contrary, the commissioner shall not approve an
8 adjustment to the preliminary eligible costs which exceeds **[10%]**
9 10 percent of the preliminary eligible costs. The commissioner
10 shall make a determination on the appeal within 30 days of its
11 receipt. If the commissioner does not approve an adjustment to the
12 school facilities project's preliminary eligible costs, the
13 commissioner shall issue his findings in writing on the reasons for
14 the denial and on why the preliminary eligible costs as originally
15 calculated are sufficient.

16 (2) In the case of an SDA district, the commissioner shall
17 promptly prepare and submit to the development authority a
18 preliminary project report which shall consist, at a minimum, of the
19 following information: a complete description of the school
20 facilities project; the actual location of the project; the total square
21 footage of the project together with a breakdown of total square
22 footage by functional component; the preliminary eligible costs of
23 the project; the maximum final eligible costs of the project, as
24 authorized by the Legislature; the maximum full-time equivalent
25 employees who may be allocated to the project, as authorized by the
26 Legislature; the project's priority ranking determined pursuant to
27 subsection m. of this section; any other factors to be considered by
28 the development authority in undertaking the project; and the name
29 and address of the person from the district to contact in regard to
30 the project.

31 i. Upon receipt by the development authority of the
32 preliminary project report, the development authority, upon
33 consultation with the district, shall prepare detailed plans and
34 specifications and schedules which contain the development
35 authority's estimated cost and schedule to complete the school
36 facilities project. The development authority shall transmit to the
37 commissioner its recommendations in regard to the project which
38 shall, at a minimum, contain the detailed plans and specifications;
39 whether the school facilities project can be completed within the
40 preliminary eligible costs; and any other factors which the
41 development authority determines should be considered by the
42 commissioner.

43 (1) In the event that the development authority determines that
44 the school facilities project can be completed within the preliminary
45 eligible costs: the final eligible costs shall be deemed to equal the
46 preliminary eligible costs; the commissioner shall be deemed to
47 have given final approval to the project; and the preliminary project
48 report shall be deemed to be the final project report delivered to the
49 development authority pursuant to subsection j. of this section.

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

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

18 (b) If the development authority determines that it is not
19 possible to make changes in the school facilities project so that it
20 can be completed within the preliminary eligible costs either
21 because the additional costs are the result of factors outside the
22 control of the district or the additional costs are required to meet the
23 facilities efficiency standards, the development authority shall
24 recommend to the commissioner that the preliminary eligible costs
25 be increased accordingly, whereupon the commissioner shall:
26 calculate the final eligible costs to equal the sum of the preliminary
27 eligible costs plus the increase recommended by the development
28 authority; give final approval to the project, provided that the final
29 eligible costs do not exceed the amounts authorized for expenditure
30 by the Legislature pursuant to subparagraph (e) of paragraph (3) of
31 subsection m. of this section; and issue a final project report to the
32 development authority pursuant to subsection j. of this section.

33 (c) If the additional costs are the result of factors that are within
34 the control of the district or are the result of design factors that are
35 not required to meet the facilities efficiency standards or approved
36 pursuant to paragraph (1) of subsection g. of this section, the
37 development authority shall recommend to the commissioner that
38 the preliminary eligible costs be accepted, whereupon the
39 commissioner shall: calculate the final eligible costs to equal the
40 preliminary eligible costs and specify the excess costs which are to
41 be borne by the district; give final approval to the school facilities
42 project; and issue a final project report to the development authority
43 pursuant to subsection j. of this section; provided that the
44 commissioner may approve final eligible costs which are in excess
45 of the preliminary eligible costs if, in his judgment, the action is
46 necessary to meet the educational needs of the district, provided
47 that such costs shall not exceed the amounts authorized for
48 expenditure by the Legislature pursuant to subparagraph (e) of
49 paragraph (3) of subsection m. of this section.

1 (d) For a school facilities project undertaken by the
2 development authority, the development authority shall be
3 responsible for any costs of construction, but only from the
4 proceeds of bonds issued by the financing authority pursuant to
5 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
6 235 et al.), which exceed the amount originally projected by the
7 development authority and approved for financing by the
8 development authority, provided that the excess is the result of an
9 underestimate of labor or materials costs by the development
10 authority. After receipt by the development authority of the final
11 project report, the district shall be responsible only for the costs
12 associated with changes, if any, made at the request of the district to
13 the scope of the school facilities project.

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

24 k. For the SDA districts, the State share shall be **【100%】** 100
25 percent of the final eligible costs. Except as otherwise provided
26 pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9), for all other
27 districts, the State share shall be an amount equal to the district aid
28 percentage; except that the State share shall not be less than **【40%】**
29 40 percent of the final eligible costs.

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

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

40 m. (1) Within 90 days of the effective date of P.L.2007, c.137
41 (C.52:18A-235 et al.), the commissioner shall develop an
42 educational facilities needs assessment for each SDA district. The
43 assessment shall be updated periodically by the commissioner in
44 accordance with the schedule the commissioner deems appropriate
45 for the district; except that each assessment shall at a minimum be
46 updated within five years of the development of the district's most
47 recent prior educational facilities needs assessment. The
48 assessment shall be transmitted to the development authority to be

1 used to initiate the planning activities required prior to the
2 establishment of the educational priority ranking of school facilities
3 projects pursuant to paragraph (2) of this subsection.

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

19 (3) (a) Upon the commissioner's determination of the
20 educational priority ranking of school facilities projects in SDA
21 districts pursuant to paragraph (2) of this subsection, the
22 development authority, in consultation with the commissioner, the
23 SDA districts, and the governing bodies of the municipalities in
24 which the SDA districts are situate, shall establish a Statewide
25 strategic plan to be used in the sequencing of SDA district school
26 facilities projects based upon the projects' educational priority
27 rankings and issues which impact the development authority's
28 ability to complete the projects including, but not limited to, the
29 construction schedule and other appropriate factors. The
30 development authority shall revise the Statewide strategic plan and
31 the sequencing of SDA district school facilities projects in
32 accordance with that plan no less than once every five years, except
33 that the plan shall be updated within 120 days of the effective date
34 of P.L. , c. (C.) (pending before the Legislature as this
35 bill). In addition to any other information that the development
36 authority may deem appropriate, the Statewide strategic plan shall
37 include the following information for each project: (i) a description
38 of the project, which shall indicate whether the project will be new
39 construction or renovation and whether the project will require the
40 acquisition of land; (ii) the total estimated project costs; and (iii) the
41 number of full-time equivalent staff needed to support the project.

