

CHAPTER 137

AN ACT concerning the construction and financing of public school facilities and revising parts of the statutory law.

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

C.52:18A-235 Findings, declarations relative to construction and financing of public school facilities.

1. The Legislature finds and declares that:

a. The Constitution of the State of New Jersey requires the Legislature to provide for the maintenance and support of a thorough and efficient system of free public schools and this legislative responsibility includes ensuring that students are educated in physical facilities that are safe, healthy, and conducive to learning.

b. Inadequacies in the quality, utility, and safety of educational facilities among school districts of this State, and particularly in Abbott districts, led to the enactment of the “Educational Facilities Construction and Financing Act,” P.L.2000, c.72. That law authorized the New Jersey Economic Development Authority to undertake a comprehensive school construction and financing program, including the funding, designing, and constructing of school facilities for the Abbott districts and certain other types of districts.

c. The New Jersey Schools Construction Corporation was created in August 2002 as a subsidiary of the New Jersey Economic Development Authority pursuant to the provisions of section 16 of P.L.1997, c.150 (C.34:1B-159) and Executive Order No. 24 of 2002 to, among other things, focus, coordinate, and centralize the efforts to design and construct school facilities in the Abbott districts and certain other types of districts.

d. In February 2005, an investigation of the activities of the New Jersey Schools Construction Corporation was undertaken by the Inspector General. The Inspector General found that structural and operational problems at the corporation were impeding the progress of the school construction program and made recommendations for actions to improve the program.

e. The corporation initiated reform efforts to implement the recommendations of the Inspector General. While undertaking these reform efforts and continuing to undertake the design and construction of school facilities projects, it was determined that there would be insufficient funding available under the “Educational Facilities Construction and Financing Act” to complete all the school facilities projects in the Abbott districts. A joint effort by the New Jersey Schools Construction Corporation and the Department of Education resulted in a prioritization of projects to be completed with remaining funds.

f. Governor Jon S. Corzine issued Executive Order No. 3 of 2006 in February 2006 which created an Interagency Working Group on School Construction to study management reforms and legislative action necessary to improve the school construction program.

g. The Interagency Working Group on School Construction recommended statutory changes including the creation of a new school construction authority with a specific focus on Abbott district construction, a governance structure tailored to its mission, project implementation requirements to ensure that projects are undertaken consistent with educational priorities, land acquisition and procurement reforms to improve efficiencies, provide flexibility, and control costs, and a greater role and responsibility given to the Abbott districts in managing certain types of projects.

h. The initiatives provided herein implement the recommendations of the Interagency Working Group on School Construction with regard to the creation of a new school construction authority and the undertaking of projects for and by Abbott districts so as to

ensure that the agency undertaking the school construction program has adequate internal controls, processes, and procedures to undertake additional school facilities projects; and the initiatives also provide opportunities for the Abbott districts, the public, and stakeholders to provide input during the various phases of the construction of school facilities projects.

C.52:18A-236 Definitions relative to construction and financing of public school facilities.

2. As used in sections 1 through 13 of P.L.2007, c.137 (C.52:18A-235 through C.52:18A-247), unless a different meaning appears from the context:

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

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

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

“Local unit” means a county, municipality, board of education or any other political entity authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law;

“Other facilities” means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building or facility used solely for school administration;

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

“School facility” means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities.

C.52:18A-237 “New Jersey Schools Development Authority.”

3. a. There is established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "New Jersey Schools Development Authority." The development authority shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by the development authority of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The development authority shall consist of the Commissioner of Education, the Commissioner of the Department of Community Affairs, the executive director of the

Economic Development Authority, and the State Treasurer, who shall serve as ex officio members; and 11 public members appointed by the Governor with the advice and consent of the Senate. At least one of the public members shall have knowledge or expertise in the area of law enforcement and the remaining public members shall have knowledge or expertise in real estate development, construction management, finance, architectural or building design, or any other related field.

c. Each public member shall serve for a term of five years and shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

In the case of the first 11 public members appointed, three shall serve for a term of two years, three shall serve for a term of three years, three shall serve for a term of four years, and two shall serve for a term of five years.

d. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of such oath shall be filed in the Office of the Secretary of State.

