

SENATE, No. 2294

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 31, 2005

Sponsored by:
Senator RONALD L. RICE
District 28 (Essex)

SYNOPSIS

Increases EDA bonding limit for the State share of school facilities projects.

CURRENT VERSION OF TEXT

As introduced.



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1 **AN ACT** concerning State support for school facilities projects and
2 amending P.L.2000, c.72.

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

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

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

10 a. The authority shall have the power, pursuant to the provisions
11 of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and
12 refunding bonds, incur indebtedness and borrow money secured, in
13 whole or in part, by moneys received pursuant to sections 17, 18 and
14 19 of this act for the purposes of: financing all or a portion of the
15 costs of school facilities projects and any costs related to the issuance
16 thereof, including, but not limited to, the administrative, insurance,
17 operating and other expenses of the authority to undertake the
18 financing, design, construction and maintenance of school facilities
19 projects; lending moneys to local units to pay the costs of all or a
20 portion of school facilities projects and any costs related to the
21 issuance thereof; funding the grants to be made pursuant to section 15
22 of this act; and financing the acquisition of school facilities projects to
23 permit the refinancing of debt by the district pursuant to section 16 of
24 this act. The aggregate principal amount of the bonds, notes or other
25 obligations issued by the facilities authority shall not exceed:
26 **[\$100,000,000]** \$100,333,000 for the State share of costs for county
27 vocational school district school facilities projects; **[\$6,000,000,000]**
28 \$8,000,000,000 for the State share of costs for Abbott district school
29 facilities projects; and **[\$2,500,000,000]** \$3,333,000,000 for the State
30 share of costs for school facilities projects in all other districts. This
31 limitation shall not include any bonds, notes or other obligations issued
32 for refunding purposes.

33 The authority may establish reserve funds to further secure bonds
34 and refunding bonds issued pursuant to this section and may issue
35 bonds to pay for the administrative, insurance and operating costs of
36 the authority in carrying out the provisions of this act. In addition to
37 its bonds and refunding bonds, the authority shall have the power to
38 issue subordinated indebtedness, which shall be subordinate in lien to
39 the lien of any or all of its bonds or refunding bonds as the authority
40 may determine.

41 b. The authority shall issue the bonds or refunding bonds in such
42 manner as it shall determine in accordance with the provisions of this
43 act and P.L.1974, c.80 (C.34:1B-1 et seq.); provided that

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

Matter underlined thus is new matter.

1 notwithstanding any other law to the contrary, no resolution adopted
2 by the authority authorizing the issuance of bonds or refunding bonds
3 pursuant to this section shall be adopted or otherwise made effective
4 without the approval in writing of the State Treasurer; and refunding
5 bonds issued to refund bonds issued pursuant to this section shall be
6 issued on such terms and conditions as may be determined by the
7 authority and the State Treasurer. The authority may, in any
8 resolution authorizing the issuance of bonds or refunding bonds issued
9 pursuant to this section, pledge the contract with the State Treasurer
10 provided for pursuant to section 18 of this act, or any part thereof, or
11 may pledge all or any part of the repayments of loans made to local
12 units pursuant to section 19 of this act for the payment or redemption
13 of the bonds or refunding bonds, and covenant as to the use and
14 disposition of money available to the authority for payment of the
15 bonds and refunding bonds. All costs associated with the issuance of
16 bonds and refunding bonds by the authority for the purposes set forth
17 in this act may be paid by the authority from amounts it receives from
18 the proceeds of the bonds or refunding bonds, and from amounts it
19 receives pursuant to sections 17, 18, and 19 of this act. The costs may
20 include, but shall not be limited to, any costs relating to the issuance
21 of the bonds or refunding bonds, administrative costs of the authority
22 attributable to the making and administering of loans and grants to
23 fund school facilities projects, and costs attributable to the agreements
24 entered into pursuant to subsection d. of this section.

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

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

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

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

43 (4) Pledge of the receipts to be derived from payments of State aid
44 to the authority pursuant to section 21 of this act;

45 (5) Pledge of the contract or contracts with the State Treasurer
46 pursuant to section 18 of this act;

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

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

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

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

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

36 f. Bonds and refunding bonds issued by the authority pursuant to
37 this section shall be special and limited obligations of the authority
38 payable from, and secured by, funds and moneys determined by the
39 authority in accordance with this section. Notwithstanding any other
40 provision of law or agreement to the contrary, any bonds and
41 refunding bonds issued by the authority pursuant to this section shall
42 not be secured by the same property as bonds and refunding bonds
43 issued by the authority to finance projects other than school facilities
44 projects. Neither the members of the authority nor any other person
45 executing the bonds or refunding bonds shall be personally liable with
46 respect to payment of interest and principal on these bonds or

1 refunding bonds. Bonds or refunding bonds issued pursuant to this
2 section shall not be a debt or liability of the State or any agency or
3 instrumentality thereof, except as otherwise provided by this
4 subsection, either legal, moral or otherwise, and nothing contained in
5 this act shall be construed to authorize the authority to incur any
6 indebtedness on behalf of or in any way to obligate the State or any
7 political subdivision thereof, and all bonds and refunding bonds issued
8 by the authority shall contain a statement to that effect on their face.

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

20 h. The authority may charge to and collect from local units,
21 districts, the State and any other person, any fees and charges in
22 connection with the authority's actions undertaken with respect to
23 school facilities projects, including, but not limited to, fees and charges
24 for the authority's administrative, organization, insurance, operating
25 and other expenses incident to the financing, planning, design,
26 construction management, acquisition, construction, completion and
27 placing into service and maintenance of school facilities projects.
28 Notwithstanding any provision of this act to the contrary, no Level II
29 district or a district whose district aid percentage is greater than or
30 equal to 55% but less than 100% shall be responsible for the payment
31 of any fees and charges related to the authority's operating expenses.
32 (cf: P.L.2000, c.72, s.14)

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34 2. This act shall take effect immediately.

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STATEMENT

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39 This bill amends the "Educational Facilities Construction and
40 Financing Act," (EFCFA) P.L.2000, c.72, to increase the amount of
41 bonds authorized to be issued by the New Jersey Economic
42 Development Authority (EDA) to finance the State share of Abbott
43 district school facilities projects by \$2 billion. This increase will allow
44 the New Jersey Schools Construction Corporation to meet the State's
45 funding obligations on Abbott district projects through 2006. The
46 need for additional funding for Abbott district projects can then be

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1 evaluated in light of the new long-range facilities plans which school
2 districts are required to submit to the Department of Education by
3 October 1, 2005.

4 The bill also provides a \$833 million increase in the amount of EDA
5 bonds authorized for the State share of nonAbbott district school
6 facilities projects and a \$333,000 increase in the amount authorized for
7 the State share of county vocational school district school facilities
8 projects. These increases are proportional to the increase provided for
9 the State share of Abbott district projects. Again, the needs of the
10 nonAbbott districts and county vocational school districts can then be
11 evaluated in accordance with the October 2005 long-range facilities
12 plans.