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

47 (c) Any amendment to an SDA district's long-range facilities
48 plan that is submitted to the commissioner in the period between the
49 five-year updates of the long-range facilities plan shall be

1 considered by the development authority, in consultation with the
2 commissioner, for incorporation into the Statewide strategic plan.
3 In making a determination on whether or not to amend the
4 Statewide strategic plan, the development authority shall consider
5 the cost of the amendment, the impact of the amendment upon the
6 school development plans for other districts, and other appropriate
7 factors.

8 (d) Within 10 days following any update to the Statewide
9 strategic plan, the development authority shall transmit the plan to
10 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
11 19.1), and to the members of the Senate Education Committee and
12 the Assembly Education Committee, or any successor committees.

13 (e) The development authority shall not expend any monies
14 from the SDA District Project Fund, established pursuant to
15 subsection i. of section 14 of P.L.2000, c.72 (C.18A:7G-14), and
16 shall not conduct any activities related to the construction of an
17 SDA district school facilities projects, except for site identification
18 and investigation activities, until the project is authorized by a
19 specific appropriation of the Legislature. Any act authorizing one
20 or more SDA district school facilities projects shall identify the
21 project to be funded, the maximum final eligible costs permitted for
22 the project, and the maximum full-time equivalent employees that
23 the development authority may allocate to the project.

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

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

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

47 p. Upon completion by the development authority of a school
48 facilities project, if the cost of construction and completion of the
49 project is less than the total costs, the district shall be entitled to

1 receive a portion of the local share based on a pro rata share of the
2 difference based on the ratio of the State share to the local share.

3 q. The development authority shall determine the cause of any
4 costs of construction which exceed the amount originally projected
5 by the development authority and approved for financing by the
6 financing authority.

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

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

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

10

11 4. (New section) a. The State share of a school facilities project
12 undertaken by a charter school or renaissance school project located
13 in an SDA district shall be 100 percent of the final eligible costs as
14 determined pursuant to subsection c. of this section.
15 Notwithstanding the provisions of section 5 of P.L.2000, c.72
16 (C.18A:7G-5) or of any other section of law, rule, or regulation to
17 the contrary, a charter school or renaissance school project located
18 in an SDA district seeking to initiate a school facilities project, and
19 that is seeking the State share of the school facilities project, shall
20 apply to the development authority for approval of the project. In
21 the case of a charter school or renaissance school project
22 established after the effective date of P.L. , c. (C.)
23 (pending before the Legislature as this bill), the development
24 authority shall not approve a school facilities project until after the
25 charter school's first renewal under section 17 of P.L.1995, c.426
26 (C.18A:36A-17) or after the renaissance school project's first
27 renewal under section 10 of P.L.2011, c.176 (C.18A:36C-10).

28 b. (1) The development authority shall annually review the
29 applications for school facilities projects submitted pursuant to
30 subsection a. of this section and, upon such review, create a
31 Statewide charter school and renaissance school project facilities
32 strategic plan to be used in the sequencing of school facilities
33 projects of charter schools and renaissance school projects in SDA
34 districts. The Statewide charter school and renaissance school
35 project facilities strategic plan shall include a Statewide educational
36 priority ranking of the school facilities projects based upon the
37 development authority's determination of critical need, the criteria
38 and methodology of which shall be established by the development
39 authority pursuant to regulations promulgated by the development
40 authority pursuant to subsection g. of this section. At a minimum,
41 the criteria and methodology established by the development
42 authority for the determination of critical need shall prioritize: (a)
43 new construction projects; and (b) major renovation and
44 rehabilitation projects that seek to expand the capacity of a charter
45 school or renaissance school project facility used for education
46 purposes.

47 (2) In the event that a school facilities project for which a
48 charter school or renaissance school project is seeking State support
49 pursuant to this section is requested for a leased facility, the

1 applicant charter school or renaissance school project shall submit
2 the lease agreement or lease agreement addendum that stipulates
3 that the expiration of the term of the lease is no less than 10 years
4 from the effective date of P.L. , c. (C.) (pending before the
5 Legislature as this bill) and subject to an additional five year
6 renewal term at the option of the charter school or renaissance
7 school project.

8 c. If the school facilities project of a charter school or
9 renaissance school project located in an SDA district is approved
10 pursuant to this section, the development authority, in consultation
11 with the charter school or renaissance school project, shall
12 determine the final eligible costs of the approved school facilities
13 project, which final eligible costs shall be the reasonable estimated
14 costs of providing a school facility under the school facilities
15 project proposal that is structurally adequate and safe and that is
16 capable of providing an educational program which enables
17 students enrolled in the charter school or renaissance school project
18 to meet the core curriculum content standards. The development
19 authority, however, shall not expend any monies from the Charter
20 School and Renaissance School Project Construction and
21 Maintenance Fund, established pursuant to subsection i. of section
22 14 of P.L.2000, c.72 (C.18A:7G-14), and the charter school or
23 renaissance school project shall not conduct any activities related to
24 the construction of an approved school facilities project under this
25 section, except for site identification and investigation activities,
26 until the project is authorized by a specific appropriation of the
27 Legislature. Any act authorizing one or more school facilities
28 projects approved under this section shall identify the project to be
29 funded and the maximum final eligible costs permitted for the
30 project.

31 d. Following the authorization by the Legislature of a school
32 facilities project pursuant to subsection c. of this section, the
33 development authority shall authorize the charter school or
34 renaissance school project to undertake the school facilities project.
35 Nothing in this section shall be construed as requiring the
36 development authority to undertake any school facilities projects
37 approved pursuant to this section.

