SENATE, No. 3565



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED FEBRUARY 9, 2023

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senator A.M.Bucco

SYNOPSIS

Establishes “Energy Infrastructure Public-Private Partnerships Program” and related financing program in NJ Infrastructure Bank; and authorizes certain energy contracts under “Public School Contracts Law” and “Local Public Contracts Law” up to 30 years.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning energy infrastructure public-private partnerships, supplementing Title 58 of the Revised Statutes, and amending various parts of the statutory law.

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

1. (New section) Sections 1 through 28 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall be known and may be cited as the “Energy Infrastructure Public-Private Partnerships Act.”

2. (New section) a. The Legislature finds and declares that:

(1) It is the public policy of this State to assure that the State’s energy infrastructure is developed and maintained in a manner that assures, to the greatest extent possible, the availability of reliable and resilient state-of-the-art energy resources to the State and, in particular, to the critical facilities that provide necessary lifeline services to the State’s citizens and businesses;

(2) The increasing magnitude and frequency of weather events, such as Hurricane Ida, Winter Storm Quinn, Hurricane Irene, and Superstorm Sandy, and the devastation they inflicted on the State, have revealed the vulnerability, inadequacies, and obsolescence of the State’s energy infrastructure, which has failed, sometimes for prolonged periods of time, to provide adequate, reliable, and resilient service to the State;

(3) These weather events, and the current condition of the State’s aging energy infrastructure, underscore the substantial and immediate need for the State to improve the energy resources available to State, county, and municipal facilities that provide critical lifeline services, including hospitals, police and fire departments, water and wastewater treatment facilities, shelters, colleges, universities, schools, and prisons;

(4) The reliability, resiliency, and efficiency of the State’s energy infrastructure will be improved if the State encourages the development of the energy-related projects authorized by P.L. , c. (C. ) (pending before the Legislature as this bill), which will reduce the vulnerability of critical facilities to threats posed by weather and other events, minimize equipment failures caused by deterioration, disrepair, and obsolescence, enhance the production and delivery of energy, improve the energy efficiency of facilities, reduce peak demand, energy costs, and greenhouse gas emissions, and promote economic development and create jobs;

(5) The implementation of energy-related projects through public-private partnerships will enable the State to leverage the capital and expertise of the private sector, which will permit necessary and long overdue energy-related projects to be developed, in many instances on a self-funded basis; and create economic stimulus and job creation opportunities for the State and its workforce without taxpayer or ratepayer support; and

(6) The use of energy infrastructure public-private partnerships will also facilitate the attainment of the goals of the State’s Energy Master Plan, which include aggressive initiatives to, among other things, expand the implementation of renewable energy, decarbonize buildings, transportation, and the power grid, improve energy reliability and resiliency, and introduce state-of-the-art technologies that can make buildings more energy efficient and reduce energy usage, peak demand, energy costs, and greenhouse gas emissions.

b. The Legislature therefore determines that:

(1) It shall be the public policy of this State to foster energy-related public-private partnerships to develop state-of-the-art energy projects that obviate or minimize the need for capital investments in energy projects by governmental entities, taxpayers, and utility ratepayers;

(2) In order to foster the energy projects authorized by P.L. , c. (C. ) (pending before the Legislature as this bill), it is necessary and appropriate for the Legislature to authorize the use of public-private partnerships that leverage private sector financial resources and expertise and provide a platform for governmental and private entities to share the responsibilities and benefits of these projects;

(3) The critical and immediate need to improve the State’s energy infrastructure and achieve the State’s near- and long-term energy goals, compels the State to pursue the energy-related public-private partnerships authorized by P.L. , c. (C. ) (pending before the Legislature as this bill), which will enhance the reliability, resilience, and efficiency of the State’s energy infrastructure by introducing state-of-the-art energy technologies that will mitigate current vulnerabilities to major storm events, harden critical infrastructure, energy generation, and delivery systems, enhance redundancy in energy supply, promote greater emergency preparedness, enhance fuel supply diversity, increase energy efficiency, expand the use of renewable energy resources, reduce peak demand, energy usage, energy costs, and greenhouse gas emissions, and promote economic development and job creation, thereby ensuring a better, cleaner, and more prosperous future for the State and its citizens; and

(4) The energy-related public-private partnerships authorized by P.L. , c. (C. ) (pending before the Legislature as this bill) will encourage private capital investment and leverage the technical, financial, and managerial expertise of the private sector to assist certain entities that otherwise lack the necessary capital, resources, or expertise to design, develop, own, manage, operate, and maintain needed energy infrastructure projects.

3. (New section) As used in sections 1 through 28 of P.L. , c. (C. ) (pending before the Legislature as this bill):

“Bank” means the New Jersey Infrastructure Bank, created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4).

“Board” means the Board of Public Utilities or any successor agency.

“Class I renewable energy” and “Class II renewable energy” mean the same as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51).

“Distributed electric generation resource” means distributed sources of electric power generation and energy storage facilities including, but not limited to, Class I and Class II renewable energy, dispatchable generation, cogeneration, combined heat and power, on-site generation, fuel cells, waste heat recovery, and energy storage technologies.

“District energy system” means an on-site generation facility, as defined in section 3 of P.L.1999, c.23 (C.48:3-51), that provides thermal or electric energy services, or both, to end-use customers for use for heating or cooling regardless of whether the customer is located on a property that is separated from the property on which the on-site generation facility is located by more than one easement, public thoroughfare, transportation right-of-way, or utility-owned right-of-way.

“Energy P3 Program” or “program” means the Energy Public-Private Partnerships Program established pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

“Energy-related project” or “project” means a project developed, in whole or in part, for a new or existing facility that is owned or leased, or to be owned or to be subject to a long-term lease, by a P3 eligible entity, and which involves the application of energy efficiency, energy conservation, energy generation, energy optimization, renewable and non-carbon-emitting energy technologies, decarbonization, battery storage, or demand side management measures including, but not limited to:

energy efficient appliances, lighting, heating, ventilation, air conditioning systems, motors, building controls, and other energy conservation measures;

building electrification;

electric vehicle charging infrastructure;

Class I and Class II renewable energy sources;

smart metering, smart grid technologies, and demand response systems;

distributed electric generation resources; and

biogas, biomass, biofuel, hydrogen, and renewable natural gas production, distribution, and usage, and waste-to-energy technologies.

“Energy-related project” shall not include a self-funded energy efficiency project that is an energy savings improvement program undertaken pursuant to the provisions of P.L.2009, c.4 (C.18A:18A-4.6 et al.) or P.L.2012, c.55 (C.52:34-25.1 et al.).

“New Jersey Energy Infrastructure Financing Program” means the program established by the bank pursuant to section 21 of P.L.    , c.    (C.      ) (pending before the Legislature as this bill).

“Private entity” means a person, combination of persons, business entity, combination of business entities, or combination of persons and business entities whose business is to provide technical, financial, or managerial expertise to a P3 eligible entity for the design, development, management, operation, or maintenance of an energy-related project.

“Public-private partnership agreement” or “agreement” means an agreement entered into by a P3 eligible entity and a private entity pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill) for the purposes of undertaking an energy-related project whereby the private entity assumes financial developmental, operational, managerial, or administrative responsibility and maintains a financial interest in the energy-related project.

“Public-private partnership eligible entity” or “P3 eligible entity” means the State, its subdivisions, and any department, agency, commission, authority, board, or instrumentality thereof, a county, a municipality, a board of education, a State college or university, a county college, a private not-for-profit higher education institution, a regional or municipal utility authority, a quasi-State agency, a State-created corporation, or a private not-for-profit hospital licensed by the Department of Health pursuant to the “Health Care Facilities Planning Act,” P.L.1971, c.136 (C.26:2H-1 et seq.). “P3 eligible entity” shall not include a municipal electric utility established pursuant to R.S.40:62-12.

4. (New section) a. A P3 eligible entity may enter into a public-private partnership agreement with a private entity pursuant to the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) which shall be subject to the approval of the bank pursuant to the Energy P3 Program requirements. An energy-related project may involve the design, construction, reconstruction, alteration, or improvement of one or more buildings, structures, or facilities owned or subject to a long-term lease, or to be owned or to be subject to a long-term lease, by the P3 eligible entity, provided that the private entity is responsible for the performance of each energy-related project and the P3 eligible entity retains an ownership or leasehold interest in the land or property upon which the energy-related project is developed. No particular method or structure of project financing shall be required of a private entity unless the method or structure of project financing or, if applicable, provision for ownership and title transfer to the P3 eligible entity at the end of the term of the agreement, is clearly described by the P3 eligible entity in any formal authorized solicitation process for an energy-related project.

b. P3 eligible entities and private entities that develop energy-related projects pursuant to a public-private partnership agreement executed and approved in accordance with the provisions of P.L. c. (C. ) (pending before the Legislature as this bill) shall be eligible to receive financing available through the Energy Infrastructure Financing Program, to the extent such funds are available, in addition to financing or funding available from other sources.

c. A P3 eligible entity may solicit a proposal for an energy-related project, or consider an unsolicited proposal for an energy-related project, only from a private entity that has been duly qualified by the Energy P3 Program pursuant to sections 7 and 8 of P.L. , c. (C. ) (pending before the Legislature as this bill) and any other applicable law.

d. A P3 eligible entity and a qualified private entity that develop an energy-related project pursuant to a public-private partnership agreement executed and approved in accordance with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) shall provide to the bank information concerning the energy-related project, including: (1) a description of the improvements made to the energy infrastructure of participating P3 eligible entities; (2) the environmental benefits, job creation, and other economic and social benefits of the energy-related project; (3) a detailed itemization of total costs of the project; (4) where applicable, reductions in energy usage and peak demand, and enhancements to the resiliency and reliability of the State’s energy infrastructure attributable to the energy-related project; and (5) any other information required by the bank.

5. (New section) a. An energy-related project may be proposed either by a P3 eligible entity or by a private entity. Notwithstanding the provisions of any law, rule, regulation, decision, or order to the contrary, a public-private partnership agreement may provide that, as part of the agreement, an energy-related project may be proposed and selected individually or as a part of any other project for the design, construction, reconstruction, alteration, improvement, development, or redevelopment of one or more buildings, structures, or facilities owned or subject to a long-term lease, or to be owned or to be subject to a long-term lease, by a P3 eligible entity, and may include buildings, structures, or facilities owned, or to be owned, by one or more private entities, without regard to the contiguity of the properties on which energy-related projects are developed, and may incorporate multiple energy technologies such as combined heat and power, solar energy, and energy storage facilities, subject only to technical or engineering limitations. An energy-related project shall be designed to: enable a P3 eligible entity to more reliably, efficiently, and cost-effectively generate, distribute, conserve, store, consume, and acquire energy; improve the reliability and resiliency of its energy infrastructure; reduce greenhouse gas emissions, energy usage, and peak demand; diversify its sources of energy supply; create jobs; foster economic development; and support decarbonization of its buildings and the electric grid. A proposed energy-related project shall produce quantifiable or otherwise demonstrable benefits during the life of the project which shall be evaluated by the bank under the program as part of the approval of the public-private partnership agreement developed pursuant to P.L.    , c.    (C.     ) (pending before the Legislature as this bill).

b. If an unsolicited energy-related project is proposed by a qualified private entity to a P3 eligible entity, the P3 eligible entity shall determine whether to accept, reject, or modify the proposal. If the P3 eligible entity elects to implement all or a portion of the proposed energy-related project, the P3 eligible entity shall initiate and adhere to the competitive solicitation procedure established pursuant to sections 8 and 9 of P.L. , c. (C. ) (pending before the Legislature as this bill). If the unsolicited proposal is rejected by the P3 eligible entity, the P3 eligible entity shall return all copies of, and all materials relating to the unsolicited proposal to the private entity. The unsolicited proposal, and records of communications and negotiations related to the proposal, shall be confidential and exempt from public disclosure as provided in the provisions of section 17 of P.L. , c. (C. ) (pending before the Legislature as this bill).

6. (New section) a. Notwithstanding the provisions of any law, rule, regulation, decision, or order to the contrary, a P3 eligible entity that undertakes an energy-related project with a private entity, its affiliates, and approved subcontractors pursuant to a public-private partnership agreement shall not be subject to the requirement of advertisement for public bidding otherwise applicable to the P3 eligible entity, provided that the private entity is selected by the P3 eligible entity pursuant to a solicitation process conducted in accordance with sections 8 and 9 of P.L.   , c.    (C.      ) (pending before the Legislature as this bill).

b. Except as otherwise set forth in subsection a. of this section, all solicitations for proposals conducted by a P3 eligible entity pursuant to sections 8 and 9 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall be subject to the procurement laws and procedures otherwise applicable to the P3 eligible entity.

7. (New section) a. (1) The bank shall establish an Energy Public-Private Partnerships Program or “Energy P3 Program.” The Energy P3 Program shall provide for the formulation and execution of a comprehensive Statewide program to facilitate public-private partnerships for the development of energy-related projects, and for the development, promotion, coordination, oversight, and approval of public-private partnership agreements pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

(2) The costs associated with the establishment and operation of the Energy P3 Program may be funded by moneys from the “Global Warming Solutions Fund” created pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), the societal benefits charge imposed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any other funding source the Legislature appropriates to the Energy P3 Program, and fees collected from private entities pursuant to subsection c. of this section.