e. A chairperson shall be appointed by the Governor from the public members. The members of the development authority shall elect from their remaining number a vice-chairperson, a secretary, and a treasurer thereof. The development authority shall employ an executive director who shall be its chief executive officer. The powers of the development authority shall be vested in the members thereof in office from time to time and eight members of the development authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the development authority at any meeting thereof by the affirmative vote of at least eight members of the development authority. No vacancy in the membership of the development authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the development authority.

f. Each member of the development authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the Office of the Secretary of State. At all times thereafter the members and treasurer of the development authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the development authority.

g. The members of the development authority shall serve without compensation, but the development authority may reimburse its members for actual expenses necessarily incurred in the discharge 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 any office or employment or any benefits or emoluments thereof by reason of the acceptance of the office of ex officio member of the development authority or any services therein.

h. Each ex officio member of the development authority may designate an officer or employee of the member's department to represent the member at meetings of the development authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom the person constitutes the designee. Any such designation shall be in writing delivered to the development authority and shall continue in effect until revoked or amended by writing delivered to the development authority.

i. The development authority shall appoint from among its members an audit committee and such other committees as it deems necessary or conducive to the efficient management and operation of the development authority.

j. The development authority may be dissolved by act of the Legislature on condition that the development authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the development authority, all property, funds and assets thereof shall be vested in the State.

k. A true copy of the minutes of every meeting of the development authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at the meeting by the development authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period the Governor shall approve the same in which case the action shall become effective upon such approval. If, in that 10-day period, the Governor returns a copy of the minutes with veto of any action taken by the development authority or any member thereof at the meeting, the action shall be null and void and of no effect.

l. The development authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State, the Director of the Division of Budget and Accounting in the Department of the Treasury, and the State Auditor.

m. The development authority shall submit to the Governor, the Joint Budget Oversight Committee, the President of the Senate and the Speaker of the General Assembly a biannual report pursuant to the provisions of section 24 of P.L.2000, c.72 (C.18A:7G-24).

n. The Director of the Division of Budget and Accounting in the Department of the Treasury and the director's legally authorized representatives are authorized and empowered from time to time to examine the accounts, books and records of the development authority including its receipts, disbursements, contracts, funds, investments and any other matters relating thereto and to its financial standing.

o. No member, officer, employee or agent of the development authority shall be interested, either directly or indirectly, in any school facilities project, or in any contract, sale, purchase, lease or transfer of real or personal property to which the development authority is a party.

C.52:18A-238 Powers of development authority.

4. The development authority shall have the following powers:

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

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

c. To sue and be sued;

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

e. To enter into contracts with a person upon such terms and conditions as the development authority shall determine to be reasonable, including, but not limited to, for the planning, design, construction, reconstruction, improvement, equipping, furnishing,

operation and maintenance of a school facilities project and the reimbursement thereof, and to pay or compromise any claims arising therefrom;

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

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

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

i. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and conditions thereof;

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

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

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

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

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

o. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the development authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay their compensation from funds available to the development authority therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

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

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

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

s. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as

the development authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such property and the settlement of any claims arising therefrom;

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

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

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

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

C.52:18A-239 Rules, regulations relative to payment of prevailing wage rate.

5. a. The development authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to require that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with any of its school facilities projects. The development authority shall provide for the proper enforcement and administration of these rules and regulations.

b. A violation of the rules and regulations adopted pursuant to this section shall be deemed to be a violation of P.L.1963, c.150 (C.34:11-56.25 et seq.). The Commissioner of Labor and Workforce Development and any worker shall have the same powers of enforcement against violations of such rules and regulations as are provided by sections 11 through 16, inclusive, of P.L.1963, c.150 (C.34:11-56.35 through 34:11-56.40).

c. The rules and regulations concerning the prevailing wage rate in connection with school facilities projects which have been adopted by the New Jersey Schools Construction Corporation pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and effect unless subsequently revised by the development authority following the enactment of P.L.2007, c.137 (C.52:18A-235 et al.).

C.52:18A-240 Rules, regulations relative to affirmative action program.

6. a. The development authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to establish an

affirmative action program for the hiring of minority workers employed in the performance of construction contracts undertaken in connection with any of its school facilities projects, and to expand the business opportunities of socially and economically disadvantaged contractors and vendors seeking to provide materials and services for those contracts, consistent with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). The development authority shall provide for the proper enforcement and administration of these rules and regulations.

b. The development authority may allocate up to one-half of one percent of the annual value of its construction program to the financing of minority and women worker outreach and training programs pertinent to school facilities project construction.

c. The rules and regulations establishing an affirmative action program adopted by the New Jersey Schools Construction Corporation pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and effect unless subsequently revised by the development authority following the enactment of P.L.2007, c.137 (C.52:18A-235 et al.).