38 e. The development authority shall require, as a condition of
39 providing the State share of funds for a school facilities project
40 approved pursuant to this section that includes school facilities
41 owned by the charter school or renaissance school project, that,
42 notwithstanding the provisions of section 7 of P.L.2013, c.149
43 (C.18A:36C-16) or of any other law, rule, or regulation to the
44 contrary, the fee simple title of the facility shall revert to the State,
45 except that the board of education of the district in which the
46 charter school or renaissance school project is located shall have the
47 right of first refusal of the school facilities project prior to the
48 reversion to the State. The provisions of this subsection shall apply
49 in the following instances:

1 (1) upon the revocation or surrendering of a charter school's
2 charter, the non-renewal of a charter school's charter or of a
3 renaissance school project, or the closure of a charter school or
4 renaissance school project. In the case of the revocation,
5 surrendering, or non-renewal of a charter school's charter or the
6 closure of a charter school, the fee simple title shall revert to the
7 State during and as part of the comprehensive closure plan
8 implemented by the charter school's board of trustees pursuant to
9 section 17 of P.L.1995, c.426 (C.18A:36A-17) and regulations
10 promulgated thereto; or

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

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

18 g. The authority shall promulgate, pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), such rules and regulations as may be necessary to implement
21 the provisions of this section, which rules and regulations shall
22 establish at a minimum:

23 (1) the process for review and approval of school facilities
24 projects undertaken by charter schools or renaissance school
25 projects;

26 (2) the specific criteria and methodology that the development
27 authority shall implement in creating an educational priority
28 ranking under the Statewide charter school and renaissance school
29 project facilities strategic plan pursuant to subsection b. of this
30 section;

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

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

36
37 5. (New section) a. Notwithstanding the provisions of
38 P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to
39 the contrary, the board of education of a district other than an SDA
40 district may enter into an agreement with a county improvement
41 authority or a municipal redevelopment agency to construct a
42 school facilities project and to issue its bonds to finance the local
43 share of a project that is to be financed under section 15 of
44 P.L.2000, c.72 (18A:7G-15), or to finance the total costs of a
45 project that is not to be financed under section 15 of P.L.2000, c.72
46 (C.18A:7G-15). The bonds of a county improvement authority or
47 municipal redevelopment agency issued to finance the total costs of
48 a school facilities project that is not to be financed under section 15
49 of P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt

1 service aid in accordance with the formula established under section
2 9 of P.L.2000, c.72 (C.18A:7G-9).

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

23 c. The county improvement authority or municipal
24 redevelopment agency shall lease the school facilities project to the
25 county, which shall then lease it for nominal consideration to the
26 district for as long as the county improvement authority or
27 municipal redevelopment agency bonds or refunding bonds are
28 outstanding. Nothing in this section shall be construed to authorize
29 a county to require the district to bear any portion of the cost of the
30 debt service on the county improvement authority or municipal
31 redevelopment agency bonds issued to fund the school facilities
32 project or any refunding bonds.

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

44 e. When the bonds issued by a county improvement authority
45 or municipal redevelopment authority are no longer outstanding, the
46 leases and liens of the county and the county improvement authority
47 or municipal redevelopment agency shall expire and the school
48 facilities project shall be solely vested in the school district. The
49 school district shall be responsible for the operation, maintenance,

1 and improvement of the school facility upon the completion of the
2 school facilities project.

3

4 6. (New section) a. Notwithstanding any provision of law to
5 the contrary, when the development authority undertakes a school
6 facilities project on behalf of a district, and the project will be
7 constructed on a brownfield site, the development authority shall
8 not be responsible for any remediation costs associated with the
9 brownfield site.

10 b. The development authority shall not commence the
11 construction of the school facilities project until all remediation of
12 the brownfield site has been completed, which remediation costs
13 shall be supported by the local share of the project or any other
14 funding provided by the State or federal government to address the
15 remediation of brownfield sites.

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

19

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

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

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

31 where

32 $A = B \times AC/P \times DAP \times M$, with $AC/P = 1$

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

34 and where:

35 B is the district's debt service for the individual issuance for the
36 fiscal year;

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

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

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

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

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

6 Notwithstanding the provisions of this subsection to the contrary,
 7 DAP for a county vocational school district school facilities project
 8 that is approved by the commissioner following the effective date of
 9 P.L.2009, c.185 shall equal the greater of the district's district aid
 10 percentage as defined pursuant to section 3 of P.L.2000, c.72
 11 (C.18A:7G-3) or the percentage of the students in the county
 12 vocational school district's resident enrollment who reside in SDA
 13 districts; except that DAP shall not be less than ~~40%~~ 40 percent
 14 or greater than ~~90%~~ 90 percent.

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

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

29 (2) For new construction, additions, and school facilities aided
 30 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)
 31 supported by financing issued for projects approved by the
 32 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-
 33 1 et al.), beginning in the fourth year after occupancy of the school
 34 facility, the maintenance factor shall be reduced according to the
 35 following schedule for all school facilities projects for which the
 36 district fails to demonstrate in the prior fiscal year an investment in
 37 maintenance of the related school facility of at least two-tenths of
 38 ~~1%~~ one percent of the replacement cost of the school facility,
 39 determined pursuant to subsection b. of section 7 of P.L.2000, c.72
 40 (C.18A:7G-7).

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

45 (3) Within one year of the enactment of P.L.2000, c.72
 46 (C.18A:7G-1 et al.), the commissioner shall promulgate rules
 47 requiring districts to develop a long-range maintenance plan and

1 specifying the expenditures that qualify as an appropriate
2 investment in maintenance for the purposes of this subsection.

3 c. Any district which obtained approval from the commissioner
4 since September 1, 1998 and prior to the effective date of P.L.2000,
5 c.72 (C.18A:7G-1 et al.) of the educational specifications for a
6 school facilities project or obtained approval from the Department
7 of Community Affairs or the appropriately licensed municipal code
8 official since September 1, 1998 of the final construction plans and
9 specifications, and the district has issued debt, may elect to have the
10 final eligible costs of the project determined pursuant to section 5 of
11 P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under
12 this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

13 Any district which received approval from the commissioner for
14 a school facilities project at any time prior to the effective date of
15 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other
16 than short term notes, may submit an application pursuant to section
17 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of
18 the project determined pursuant to that section and to have the New
19 Jersey Economic Development Authority construct the project; or,
20 at its discretion, the district may choose to receive debt service aid
21 under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-
22 10) or to receive a grant under section 15 of P.L.2000, c.72
23 (C.18A:7G-15).