(3) The bank shall implement the rules and regulations, policies, and procedures established pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) in a manner that encourages private entity participation in the Energy P3 Program and provides necessary project oversight and assistance to P3 eligible entities.

b. The bank may retain one or more qualified private consultants with relevant expertise to provide the technical assistance and resources deemed necessary and appropriate to assist the Energy P3 Program.

c. The bank shall comply with the provisions of the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.), in the negotiation and award of professional service contracts with private consultants. A professional service contract entered into pursuant to this section shall include provisions for fees, contract duration, and other terms as are deemed necessary and appropriate by the bank to retain the services of one or more private consultants, deemed by the bank to be qualified by training and experience, to provide technical assistance required by the Energy P3 Program pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

d. The bank shall annually develop an operating budget for the Energy P3 Program to enable the bank to adequately and properly perform its duties and responsibilities, and, if necessary, to compensate private consultants retained pursuant to subsection b. of this section to assist the bank to implement the Energy P3 Program as established in this section. The bank or any private consultant retained by the bank may charge a private entity a reasonable fee for the services provided by the bank or the private consultant, as applicable, under the Energy P3 Program, in connection with any implemented energy-related project under the program.

e. Within 18 months after the effective date of P.L.    , c.    (C.      ) (pending before the Legislature as this bill), the bank shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

f. The bank shall, within 90 days after the effective date of P.L.    , c.    (C.      ) (pending before the Legislature as this bill), undertake a study of the staffing and other resources deemed necessary to implement the Energy P3 Program and to perform the duties and responsibilities established by P.L. , c. (C. ) (pending before the Legislature as this bill). The bank shall prepare a report of its study, and provide a copy to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, recommending any further action or resources needed to facilitate program implementation.

8. (New section) a. A private entity seeking to enter into a public-private partnership agreement for an energy-related project with a P3 eligible entity shall first be qualified under the Energy P3 Program. The bank shall establish appropriate qualification criteria for any private entity seeking to participate in the Energy P3 Program pursuant to the rules and regulations adopted pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), and shall provide details of the qualification criteria in the report submitted to the Legislature pursuant to section 27of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. Under the Energy P3 Program, the bank shall evaluate the qualifications of each private entity that seeks to develop an energy-related project pursuant to a public-private partnership agreement in accordance with the qualification criteria established pursuant to this section. The bank shall develop a tiered ranking system for both energy-related projects and the private entities that seek to qualify to develop such projects. The tiered ranking system shall be designed to authorize a private entity to pursue only the types of energy-related projects for which the private entity has been qualified.

c. The bank shall maintain, and make available to P3 eligible entities, a current list of qualified private entities, arranged by the tiers of energy-related projects for which the private entities have been qualified. Each P3 eligible entity that seeks to develop an energy-related project pursuant to P.L. c. (C. ) (pending before the Legislature as this bill) shall be directed to the complete list of qualified private entities for the type of tiered energy related project under consideration for development.

9. (New section) a. For each proposed energy-related project, a P3 eligible entity shall solicit proposals from private entities that are set forth on the list of qualified private entities maintained by the bank pursuant to section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill), and that have been qualified for the type of energy-related project or projects considered by the P3 eligible entity. The bank shall establish the process by which a P3 eligible entity may solicit and procure proposals from qualified private entities for energy-related projects and the criteria that shall apply to the procurement.

b. A P3 eligible entity shall specify the manner in which the price shall be bid by a qualified private entity as part of a proposal for an energy-related project. If a fixed price option is selected by the P3 eligible entity, the qualified private entity shall fully and accurately disclose, in a single line item entry, the total installed cost of the proposed energy-related project, including all equipment, labor, permits, and management services. Any proposal by a qualified private entity which includes a fixed price bid that does not comply with this section shall be rejected by the P3 eligible entity as nonconforming.

c. Notwithstanding the provision of any law, rule, regulation, decision, or order to the contrary, the P3 eligible entity shall award the energy-related project to the private entity whose proposal is determined by the P3 eligible entity to be the most advantageous to the P3 eligible entity, with price and other factors considered. The criteria to be utilized by the P3 eligible entity as the basis for its award determination shall be established by the bank by rules and regulations adopted pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. A P3 eligible entity shall negotiate a public-private partnership agreement for the energy-related project with the qualified private entity in accordance with the process and standards established by the bank pursuant to rules and regulations adopted pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

10. (New section) Prior to, or in connection with, the negotiation and execution of a public-private partnership agreement, a P3 eligible entity may negotiate and execute a preliminary agreement with a qualified private entity selected for the energy-related project. The preliminary agreement may, among other things, authorize a qualified private entity to commence certain preliminary project development activities for which the private entity may be compensated. The bank shall establish standards, by rules and regulations adopted pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), for preliminary agreements entered into pursuant to this section.

11. (New section) a. A P3 eligible entity and a qualified private entity shall cooperate with the bank to leverage, to the greatest extent possible, available private sector financial resources and expertise and to enhance the ability of an energy-related project to obtain, aggregate, and maximize federal, State, local, utility, and other funding sources, including the “Global Warming Solutions Fund” established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), federal and State tax incentives and credits, and financial and other benefits available to finance, secure, guarantee, service, or reduce project debt, or to minimize, repay, or accelerate the repayment of project costs, or provide other advantages.

Notwithstanding the provisions of any law, rule, regulation, decision, or order to the contrary, funds contained in the “Global Warming Solutions Fund,” established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), and financing available through the bank, to the extent such funds are available, shall be available to private entities that develop energy-related projects pursuant to an agreement approved under the Energy P3 program. The funds shall be supplemental to funding available to an energy-related project from all other sources including, but not limited to, the New Jersey Clean Energy Program administered by the Board of Public Utilities, and any successor or similar program, and programs sponsored by the State’s electric and natural gas distribution utilities.

b. In order to facilitate the financing, development, and delivery of, or to reduce the costs associated with, an energy-related project, a P3 eligible entity may:

(1) become the owner or lessee of the energy-related project, or the owner or long-term lessee of the land on which the energy-related project is located, or both;

(2) issue indebtedness in accordance with the P3 eligible entity’s enabling legislation provided that, at a minimum, the private entity guarantees the performance of the energy-related project to the P3 eligible entity;

(3) dedicate any property interest, including land, improvements, fixtures, and tangible personal property that the P3 eligible entity has for public use; and

(4) exercise all powers conferred on the P3 eligible entity by law including, but not limited to, the power to tax, lease or grant rights of way, easements, and access, exercise the power of eminent domain, grant development rights, issue and accelerate permits and other authorizations, and grant licenses, franchises, contractual, and real property rights.

c. A public-private partnership agreement may provide for the sale, long-term lease, or lease-purchase of, or grant of concessions for, the assets and facilities of a P3 eligible entity to a private entity, and revenue sharing opportunities between the P3 eligible entity and private entity pursuant to an agreement approved under the program. If the public-private partnership agreement provides for ownership of the energy-related project, or a portion thereof, by the private entity during the term of the agreement, the agreement may provide for the transfer of the project by the private entity to the P3 eligible entity at no charge upon the expiration of the term of the agreement or any extension thereof.

12. (New section) a. The development of an energy-related project pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) shall be deemed to constitute the performance of an essential public function.

b. A component of an energy-related project predominantly used by, or developed in furtherance of the purposes of a P3 eligible entity pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), and which is owned by or leased to a P3 eligible entity, foreign or domestic nonprofit business entity, or business entity wholly owned by a nonprofit business entity, shall be exempt from property taxation and special assessments of the State, a municipality, and any other political subdivision of the State, and, notwithstanding the provisions of section 15 of P.L.1974, c.80 (C.34:1B-15) or section 2 of P.L.1977, c.272 (C.54:4-2.2b) or any other law to the contrary, shall not be required to make payments in lieu of taxes.

c. The land upon which an energy-related project is located shall be exempt from property taxation for the duration of the useful life of the project. The energy-related project and the land upon which the energy-related project is located shall not be subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax liability of private parties conducting for-profit activities on tax exempt land, or section 1 of P.L.1949, c.177 (C.54:4-2.3) regarding the taxation of leasehold interests in exempt property that are held by nonexempt parties. The provisions of this subsection shall apply only when the energy-related project is owned by or leased to a P3 eligible entity, foreign or domestic nonprofit business entity, or business entity wholly owned by a nonprofit business entity, and the energy-related project furthers the purposes of the P3 eligible entity.

13. (New section) If public funding has not been provided for the financing of an energy-related project developed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), the chief financial officer, or other official, of the P3 eligible entity that enters into an agreement for a public-private partnership for an energy-related project may require the private entity responsible for the development of the energy-related project to post a bond guaranteeing prompt payment of funds due to the contractor, its subcontractors, and all persons furnishing labor or materials to the contractor or its subcontractors in the conduct of the work on the energy-related project.

14. (New section) a. All workers employed in the performance of any construction undertaken in connection with an energy-related project for which a public-private partnership agreement has been approved pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), including all workers for subcontractors employed in the performance of any construction undertaken in connection with an energy-related project, shall be paid not less than the prevailing wage rate for the workers’ craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

b. All energy-related projects developed pursuant to a public-private partnership agreement approved pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill) may contain a project labor agreement. A project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.) and shall be structured in a manner that, to the greatest extent possible, enhances employment opportunities for individuals residing in the county in which the energy-related project will be located.

c. A qualified private entity selected by a P3 eligible entity to develop an energy-related project pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), and all affiliates and subcontractors of the private entity, shall comply with the provisions of “The Public Works Contractor Registration Act,” P.L.1999, c. 238 (C.34:11-56.48 et seq.).

15. (New section) Each general contractor, construction manager, design-build team member, and significant subcontractor that performs work in connection with an energy-related project pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) shall be classified by the bank, in consultation with the Division of Property Management and Construction in the Department of the Treasury, to perform work on an energy-related project in accordance with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

16. (New section) a. All energy-related projects proposed by a P3 eligible entity, following consideration of project proposals and selection of a qualified private entity in accordance with sections 8 and 9 of P.L. , c. (C. ) (pending before the Legislature as this bill), shall be submitted to the bank for project review and approval. Upon request, the bank shall assist a P3 eligible entity in connection with the P3 eligible entity’s solicitation and consideration of proposals for energy-related projects. Only a proposal deemed to be complete by the bank shall be considered. In order for a proposal to be deemed complete, the proposal shall include all items required pursuant to the Energy P3 Program and shall include a long-range operation and maintenance plan. The proposal and long-range operation and maintenance plan shall be reviewed by the bank and those in compliance with the program requirements shall be approved by the bank under the Energy P3 Program in accordance with rules and regulations adopted pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. An energy-related project shall not proceed unless the project has been approved by the bank under the Energy P3 Program. The bank may deny or revoke an approval if it determines that an energy-related project presented for approval materially deviates from the proposal submitted by the private entity and preliminarily approved by the P3 eligible entity, or has not received all required approvals.

c. All energy-related projects shall be completed within five years after the date of approval by the bank under the Energy P3 Program, unless the energy-related project is delayed by circumstances or events beyond the control of the project developer, in which case an extension of the five year deadline, coextensive with the duration of the delay, shall be permitted by the bank, upon demonstration by the project developer that the delay is beyond the project developer’s control.

d. The development of an approved energy-related project shall remain subject to oversight and review by the bank under the Energy P3 Program pursuant to rules and regulations adopted pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill).

17. (New section) a. Notwithstanding the provisions of any law, rule, regulation, decision, or order to the contrary, a private entity that submits (1) a proposal in response to a solicitation for an energy-related project or (2) an unsolicited proposal that is accepted by a P3 eligible entity and made the basis for a solicitation for an energy-related project, may identify those portions of the proposal that the private entity deems to be confidential, competitively sensitive bid-related information, including, but not limited to, pricing and financing terms, and proprietary or trade secret information. The private entity shall provide justification as to why the materials identified as confidential should not, upon request, be produced to others by the P3 eligible entity. Information determined by the P3 eligible entity to be confidential, competitively sensitive bid-related information shall not be subject to disclosure, except as necessary to the bank for the purposes of evaluation and review of a public-private partnership agreement pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), or considered a public or government record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), or otherwise, prior to the selection of the winning proposal.

Disclosure of confidential pricing information shall occur, upon request, after the selection of the winning proposal, but prior to the execution of the final public-private partnership agreement. Information determined to be proprietary or trade secret information shall not be subject to disclosure at any time by the P3 eligible entity pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or otherwise.

b. Notwithstanding the provisions of any law, rule, regulation, decision, or order to the contrary, a private entity that submits an unsolicited proposal for an energy-related project that is rejected by a P3 eligible entity and not made the basis of a solicitation for an energy-related project pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), may request the P3 eligible entity to return the entire unsolicited proposal to the private entity, and the P3 eligible entity shall promptly comply with the request.

An unsolicited proposal for a P3 eligible entity energy-related project that is rejected by a P3 eligible entity and not made the basis of a solicitation for an energy-related project shall not be subject to disclosure or considered a public or government record under P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or otherwise, and no disclosure of the unsolicited proposal, or any portion thereof, or records of any communications relating to the unsolicited proposal, shall be made to the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or otherwise.

18. (New section) Notwithstanding the provisions of section 2 of P.L.1999, c.440 (C.40A:11-4.2), section 46 of P.L.1999, c.440 (C.18A:18A-4.2), P.L.1954, c.48 (C.52:34-6 et seq.), and any other law, regulation, decision, or order to the contrary, a public-private partnership agreement between a P3 eligible entity and a private entity to design, develop, finance, build, own, operate, or maintain, or a combination thereof, an energy-related project in accordance with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), may have a term not to exceed 25 years. A public-private partnership agreement between a P3 eligible entity and a private entity to design, develop, finance, build, own, operate, or maintain an energy-related project that includes a combined heat and power facility, cogeneration facility, or on-site generation facility, as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), a district energy system, a fuel cell, a hydrogen or renewable natural gas production, distribution, or usage facility, energy storage, or other distributed electric generation resource may have a term not to exceed 30 years, which term shall commence after construction of the facility has been completed and commercial operation has commenced.

A public-private partnership agreement between a P3 eligible entity and a private entity may authorize execution of a long-term service agreement that may include routine and preventive maintenance and overhaul and rebuild coverage, for coverage periods of not less than 10 years, and up to the period coinciding with the useful life of the equipment included within the scope of the service agreement.

19. (New section) The provisions of P.L.2009, c.136 (C.52:18-42 et seq.) shall not apply to an energy-related project developed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

20. (New section) Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) shall be construed to limit the powers of the Office of the State Comptroller pursuant to P.L.2007, c.52 (C.52:15C-1 et al.) or the authority of the Board of Public Utilities.