C.52:18A-241 Payment of incurred claims, damages, losses, liabilities or costs by development authority.

7. In the exercise of powers granted by P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) in connection with any school facilities project, any and all claims, damages, losses, liabilities or costs that the development authority may incur shall be payable only from the amounts made available to the development authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.). In connection with any agreement or contract entered into by the development authority relating to any school facilities project, there shall be no recovery against the development authority for punitive or consequential damages arising out of contract nor shall there be any recovery against the development authority for claims based upon implied warranties or upon contracts implied in law.

C.52:18A-242 No modification by municipality of school facilities project; agreements with local government agencies.

8. a. No municipality shall modify or change the drawings, plans or specifications for the construction, reconstruction, rehabilitation, alteration or improvement of any school facilities project of the development authority, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform the work in any other or different manner than that provided by the drawings, plans and specifications, nor to require that any person, firm or corporation obtain any other or additional authority, approval, permit or certificate from the municipality in relation to the work being done, and the doing of the work by any person, firm or corporation in accordance with the terms of the drawings, plans, specifications or contracts shall not subject the person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in the contracts or incidental to the proper enforcement thereof; nor shall any municipality require the development authority or any person, firm, partnership or corporation which leases or purchases the school facilities project for lease or purchase to a State agency, to obtain any other or additional authority, approval, permit, certificate or certificate of occupancy from the municipality as a condition of owning, using, maintaining, operating or occupying any school facilities project acquired, constructed, reconstructed, rehabilitated, altered or improved by the development authority or by any subsidiary thereof. The foregoing

provisions shall not preclude any municipality from exercising the right of inspection for the purpose of requiring compliance by any school facilities project with local requirements for operation and maintenance affecting the health, safety and welfare of the occupants thereof, provided that the compliance does not require changes, modifications or additions to the original construction of the school facilities project.

b. Each municipality in which any school facilities project of the development authority is located shall provide for the school facilities project, whether then owned by the development authority, any subsidiary, any State agency, or any person, firm, partnership or corporation, police, fire, sanitation, health protection and other municipal services of the same character and to the same extent as those provided for other residents of the municipality.

c. Notwithstanding the provisions of any law, rule or regulation to the contrary and except as otherwise provided by any federal law, the development authority shall be exempt from all connection, tapping, maintenance or capital improvement fees or charges in respect to each connection of any school facility project with a water or sewerage system operated by a political subdivision or agency of the State.

d. In carrying out any school facilities project, the development authority may enter into contractual agreements with local government agencies with respect to the furnishing of any community, municipal, or public facilities or services necessary or desirable for the school facilities project, and any local government agency may enter into these contractual agreements with the authority and do all things necessary to carry out its obligations.

C.52:18A-243 Preparation of separate plans and specifications, conditions; bids; awarding of contracts.

9. a. In undertaking any school facilities projects where the cost of construction, reconstruction, rehabilitation or improvement will exceed \$25,000, the development authority may prepare, or cause to be prepared, separate plans and specifications for: (1) the plumbing and gas fitting and all work and materials kindred thereto, (2) the steam and hot water heating and ventilating apparatus, steam power plants and all work and materials kindred thereto, (3) the electrical work, (4) structural steel and miscellaneous iron work and materials, and (5) all general construction, which shall include all other work and materials required to complete the building.

Commencing in the fifth year after the year in which P.L.2007, c.137 (C.52:18A-235 et al.) takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the amount set forth in this subsection or the amount resulting from any adjustment under this subsection in direct proportion to the rise or fall of the index rate as defined in this subsection, and shall round the adjustment to the nearest \$1,000. The Governor shall, no later than June 1 of every fifth year, notify the development authority of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

For the purposes of this subsection, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

b. The development authority shall advertise and receive (1) separate bids for each of the branches of work specified in subsection a. of this section; or (2) bids for all the work and materials required to complete the school facilities project to be included in a single overall contract, in which case there shall be set forth in the bid the name or names of all

subcontractors to whom the bidder will subcontract for the furnishing of any of the work and materials specified in branches (1) through (4) in subsection a. of this section; or (3) both.