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

26 d. For school bonds issued for a school facilities project after
27 the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to
28 the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State
29 debt service aid shall be calculated in accordance with the
30 provisions of this section as the same read before the effective date
31 of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

32 (cf: P.L.2009, c.185, s.2)

33

34 8. (New section) a. Notwithstanding any provision of law to
35 the contrary, when the board or education of a district determines
36 that it is necessary to sell bonds to raise money for a school
37 facilities project, the board of education may issue such bonds as
38 are necessary to fund the project without the approval of the voters
39 of the district, provided that before issuing the bonds:

40 (1) the board of education has entered into a written contract
41 with one or more municipalities, wherein the municipality shall
42 annually remit to the board of education not less than 60 percent of
43 the payments in lieu of taxes received by the municipality from one
44 or more designated properties, and the board of education shall
45 pledge all remittances to the repayment of the bonds; and

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

48 b. (1) If a board of education elects to issue bonds pursuant to
49 this section, the board of education shall apply to the commissioner

1 for approval of the bond issuance. In addition to any other
2 information that the commissioner may deem appropriate, the
3 application shall include: a description of the school facilities
4 project; a certification of the amount to raised by the bonds; a
5 description of the anticipated annual debt service costs, including
6 the amounts to be supported by municipal remittances; and a copy
7 of the contract.

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

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

24
25 9. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to
26 read as follows:

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

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

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

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

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

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

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

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

30 f. Bonds and refunding bonds issued by the financing authority
31 pursuant to this section shall be special and limited obligations of
32 the financing authority payable from, and secured by, funds and
33 moneys determined by the financing authority in accordance with
34 this section. Notwithstanding any other provision of law or
35 agreement to the contrary, any bonds and refunding bonds issued by
36 the financing authority pursuant to this section shall not be secured
37 by the same property as bonds and refunding bonds issued by the
38 financing authority to finance projects other than school facilities
39 projects. Neither the members of the financing authority nor any
40 other person executing the bonds or refunding bonds shall be
41 personally liable with respect to payment of interest and principal
42 on these bonds or refunding bonds. Bonds or refunding bonds
43 issued pursuant to this section shall not be a debt or liability of the
44 State or any agency or instrumentality thereof, except as otherwise
45 provided by this subsection, either legal, moral or otherwise, and
46 nothing contained in this act shall be construed to authorize the
47 financing authority to incur any indebtedness on behalf of or in any
48 way to obligate the State or any political subdivision thereof, and

1 all bonds and refunding bonds issued by the financing authority
2 shall contain a statement to that effect on their face.

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

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

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

37 (1) the SDA District Project Fund, in which shall be deposited
38 any funds made available for the State share of costs for SDA
39 district school facilities projects, which funds shall include, but not
40 be limited to, the proceeds of bonds issued pursuant to subsection a.
41 of this section for the State share of costs for SDA district school
42 facilities projects, the proceeds of any general obligation or other
43 bonds that may be authorized for SDA district school facilities
44 projects, and any State appropriations for SDA district school
45 facilities projects; the development authority shall not expend any
46 monies from the SDA District Project Fund and shall not conduct
47 any activities related to the construction of an SDA district school
48 facilities projects, except for site identification and investigation,
49 until the project is authorized by a specific appropriation of the

1 Legislature in accordance with subparagraph (e) of paragraph (3) of
2 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5);

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

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

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

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

38 (5) the Charter School and Renaissance School Project
39 Construction and Maintenance Fund in which shall be deposited any
40 funds made available for school facilities projects of charter schools
41 or renaissance school projects located in SDA districts approved
42 pursuant to section 4 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), which funds shall include, but not be
44 limited to, the proceeds of any general obligation bonds that may be
45 authorized for SDA district charter school or renaissance school
46 project school facilities projects or any State appropriations for
47 SDA district charter school or renaissance school project school
48 facilities projects.

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

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

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

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

27 c. The development authority shall provide grant funding for
28 the State's share of the final eligible costs of a school facilities
29 project pursuant to an agreement between the district and the
30 development authority which shall, in addition to other terms and
31 conditions, set forth the terms of disbursement of the State share.
32 The funding of the State share shall not commence until the district
33 secures financing for the local share.

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

35

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

38 23. a. Not less than the prevailing wage rate determined by the
39 Commissioner of Labor and Workforce Development pursuant to
40 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be
41 paid to workers employed in the performance of construction
42 contracts in connection with any school facilities project that is
43 undertaken by the development authority, a redevelopment entity,
44 **【or】** a district, or a charter school or renaissance school project and
45 any contractor who violates the provisions of this subsection shall
46 be prohibited from subsequently bidding on any State or district
47 contract.

1 b. Registration fees collected pursuant to P.L.1999, c.238
2 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and
3 administrative costs of the Division of Workplace Standards, Office
4 of Wage and Hour Compliance, Public Contracts section and
5 Registration section within the Department of Labor and Workforce
6 Development.
7 (cf: P.L.2007, c.137, s.34)
8

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

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

22 b. A board of education or a board of school estimate, as
23 appropriate, may appropriate funds in the district's annual budget
24 for the establishment of the capital reserve account pursuant to
25 subsection a. of this section or to supplement the funds in the
26 account as required to meet the needs of the long-range facilities
27 plan.

28 c. A board of education may, by resolution of the board:
29 transfer funds from the capital reserve account to the appropriate
30 line item account for the funding of capital projects as contained in
31 the district's long-range facilities plan; and transfer funds from the
32 capital reserve account to the debt service account for the purpose
33 of offsetting principal and interest payments for bonded projects
34 which are included in the district's long-range facilities plan.

35 d. A board of education may, by resolution of the board:
36 transfer funds from the capital reserve account to the appropriate
37 line item account for the funding of capital projects subject to a
38 public-private partnership agreement entered into pursuant to
39 section 2 of P.L.2018, c.90 (C.18A:18A-60); and transfer funds
40 from the capital reserve account to the debt service account for the
41 purpose of offsetting principal and interest payments for bonded
42 projects subject to a public-private partnership agreement entered
43 into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60).
44 (cf: P.L.2004, c.73, s.5)
45

46 13. (New section) a. Within 120 days of the effective date of
47 P.L. , c. (C.) (pending before the Legislature as this bill),
48 the Commissioner of Education, in consultation with the New
49 Jersey Schools Development Authority, shall develop guidance for

1 school districts concerning the incorporation of construction
2 contract provisions that encourage the completion of construction
3 projects on schedule. The commissioner, in consultation with the
4 development authority, may update the guidance as the
5 commissioner deems necessary.