21. (New section) a. In addition to its powers and duties set forth in P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), and sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), the New Jersey Infrastructure Bank shall establish a New Jersey Energy Infrastructure Financing Program. The purpose of the program shall be to provide loans and other forms of financial assistance, as the bank deems appropriate, to P3 eligible entities and private entities that are parties to public-private partnership agreements to develop and finance energy-related projects approved by the Energy P3 Program pursuant to P.L. c. (C. ) (pending before the Legislature as this bill).

b. Except as otherwise provided in sections 1 through 28 of P.L.    , c.   (C.        ) (pending before the Legislature as this bill), the New Jersey Energy Infrastructure Financing Program shall comply with all provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), unless such provision is specifically related to environmental infrastructure or transportation projects as defined in section 3 of P.L.1985, c.334 (C.58:11B-3).

In establishing this program and issuing bonds pursuant to P.L.    , c.   (C.        ) (pending before the Legislature as this bill), the bank shall have the same powers and duties set forth in the “New Jersey Infrastructure Trust Act,” P.L.1985, c.334 (C.58:11B-1 et seq.). The bank shall borrow money and issue bonds, notes, and other obligations, and secure the same, and provide for the rights of the holders thereof in the same manner as provided pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.).

c. The bank shall make, and contract to, provide financing to private entities for energy-related projects in accordance with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) and acquire, and contract to acquire, notes, bonds, or other obligations all in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.). All loans and other financial assistance shall be made subject to those terms and conditions as the bank shall determine to be consistent with the purposes of P.L.    , c.   (C.        ) (pending before the Legislature as this bill) and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.). Each loan by the bank and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the bank shall make available to the State Treasurer all information, statistical data, and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan.

22. (New Section) a. There is established in the New Jersey Infrastructure Bank a special fund to be known as the Energy Loan Origination Fee Fund. The Energy Loan Origination Fee Fund shall be credited with:

(1) monies deposited into the fund as loan origination fees received by the bank and paid by loan applicants for energy-related projects financed under the Energy Infrastructure Financing Program; and

(2) any interest paid on the amounts of the energy loan origination fees.

b. Monies in the Energy Loan Origination Fee Fund shall be drawn and used by the bank to reimburse the bank for administrative and operating expenses incurred in administering the Energy Infrastructure Financing Program, except that the total amount expended by the bank for administrative and operating expenses for the Energy Infrastructure Financing Program in any fiscal year shall not exceed $8,000,000. The monies in the Energy Loan Origination Fee Fund shall also be available for application by the bank for loans to P3 eligible entities for the cost of energy-related projects. Amounts in excess of the funds drawn by the bank from the Energy Loan Origination Fee Fund during any given fiscal year shall be carried forward into the following fiscal year and held on deposit in the fund.

c. As used in this section, “Energy Loan Origination Fee” means the fee charged by the bank in connection with engineering and other services provided by the bank to a project sponsor in connection with the project sponsor’s participation in the Energy Infrastructure Financing Program. A project sponsor may finance any portion of the energy loan origination fee through an energy loan to pay a portion of the costs incurred by the bank in the implementation of the Energy Infrastructure Financing Program.

d. Monies in the Energy Loan Origination Fee Fund may be used to provide loans for fund-approved origination costs associated with the identification and preliminary development and design of potential energy-related projects. Such loans shall be repaid in full by the developers of energy-related projects that are approved by the Energy P3 Program and developed by the developers, and shall be considered and treated as project costs. For energy-related projects that are not approved or developed, upon application to the Energy P3 Program demonstrating good cause for relief in accordance with criteria established by the Energy P3 Program, origination costs may be shared by the Energy P3 Program and P3 eligible entity through forgiveness of one-half of the approved invoices submitted by the developer performing the preliminary work for the proposed energy-related project, to the extent funds are available.

The origination costs permitted per project shall not exceed $100,000 in the aggregate and $50,000 in loan forgiveness. A developer that receives compensation under this section for assisting the identification, preliminary design, or preliminary development of an energy-related project, or the preparation of the project proposal to the Energy P3 Program for such project, shall be disqualified from bidding for the energy-related project and from any involvement in project development, other than as a representative of the P3 eligible entity.

23. (New section) a. The bank shall create and establish a special fund to be known as the State Energy Infrastructure Bank Fund. The monies in the State Energy Infrastructure Bank Fund shall only be used to provide loans and other financial assistance to energy-related projects funded by the Energy Infrastructure Financing Program, and for other purposes of the bank’s administration and management of the Energy Infrastructure Financing Program, subject to agreements with the holders of bonds, notes or other obligations of the bank. The State Energy Infrastructure Bank Fund shall be credited with:

(1) State and federal funds appropriated to the State Energy Infrastructure Bank Fund;

(2) monies received as repayment of the principal of, and the interest or premium on loans made from the State Energy Infrastructure Bank Fund;

(3) any interest earnings received on the monies in the State Energy Infrastructure Bank Fund; and

(4) any other monies the Legislature may appropriate to the bank for deposit into the State Energy Infrastructure Bank Fund to finance or refinance loans for energy-related projects issued from the State Energy Infrastructure Bank Fund.

b. Notwithstanding any provisions of P.L. c. (C. ) (pending before the Legislature as this bill) to the contrary, all monies placed into the State Energy Infrastructure Bank Fund shall be held separate from other funds of the bank, and no funds used to finance energy-related projects shall be combined or comingled with any funds that finance (1) wastewater treatment system projects, (2) water supply projects, (3) other environmental infrastructure projects, or (4) transportation, transit, marine or aviation projects, which are not energy-related projects.

c. The bank may establish or direct the establishment of federal and State accounts or subaccounts as may be necessary to meet any applicable federal law requirements or desirable for the efficient administration of the bank.

24. (New section) a. The bank shall create and establish a special fund to be known as the “Interim Energy Financing Program Fund” for the short-term or temporary loan financing or refinancing program to be known as the “Interim Energy Financing Program.”

Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the bank may receive funds from any source including, without limitation, any funds drawn by the bank from a revolving line of credit or other similar financial vehicle that may be procured by the bank, either through a competitive or negotiated process, pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the “Interim Energy Financing Program Fund” or the bank may issue its bonds, notes, or other obligations in any principal amounts, in either case, as in the judgment of the bank shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to P3 eligible entities for any energy-related project included on the Interim Energy Financing Program Project Priority List for the ensuing fiscal year and eligible for approval pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), without regard to any other provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), including, without limitation, any administrative or legislative approvals.

b. Any short-term or temporary loans made by the bank pursuant to this section may only be made in advance of the anticipated loans the bank may make, and contract to make, under the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) from any source of funds anticipated to be received by the bank. Any such short-term or temporary loan made pursuant to the Interim Energy Financing Program shall mature no later than the last day of the third succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the bank to the project sponsor; except that a planning, design, and construction loan shall mature no later than the last day of the fifth succeeding fiscal year following the closing date of the planning, design, and construction loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the planning, design, and construction loan, whichever is sooner, provided that, in either case, project planning or engineering design activities shall not exceed two years from the closing date of the planning, design, and construction loan. The bank may make short-term or temporary loans pursuant to the Interim Energy Financing Program to any one or more of the project sponsors, for the respective projects thereof, only if a project is identified on the list to be known as the “Interim Energy Financing Program Project Priority List” in the form provided to the Legislature by the bank.

c. The Interim Energy Financing Program Project Priority List, including any revision thereof or supplement thereto, shall be submitted by the bank to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. An energy-related project or the project sponsor thereof not identified in the Interim Energy Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Energy Financing Program Fund. The board, working in consultation with the bank, may revise or supplement the Interim Energy Financing Program Project Priority List no more than four times during the fiscal year, and the bank shall submit the revised list to the Legislature when the revisions are made.

d. No funds may be disbursed by the bank pursuant to this section for project activities prior to certification by the board that the project satisfies the provisions of section 25 of P.L.   , c.   (C      ) (pending before the Legislature as this bill) and written notification of award certification in writing from the board that the project activities satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or P.L.    , c.     (C.     ) (pending before the Legislature as this bill).

25. (New section) a. The Board of Public Utilities, through the Energy P3 Program, shall for each fiscal year, develop a priority system for energy-related projects that seek financing from the Energy Infrastructure Financing Program. The board shall set forth an Energy Infrastructure Financing Program Project Priority List, hereinafter referred to as the Energy Project Priority List, which shall identify the energy-related projects that the board has selected for funding in each fiscal year. The board may include an energy-related project on the energy project priority list if it meets the eligibility requirements for funding by the Energy P3 Program or the eligibility requirements for funding pursuant to the terms and conditions of the source of funds. The Energy Project Priority List shall provide a description of each project and an explanation of how the projects are ranked.

The Energy Project Priority List shall be submitted by the bank to the Legislature for the fiscal year on or before January 15 of each year. The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Incremental revisions or supplements to the Energy Project Priority List may be submitted to the Legislature as provided in subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9). An energy-related project shall be eligible for funding pursuant to this section if it is identified on an Energy Project Priority List.

Energy-related projects that do not seek financing from the bank shall not be subject to prioritization in accordance with this section and shall be considered on their own merit in accordance with the general review criteria established pursuant to section 16 of P.L. c. (C. ) (pending before the Legislature as this bill).

b. The bank shall prepare an Energy Infrastructure Financing Program Project Eligibility List, hereinafter referred to as the Energy Project Eligibility List, for long-term funding by the bank and shall include the aggregate amount of funds to be authorized for these purposes. The Energy Project Eligibility List shall consist of Energy Project Priority List projects certified by the bank that have commenced construction and demonstrated to the Energy P3 Program a high likelihood of construction completion within five years of date of funding and meet all other requirements of the Energy Infrastructure Financing Program.

On or before May 15 of each year, the bank shall submit the Energy Project Eligibility List for the ensuing fiscal year including any amendatory or supplementary provisions thereto, which shall include the authorization of an aggregate amount of funds of the bank to be expended for loans and guarantees for the specific energy-related projects, including the individual amounts therefor, to be introduced in each House in the form of legislative appropriations bills, which shall be referred to the Senate Environment and Energy Committee and the Assembly Telecommunications and Utilities Committee, or their successors, for their respective consideration.

The Senate Environment and Energy Committee and the Assembly Telecommunications and Utilities Committee, or their successors, shall, either individually or jointly, consider the legislation containing the Energy Project Eligibility List, and shall report the legislation, together with any modifications, out of committee for consideration by each House of the Legislature.

On or before July 1 of each year, the Legislature shall approve an appropriations act containing the Energy Project Eligibility List, including any amendatory or supplementary provisions thereto, which act shall include the authorization of an aggregate amount of funds of the bank to be expended for long-term loans and guarantees for the energy-related projects, including the individual amounts for each project included on the list.

c. On or before October 15 of each year, the bank may submit an amended Energy Project Eligibility List to be introduced in each House in the form of legislative appropriations bills for approval by the Legislature on or before January 15 of the following calendar year in the manner set forth in subsection a. and subsection b. of this section.

d. The bank shall not expend any money for a long-term loan or guarantee during a fiscal year for any energy-related project unless the expenditure has been authorized pursuant to an appropriations act of the current or three immediately preceding fiscal years as provided in the provisions of this section, or as otherwise set forth in an appropriations act.

e. The bank shall submit to the Secretary of the Senate and the Clerk of the General Assembly on or before January 15 of each year a report which shall identify the energy-related projects financed during the prior fiscal year, including a project description, the amount of the loan provided for each project, and the duration of each loan.

26. (New section) a. On or before May 15 of each year, the bank shall submit to the Legislature a financial plan designed to implement the financing of the energy-related projects on the Energy Project Priority List or the Energy Project Eligibility List. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the bank which the bank intends to issue, including the amounts thereof and the terms and conditions thereof, a list of loans to be made to P3 eligible entities, including the terms and conditions thereof and the anticipated rate of interest per annum and repayment schedule therefor and a list of loan guarantees or contracts to guarantee the payment of all or a portion of the principal and interest on bonds, notes or other obligations issued by a P3 eligible entity to finance the cost of an energy-related project, and the terms and conditions thereof.

The financial plan shall also set forth a complete operating and financial statement covering proposed operations through the fund during the forthcoming fiscal year, including amounts of income from all sources, and the uniform schedule of fees and charges established by the bank pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5), and the amounts to be derived therefrom, and shall summarize the status of each energy-related project for which loans or guarantees have been made by the bank.

b. On or before June 30 of each year the Legislature may reject the financial plan through the adoption by both houses of a concurrent resolution. If the Legislature rejects the financial plan, the project list shall be removed from the annual appropriations act and the bank shall not undertake any of the proposed activities contained therein. If the Legislature takes no action on or before June 30, the financial plan shall be deemed approved.

c. The financial plan for the State Energy Infrastructure Bank Fund shall not be eligible for inclusion in a consolidated financial plan as established in section 27 of P.L.1997, c.224 (C.58:11B-22.2).

27. (New section) The bank shall, within three years after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and annually thereafter, prepare a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature regarding the number, nature, structure, and scope of public-private partnership agreements for energy-related projects developed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), including: (1) a description of the improvements made to the energy infrastructure of participating P3 eligible entities; (2) environmental benefits; (3) job creation and other economic and societal benefits; (4) costs incurred; and (5) where applicable, reductions in energy usage and peak demand, and enhancements to the resiliency and reliability of the State’s energy infrastructure. The report shall also address any implementation issues, including staffing and resource requirements, and may provide recommendations regarding how the processes and methods adopted to foster the development of public-private partnership agreements for energy-related projects under P.L. , c. (C. ) (pending before the Legislature as this bill) may be improved, expanded, or made more efficient.