c. Contracts shall be awarded as follows: (1) if bids are received in accordance with paragraph (1) of subsection b. of this section, the development authority shall determine the responsible bidder for each branch whose bid, conforming to the invitation for bids, will be most advantageous to the development authority, price and other factors considered; (2) if bids are received in accordance with paragraph (2) of subsection b. of this section, the development authority shall determine the responsible bidder for the single overall contract whose bid, conforming to the invitation for bids, will be the most advantageous to the development authority, price and other factors considered; or (3) if bids are received in accordance with paragraph (3) of subsection b. of this section, the development authority shall award separate contracts for each branch of work specified in subsection a. of this section if the sum total of the amounts bid by the responsible bidders for each branch, as determined pursuant to paragraph (1) of this subsection, is less than the amount bid by the responsible bidder for all of the work and materials, as determined pursuant to paragraph (2) of this subsection; but if the sum total of the amounts bid by the responsible bidder for each branch, as determined pursuant to paragraph (1) of this subsection is not less than the amount bid by the responsible bidder for all of the work and materials, as determined pursuant to paragraph (2) of this subsection, the development authority shall award a single over-all contract to the responsible bidder for all of the work and materials as determined pursuant to paragraph (2) of this subsection.

d. For the purposes of this section, "other factors" means the evaluation by the development authority of the ability of the single contractor or the abilities of the multiple contractors to complete the contract in accordance with its requirements and includes requirements relating to the experience and qualifications of the contractor or contractors and their key personnel in projects of similar type and complexity; the performance of the contractor or contractors on prior contracts with the development authority, the State, or districts; the experience and capability of the contractor or contractors and their key personnel in respect to any special technologies, techniques or expertise that the project may require; the contractor's understanding of the means and methods needed to complete the project on time and within budget; the timetable to complete the project; the contractor's plan for quality assurance and control; the contractor's demonstrated experience in regard to affirmative action; and other similar types of factors. The "other factors" to be considered in evaluating bids and the weights assigned to price and these "other factors" shall be determined by the development authority prior to the advertisement for bids for school facilities projects. In its evaluation of bids, the consideration given to price by the development authority shall be at least equal to the consideration given to the combination of all "other factors."

e. The development authority shall require from all contractors to which it awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), the delivery of a payment and performance bond issued in accordance with N.J.S.2A:44-143 et seq.

f. The development authority shall adopt regulations to implement this section which shall include, but not be limited to, the procedural requirements for: (1) the evaluation and weighting of price and "other factors" in the awarding of contracts; and (2) the appealing of a prequalification classification and rating, a bid rejection, and a contract award recommendation.

The rules and regulations promulgated by the New Jersey Schools Construction Corporation pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and effect unless subsequently revised by the development authority following the enactment of P.L.2007, c.137 (C.52:18A-235 et al.).

g. Each evaluation committee selected by the development authority to review and evaluate bids shall, at a minimum, contain a representative from the district in which the school facilities project is located if the district elects to participate.

h. All advertisements for bids shall be published in a legal newspaper and be posted on the development authority's website sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to such date. Notice of revisions or addenda to advertisements or bid documents relating to bids shall be advertised on the development authority's website to best give notice to bidders no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date. The notice shall be provided to any person who has submitted a bid, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender. Failure to advertise or provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the acceptance of bids and require the readvertisement for bids. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the development authority shall not be considered failure by the development authority to provide notice.

i. Any purchase, contract, or agreement may be made, negotiated, or awarded by the development authority without public bid or advertising when the public exigency so requires.

j. Any purchase, contract, or agreement may be made, negotiated, or awarded by the development authority without public bid or advertising when the authority has advertised for bids on two occasions and has received no bids on both occasions in response to its advertisements. Any purchase, contract, or agreement may be negotiated by the development authority after public bid or advertising when the authority receives only a single responsive bid, provided however that negotiation with that single responsive bidder shall be limited to price.

C.52:18A-244 Powers of development authority relative to undertaking school facilities project.