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

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

12 (2) incentives for contractors who deliver projects on time and
13 under budget.

14 c. Within five days of developing the guidance, or any revision
15 thereto, the commissioner shall post the guidance on the official
16 Internet website of the department.

17

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

20 2. a. As used in this section:

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

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

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

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

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

1 b. (1) A school district may enter into a contract with a private
2 entity, subject to subsection f. of this section, to be referred to as a
3 public-private partnership agreement, that permits the private entity
4 to assume full financial and administrative responsibility for a
5 project of, or for the benefit of, the school district~~],~~ provided that
6 the project is financed in whole by the private entity~~],~~ except that a
7 school district may, by resolution, draw against its capital reserve
8 account in order to finance a portion of a project for which a school
9 district and private entity enter into a public-private partnership
10 agreement pursuant to the provisions of this section.

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

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

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

37 (2) For the purposes of facilitating the financing of a project
38 pursuant to this section, a public entity may become the owner or
39 lessee of the project or the lessee of the land, or both, may become
40 the lessee of a building, structure, or facility to which the school
41 district holds title, may issue indebtedness in accordance with the
42 public entity's enabling legislation and, notwithstanding any
43 provision of law to the contrary, shall be empowered to enter into
44 contracts with a private entity and its affiliates without being
45 subject to the procurement and contracting requirements of any
46 statute applicable to the public entity provided that the private
47 entity has been selected by the school district pursuant to a
48 solicitation of proposals or qualifications from at least two private
49 entities. For the purposes of this subsection, a public entity shall

1 include the New Jersey Economic Development Authority, and any
2 project undertaken pursuant to this section of which the authority
3 becomes the owner or lessee, or which is situated on land of which
4 the authority becomes the lessee, shall be deemed a "project" under
5 "The New Jersey Economic Development Authority Act," P.L.1974,
6 c.80 (C.34:1B-1 et seq.).

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

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

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

44 (2) All projects proposed in accordance with this section shall
45 be submitted to the State Treasurer, in consultation with the
46 Department of Education, Schools Development Authority, and the
47 New Jersey Economic Development Authority for a review and
48 approval in accordance with subsection f. of this section prior to the
49 execution of the public-private partnership agreement and, when

1 practicable, are encouraged to adhere to the Leadership in Energy
2 and Environmental Design Green Building Rating System as
3 adopted by the United States Green Building Council, the Green
4 Globes Program adopted by the Green Building Initiative, or a
5 comparable nationally recognized, accepted, and appropriate
6 sustainable development rating system.

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

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

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

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

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

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

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

45 (b) As part of the estimated costs and financial documentation
46 for the project, the application shall contain a long-range
47 maintenance plan and a long-range maintenance bond and shall
48 specify the expenditures that qualify as an appropriate investment in
49 maintenance. The long-range maintenance plan shall be approved

1 by the State Treasurer pursuant to regulations promulgated by the
2 State Treasurer that reflect national building maintenance standards
3 and other appropriate building maintenance benchmarks.

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

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

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

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

1 project by minimizing the cost of the project to the school district or
2 reducing the delivery time of a project.

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

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

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

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

44 (4) The school district may accept unsolicited proposals from
45 private entities for public-private partnership agreements. If the
46 school district receives an unsolicited proposal and determines that
47 it meets the standards of this section, the school district shall
48 publish a notice of the receipt of the proposal on the Internet site of
49 the school district and through advertisement in at least one or more

1 newspapers with Statewide circulation. The school district shall
2 also provide notice of the proposal at its next scheduled public
3 meeting and to the State Treasurer. To qualify as an unsolicited
4 proposal, the unsolicited proposal must at a minimum include a
5 description of the public-private project, the estimated construction
6 and life-cycle costs, a timeline for development, proposed plan of
7 financing, including projected revenues, public or private, debt,
8 equity investment, description of how the project meets needs
9 identified in existing plans, the permits and approvals needed to
10 develop the project from local, state and federal agencies and a
11 projected schedule for obtaining such permits and approvals, a
12 statement of risks, liabilities and responsibilities to be assumed by
13 the private entity. The notice shall provide that the school district
14 will accept, for 120 days after the initial date of publication,
15 proposals meeting the standards of this section from other private
16 entities for eligible projects that satisfy the same basic purpose and
17 need. A copy of the notice shall be mailed to each municipal and
18 county local government body in the geographic area affected by
19 the proposal.

20 (5) After the proposal or proposals have been received, and any
21 public notification period has expired, the school district shall rank
22 the proposals in order of preference. In ranking the proposals, the
23 school district shall rely upon, at minimum, the evaluation criteria
24 promulgated by the State Treasurer, in consultation with the New
25 Jersey Economic Development Authority, Department of Education,
26 and Schools Development Authority. In addition, the local school
27 district may consider factors that include, but may not be limited to,
28 professional qualifications, general business terms, innovative
29 engineering, architectural services, or cost-reduction terms, finance
30 plans, and the need for school district funds to deliver the project
31 and discharge the agreement. The private entity selected shall
32 comply with all laws and regulations required by the State
33 government entity, including but not limited to section 1 of
34 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,
35 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25-24.2),
36 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-
37 51 et al.), Executive Order No. 117 of 2008, Executive Order No.
38 118 of 2008, Executive Order No. 189, prior to executing the public
39 private partnership agreement. If only one proposal is received, the
40 school district shall negotiate in good faith and, if not satisfied with
41 the results of the negotiations, the school district may, at its sole
42 discretion, terminate negotiations.

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

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

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

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

11
12 15. N.J.S.18A:21-4 is amended to read as follows:

13 18A:21-4. A board of education may in any school year draw
14 against its capital reserve account, up to the amount of the balance
15 therein, to the extent that the withdrawal is anticipated as a revenue
16 in the school budget for the then current school year or approved by
17 the commissioner for good cause; provided, that no money drawn
18 from the account may be used for current expenses of the general
19 fund or debt service payments but shall be used exclusively for
20 capital expenses of the general fund or capital projects fund when
21 expressly authorized as part of a referendum, except as provided for
22 in section 2 of P.L.2018, c.90 (C.18A:18A-60).