28. (New section) The bank and the board shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations deemed appropriate and necessary for the implementation of P.L. , c. (C. ) (pending before the Legislature as this bill). These rules and regulations shall include, but not be limited to: procedures for the submission of applications; standards for the evaluation of applications; provisions implementing priority systems for projects; reporting requirements of the recipient of any loan concerning the progress and the expenditure of funds; and limitations, restrictions, or requirements concerning the use of monies in the fund as may be necessary pursuant to the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

29. Section 3 of P.L.1985, c.334 (C.58:11B-3) is amended to read as follows:

3. As used in sections 1 through 27 of P.L.1985, c.334 (C.58:11B-1 through C.58:11B-27), sections 23 through 27 of P.L.1997, c.224 (C.58:11B-10.1, C.58:11B-20.1, C.58:11B-21.1, C.58:11B-22.1, and C.58:11B-22.2), and sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4):

"Aviation project" means a project to develop or improve county or municipal airport facilities, or airport facilities owned or operated by a regional transportation authority that is not a bi-state authority, and related infrastructure or capital equipment, including, but not limited to, any design, planning, acquisition, construction, reconstruction, relocation, installation, removal, repair, or rehabilitation project that facilitates, increases the efficiency of, or improves the capacity for inter-modal trade for commercial and industrial facilities that are part of airport facilities. "Aviation project" includes, but is not limited to, any project to develop or improve terminal facilities designed for public use and for the transportation of persons or property, such as airports, runways, berms, basins, storage places, sheds, warehouses, and related infrastructure;

"Bonds" means bonds issued by the trust pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

"Combined sewer overflow" means the discharge of untreated or partially treated stormwater runoff and wastewater from a combined sewer system into a body of water;

"Combined sewer system" means a sewer system designed to carry sanitary wastewater at all times, which is also designed to collect and transport stormwater runoff from streets and other sources, thereby serving a combined purpose;

"Commissioner" means the Commissioner of the Department of Environmental Protection;

"Cost" means the cost of all labor, materials, machinery and equipment, lands, property, rights and easements, financing charges, interest on bonds, notes or other obligations, plans and specifications, surveys or estimates of costs and revenues, engineering and legal services, and all other expenses necessary or incident to all or part of an environmental infrastructure project;

"Department" means the Department of Environmental Protection;

“Energy P3 Program” means the same as the term is defined in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill);

“Energy-related project” means the same as the term is defined in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill);

"Environmental infrastructure project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any: (1) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects; or (2) water supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water resources project, as authorized pursuant to P.L.2003, c.162;

"Federal infrastructure bank program" means the United States Department of Transportation State Infrastructure Bank Program provided for in section 350 of Pub.L.104-59 and Pub.L.102-240 as amended or superseded;

"Local government unit" means (1) a State authority, county, municipality, municipal, county or regional sewerage or utility authority, municipal sewerage district, joint meeting, improvement authority, or any other political subdivision of the State authorized to construct, operate, and maintain wastewater treatment systems; (2) a State authority, district water supply commission, county, municipality, municipal, county or regional utilities authority, municipal water district, joint meeting, or any other political subdivision of the State authorized pursuant to law to operate or maintain a public water supply system or to construct, rehabilitate, operate, or maintain water supply facilities or otherwise provide water for human consumption; (3) a county, municipality, municipal, county or regional transportation authority, or any other political subdivision of the State authorized to construct, operate, or maintain public highways or transportation projects; (4) a county, municipality, or other political subdivision or instrumentality of the State, or a municipal, county, or State authority that is not a bi-state authority, authorized to construct, operate, or maintain ports or marine projects; or (5) a county, municipality, municipal or regional transportation authority, or other political subdivision or instrumentality of the State authorized to construct, operate, or maintain airports or aviation projects;

"Marine project" means a project to develop or improve public port or terminal facilities, and related infrastructure or capital equipment, including, but not limited to, any design, planning, acquisition, construction, reconstruction, relocation, installation, removal, repair, or rehabilitation project that facilitates, increases the efficiency of, or improves the capacity for inter-modal trade and cargo movement for commercial or industrial facilities that are part of port or terminal facilities. "Marine project" includes, but is not limited to, dredging, soil hardening, and paving of the port facilities, and ferry terminal facilities designed for public use and the transportation of persons or property such as water craft, docks, wharves, piers, slips, storage places, sheds, warehouses, and related infrastructure. "Marine project" shall not include any project that relates to or supports recreational or commercial boating activities;

"New Jersey Energy Infrastructure Financing Program" means the same as the term is defined in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill);

"New Jersey Environmental Infrastructure Financing Program" means the financing program to fund environmental infrastructure projects;

"New Jersey Transportation Infrastructure Financing Program" means the financing program to fund transportation projects, aviation projects, and marine projects;

"Notes" means notes issued by the trust pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4);

"Onsite wastewater treatment and disposal system" means an on-site system designed to treat and dispose of domestic sewage;

"Other assistance" means forms of financial assistance, in addition to loans, authorized by the New Jersey Infrastructure Bank from the State Transportation Infrastructure Bank Fund, the wastewater treatment system general loan fund, or the water supply facilities general loan fund, including, but not limited to, use of funds to: provide credit enhancements; serve as a capital reserve for bond or other debt instrument financing; subsidize interest rates; ensure the issuance of letters of credit and credit instruments; finance purchase and lease agreements with respect to transit projects; and provide bond or other debt financing instrument security;

"Planning, design, and construction loan" means a short-term or temporary loan for eligible costs incurred in project planning, engineering design, or construction issued before or during the planning stage of a project;

“Private entity” means the same as the term is defined in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill);

"Project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility, or equipment, or real or personal property necessary for or ancillary to any: (1) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects; (2) water supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water resources project, as authorized pursuant to P.L.2003, c.162; or (3) transportation project, aviation project, or marine project authorized pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) ; or (4) an energy-related project authorized pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) ;

"Public highway" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at-grade or not at-grade, bicycle and pedestrian pathways and pedestrian and bicycle bridges, and any property, rights of way, easements and interests therein needed for the construction, improvement, and maintenance of highways;

“Public-private partnership eligible entity” or “P3 eligible entity” means the same as the term is defined in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill);

"Public water utility" means any investor-owned water company or small water company;

"Small water company" means any company, purveyor or entity, other than a governmental agency, that provides water for human consumption and which regularly serves less than 1,000 customer connections, including nonprofit, noncommunity water systems owned or operated by a nonprofit group or organization;

"Stormwater management system" means any equipment, plants, structures, machinery, apparatus, management practices, or land, or any combination thereof, acquired, used, constructed, implemented or operated to prevent nonpoint source pollution, abate improper cross-connections and interconnections between stormwater and sewer systems, minimize stormwater runoff, reduce soil erosion, or induce groundwater recharge, or any combination thereof;

"Transportation project" means a capital project for public highways, approach roadways and other necessary land-side improvements, ramps, signal systems, roadbeds, transit lanes or rights of way, pedestrian walkways and bridges connecting to passenger stations and servicing facilities, bridges, and grade crossings;

"Trust" means the New Jersey Infrastructure Bank created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4);

"Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, septage, stormwater runoff, or any combination thereof, or other liquid residue discharged or collected into a sewer system or stormwater management system, or any combination thereof;

"Wastewater treatment system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed or operated by, or on behalf of, a local government unit for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the collection or treatment, or both, of stormwater runoff and wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, treatment plants and works, connections, outfall sewers, interceptors, trunk lines, stormwater management systems, and other personal property and appurtenances necessary for their use or operation; "wastewater treatment system" shall include a stormwater management system or a combined sewer system;

"Wastewater treatment system project" means any work relating to the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any wastewater treatment system that meets the requirements set forth in sections 20, 21, and 22 of P.L.1985, c.334 (C.58:11B-20, C.58:11B-21, and C.58:11B-22); or any work relating to any of the stormwater management or combined sewer overflow abatement projects identified in the stormwater management and combined sewer overflow abatement project priority list adopted by the commissioner pursuant to section 28 of P.L.1989, c.181; or any work relating to the purposes set forth in section 6 of P.L.2003, c.162; or any work relating to any other project eligible for financing under the "Federal Water Pollution Control Act Amendments of 1972" (33 U.S.C. s.1251 et seq.), or any amendatory or supplementary acts thereto;

"Water resources project" means any work related to transferring water between public water systems during a state of water emergency, to avert a drought emergency in all or any part of the State, to plan, design or construct interconnections of existing water supplies, or to extend water supplies to areas with contaminated ground water supplies;

"Water supply facilities" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part, by or on behalf of a public water utility, or by or on behalf of the State or a local government unit, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water, and for the preservation and protection of these resources and facilities, whether in public or private ownership, and providing for the conservation and development of future water supply resources, and facilitating incidental recreational uses thereof;

"Water supply project" means any work relating to the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to water supply facilities that meets the requirements set forth in sections 24, 25, and 26 of P.L.1997, c.224 (C.58:11B-20.1, C.58:11B-21.1, and C.58:11B-22.1); or any work relating to the purposes set forth in section 4 of P.L.1981, c.261; or any work relating to the purposes set forth in section 6 of P.L.2003, c.162; or any work relating to any other project eligible for funding pursuant to the federal "Safe Drinking Water Act Amendments of 1996," Pub.L.104-182, and any amendatory and supplementary acts thereto.

(cf: P.L.2021, c.74, s.1)

30. Section 4 of P.L.1985, c.334 (C.58:11B-4) is amended to read as follows:

4. a. There is established in, but not of, the Department of the Treasury a body corporate and politic, with corporate succession, to be known as the “New Jersey Infrastructure Bank.” The trust is constituted as an instrumentality of the State exercising public and essential governmental functions, no part of whose revenues shall accrue to the benefit of any individual, and the exercise by the trust of the powers conferred by the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of sections 1 through 28 of P.L.    , c.   (C.      ) (pending before the Legislature as this bill) shall be deemed and held to be an essential governmental function of the State.

b. The trust shall consist of **[**a 10**]** an 11 member board of directors composed of : the State Treasurer, the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Transportation, **[**and**]** the Commissioner of the Department of Environmental Protection, and the President of the Board of Public Utilities, who shall be members ex officio; two people appointed by the Governor upon the recommendation of the President of the Senate, and two people appointed by the Governor upon the recommendation of the Speaker of the General Assembly, who shall serve during the two-year legislative term in which they are appointed; and two residents of the State appointed by the Governor with the advice and consent of the Senate, who shall serve for terms of four years, except that the first two appointed shall serve terms of two and three years respectively. Each appointed director shall serve until that director's successor has been appointed and qualified. A director is eligible for reappointment. Any vacancy shall be filled in the same manner as the original appointment, but for the unexpired term only.

With respect to those public members first appointed by the Governor, the appointment of each of the two members upon the advice and consent of the Senate shall become effective 30 days after their nomination by the Governor if the Senate has not given advice and consent on those nominations within that time period; the President of the Senate and the Speaker of the General Assembly each shall recommend to the Governor a public member for appointment within 20 days following the effective date of P.L.1985, c.334 (C.58:11B-1 et seq.) and a public member for appointment within 20 days following the effective date of P.L.2016, c.56 and a recommendation made in this manner shall become effective if the Governor makes the appointment in accordance with the recommendation, in writing, within 10 days of the Governor's receipt thereof. In each instance where the Governor fails to make the appointment, the President of the Senate and the Speaker of the General Assembly shall make new recommendations subject to appointment by the Governor as determined in this section.

c. Each appointed director may be removed from office by the Governor for cause, upon the Governor's consideration of the findings and recommendations of an administrative law judge after a public hearing before the judge, and may be suspended by the Governor pending the completion of the hearing. Each director, before entering upon the director's duties, shall take and subscribe an oath to perform the duties of the director's office faithfully, impartially and justly to the best of the director's ability. A record of oaths shall be filed in the office of the Secretary of State.

d. The Governor shall designate one of the appointed members to be the chairperson and chief executive officer of the trust and the directors shall biannually elect a vice-chairperson from among the appointed directors. The chairperson shall serve as such for a term of two years and until a successor has been designated. A chairperson shall be eligible for one additional two-year term as chairperson. The directors shall elect a secretary and treasurer, who need not be directors, and the same person may be elected to serve as both secretary and treasurer.

The powers of the trust are vested in the directors in office from time to time and six directors shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the trust by the affirmative majority vote of those directors present, but in no event shall any action be taken or motions or resolutions adopted without the affirmative vote of at least six directors. No vacancy on the board of directors of the trust shall impair the right of a quorum of the directors to exercise the powers and perform the duties of the trust.

e. Each director and the treasurer of the trust shall execute a bond to be conditioned upon the faithful performance of the duties of the director or treasurer in a form and amount as may be prescribed by the State Treasurer. Bonds shall be filed in the office of the Secretary of State. At all times thereafter, the directors and treasurer shall maintain these bonds in full effect. All costs of the bonds shall be borne by the trust.

f. The directors of the trust shall serve without compensation, but the trust shall reimburse the directors for actual and necessary expenses incurred in the performance of their duties. Notwithstanding the provisions of any other law to the contrary, no officer or employee of the State shall be deemed to have forfeited or shall forfeit the officer's or employee's office or employment or any benefits or emoluments thereof by reason of the officer's or employee's acceptance of the office of ex officio director of the trust or the ex officio director's services thereon.

g. Each ex officio director may designate an officer of the ex officio director's department to represent the ex officio director at meetings of the trust. Each designee may lawfully vote and otherwise act on behalf of the director for whom the person constitutes the designee. The designation shall be delivered in writing to the trust and shall continue in effect until revoked or amended in writing and delivered to the trust.

h. The trust may be dissolved by law; provided the trust has no debts or obligations outstanding or that provision has been made for the payment or retirement of these debts or obligations. The trust shall continue in existence until dissolved by act of the Legislature. Upon any dissolution of the trust, all property, funds and assets of the trust shall be vested in the State.

i. A true copy of the minutes of every meeting of the trust shall be forthwith delivered by and under the certification of the secretary thereof to the Governor and at the same time to the Senate and General Assembly. The time and act of this delivery shall be duly recorded on a delivery receipt. No action taken or motion or resolution adopted at a meeting by the trust shall have effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after a copy of the minutes has been delivered to the Governor, unless during the 10-day period the Governor shall approve all or part of the actions taken or motions or resolutions adopted, in which case the action or motion or resolution shall become effective upon the approval.