10. a. If the development authority shall find it necessary in connection with the undertaking of any school facilities project to change the location of any portion of any public highway or road, it may contract with any government agency, or public or private corporation which may have jurisdiction over the public highway or road to cause the public highway or road to be constructed at such locations as the authority shall deem most favorable. The cost of the reconstruction and any damage incurred in changing the location of the highway shall be ascertained and paid by the development authority as part of the cost of the school facilities project. Any public highway affected by the construction of any school facilities project may be vacated or relocated by the development authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the development authority as a part of the cost of the school facilities project. In all undertakings authorized by this subsection, the

development authority shall consult and obtain the approval of the Commissioner of the Department of Transportation.

b. The development authority and its authorized agents and employees may enter upon any lands, waters, and premises for the purpose of making surveys, soundings, drillings, and examinations as it may deem necessary or convenient for the purposes of this act, all in accordance with due process of law, and this entry shall not be deemed a trespass nor shall an entry for this purpose be deemed an entry under any condemnation proceedings which may be then pending. The development authority shall make reimbursement for any actual damages resulting to the lands, waters and premises as a result of these activities.

c. The development authority shall have the power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances, herein called "public utility facilities," or any public utility as defined in R.S.48:2-13, in, on, along, over or under any school facilities project. Whenever the development authority shall determine that it is necessary that any public utility facilities which now are, or hereafter may be, located in, on, along, over, or under any school facilities project shall be relocated in the school facilities project, or should be removed from the school facilities project, the public utility owning or operating the facilities shall relocate or remove them in accordance with the order of the development authority. The cost and expenses of the relocation or removal, including the cost of installing the facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the development authority as a part of the cost of the school facilities project. In case of any relocation or removal of facilities, the public utility owning or operating them, its successors or assigns, may maintain and operate the facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in their former location or locations. In all undertakings authorized by this subsection the development authority shall consult and obtain the approval of the Board of Public Utilities.

C.52:18A-245 Exercise of powers constitute performance of essential governmental function.

11. The exercise of the powers granted by P.L.2007, c.137 (C.52:18A-235 et al.) and P.L.2000, c.72 (C.18A:7G-1 et al.) shall constitute the performance of an essential governmental function and the development authority shall not be required to pay any taxes or assessments upon or in respect of a school facilities project, or any property or moneys of the development authority, and the development authority, its school facilities projects, property, and moneys and any bonds and notes issued under the provisions of P.L.2007, c.137 (C.52:18A-235 et al.) and P.L.2000, c.72 (C.18A:7G-1 et al.), their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance and estate taxes and by any political subdivision of the State.

C.52:18A-246 Property exempt from levy, sale.

12. All property of the development authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the development authority be a charge or lien upon its property.

C.52:18A-247 New Jersey Schools Construction Corporation abolished, transfer to New Jersey Schools Development Authority, references in law.

13. a. The New Jersey Schools Construction Corporation established pursuant to section 16 of P.L.1997, c.150 (C.34:1B-159) and Executive Order No. 24 of 2002 is abolished and all its functions, powers, duties, and employees are transferred to the New Jersey Schools Development Authority in, but not of, the Department of the Treasury.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Schools Construction Corporation, the same shall mean and refer to the New Jersey Schools Development Authority in, but not of, the Department of the Treasury.

c. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

C.18A:7G-45 Conveyance of certain school buildings and land to New Jersey Schools Development Authority; conditions.

14. a. In the event that the development authority funds 100% of the cost of the acquisition of land for the construction of a school facilities project and as a result of the construction of that project a school building located in the district and the land upon which the school building is situate are no longer necessary for educational purposes, title to the land together with the school building on the land shall be conveyed to and shall vest in the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237) when it is determined by the development authority that such conveyance is in the best interest of the development authority. The district shall execute any documents including, but not limited to, a deed of conveyance necessary to accomplish the transfer of title.

b. The development authority may retain or sell the land and buildings on that land acquired pursuant to subsection a. of this section. In the event the development authority elects to sell, it shall use a competitive process. The proceeds of that sale shall be applied to the costs of school facilities projects of the district.

c. The transfer of title pursuant to subsection a. of this section shall occur in accordance with a schedule determined by the development authority. The schedule may provide that the transfer occur prior to the completion of the construction of the new school facilities project if the development authority deems it necessary in order to complete additional school facilities projects within the district.

C.18A:7G-46 Acquisition of land in Abbott district; submission of land inventory.

15. If land is necessary to be acquired in connection with a school facilities project in an Abbott district, the board of education of the district and the governing body of the municipality in which the district is situate shall jointly submit to the commissioner and to the development authority a complete inventory of all district- and municipal-owned land located in the municipality. The inventory shall include a map of the district showing the location of each of the identified parcels of land. The board of education and the governing body of the municipality shall provide an analysis of why any district- or municipal-owned land is not suitable as a site for a school facilities project identified in the district's long-range facilities plan. The inventory shall be updated as needed in connection with any subsequent school facilities projects for which it is necessary to acquire land.