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

24
25 16. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended
26 to read as follows:

27 10. A charter school may be located in part of an existing public
28 school building, in space provided on a public work site, in a public
29 building, or any other suitable location. In the case of a nonpublic
30 school that converts to a charter school pursuant to the provisions of
31 section 1 of P.L.2011, c.140 (C.18A:36A-4.1), the charter school
32 may be located in the same school building in which the nonpublic
33 school was located. The facility shall be exempt from public school
34 facility regulations except those pertaining to the health or safety of
35 the pupils. A charter school shall not construct a facility with
36 public funds other than federal funds. Notwithstanding the
37 provisions of this section to the contrary, a charter school located in
38 an SDA district may construct a facility with public funds, provided
39 that the public funds are provided for a school facilities project
40 approved pursuant to the provisions of section 4 of
41 P.L. , c. (C.) (pending before the Legislature as this bill).

42 (cf: P.L.2011, c.140, s.3)

43
44 17. Section 7 of P.L.2011, c.176 (C.18A:36C-7) is amended to
45 read as follows:

46 7. a. Notwithstanding that a renaissance school project shall be
47 constructed, controlled, operated, and managed by a nonprofit
48 entity, and not the local board of education, it shall be a public
49 school. However nothing contained herein shall restrict a for-profit

1 entity from constructing a renaissance school project, or a
2 renaissance school project from being located on land owned by a
3 for-profit entity. Further, the renaissance school project shall be
4 authorized to retain any business entity, however formed, whose
5 primary purpose is the staffing, operation, and management of
6 elementary schools, middle schools, or high schools in the United
7 States, except as it relates to instructional services.

8 b. The costs of a renaissance school project including, but not
9 limited to, the costs of land acquisition, site remediation, site
10 development, design, construction, and any other costs required to
11 place into service the school facility or facilities constituting the
12 renaissance school project shall be at the sole expense of the
13 nonprofit entity, except that a renaissance school project located in
14 an SDA district may receive funds for the State share of a school
15 facilities project pursuant to the provisions of section 4 of P.L. , c.
16 (C.) (pending before the Legislature as this bill). The
17 nonprofit entity may use State funds to pay for a lease, debt service,
18 or mortgage for any facility constructed or otherwise acquired.

19 c. Notwithstanding the provisions of the "Educational Facilities
20 Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et
21 al.), or any other law or regulation to the contrary, there shall be no
22 State share for the costs of a renaissance school project, except that
23 a renaissance school project located in an SDA district may receive
24 funds for the State share of a school facilities project approved
25 pursuant to the provisions of section 4 of P.L. , c. (C.)
26 (pending before the Legislature as this bill).

27 d. Notwithstanding the provisions of the "Public School
28 Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or
29 regulation to the contrary, the nonprofit entity or any entity acting
30 in cooperation with a renaissance school project shall not be subject
31 to public bidding for goods and services, and any contracts entered
32 into by the nonprofit entity shall not be deemed public contracts or
33 public works; except that any contract entered into by the nonprofit
34 entity or any entity acting in cooperation with a renaissance school
35 project shall be deemed a public work for the purposes of the "New
36 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et
37 seq.), and subject to the applicable provisions of that act.

38 e. The renaissance school district in which a renaissance school
39 project is located shall pay to the nonprofit entity in 12 equal
40 monthly installments an amount per pupil equal to 95% of the
41 district's per pupil expenditure. In addition the 12 monthly
42 installments shall include the security categorical aid attributable to
43 the student, a percentage of the district's special education
44 categorical aid equal to the percentage of the district's special
45 education students enrolled in the renaissance school project, and if
46 applicable 100% of preschool education aid. The district shall also
47 pay directly to the renaissance school project any federal funds
48 attributable to the student.

1 f. Renaissance school projects shall be required to meet the
2 same testing and academic performance standards established by
3 law and regulation for public school students, and shall meet any
4 additional testing and academic performance standards established
5 by the nonprofit entity and approved by the commissioner.

6 g. The nonprofit entity shall have complete discretion in
7 naming the renaissance school project. The nonprofit entity may
8 not realize a net profit from its operation of a renaissance school
9 project. A private or parochial school shall not be eligible for
10 renaissance school project status.

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

16
17 18. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
18 read as follows:

19 12. The rehabilitation or improvements made in the development
20 or redevelopment of a redevelopment area or area appurtenant
21 thereto or for a redevelopment relocation housing project, pursuant
22 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from
23 taxation for a limited period as hereinafter provided. When housing
24 is to be constructed, acquired or rehabilitated by an urban renewal
25 entity, the land upon which that housing is situated shall be exempt
26 from taxation for a limited period as hereinafter provided. The
27 exemption shall be allowed when the clerk of the municipality
28 wherein the property is situated shall certify to the municipal tax
29 assessor that a financial agreement with an urban renewal entity for
30 the development or the redevelopment of the property, or the
31 provision of a redevelopment relocation housing project, or the
32 provision of a low and moderate income housing project has been
33 entered into and is in effect as required by P.L.1991, c.431
34 (C.40A:20-1 et seq.).

35 Delivery by the municipal clerk to the municipal tax assessor of
36 a certified copy of the ordinance of the governing body approving
37 the tax exemption and financial agreement with the urban renewal
38 entity shall constitute the required certification. For each
39 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et
40 al.), upon certification as required hereunder, the tax assessor shall
41 implement the exemption and continue to enforce that exemption
42 without further certification by the clerk until the expiration of the
43 entitlement to exemption by the terms of the financial agreement or
44 until the tax assessor has been duly notified by the clerk that the
45 exemption has been terminated.

46 Within 10 calendar days following the later of the effective date
47 of an ordinance following its final adoption by the governing body
48 approving the tax exemption or the execution of the financial
49 agreement by the urban renewal entity, the municipal clerk shall

1 transmit a certified copy of the ordinance and financial agreement
2 to the chief financial officer of the county and to the county counsel
3 for informational purposes.

4 Whenever an exemption status changes during a tax year, the
5 procedure for the apportionment of the taxes for the year shall be
6 the same as in the case of other changes in tax exemption status
7 during the tax year. Tax exemptions granted pursuant to P.L.2003,
8 c.125 (C.40A:12A-4.1 et al.) represent long term financial
9 agreements between the municipality and the urban renewal entity
10 and as such constitute a single continuing exemption from local
11 property taxation for the duration of the financial agreement. The
12 validity of a financial agreement or any exemption granted pursuant
13 thereto may be challenged only by filing an action in lieu of
14 prerogative writ within 20 days from the publication of a notice of
15 the adoption of an ordinance by the governing body granting the
16 exemption and approving the financial agreement. Such notice
17 shall be published in a newspaper of general circulation in the
18 municipality and in a newspaper of general circulation in the county
19 if different from the municipal newspaper.