If, in the 10-day period, the Governor returns the copy of the minutes with a veto of any action taken by the trust or any member thereof at that meeting, the action shall be of no effect. The Senate or General Assembly shall have the right to provide written comments concerning the minutes to the Governor within the 10-day period, which comments shall be returned to the trust by the Governor with the Governor's approval or veto of the minutes.

The powers conferred in this subsection upon the Governor shall be exercised with due regard for the rights of the holders of bonds, notes and other obligations of the trust at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the trust or any representative or officer of the trust to carry out and perform each covenant, agreement, or contract made or entered into by or on behalf of the trust with respect to its bonds, notes, or other obligations or for the benefit, protection or security of the holders thereof.

j. No resolution or other action of the trust providing for the issuance of bonds, refunding bonds, notes or other obligations shall be adopted or otherwise made effective by the trust without the prior approval in writing of the Governor and the State Treasurer. The trust shall provide the Senate and General Assembly with written notice of any request for approval of the Governor and State Treasurer at the time the request is made, and shall also provide the Senate and General Assembly written notice of the response of the Governor and State Treasurer at the time that the response is received by the trust.

(cf: P.L.2016, c.56, s.13)

31. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read as follows:

5. Except as otherwise limited by the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), the trust may:

a. Make and alter bylaws for its organization and internal management and, subject to agreements with holders of its bonds, notes or other obligations, make rules and regulations with respect to its operations, properties and facilities;

b. Adopt an official seal and alter it;

c. Sue and be sued;

d. Make and enter into all contracts, leases and agreements necessary or incidental to the performance of its duties and the exercise of its powers under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), and subject to any agreement with the holders of the trust's bonds, notes or other obligations, consent to any modification, amendment or revision of any contract, lease or agreement to which the trust is a party;

e. Enter into agreements or other transactions with and accept, subject to the provisions of section 23 of P.L.1985, c.334 (C.58:11B-23), grants, appropriations and the cooperation of the State, or any State agency, in furtherance of the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), and do anything necessary in order to avail itself of that aid and cooperation;

f. Receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), subject to the conditions upon which that aid and those contributions may be made, including, but not limited to, gifts or grants from any department or agency of the State, or any State agency, for any purpose consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), subject to the provisions of section 23 of P.L.1985, c.334 (C.58:11B-23) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) ;

g. Acquire, own, hold, construct, improve, rehabilitate, renovate, operate, maintain, sell, assign, exchange, lease, mortgage or otherwise dispose of real and personal property, or any interest therein, in the exercise of its powers and the performance of its duties under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) ;

h. Appoint and employ an executive director and any other officers or employees as it may require for the performance of its duties, without regard to the provisions of Title 11A of the New Jersey Statutes;

i. Borrow money and issue bonds, notes and other obligations, and secure the same, and provide for the rights of the holders thereof as provided in the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) ;

j. Subject to any agreement with holders of its bonds, notes or other obligations, invest moneys of the trust not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, in any obligations, securities and other investments in accordance with the rules and regulations of the State Investment Council or as may otherwise be approved by the Director of the Division of Investment in the Department of the Treasury upon a finding that such investments are consistent with the corporate purposes of the trust;

k. Procure insurance to secure the payment of its bonds, notes or other obligations or the payment of any guarantees or loans made by it in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), or against any loss in connection with its property and other assets and operations, in any amounts and from any insurers as it deems desirable;

l. Engage the services of attorneys, accountants, engineers, and financial experts and any other advisors, consultants, experts and agents as may be necessary in its judgment and fix their compensation;

m. (1) Make and contract to make loans and provide other assistance to local government units, or to a local government unit on behalf of another local government unit, to finance the cost of wastewater treatment system projects or water supply projects and acquire and contract to acquire notes, bonds or other obligations issued or to be issued by any local government units to evidence the loans, all in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

(2) Make and contract to make loans and provide other assistance to public water utilities, or to any other person or local government unit on behalf of a public water utility, to finance the cost of water supply projects in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

(3) Make and contract to make loans and provide other assistance to private persons other than local government units, or to any other person or local government unit on behalf of a private person, to finance the cost of onsite wastewater treatment and disposal systems or stormwater management systems in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

(4) Make and contract to make loans and provide other assistance to one or more local government units or consortia thereof to finance the cost of transportation projects, aviation projects, and marine projects in accordance with applicable provisions of the federal infrastructure bank program and pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4);

(5) Make and contract to make loans and provide other assistance to one or more P3 eligible entities, private entities, or a consortia thereof to finance the cost of energy-related projects in accordance the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill);

n. Subject to any agreement with holders of its bonds, notes or other obligations, purchase bonds, notes and other obligations of the trust and hold the same for resale or provide for the cancellation thereof, all in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) ;

o. (1) Charge to and collect from local government units, private persons **[**or**]** , public water utilities , or P3 eligible entities, as applicable, any fees and charges in connection with the trust's loans, guarantees or other services, including, but not limited to, fees and charges sufficient to reimburse the trust for all reasonable costs necessarily incurred by it in connection with its financings and the establishment and maintenance of reserve or other funds, as the trust may determine to be reasonable. The fees and charges shall be in accordance with a uniform schedule published by the trust for the purpose of providing actual cost reimbursement for the services rendered;

(2) Any fees and charges collected by the trust pursuant to this subsection may be deposited and maintained in a special fund separate from any other funds held by the trust pursuant to section 10 of P.L.1985, c.334 (C.58:11B-10) or section 23 of P.L.1997, c.224 (C.58:11B-10.1), and shall be available for any corporate purposes of the trust;

p. Subject to any agreement with holders of its bonds, notes or other obligations, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds, notes and other obligations of the trust or for the purchase upon tender or otherwise of the bonds, notes or other obligations, lines of credit, letters of credit and other security agreements or instruments in any amounts and upon any terms as the trust may determine, and pay any fees and expenses required in connection therewith;

q. Provide to local government units and P3 eligible entities any financial and credit advice as these local government units and P3 eligible entities may request;

r. Make payments to the State from any moneys of the trust available therefor as may be required pursuant to any agreement with the State or act appropriating moneys to the trust; and

s. Take any action necessary or convenient to the exercise of the foregoing powers or reasonably implied therefrom.

(cf: P.L.2021, c.74, s.2)

32. Section 6 of P.L.1985, c.334 (C.58:11B-6) is amended to read as follows:

6. a. Except as may be otherwise expressly provided in the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L.    , c.    (C.      ) (pending before the Legislature as this bill), the trust may from time to time issue its bonds, notes, or other obligations in any principal amounts as in the judgment of the trust shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding, or refunding of the principal of, or interest or redemption premiums on, any bonds, notes, or other obligations issued by it, whether the bonds, notes, or other obligations or the interest or redemption premiums thereon to be funded or refunded have or have not become due, the establishment or increase of reserves or other funds to secure or to pay the bonds, notes, or other obligations or interest thereon and all other costs or expenses of the trust incident to and necessary to carry out its corporate purposes and powers.

b. Whether or not the bonds, notes or other obligations of the trust are of a form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds, notes and other obligations are made negotiable instruments within the meaning of and for the purposes of Title 12A of the New Jersey Statutes, subject only to the provisions of the bonds, notes and other obligations for registration.

c. Bonds, notes or other obligations of the trust shall be authorized by a resolution or resolutions of the trust and may be issued in one or more series and shall bear any date or dates, mature at any time or times, bear interest at any rate or rates of interest per annum, be in any denomination or denominations, be in any form, either coupon, registered or book entry, carry any conversion or registration privileges, have any rank or priority, be executed in any manner, be payable in any coin or currency of the United States which at the time of payment is legal tender for the payment of public and private debts, at any place or places within or without the State, and be subject to any terms of redemption by the trust or the holders thereof, with or without premium, as the resolution or resolutions may provide. A resolution of the trust authorizing the issuance of bonds, notes or other obligations may provide that the bonds, notes or other obligations be secured by a trust indenture between the trust and a trustee, vesting in the trustee any property, rights, powers and duties in trust consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), as the trust may determine.

d. Bonds, notes or other obligations of the trust may be sold at any price or prices and in any manner as the trust may determine. Notwithstanding any provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., to the contrary, each bond, note or other obligation shall mature and be paid not later than 30 years for environmental infrastructure projects, 45 years for combined sewer overflow projects, **[**and**]** 31 years for transportation projects, aviation projects, and marine projects, and 25 years for energy-related projects, from the effective date thereof, or the certified useful life of the project or projects to be financed by the bonds, whichever is less, or a shorter period of time as may be applicable to any companion loan issued pursuant to federal law or regulation. Notwithstanding the provisions of the "Local Bond Law," N.J.S.40A:2-1 et seq., or this subsection, to the contrary, each bond, note, or other obligation funded pursuant to the "Water Infrastructure Finance and Innovation Act of 2014" (WIFIA), 33 U.S.C. s.3901 et seq., as amended and supplemented, or the "Transportation Infrastructure Finance and Innovation Act of 1998" (TIFIA), 23 U.S.C. s.601 et seq., as amended and supplemented, shall mature and be paid not later than the maximum time period allowed by those federal acts.

All bonds of the trust shall be sold at public or private sale at the price or prices and in the manner as the trust shall determine, either on a negotiated or on a competitive basis. If competitively sold, bonds shall be sold after notice of sale, a summary of which shall be published at least once in at least three newspapers published in the State of New Jersey and at least once in a publication carrying municipal bond notices and devoted primarily to financial news published in New Jersey or the city of New York, the first summary notice to be at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the trust, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The trust may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at private sale, without advertisement.

e. Bonds, notes or other obligations of the trust may be issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) without obtaining the consent of any department, division, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions or things which are specifically required by P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) .

f. Bonds, notes or other obligations of the trust issued under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L.    , c.    (C.      ) (pending before the Legislature as this bill) shall not be a debt or liability of the State or of any political subdivision thereof other than the trust and shall not create or constitute any indebtedness, liability or obligation of the State or any political subdivision, but all these bonds, notes and other obligations, unless funded or refunded by bonds, notes or other obligations, shall be payable solely from revenues or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) . Each bond, note and obligation shall contain on its face a statement to the effect that the trust is obligated to pay the principal thereof or the interest thereon only from its revenues, receipts or funds pledged or available for their payment as authorized in P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), and that neither the State, nor any political subdivision thereof, is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations.

g. The aggregate principal amount of bonds, notes or other obligations, including subordinated indebtedness of the trust, shall not exceed (1) $5,000,000,000 with respect to bonds, notes, or other obligations issued to finance the Disaster Relief Emergency Financing Program established pursuant to section 1 of P.L.2013, c.93 (C.58:11B-9.5), and (2) $3,800,000,000 with respect to bonds, notes, or other obligations issued for all other purposes of the trust. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the trust, which shall be issued for refunding purposes, whenever the refunding shall be determined to result in a savings.

(1) Upon the decision by the trust to issue refunding bonds, except for current refunding, and prior to the sale of those bonds, the trust shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the trust relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the trust to issue and sell the refunding bonds at public or private sale and the reasons therefor.

(2) The Joint Budget Oversight Committee or its successor shall have the authority to approve or disapprove the sales of refunding bonds as included in each report submitted in accordance with paragraph (1) of this subsection. The committee shall notify the trust in writing of the approval or disapproval within 30 days of receipt of the report. Should the committee not act within 30 days of receipt of the report, the trust may proceed with the sale of the refunding bonds, provided that the sale of refunding bonds shall realize not less than three percent net present value debt service savings.

(3) No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee or its successor as set forth in paragraphs (1) and (2) of this subsection.

(4) Within 30 days after the sale of the refunding bonds, the trust shall notify the committee of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

(5) The committee shall review all information and reports submitted in accordance with this subsection and may, on its own initiative, make observations to the trust, or to the Legislature, or both, as it deems appropriate.

h. Each issue of bonds, notes, or other obligations of the trust may, if it is determined by the trust, be general obligations thereof payable out of any revenues, receipts or funds of the trust, or special obligations thereof payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds, notes or other obligations, and may be secured by one or more of the following:

(1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal of notes, bonds or other obligations issued to the trust by one or more local government units, or P3 eligible entities, as applicable, and any other payment made to the trust pursuant to agreements with any local government units, or P3 eligible entities, as applicable, or a pledge or assignment of any notes, bonds, or other obligations of any local government unit or P3 eligible entities, as applicable, and the rights and interest of the trust therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local government units, or P3 eligible entities, as applicable, or a pledge or assignment of those leases or other contractual arrangements and the rights and interest of the trust therein;

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

(4) Pledge of the receipts to be derived from the payments of State aid, payable to the trust pursuant to section 12 of P.L.1985, c.334 (C.58:11B-12);

(5) A mortgage on all or any part of the property, real or personal, of the trust then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the trust by any person or entity, public or private, including one or more local government units , or P3 eligible entities, as applicable, and the rights and interest of the trust therein.

i. The trust shall not issue any bonds, notes or other obligations, or otherwise incur any additional indebtedness, on or after June 30, 2033.

j. (Deleted by amendment, P.L.1996, c.88).