C.18A:7G-47 Approval of site plan in Abbott district; procedure.

16. a. Whenever the board of education of an Abbott district submits to the New Jersey Schools Development Authority established pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) information on a proposed preferred site for the construction of a school facilities project, the development authority shall file a copy of a map, plan or report indicating the proposed preferred site with the county clerk of the county within which the site is located and with the municipal clerk, planning board, and building inspector of the municipality within which the site is located.

b. Whenever a map, plan, or report indicating a proposed preferred site for the construction of an Abbott district school facilities project is filed by the development authority pursuant to subsection a. of this section, any municipal approving authority before granting any site plan approval, building permit, or approval of a subdivision plat, or exercising any other approval power with respect to the development or improvement of any lot, tract, or parcel of land which is located wholly or partially within the proposed preferred site shall refer the site plan, application for a building permit or subdivision plat or any other application for proposed development or improvement to the development authority for review and recommendation as to the effect of the proposed development or improvement upon the construction of the school facilities project.

c. A municipal approving authority shall not issue any site plan approval or building permit or approve a subdivision plat or exercise any other approval power with respect to the development or improvement of the lot, tract, or parcel of land without the recommendation of the development authority until 45 days following referral to the development authority pursuant to subsection b. of this section. Within that 45-day period, the development authority may:

(1) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land of probable intention to acquire the whole or any part thereof, and no further action shall be taken by the approving authority for a further period of 180 days following receipt of notice from the development authority. If within the 180-day period the development authority has not acquired, agreed to acquire, or commenced an action to condemn the property, the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law; or

(2) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land that the development authority has no objection to the granting of the permit or approval for which application has been made. Upon receipt of the notice the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law.

C.18A:7G-48 Projects in certain districts with prior approval; construction, financing under prior law.

17. Notwithstanding any provision of P.L.2007, c.137 (C.52:18A-235 et al.) to the contrary, a school facilities project of a district, other than an Abbott district, with a district aid percentage equal to or greater than 55% or of a district, other than an Abbott district, with a district aid percentage of less than 55% that had been approved by the Commissioner of Education and the New Jersey Schools Construction Corporation prior to the effective date of P.L.2007, c.137 (C.52:18A-235 et al.) to be constructed by the corporation, shall be constructed and financed in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) as the same read before the effective date of P.L.2007, c.137 (C.52:18A-235 et al.).

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

C.18A:7G-3 Definitions relative to construction, financing of public school facilities.

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

"Abbott district" means an Abbott district as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3);

"Area cost allowance" means \$138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be as established in the biennial Report on the Cost of Providing a Thorough and Efficient Education and inflated by an appropriate cost index for the second year to which the report applies. The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project;

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

"Commissioner" means the Commissioner of Education;

"Core curriculum content standards" means the standards established pursuant to the provisions of subsection a. of section 4 of P.L.1996, c.138 (C.18A:7F-4);

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

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon school bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

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

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

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

"District aid percentage" means the number expressed as a percentage derived from dividing the district's core curriculum standards aid calculated pursuant to section 15 of

P.L.1996, c.138 (C.18A:7F-15) as of the date of the commissioner's determination of preliminary eligible costs by the district's T & E budget calculated pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) as of the date of the commissioner's determination of preliminary eligible costs;

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

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

"Final eligible costs" means for school facilities projects to be constructed by the development authority, the final eligible costs of the school facilities project as determined by the commissioner, in consultation with the development authority, pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final eligible costs of the project as determined by the commissioner and reviewed by the development authority which may include the cost of community design features determined by the commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards, and which were reviewed by the development authority and approved by the State Treasurer pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6); and for districts other than Abbott districts, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000, c.72 (C.18A:7G-5);

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

"FTE" means a full-time equivalent student which shall be calculated as follows: in districts that qualify for early childhood program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16), each student in grades kindergarten through 12 shall be counted at 100% of the actual count of students, and each preschool student approved by the commissioner to be served in the district shall be counted at 50% or 100% of the actual count of preschool students for an approved half-day or full-day program, respectively; in districts that do not qualify for early childhood program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16), each student in grades 1 through 12 shall be counted at 100% of the actual count of students, in the case of districts which operate a half-day kindergarten program each kindergarten student shall be counted at 50% of the actual count of kindergarten students, in the case of districts which operate a full-day kindergarten program or which currently operate a half-day kindergarten program but propose to build facilities to house a full-day kindergarten program each kindergarten student shall be counted at 100% of the actual count of kindergarten students, and preschool students shall not be counted. In addition, each preschool handicapped child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual count of these students in the district;