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

24 (1) the financial agreement may specify a duration of not more
25 than 30 years from the completion of the entire project, or unit of
26 the project if the project is undertaken in units, or not more than 35
27 years from the execution of the financial agreement between the
28 municipality and the urban renewal entity; or

29 (2) for each project undertaken pursuant to a redevelopment
30 agreement which allows the redeveloper to undertake two or more
31 projects sequentially, the financial agreement may specify a
32 duration of not more than 30 years from the completion of a project,
33 or unit of the project if the project is undertaken in units, or not
34 more than 50 years from the execution of the first financial
35 agreement implementing a project under the redevelopment
36 agreement. As used in this subsection, "redevelopment agreement"
37 means an agreement entered into pursuant to subsection f. of section
38 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
39 redevelopment entity and a redeveloper.

40 A financial agreement may provide for an exemption period of
41 less than 30 years from the completion of the entire project, less
42 than 35 years from the execution of the financial agreement, or less
43 than 50 years from the execution of the first financial agreement
44 implementing a project under the redevelopment agreement.
45 Nothing in this subsection shall be construed as requiring a
46 financial agreement for a project undertaken pursuant to a
47 redevelopment agreement which allows the redeveloper to
48 undertake two or more projects sequentially to specify a duration
49 within the parameters of paragraph (2) of this subsection.

1 b. During the term of any exemption, in lieu of any taxes to be
2 paid on the buildings and improvements of the project and, to the
3 extent authorized pursuant to this section, on the land, the urban
4 renewal entity shall make payment to the municipality of an annual
5 service charge, which shall remit a portion of that revenue to the
6 county as provided hereinafter. In addition, the municipality may
7 assess an administrative fee, not to exceed two percent of the annual
8 service charge, for the processing of the application. The annual
9 service charge for municipal services supplied to the project to be
10 paid by the urban renewal entity for any period of exemption, shall
11 be determined as follows:

12 (1) An annual amount equal to a percentage determined
13 pursuant to this subsection and section 11 of P.L.1991, c.431
14 (C.40A:20-11), of the annual gross revenue from each unit of the
15 project, if the project is undertaken in units, or from the total
16 project, if the project is not undertaken in units. The percentage of
17 the annual gross revenue shall not be more than 15% in the case of
18 a low and moderate income housing project, nor less than 10% in
19 the case of all other projects.

20 At the option of the municipality, or where because of the nature
21 of the development, ownership, use or occupancy of the project or
22 any unit thereof, if the project is to be undertaken in units, the total
23 annual gross rental or gross shelter rent or annual gross revenue
24 cannot be reasonably ascertained, the governing body shall provide
25 in the financial agreement that the annual service charge shall be a
26 sum equal to a percentage determined pursuant to this subsection
27 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total
28 project cost or total project unit cost determined pursuant to
29 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day
30 of the month following the substantial completion of the project or
31 any unit thereof, if the project is undertaken in units. The
32 percentage of the total project cost or total project unit cost shall not
33 be more than 2% in the case of a low and moderate income housing
34 project, and shall not be less than 2% in the case of all other
35 projects.

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

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

1 (b) For the second stage of the exemption period, which shall
2 not be less than one year nor more than six years, as specified in the
3 financial agreement, an amount equal to either the amount
4 determined pursuant to paragraph (1) of this subsection and section
5 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of
6 taxes otherwise due on the value of the land and improvements,
7 whichever shall be greater;

8 (c) For the third stage of the exemption period, which shall not
9 be less than one year nor more than six years, as specified in the
10 financial agreement, an amount equal to either the amount
11 determined pursuant to paragraph (1) of this subsection and section
12 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of
13 taxes otherwise due on the value of the land and improvements,
14 whichever shall be greater;

15 (d) For the fourth stage of the exemption period, which shall not
16 be less than one year nor more than six years, as specified in the
17 financial agreement, an amount equal to either the amount
18 determined pursuant to paragraph (1) of this subsection and section
19 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of
20 taxes otherwise due on the value of the land and improvements,
21 whichever shall be greater; and

22 (e) For the final stage of the exemption period, the duration of
23 which shall not be less than one year and shall be specified in the
24 financial agreement, an amount equal to either the amount
25 determined pursuant to paragraph (1) of this subsection and section
26 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
27 taxes otherwise due on the value of the land and improvements,
28 whichever shall be greater.

29 If the financial agreement provides for an exemption period of
30 less than 30 years from the completion of the entire project, less
31 than 35 years from the execution of the financial agreement, or less
32 than 50 years from the execution of the first financial agreement
33 implementing a project under the redevelopment agreement, the
34 financial agreement shall set forth a schedule of annual service
35 charges for the exemption period which shall be based upon the
36 minimum service charges and staged adjustments set forth in this
37 section.

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

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

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

5 Notwithstanding the provisions of this section or of the financial
6 agreement, the minimum annual service charge shall be the amount
7 of the total taxes levied against all real property in the area covered
8 by the project in the last full tax year in which the area was subject
9 to taxation, and the minimum annual service charge shall be paid in
10 each year in which the annual service charge calculated pursuant to
11 this section or the financial agreement would be less than the
12 minimum annual service charge.