(cf: P.L.2021, c.74, s.3)

33. Section 7 of P.L.1985, c.334 (C.58:11B-7) is amended to read as follows:

7. In any resolution of the trust authorizing or relating to the issuance of any of its bonds, notes or other obligations, the trust, in order to secure the payment of the bonds, notes or other obligations and in addition to its other powers, may by provisions therein which shall constitute covenants by the trust and contracts with the holders of the bonds, notes or other obligations:

a. Secure the bonds, notes or other obligations as provided in section 6 of P.L.1985, c.334 (C.58:11B-6);

b. Covenant against pledging all or part of its revenues or receipts;

c. Covenant with respect to limitations on any right to sell, mortgage, lease or otherwise dispose of any notes, bonds or other obligations of local government units, or P3 eligible entities, as applicable, or any part thereof, or any property of any kind;

d. Covenant as to any bonds, notes or other obligations to be issued by the trust, and the limitations thereon, and the terms and conditions thereof, and as to the custody, application, investment and disposition of the proceeds thereof;

e. Covenant as to the issuance of additional bonds, notes or other obligations of the trust or as to limitations on the issuance of additional bonds, notes or other obligations and on the incurring of other debts by it;

f. Covenant as to the payment of the principal of or interest on bonds, notes or other obligations of the trust, as to the sources and methods of payment, as to the rank or priority of the bonds, notes or other obligations with respect to any lien or security or as to the acceleration of the maturity of the bonds, notes or other obligations;

g. Provide for the replacement of lost, stolen, destroyed or mutilated bonds, notes or other obligations of the trust;

h. Covenant against extending the time for the payment of bonds, notes or other obligations of the trust or interest thereon;

i. Covenant as to the redemption of bonds, notes and other obligations by the trust or the holders thereof and privileges of exchange thereof for other bonds, notes or other obligations of the trust;

j. Covenant to create or authorize the creation of special funds or accounts to be held in trust or otherwise for the benefit of holders of bonds, notes and other obligations of the trust, or reserves for other purposes and as to the use, investment, and disposition of moneys held in those funds, accounts or reserves;

k. Provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and prescribe the events of default and terms and conditions upon which any or all of the bonds, notes or other obligations of the trust shall become or may be declared due and payable before maturity and the terms and conditions upon which the declaration and its consequences may be waived;

l. Vest in a trustee or trustees within or without the State any property, rights, powers and duties in trust as the trust may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds, notes or other obligations of the trust pursuant to section 18 of P.L.1985, c.334 (C.58:11B-18), including rights with respect to the sale or other disposition of notes, bonds or other obligations of local government units , or P3 eligible entities, as applicable, pledged pursuant to a resolution or trust indenture for the benefit of the holders of bonds, notes or other obligations of the trust and the right by suit or action to foreclose any mortgage pledged pursuant to the resolution or trust indenture for the benefit of the holders of the bonds, notes or other obligations, and to limit or abrogate the right of the holders of any bonds, notes or other obligations of the trust to appoint a trustee under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or the provisions of P.L. , C. (C. ) (pending before the Legislature as this bill), and to limit the rights, duties and powers of the trustee;

m. Pay the costs or expenses incident to the enforcement of the bonds, notes or other obligations of the trust or of the provisions of the resolution authorizing the issuance of those bonds, notes or other obligations or of any covenant or agreement of the trust with the holders of the bonds, notes or other obligations;

n. Limit the rights of the holders of any bonds, notes or other obligations of the trust to enforce any pledge or covenant securing the bonds, notes or other obligations; and

o. Make covenants other than or in addition to the covenants authorized by P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or P.L. , c. (C. ) (pending before the Legislature as this bill) of like or different character, and make covenants to do or refrain from doing any acts and things as may be necessary, or convenient and desirable, in order to better secure the bonds, notes or other obligations of the trust, or which, in the absolute discretion of the trust, would make the bonds, notes or other obligations more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

(cf: P.L.2016, c.56, s.16)

34. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read as follows:

9. a. (1) The trust may make and contract to make loans to local government units, or to a local government unit on behalf of another local government unit, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money.

(2) The trust may make and contract to make loans to public water utilities, or to any other person or local government unit on behalf of a public water utility, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply project, which the public water utility may lawfully undertake or acquire.

(3) The trust may make and contract to make loans to private persons other than local government units, or to any other person or local government unit on behalf of a private person, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of stormwater management systems.

(4) The trust may make and contract to make loans and provide other assistance to a local government unit or consortia thereof to finance the cost of transportation projects, aviation projects, and marine projects pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), and provided that the federally-funded transportation subaccount is operated in accordance with the provisions of the federal infrastructure bank program.

(5) The trust may make and contract to make loans and provide other assistance to a P3 eligible entity or private entity, or a consortia thereof, to finance the cost of energy-related projects pursuant to the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

The loans may be made subject to those terms and conditions as the trust shall determine to be consistent with the purposes thereof. Each loan by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan. Each loan to a local government unit, public water utility , P3 eligible entity, or any other person shall be evidenced by notes, bonds or other obligations thereof issued to the trust. In the case of each local government unit, notes and bonds to be issued to the trust and, if applicable, the State, acting by and through the Department of Environmental Protection, by the local government unit (1) shall be authorized and issued as provided by law for the issuance of notes and bonds by the local government unit, (2) notwithstanding any provisions of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the contrary, shall be approved by the Director of the Division of Local Government Services in the Department of Community Affairs, and (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other provisions of law to the contrary, may be sold at private sale to the trust or the State, as the case may be, at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the trust or the State, as the case may be, and local government units may agree. Each loan to a local government unit, public water utility , P3 eligible entity, or any other person and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as the trust or the State, as the case may be, and the local government unit, public water utility , P3 eligible entity, or any other person, as the case may be, may agree.

b. The trust is authorized to guarantee or contract to guarantee the payment of all or any portion of the principal and interest on bonds, notes or other obligations issued by a local government unit , P3 eligible entity, to finance the cost of any wastewater treatment system project, water supply project, transportation project, aviation project, **[**or**]** marine project, , or energy-related project, or redevelopment project that includes, as a portion thereof, any wastewater treatment system project, water supply project, or transportation project, which the local government unit or P3 eligible entity, as applicable, may lawfully undertake or acquire and for which the local government unit or P3 eligible entity, as applicable, is authorized by law to borrow money, and the guarantee shall constitute an obligation of the trust, and shall be in furtherance of the corporate purposes of the trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or P.L. , c. (C. ) (pending before the Legislature as this bill) . Each guarantee by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the guarantee.

c. The trust shall not make or contract to make any loans or guarantees to local government units, public water utilities , P3 eligible entities, or any other person, or otherwise incur any additional indebtedness, on or after June 30, 2033.

d. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source including, without limitation, any funds drawn by the trust from a revolving line of credit or other similar financial vehicle that may be procured by the trust, either through a competitive or negotiated process, pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the Interim Environmental Financing Program Fund or the trust may issue its bonds, notes or other obligations, including commercial paper issued through a competitive or negotiated process, in any principal amounts, in either case, as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units, public water utilities or private persons for any wastewater treatment system projects included on the Department of Environmental Protection project priority list and eligible for approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water supply projects included on the Department of Environmental Protection project priority list and eligible for approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to any other provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including, without limitation, any administrative or legislative approvals.

The trust shall create and establish a special fund to be known as the "Interim Environmental Financing Program Fund" for the short-term or temporary loan financing or refinancing program to be known as the "Interim Environmental Financing Program." The monies in the fund shall be used for short-term or temporary loans for clean water and drinking water projects pursuant to the New Jersey Environmental Infrastructure Financing Program.

Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-9.5), any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section from any source of funds anticipated to be received by the trust. Any such short-term or temporary loan made pursuant to the Interim Environmental Financing Program shall mature no later than the last day of the third succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; except a planning, design, and construction loan shall mature no later than the last day of the fifth succeeding fiscal year following the closing date of the planning, design, and construction loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the planning, design, and construction loan, whichever is sooner, provided that, in either case, project planning or engineering design activities shall not exceed two years from the closing date of the planning, design, and construction loan; and except a short-term or temporary loan made pursuant to this subsection for environmental planning and engineering design costs associated with long-term control plans for combined sewer overflow projects shall mature no later than the last day of the 10th succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; and except a short-term or temporary loan made pursuant to this subsection which has been submitted as part of an application for funding pursuant to the "Water Infrastructure Finance and Innovation Act of 2014" (WIFIA), 33 U.S.C. s.3901 et seq., as amended and supplemented, shall mature not later than the funding draw period allowed by this federal act. Any short-term or temporary loan or planning, design and construction loan made by the trust pursuant to this subsection may mature in a shorter period of time as may be necessary to align with construction completion. With respect to any short-term or temporary loan or planning, design, and construction loan made by the trust pursuant to this subsection, the trust may authorize one short-term supplemental loan for residual project expenses thereof upon receipt by the trust from the Department of Environmental Protection of a certification that states that the time required by the project sponsor to complete construction of the project exceeds the maximum maturity date of the project sponsor's outstanding short-term or temporary loan or planning, design, and construction loan. Any such short-term supplemental loan shall not exceed in duration the last day of the third succeeding fiscal year following the loan closing of the supplemental loan. The trust may make short-term or temporary loans pursuant to the Interim Environmental Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list to be known as the "Interim Environmental Financing Program Project Priority List" in the form provided to the Legislature by the Commissioner of Environmental Protection.

The Interim Environmental Financing Program Project Priority List, including any revision thereof or supplement thereto, shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year as provided in section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. The trust may revise or supplement the Interim Environmental Financing Program Project Priority List no more than four times during the fiscal year and shall submit the revised list to the Legislature when the revisions are made. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Environmental Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Environmental Financing Program Fund. The trust may issue short-term or temporary loans pursuant to this subsection only if a project is listed on an Interim Environmental Financing Program Project Priority List that has been submitted to the Legislature. No funds may be disbursed pursuant to this section for environmental infrastructure project activities prior to a determination and certification, in writing, from the Department of Environmental Protection, that the project activities satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

e. Notwithstanding any provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the contrary, short-term or temporary loans made by the trust pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project sponsors to evidence such loans, may, at the discretion of the trust and upon application by the project sponsor, bear interest at a variable rate determined pursuant to a methodology as may be established by the trust from time to time.

Further, notwithstanding any provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the contrary, any short-term or temporary loans made by the trust pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other obligations issued by project sponsors to evidence such short-term or temporary loans, as such loans, notes, or other obligations may be refinanced or extended, as provided in subsections d. and g. of this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except for loans for environmental planning and engineering design costs associated with long-term control plans for combined sewer overflow projects as provided in subsection d. of this section, shall mature no later than the maturity date as established pursuant to subsections d. and g. of this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), without payment by project sponsors of any portion of the principal thereof prior to maturity.

f. Any balances remaining in the Emergency Loan Fund established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1), the Planning and Design Fund established pursuant to section 1 of P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal Loan Fund established pursuant to section 5 of P.L.2009, c.103 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment Loan Fund established pursuant to section 1 of P.L.2014, c.28 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall be transferred to the Interim Environmental Financing Program Fund, and any loan repayments to the trust of principal and interest or premium on loans made from those funds shall be credited to the Interim Environmental Financing Program Fund.

g. The trust shall create and establish a special fund to be known as the "Interim Transportation Financing Program Fund" for the short-term or temporary loan financing or refinancing program to be known as the "Interim Transportation Financing Program."

Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source including, without limitation, any funds drawn by the trust from a revolving line of credit or other similar financial vehicle that may be procured by the trust, either through a competitive or negotiated process, pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the Interim Transportation Financing Program Fund or the trust may issue its bonds, notes or other obligations in any principal amounts, in either case, as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units or private persons for any transportation project, aviation project, or marine project included on the Department of Transportation Interim Transportation Financing Program Project Priority List for the ensuing fiscal year and eligible for approval pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), without regard to any other provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), including, without limitation, any administrative or legislative approvals.

Any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section from any source of funds anticipated to be received by the trust. Any such short-term or temporary loan made pursuant to the Interim Transportation Financing Program shall mature no later than the last day of the third succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; except a planning, design, and construction loan shall mature no later than the last day of the fifth succeeding fiscal year following the closing date of the planning, design, and construction loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the planning, design, and construction loan, and except a short-term or temporary loan made pursuant to this subsection which has been submitted as part of an application for funding pursuant to the "Transportation Infrastructure Finance and Innovation Act of 1998" (TIFIA), 23 U.S.C. s.601 et seq., as amended and supplemented, shall mature not later than the funding draw period allowed by this federal act. Any short-term or temporary loan or planning, design and construction loan made by the trust pursuant to this subsection may mature in a shorter period of time as may be necessary to align with construction completion, whichever is sooner, provided that, in either case, project planning or engineering design activities shall not exceed two years from the closing date of the planning, design, and construction loan. With respect to any short-term or temporary loan or planning, design, and construction loan made by the trust pursuant to this subsection, the trust may authorize one short-term supplemental loan for residual expenses thereof upon receipt by the trust from the Department of Transportation of a certification that states that the time required by the project sponsor to complete construction of the project exceeds the maximum maturity date of the short-term or temporary loan or planning, design, and construction loan. Any such short-term supplemental loan shall not exceed in duration the last day of the third succeeding fiscal year following the loan closing of the short-term supplemental loan. The trust may make short-term or temporary loans pursuant to the Interim Transportation Financing Program to any one or more of the project sponsors, for the respective projects thereof, only if a project is identified in the Department of Transportation Interim Transportation Financing Program Project Priority List to be known as the "Interim Transportation Financing Program Project Priority List" in the form provided to the Legislature by the Commissioner of Transportation.

The Interim Transportation Financing Program Project Priority List, including any revision thereof or supplement thereto, shall be submitted to the Secretary of the Senate and the Clerk of the General Assembly on or before July 1 of each year. The Interim Transportation Financing Program Project Priority List shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any transportation infrastructure project or the project sponsor thereof not identified in the Interim Transportation Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Transportation Financing Program Fund. The trust may revise or supplement the Interim Transportation Financing Program Project Priority List no more than four times during the fiscal year, and shall submit the revised list to the Legislature when the revisions are made.

No funds may be disbursed pursuant to this subsection for transportation project, aviation project, or marine project activities prior to certification in writing, from the trust, that the project activities satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Construction activities for a transportation project shall also require written notification of award concurrence from the Department of Transportation prior to fund disbursement.