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section

8 of P.L.2000, c.72 (C.18A:7G-8) and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

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

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

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

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

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

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

"Other allowable costs" means the costs of temporary facilities, site development, acquisition of land or other real property interests necessary to effectuate the school facilities project, fees for the services of design professionals, including architects, engineers, construction managers and other design professionals, legal fees, financing costs and the

administrative costs of the development authority and the financing authority or the district incurred in connection with the school facilities project;

“Other facilities” means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration;

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

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

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

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

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities;

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

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

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

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

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

"State school aid" means the funds made available to school districts pursuant to sections 15 and 17 of P.L.1996, c.138 (C.18A:7F-15 and 17);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the development authority as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the State share as determined pursuant to that section;

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

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

C.18A:7G-4 Long-range facilities plan; facilities efficiency standards; time lines.

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

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

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

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

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

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

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

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

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

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

i. Within 90 days of the commissioner's receipt of a long-range facilities plan for review, the commissioner shall determine whether the plan is fully and accurately completed and whether all information necessary for a decision on the plan has been filed by the district. If the commissioner determines that the plan is complete, the commissioner shall promptly notify the district in writing and shall have 60 days from the date of that notification to determine whether to approve the plan or not. If the commissioner determines that the plan is not complete, the commissioner shall notify the district in writing. The district shall provide to the commissioner whatever information the commissioner determines is necessary to make the plan accurate and complete. The district shall submit that information to the commissioner, and the commissioner shall have 60 days from the date of receipt of accurate and complete information to determine whether to approve the plan or not.

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

k. By March 1, 2002 and every five years thereafter, the commissioner shall recommend to the Legislature criteria to be used in the designation of districts as Abbott districts. The criteria may include, but not be limited to: the number of residents per 1,000 within the municipality or municipalities in which the district is situate who receive TANF; the district's equalized valuation per resident pupil as equalized valuation is defined in section 3 of P.L.1996, c.138 (C.18A:7F-3); the district's income per resident pupil as district income is defined in section 3 of P.L.1996, c.138 (C.18A:7F-3); the population per square mile of the municipality or municipalities in which the district is situate; and the municipal overburden of the municipality or municipalities in which the district is situate as that term is defined by the New Jersey Supreme Court in *Abbott v. Burke*.

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

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

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

C.18A:7G-5 Undertaking and financing of school facilities in certain districts.

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

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

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in this act; provided that any district whose school facilities project is not constructed by the development authority shall also be required to comply with the provisions of N.J.S.18A:18A-16.

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

(2) In the case of an Abbott district school facilities project, based upon its educational priority ranking and the Statewide strategic plan established pursuant to subsection m. of this section, the commissioner may authorize the development authority to undertake preconstruction activities which may include, but need not be limited to, site identification, investigation, and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition, and acquisition of temporary facilities. Upon receipt of the authorization, the development authority may initiate the preconstruction activities required to prepare the application for commissioner approval of the school facilities project.

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards; and in the case of an Abbott district the commissioner shall also review the project's educational priority ranking and the Statewide strategic plan developed pursuant to subsection m. of this section. The commissioner shall make a decision on a district's application within 90 days from the date he determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, he shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.

f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1) in the case of a county special

services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate, and (2) in the case of an Abbott district, the commissioner shall calculate the preliminary eligible costs to equal the estimated cost as determined by the development authority.

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

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

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

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

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

(4) The commissioner shall approve spaces in excess of, or inconsistent with, the facilities efficiency standards, hereinafter referred to as nonconforming spaces, upon a determination by the district that the spaces are necessary to comply with State or federal law concerning individuals with disabilities, including that the spaces are necessary to provide in-district programs and services for current disabled pupils who are being served in out-of-district placements or in-district programs and services for the projected disabled pupil population. A district may apply for additional State aid for nonconforming spaces that will permit pupils with disabilities to be educated to the greatest extent possible in the same buildings or classes with their nondisabled peers. The nonconforming spaces may: (a) allow

for the return of pupils with disabilities from private facilities; (b) permit the retention of pupils with disabilities who would otherwise be placed in private facilities; (c) provide space for regional programs in a host school building that houses both disabled and nondisabled pupils; and (d) provide space for the coordination of regional programs by a county special services school district, educational services commission, jointure commission, or other agency authorized by law to provide regional educational services in a school building that houses both disabled and nondisabled pupils. A district's State support ratio shall be adjusted to equal the lesser of the sum of its district aid percentage as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