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

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

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

25

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

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

29 a. To adopt bylaws for the regulation of its affairs and the
30 conduct of its business;

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

32 c. To sue and be sued;

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

40 e. To enter into contracts with a person upon such terms and
41 conditions as the development authority shall determine to be
42 reasonable, including, but not limited to, for the planning, design,
43 construction, reconstruction, improvement, equipping, furnishing,
44 operation and maintenance of a school facilities project and the
45 reimbursement thereof, and to pay or compromise any claims
46 arising therefrom;

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

- 1 g. To mortgage, pledge or assign or otherwise encumber all or
2 any portion of any property or revenues, whenever it shall find such
3 action to be in furtherance of the purposes of P.L.2000, c.72
4 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 5 h. To grant options to purchase or renew a lease for any of its
6 property on such terms as the development authority may determine
7 to be reasonable;
- 8 i. To contract for and to accept any gifts or grants or loans of
9 funds or property or financial or other aid in any form from the
10 United States of America or any agency or instrumentality thereof,
11 or from the State or any agency, instrumentality or political
12 subdivision thereof, or from any other source and to comply,
13 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and
14 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
15 conditions thereof;
- 16 j. In connection with any application for assistance under
17 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-
18 235 et al.) or commitments therefor, to require and collect such fees
19 and charges as the development authority shall determine to be
20 reasonable;
- 21 k. To adopt, amend and repeal regulations to carry out the
22 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007,
23 c.137 (C.52:18A-235 et al.);
- 24 l. To acquire, purchase, manage and operate, hold and dispose
25 of real and personal property or interests therein, take assignments
26 of rentals and leases and make and enter into all contracts, leases,
27 agreements and arrangements necessary or incidental to the
28 performance of its duties;
- 29 m. To purchase, acquire and take assignments of notes,
30 mortgages and other forms of security and evidences of
31 indebtedness;
- 32 n. To purchase, acquire, attach, seize, accept or take title to any
33 property by conveyance or by foreclosure, and sell, lease, manage
34 or operate any property for a use specified in P.L.2000, c.72
35 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 36 o. (1) To employ consulting engineers, architects, attorneys,
37 real estate counselors, appraisers, and such other consultants and
38 employees as may be required in the judgment of the development
39 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1
40 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay
41 their compensation from funds available to the development
42 authority therefor, all without regard to the provisions of Title 11A
43 of the New Jersey Statutes; except that, no later than one year
44 following the effective date of P.L. , c. (C.) (pending
45 before the Legislature as this bill), the development authority shall
46 only employ staff for the purposes of program operations,
47 construction operations, financial operations and compliance, and
48 grant administration. The human resources, legal affairs, facilities
49 management, administrative, and technological and information

1 systems operations of the development authority shall be managed
2 by the following State agencies in the manner specified:

3 (a) the Civil Service Commission shall exercise authority over
4 human resource management for employees of the development
5 authority, which shall include, but not be limited to, the process for
6 hiring the employees and terminating their employment, and
7 orienting, training, counseling, and appraising the employees;

8 (b) the Office of the Attorney General shall exercise authority
9 over the legal affairs of the development authority, which shall
10 include, but not be limited to, legal counsel and advice and formal
11 representation of the development authority when needed;

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

15 (d) the Office of Information Technology shall exercise
16 authority over the technological and information systems needs of
17 the development authority, which shall include, but not be limited
18 to, developing technology plans, providing technical and general
19 technological support to employees of the development authority,
20 and maintaining information systems and other technological
21 infrastructure.

22 (2) Notwithstanding the provisions of P.L.2007, c.137
23 (C.52:18A-235 et al.) or any other law, rule, or regulation to the
24 contrary, the operations of the development authority shall be
25 funded annually through State appropriations. The Legislature shall
26 annually appropriate such sums as are necessary to finance the
27 operations of the development authority, as authorized under this
28 subsection.

29 p. To do and perform any acts and things authorized by
30 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
31 235 et al.) under, through or by means of its own officers, agents
32 and employees, or by contract with any person;

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

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

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

1 t. To undertake school facilities projects and to enter into
2 agreements or contracts, execute instruments, and do and perform
3 all acts or things necessary, convenient or desirable for the purposes
4 of the development authority to carry out any power expressly
5 provided pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or
6 P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to,
7 entering into contracts with the State Treasurer, the New Jersey
8 Economic Development Authority, the Commissioner of Education,
9 districts, and any other entity which may be required in order to
10 carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or
11 P.L.2007, c.137 (C.52:18A-235 et al.);

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

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

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

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

31

32 20. This act shall take effect immediately.

33

34

35

STATEMENT

36

37 This bill provides various changes to the laws governing the
38 construction of school facilities projects and the operations of the
39 New Jersey Schools Development Authority (SDA).

40

Authorization of SDA School Facilities Projects

41 The bill provides that all school facilities projects in SDA
42 districts would be subject to prior authorization by the Legislature.
43 Specifically, the SDA would be prohibited from expending any
44 monies or undertaking any activities, except for site identification
45 and investigation, related to the construction of the project until the
46 Legislature has authorized the project. Additionally, the SDA
47 district will not submit an application to the Commissioner of
48

1 Education (commissioner) for project approval until the Legislature
2 has authorized the project.

3 Under current law, the SDA is required to establish a Statewide
4 strategic plan, which is used to determine the sequencing of school
5 facilities projects in SDA districts and is revised no less than every
6 five years. Under the bill, the SDA would be required to update
7 this plan to include a description of each project, the total estimated
8 costs of each project, and the number of full-time equivalent staff
9 needed to support each project. In addition, the bill requires this
10 plan to prioritize : (1) new construction projects; (2) projects
11 located on land owned by the SDA district or other public entities;
12 and (3) projects needed to replace school buildings that have been
13 in use for 50 or more years.

14 After any update to the Statewide strategic plan, the SDA would
15 be required to transmit the plan to the Legislature. Thereafter, the
16 Legislature may enact legislation to authorize any school facilities
17 project in an SDA district, provided that the Legislature is required
18 to identify the project to be funded, the maximum final eligible
19 costs permitted for the project, and the maximum full-time
20 equivalent employees that the SDA may allocate to the project.

21

22 *Model School Designs*

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

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

45

46 *Brownfield Site Remediation – SDA Projects*

47 The bill provides that if the SDA undertakes a school facilities
48 project on behalf of a district, and the project will be constructed on
49 a brownfield site, the SDA cannot be responsible for any

1 remediation costs associated with the brownfield site. Under the
2 bill, all remediation costs must be supported by the local share of
3 the project or any other funding provided by the State or federal
4 government to address the remediation of brownfield sites. After
5 all remediation has been completed, the SDA may commence the
6 construction of the project.

7

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

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

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

33

34 *Non-SDA Projects*

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

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

48 Additionally, the bill permits the board of education of a district
49 other than an SDA district to enter into an agreement with a county

1 improvement authority or municipal redevelopment agency to
2 construct a school facilities project and to issue bonds to finance
3 certain portions of the project.

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

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

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

32

33 *SDA Finances and Operations*

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

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

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

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

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

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