(cf: P.L.2021, c.160, s.60)

35. Section 14 of P.L.1985, c.334 (C.58:11B-14) is amended to read as follows:

14. The State does pledge to and covenant and agree with the holders of any bonds, notes or other obligations of the trust issued pursuant to authorization of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or P.L.    , c.   (C.      ) (pending before the Legislature as this bill) that the State shall not limit or alter the rights or powers vested in the trust to perform and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations or to fix, establish, charge and collect any rents, fees, rates, payments or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the trust and to fulfill the terms of any agreement made with the holders of bonds, notes or other obligations, including the obligations to pay the principal of and interest and premium on those bonds, notes or other obligations, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, and shall not limit or alter the rights and powers of any local government unit or P3 eligible entity, as applicable, to pay and perform its obligations owed to the trust in connection with loans received from the trust, until the bonds, notes and other obligations of the trust, together with interest thereon, are fully met and discharged or provided for.

(cf: P.L.2016, c.56, s.25)

36. Section 15 of P.L.1985, c.334 (C.58:11B-15) is amended to read as follows:

15. The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds, notes or other obligations issued pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or P.L.    , c.   (C.      ) (pending before the Legislature as this bill), and those bonds, notes or other obligations shall be authorized security for any and all public deposits.

(cf: P.L.2016, c.56, s.26)

37. Section 17 of P.L.1985, c.334 (C.58:11B-17) is amended to read as follows:

17. All property of the trust is declared to be public property devoted to an essential public and governmental function and purpose and the revenues, income and other moneys received or to be received by the trust shall be exempt from all taxes of the State or any political subdivision thereof. All bonds, notes and other obligations of the trust issued pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or P.L. , c. (C. ) (pending before the Legislature as this bill) are declared to be issued by a body corporate and politic of the State and for an essential public and governmental purpose and those bonds, notes and other obligations, and interest thereon and the income therefrom and from the sale, exchange or other transfer thereof shall at all times be exempt from taxation, except for transfer inheritance and estate taxes.

(cf: P.L.2016, c.56, s.27)

38. Section 18 of P.L.1985, c.334 (C.58:11B-18) is amended to read as follows:

18. a. If the trust defaults in the payment of principal of, or interest on, any issue of its bonds, notes or other obligations after these are due, whether at maturity or upon call for redemption, and the default continues for a period of 30 days or if the trust defaults in any agreement made with the holders of any issue of bonds, notes or other obligations, the holders of 25 percent in aggregate principal amount of the bonds, notes or other obligations of the issue then outstanding, by instrument or instruments filed in the office of the clerk of any county in which the trust operates and has an office and proved or acknowledged in the same manner as required for a deed to be recorded, may direct a trustee to represent the holders of the bonds, notes or other obligations of the issuers for the purposes herein provided.

b. Upon default, the trustee may, and upon written request of the holders of 25 percent in principal amount of the bonds, notes or other obligations of the trust of a particular issue then outstanding shall, in the trustee's own name:

(1) By suit, action or proceeding enforce all rights of the holders of bonds, notes or other obligations of the issue, to require the trust to carry out any other agreements with the holders of the bonds, notes or other obligations of the issue and to perform its duties under P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or P.L. , c. (C. ) (pending before the Legislature as this bill) ;

(2) Bring suit upon the bonds, notes or other obligations of the issue;

(3) By action or suit, require the trust to account as if it were the trustee of an express trust for the holders of the bonds, notes or other obligations of the issue;

(4) By action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds, notes or other obligations of the issue;

(5) Sell or otherwise dispose of bonds and notes of local government units , or P3 eligible entities, as applicable, pledged pursuant to resolution or trust indenture for benefit of holders of bonds, notes, or other obligations of the issue on any terms as resolution or trust indenture may provide;

(6) By action or suit, foreclose any mortgage pledged pursuant to the resolution or trust indenture for the benefit of the holders of the bonds, notes or other obligations of the issue;

(7) Declare all bonds, notes or other obligations of the issue due and payable, and if all defaults are made good, then with the consent of the holders of 50 percent of the principal amount of the bonds, notes or other obligations of the issue then outstanding, to annul the declaration and its consequences.

c. The trustee shall, in addition to the foregoing, have those powers necessary or appropriate for the exercise of any function specifically set forth herein or incident to the general representation of holders of bonds, notes or other obligations of the trust in the enforcement and protection of their rights.

d. The Superior Court shall have jurisdiction over any suit, action or proceeding by the trustees on behalf of the holders of bonds, notes or other obligations of the trust. The venue of any suit, action or proceeding shall be in the county in which the principal office of the trust is located.

e. Before declaring the principal of bonds, notes or other obligations of the trust due and payable as a result of a trust default on any of its bonds, notes or other obligations, the trustee shall first give 30 days' notice in writing to the trust and to the Governor, State Treasurer, President of the Senate and Speaker of the General Assembly.

(cf: P.L.2016, c.56, s.28)

39. Section 19 of P.L.1985, c.334 (C.58:11B-19) is amended to read as follows:

19. Sums of money received pursuant to the authority of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), or P.L. , c. (C. ) (pending before the Legislature as this bill), whether as proceeds from the sale of particular bonds, notes or other obligations of the trust or as particular revenues or receipts of the trust, are deemed to be trust funds, to be held and applied solely as provided in the resolution or trust indenture under which the bonds, notes or obligations are authorized or secured. Any officer with whom or any bank or trust company with which those sums of money are deposited as trustee thereof shall hold and apply the same for the purposes thereof, subject to any provision as the aforementioned acts and the resolution or trust indenture authorizing or securing the bonds, notes or other obligations of the trust may provide.

(cf: P.L.2016, c.56, s.29)

40. Section 6 of P.L.2009, c.59 (C.58:11B-19.1) is amended to read as follows:

6. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive or access emergency or relief federal funds that are appropriated to the State subsequent to a federal or State declaration of emergency to make loans or grants in the implementation of the New Jersey Environmental Infrastructure Financing Program **[**or**]** the New Jersey Transportation Infrastructure Financing Program, or the New Jersey Energy Infrastructure Financing Program to local government units, public water utilities or private persons for any wastewater treatment system projects included on the clean water project priority list for the ensuing fiscal year and eligible for approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20), water supply projects included on the drinking water project priority list for the ensuing fiscal year and eligible for approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1), **[**or**]** transportation projects included on the transportation project priority list for the ensuing fiscal year and eligible for approval pursuant to section 36 of P.L.2016, c.56 (C.58:11B-20.2), , or P3 eligible entities included on the energy project priority list for the ensuing fiscal year pursuant to section 25 of P.L. , c. (C. ) (pending before the Legislature as this bill), as applicable, or to make non-project related loans and provide other assistance, including CAP payments and other financial assistance on behalf of or as a conduit for local government units, in accordance with the ranking criteria determined by the federal or State government.

For the purposes of this section, "CAP Payment" means a payment made by a project sponsor pursuant to a State or federal relief program for utility customers or a consumer assistance program.

(cf: P.L.2021, c.74, s.9)

41. Section 23 of P.L.1985, c.334 (C.58:11B-23) is amended to read as follows:

23. a. No funds from State sources or State bond issues used to capitalize the trust shall be available for use by the trust unless appropriated by law to the trust.

b. No funds shall be expended by the trust for its annual operating expenses unless appropriated by law to the trust. Unless required to be otherwise applied pursuant to law, funds generated by the operation of the trust, including, but not limited to: proceeds from the sale of the trust's bonds, notes or other obligations; revenues derived from investments by the trust; loan repayments from local government units; and fees and charges levied by the trust, may thereafter be applied in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), **[**or**]** sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4) , or P.L. , c. (C. ) (pending before the Legislature as this bill), for any corporate purpose of the trust without appropriation; except that the funds shall only be used to make loans or guarantees approved by the Legislature in accordance with the provisions of sections 20, 21, and 22 of P.L.1985, c.334 (C.58:11B-20, C.58:11B-21 and C.58:11B-22), sections 24, 25, and 26 of P.L.1997, c.224 (C.58:11B-20.1, C.58:11B-21.1 and C.58:11B-22.1), **[**or**]** sections 35 through 37 of P.L.2016, c.56 (C.58:11B-10.5, C.58:11B-20.2, and C.58:11B-22.3) , or P.L. , c. (C. ) (pending before the Legislature as this bill), .

c. The trust shall not apply for federal funds, including funds which are authorized pursuant to the "Federal Water Pollution Control Act Amendments of 1972," Pub.L. 92-500 (33 U.S.C. s.1251 et seq.), and any amendatory or supplementary acts thereto, except the trust is expressly authorized to apply, in consultation with the Department of Environmental Protection, for funds under the "Water Infrastructure Finance and Innovation Act," (WIFIA) 33 U.S.C. s.3901 et seq. as amended or superseded, with notice to the Department of Transportation, for funds under the Transportation Infrastructure Finance and Innovation Act (TIFIA) 23 U.S.C. 601 through 23 U.S.C. 609 as amended or superseded, and provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21) Pub. L. 112-141, the Fixing America's Surface Transportation Act (FAST Act) Pub. L. 114-94, the Transportation Equity Act for the 21st Century (TEA-21) Pub. L. 105-178, the Safe, Accountable, Flexible and Efficient Transportation Equity Act: a Legacy for User ("SAFETEA-LU") Pub. L. 109-59, and the Rail Safety Improvement Act of 2008 Pub. L. 110-432, or any subsequent law concerning federal surface transportation programs as applicable.

The trust, with the concurrence of the Commissioner of Environmental Protection, may receive, accept or utilize moneys received from local government units as repayments of principal and interest on loans made from the State Revolving Fund Accounts established pursuant to section 1 of P.L.1988, c.133.

Repayments of principal and interest on all federal funds for which the New Jersey Infrastructure Bank is expressly permitted to apply shall be the responsibility of the borrowers of New Jersey Infrastructure Bank loans issued utilizing those federal funds, and in no way shall it be the responsibility of the State of New Jersey or the Department of Transportation.

(cf: P.L.2019, c.516, s.6)

42. N.J.S.18A:18A-42 is amended to read as follows:

18A:18A-42. All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall be awarded for a period not to exceed 12 consecutive months. Any board of education may award a contract for longer periods of time as follows:

a. Supplying of:

(1) Fuel for heating purposes, for any term not exceeding in the aggregate, three years;

(2) Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years;

(3) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, “cogeneration” means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam; or

b. Plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or

c. Collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or

d. Data processing service, for any term of not more than seven years; or

e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, or participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years; or

f. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind and textbooks and non-consumable instructional materials, for any term not exceeding in the aggregate, five years; except that contracts for the leasing of school buses may be awarded for any term not exceeding in the aggregate ten years. Contracts awarded pursuant to this subsection shall be awarded only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or

g. Supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or

h. (Deleted by amendment, P.L.1999, c.440.)

i. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years; or

j. (Deleted by amendment, P.L.2009, c.4.) **[**.**]**

k. Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction; or

l. Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years; or

m. Food supplies and food services for any term of not more than three years; or

n. Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract; or

o. The provision or performance of goods or services for the purpose of producing class I renewable energy, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by any local board of education, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs , and shall exclude renewable energy contracts entered as part of an energy-related project, as defined pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), constructed and operated pursuant to a public-private partnership agreement entered into pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) .

p. The sale of electricity or thermal energy, or both, produced by a combined heat and power facility, cogeneration facility, or on-site generation facility, as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or a district energy system or distributed electric generation resource as those terms are defined pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), which are constructed and operated pursuant to a public-private partnership agreement entered into pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), for a term not to exceed 30 years, which term shall commence after construction of the facility has been completed and commercial operation of the facility has commenced.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. the contract shall be awarded by resolution of the board of education upon a finding by the board of education that the services are being performed in an effective and efficient manner; b. no such contract shall be extended so that it runs for more than a total of five consecutive years; c. any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. the terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section, including any two-year or one-year extensions, except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6 or contracts for thermal energy authorized pursuant to subsection a. above, and contracts for the provision or performance of goods or services to promote energy conservation through the production of class I renewable energy, authorized pursuant to subsection o. of this section, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause. All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the “Public School Contracts Law,” N.J.S.18A:18A-1 et seq., except that a contract may be extended by mutual agreement of the parties to the contract when a board of education has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

(cf: P.L.2009, c.4, s.3)

43. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to read as follows:

15. All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to subparagraph (i) of paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to exceed 12 consecutive months. Contracts may be awarded for longer periods of time as follows:

(1) Supplying of:

(a) (Deleted by amendment, P.L.1996, c.113 **[**.**]** )

(b) (Deleted by amendment, P.L.1996, c.113 **[**.**]** )

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities

For the purposes of this paragraph, “cogeneration” means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment, P.L.1977, c.53 **[**.**]** )

(3) The collection and disposal of municipal solid waste, the collection and disposition of recyclable material, or the disposal of sewage sludge, for any term not exceeding in the aggregate, five years , unless conducted as part of an energy-related project in accordance with the provisions of P.L. , c. (pending before the Legislature as this bill) ;

(4) The collection and recycling of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when the contract is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(5) Data processing service, for any term of not more than seven years;

(6) Insurance, including the purchase of insurance coverages, insurance consulting or administrative services, claims administration services, including participation in a joint self-insurance fund, risk management program or related services provided by a contracting unit insurance group, or participation in an insurance fund established by a local unit pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years;

(7) Leasing or servicing of (a) automobiles, motor vehicles, machinery, and equipment of every nature and kind, for a period not to exceed five years, or (b) machinery and equipment used in the generation of electricity by a municipal shared services energy authority established pursuant to section 4 of P.L.2015, c.129 (C.40A:66-4), or a contracting unit engaged in the generation of electricity, for a period not to exceed 20 years; provided, however, a contract shall be awarded only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services in the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a company providing voice, data, transmission, or switching services for a term not exceeding five years;

(9) Any single project for the construction, reconstruction, or rehabilitation of any public building, structure, or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections and plan review services undertaken by private agencies pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more than three years;

(12) (Deleted by amendment, P.L.2009, c.4) **[**.**]**

(13) (Deleted by amendment, P.L.1999, c.440 **[**.**]** )

(14) (Deleted by amendment, P.L.1999, c.440 **[**.**]** )

(15) Leasing of motor vehicles, machinery, and other equipment primarily used to fight fires, for a term not to exceed ten years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services in the Department of Community Affairs;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be required for those contracts otherwise exempted pursuant to subsection (30), (31), (34), (35) or (43) of this section.

For the purposes of this subsection, “water supply services” means any service provided by a water supply facility; “water filtration system” means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and “water supply facility” means and refers to the real property and the plants, structures, or interconnections between existing water supply facilities, machinery and equipment and other property, real, personal, and mixed, acquired, constructed, or operated, or to be acquired, constructed, or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful, or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving, or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of resource recovery services by a qualified vendor, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the residual ash generated at a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation, or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, and the Department of Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et al.); and when the resource recovery facility is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).

For the purposes of this subsection, “resource recovery facility” means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse, or a mechanized composting facility, or any other facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production; and “residual ash” means the bottom ash, fly ash, or any combination thereof, resulting from the combustion of solid waste at a resource recovery facility;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the resource recovery facility is in conformance with a district solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).

For the purposes of this subsection, “resource recovery facility” means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse, or a mechanized composting facility, or any other facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be required for those contracts otherwise exempted pursuant to subsection (36) or (43) of this section.

For the purposes of this subsection, “wastewater treatment services” means any services provided by a wastewater treatment system; and “wastewater treatment system” means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of goods or services for the purpose of lighting public streets, for a term not to exceed five years;

(21) The provision of emergency medical services for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;

(23) Fuel for the purpose of generating electricity for a term not to exceed eight years;

(24) The purchase of electricity or administrative or dispatching services related to the transmission of electricity, from a supplier of electricity subject to the jurisdiction of a federal regulatory agency, from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C. s.796, or from any supplier of electricity within any regional transmission organization or independent system operator or from an organization or operator or their successors, by a contracting unit engaged in the generation of electricity for retail sale, as of May 24, 1991, for a term not to exceed 40 years; or by a contracting unit engaged solely in the distribution of electricity for retail sale for a term not to exceed ten years, except that a contract with a contracting unit, engaged solely in the distribution of electricity for retail sale, in excess of ten years, shall require the written approval of the Director of the Division of Local Government Services. If the director fails to respond in writing to the contracting unit within 10 business days, the contract shall be deemed approved;

(25) Basic life support services, for a period not to exceed five years.

For the purposes of this subsection, “basic life support” means a basic level of prehospital care, which includes but need not be limited to patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care, and fracture stabilization;

(26) (Deleted by amendment, P.L.1999, c.440 **[**.**]** )

(27) The provision of transportation services to an elderly person, an individual with a disability, or an indigent person for any term of not more than three years.

For the purposes of this subsection, “elderly person” means a person who is 60 years of age or older. “Individual with a disability” means a person of any age who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable, without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. “Indigent person “ means a person of any age whose income does not exceed 100 percent of the poverty line, adjusted for family size, established and adjusted under section 2 of the “Community Services Block Grant Act,” (42 U.S.C. s.9902);

(28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit;

(29) The performance of patient care services by contracted medical staff at county hospitals, correction facilities, and long term care facilities, for any term of not more than three years;

(30) The acquisition of an equitable interest in a water supply facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a contract entered into pursuant to the “County and Municipal Water Supply Act,” N.J.S.40A:31-1 et seq., if the contract is entered into no later than January 7, 1995, for any term of not more than forty years;

(31) The provision of water supply services or the financing, construction, operation, or maintenance or any combination thereof, of a water supply facility or any component part or parts thereof, by a partnership or copartnership established pursuant to a contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a period not to exceed 40 years;

(32) Laundry service and the rental, supply, and cleaning of uniforms for any term of not more than three years;

(33) The supplying of any product or the rendering of any service, including consulting services, by a cemetery management company for the maintenance and preservation of a municipal cemetery operating pursuant to the “New Jersey Cemetery Act, 2003,” P.L.2003, c.261 (C.45:27-1 et seq.), for a term not exceeding 15 years;

(34) A contract between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply services may be entered into for any term which, when all optional extension periods are added, may not exceed 40 years;

(35) A contract for the purchase of a supply of water from a public utility company subject to the jurisdiction of the Board of Public Utilities in accordance with tariffs and schedules of charges made, charged or exacted or contracts filed with the Board of Public Utilities, for any term of not more than 40 years;

(36) A contract between a public entity and a private firm or public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the provision of wastewater treatment services may be entered into for any term of not more than 40 years, including all optional extension periods;

(37) The operation and management of a facility under a license issued or permit approved by the Department of Environmental Protection, including a wastewater treatment system, a stormwater management system, or a water supply or distribution facility, as the case may be, for any term of not more than ten years.

For the purposes of this subsection, “wastewater treatment system” refers to facilities operated or maintained for the storage, collection, reduction, disposal, or other treatment of wastewater or sewage sludge, remediation of groundwater contamination, stormwater runoff, or the final disposal of residues resulting from the treatment of wastewater; “stormwater management system” means the same as that term is defined in section 3 of P.L.2019, c.42 (C.40A:26B-3); and “water supply or distribution facility” refers to facilities operated or maintained for augmenting the natural water resources of the State, increasing the supply of water, conserving existing water resources, or distributing water to users;

(38) Municipal solid waste collection from facilities owned by a contracting unit, for any term of not more than three years;

(39) Fuel for heating purposes, for any term of not more than three years;

(40) Fuel or oil for use in motor vehicles for any term of not more than three years;

(41) Plowing and removal of snow and ice for any term of not more than three years;

(42) Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities, or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract;

(43) A contract between the governing body of a city of the first class and a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of this section, or wastewater treatment services as defined in subsection (19) of this section, may be entered into for a period not to exceed 40 years;

(44) The purchase of electricity generated through Class I renewable energy or from a power production facility that is fueled by methane gas extracted from a landfill in the county of the contacting unit for any term not exceeding 25 years;

(45) The provision or performance of goods or services for the purpose of producing Class I renewable energy or Class II renewable energy, as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by, or operations conducted by, the contracting unit, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that a contract shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs;

(46) A power supply contract, as defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), between a member municipality as defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and the municipal shared services energy authority established pursuant to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the electric power needs of its members, for the lease, operation, or management of electric generation within a member municipality's corporate limits and franchise area or the purchase of electricity, or the purchase of fuel for generating units for a term not to exceed 40 years;

(47) A contract entered into pursuant to paragraph (2) of subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between a county hospital authority and a manager for the management, operation, and maintenance of a hospital owned by the authority or the county for a term not to exceed 20 years, provided, however, that a contract entered into pursuant to paragraph (2) of subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for two additional periods, not to exceed five years each; **[**and**]**

(48) (a) A lease agreement that provides for the use, lease, lease-back, acquisition, operation, or maintenance of ferry boats and related facilities and services, for a period not to exceed 20 years, except as provided by paragraph (b) of this subsection. For the purposes of this subsection, “related facilities and services” includes, but is not limited to, docks and terminals, parking facilities, intermodal facilities, ingress and egress to the parking and terminal facilities, and the provision of goods and services to the public, provided that a contract for the provision or performance of such goods or services is related to ferry services and requires:

(1) a total capital expenditure exceeding $300,000, as certified by the chief financial officer of the contracting unit, including but not limited to capital expenditures made by the lessee; or

(2) a capital improvement that has a life expectancy upon completion exceeding 20 years, as certified by the chief financial officer of the contracting unit.

(b) A lease agreement for a capital improvement under subparagraph (2) of paragraph (a) of this subsection may be awarded for a period not to exceed 50 years.

(c) Each worker employed in a construction project under a contract executed pursuant to this subsection shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) ; and

(49) The sale of electricity or thermal energy, or both, produced by a combined heat and power facility, cogeneration facility, or on-site generation facility, as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or a district energy system or distributed electric generation resource as those terms are defined pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), which are constructed and operated pursuant to a public-private partnership agreement entered into pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), for a term not to exceed 30 years, which term shall commence after construction of the facility has been completed and commercial operation of the facility has commenced.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. The contract shall be awarded by resolution of the governing body upon a finding by the governing body that the services are being performed in an effective and efficient manner; b. No contract shall be extended so that it runs for more than a total of five consecutive years; c. Any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. The terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section, including any two-year or one-year extensions, except contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts for the provision or performance of goods or services or the supplying of equipment to promote energy conservation through the production of Class I renewable energy or Class II renewable energy authorized pursuant to subsection (45) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16), (30), (31), (34), (35), (37), or (43) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19), (36), (37), or (43) above, contracts for the operation and maintenance of a stormwater management system authorized pursuant to subsection (37) above, and contracts for the purchase of electricity or administrative or dispatching services related to the transmission of electricity authorized pursuant to subsection (24) above, contracts for the purchase of electricity generated from a power production facility that is fueled by methane gas authorized pursuant to subsection (44) above, and power supply contracts authorized pursuant to subsection (46) respectively, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services in the Department of Community Affairs shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract may be extended by mutual agreement of the parties to the contract when a contracting unit has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

(cf: P.L.2019, c.79, s.1)

44. This act shall take effect immediately.

STATEMENT

This bill, entitled the “Energy Infrastructure Public-Private Partnerships Act,” would permit private entities to propose to public-private partnership eligible entities, as defined in the bill, certain energy-related projects through a public-private partnership (P3) agreement. The bill would create an Energy Public-Private Partnerships Program (Energy P3 Program) and an Energy Infrastructure Financing Program within the New Jersey Infrastructure Bank (bank).

The Energy P3 Program would be responsible for the formulation and execution of a comprehensive Statewide policy for P3 agreements that facilitate the development of energy-related projects and for the development, promotion, coordination, oversight, and approval of P3 agreements for energy-related projects. The Energy Infrastructure Financing Program would provide loans and other forms of financial assistance to P3 eligible entities that are parties to public-private partnership agreements to develop and finance energy-related projects pursuant to the bill.

The bill defines “public-private partnership eligible entity,” or “P3 eligible entity,” as the State, its subdivisions, and any department, agency, commission, authority, board, or instrumentality thereof, a county, a municipality, a board of education, a State college or university, a county college, a private not-for-profit higher education institution, a regional or municipal utility authority, a quasi-State agency, a State-created corporation, and a private not-for-profit hospital licensed by the Department of Health pursuant to the “Health Care Facilities Planning Act,” P.L.1971, c.136 (C.26:2H-1 et seq.). (The term does not include a municipal electric utility established pursuant to R.S.40:62-12.)

The Energy P3 Program would consult and coordinate with representatives of other State departments, agencies, boards, and authorities to accomplish the goals of the bill and facilitate P3 agreements for energy-related projects. The bill directs the bank to develop criteria by which a P3 eligible entity would award an energy-related project to a private entity whose proposal is determined to be the most advantageous. The bill prescribes competitive contracting procedures to govern P3 agreements, including procurements and prevailing wage requirements for workers engaged in construction activities and other worker protections, and provides oversight authority to the Energy P3 Program to protect the interests of participating entities. The bill permits the inclusion of a project labor agreement in all energy-related projects created pursuant to the provisions of the bill. The bill also requires, beginning three years after the bill is enacted into law, an annual report concerning energy-related P3 projects to be submitted to the Governor and to the Legislature.

The bill establishes an Energy Infrastructure Financing Program in the bank to provide loans and other forms of financial assistance, as the bank deems appropriate, to P3 eligible entities and private entities that are parties to P3 agreements to develop and finance energy-related projects pursuant to the bill. The bill amends the “New Jersey Infrastructure Trust Act,” P.L.1985, c.334 (C.58:11B-1 et seq.), to reflect the establishment of this new program. In addition, the bill would add the President of the Board of Public Utilities as an ex-officio member to the board of directors for the bank.

The bill makes various changes to existing statutes related to the bank in order to expand its mission from water, environmental infrastructure, and transportation projects, to include energy-related projects. The bill requires that funds and accounts of the bank be segregated in such a way as to prevent the mixing of transportation, water, or environmental infrastructure monies with energy-related monies. The bill creates an interim financing program for energy-related projects and establishes an Energy Loan Origination Fee Fund similar to the existing interim financing programs and fee funds for environmental and transportation projects.

The bill would require the bank to submit to the Legislature, on or before May 15 of each year, a financial plan designed to implement the financing of the energy-related projects on the Energy Financing Program Project Priority List or the Energy Financing Program Project Eligibility List. The bill provides that on or before June 30 of each year the Legislature may reject the financial plan through the adoption by both houses of a concurrent resolution. If the Legislature rejects the financial plan, the project list would be removed from the annual appropriations act and the bank would not undertake any of the proposed activities contained in the plan. If the Legislature takes no action on the financial plan on or before June 30, the financial plan would be deemed approved.

Under the bill, the development of an energy-related project would be deemed to constitute the performance of an essential public function. A component of an energy-related project predominantly used by, or developed in furtherance of the purposes of, a P3 eligible entity that is owned by or leased to a P3 eligible entity, foreign or domestic nonprofit business entity, or business entity wholly owned by a nonprofit business entity would be exempt from property taxation and special assessments of the State, a municipality, and any other political subdivision of the State, and, notwithstanding the provisions of any other law to the contrary, would not be required to make payments in lieu of taxes, and the land upon which an energy-related project is located would be exempt from property taxation for the useful life of the project.

The bill provides that the provisions of P.L.2009, c.136 (the requirements for certain public contracts with private firms) do not apply to energy-related projects developed under the bill.

The bill also provides that nothing in the bill limits the powers of the Office of the State Comptroller or the authority of the Board of Public Utilities.

Lastly, the bill amends the “Public School Contracts Law” and the “Local Public Contracts Law” to provide that a contract may be for up to 30 years for the sale of electricity or thermal energy, or both, produced by a combined heat and power facility, cogeneration facility, on-site generation facility, a district energy system, or a distributed electric generation resource constructed and operated pursuant to a public-private partnership agreement under the bill.