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

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

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the development authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the development authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

(2) In the case of an Abbott district, the commissioner shall promptly prepare and submit to the development authority a preliminary project report which shall consist, at a minimum, of the following information: a complete description of the school facilities project; the actual location of the project; the total square footage of the project together with a breakdown of total square footage by functional component; the preliminary eligible costs of the project; the project's priority ranking determined pursuant to subsection m. of this

section; any other factors to be considered by the development authority in undertaking the project; and the name and address of the person from the district to contact in regard to the project.

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

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

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

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

(b) If the development authority determines that it is not possible to make changes in the school facilities project so that it can be completed within the preliminary eligible costs either because the additional costs are the result of factors outside the control of the district or the additional costs are required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be increased accordingly, whereupon the commissioner shall: calculate the final eligible costs to equal the sum of the preliminary eligible costs plus the increase recommended by the development authority; give final approval to the project; and issue a final project report to the development authority pursuant to subsection j. of this section.

(c) If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards or approved pursuant to paragraph (1) of subsection g. of this section, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs and specify the excess costs which are to be borne by the district; give final approval to the school facilities project; and issue a final project report to the development authority pursuant to subsection j. of this section; provided that the

commissioner may approve final eligible costs which are in excess of the preliminary eligible costs if, in his judgment, the action is necessary to meet the educational needs of the district.

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

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

k. For the Abbott districts, the State share shall be 100% of the final eligible costs. For all other districts, the State share shall be an amount equal to 115% of the district aid percentage; except that the State share shall not be less than 40% of the final eligible costs.

If any district which is included in district factor group A or B, other than an Abbott district, is having difficulty financing the local share of a school facilities project, the district may apply to the commissioner to receive 100% State support for the project and the commissioner may request the approval of the Legislature to increase the State share of the project to 100%.

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

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

(2) Following the approval of an Abbott district's long-range facilities plan or of an amendment to that plan, but prior to authorization of preconstruction activities for a school facilities project included in the plan or amendment, the commissioner shall establish, in consultation with the Abbott district, an educational priority ranking of all school facilities projects in the Abbott district based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the early childhood, elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served

in out-of-district placements or in-district programs and services for the projected disabled student population, rehabilitation, and educational adequacy.

(3) Upon the commissioner's determination of the educational priority ranking of school facilities projects in Abbott districts pursuant to paragraph (2) of this subsection, the development authority, in consultation with the commissioner, the Abbott districts, and the governing bodies of the municipalities in which the Abbott districts are situate, shall establish a Statewide strategic plan to be used in the sequencing of Abbott district school facilities projects based upon the projects' educational priority rankings and issues which impact the development authority's ability to complete the projects including, but not limited to, the construction schedule and other appropriate factors. The development authority shall revise the Statewide strategic plan and the sequencing of Abbott district school facilities projects in accordance with that plan no less than once every five years.

Any amendment to an Abbott district's long-range facilities plan that is submitted to the commissioner in the period between the five-year updates of the long-range facilities plan shall be considered by the development authority, in consultation with the commissioner, for incorporation into the Statewide strategic plan. In making a determination on whether or not to amend the Statewide strategic plan, the development authority shall consider the cost of the amendment, the impact of the amendment upon the school development plans for other districts, and other appropriate factors.

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

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

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

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

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

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

21. Section 6 of P.L.2000, c.72 (C.18A:7G-6) is amended to read as follows:

C.18A:7G-6 Applicability of C.18A:7G-5 to demonstration projects; exceptions.

6. The provisions of section 5 of P.L.2000, c.72 (C.18A:7G-5) shall pertain to school facilities projects designated to be demonstration projects except as otherwise provided in this section.

a. For the initial three full fiscal years following the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), the State Treasurer may designate up to six school facilities projects which the State Treasurer determines to be in the best interests of the State and of the districts to be demonstration projects pursuant to the provisions of this section. As used in this section, "authority" means the New Jersey Economic Development Authority which was

designated as both the financing and construction agency for school facilities projects prior to the enactment of P.L.2007, c.137 (C.52:18A-235 et al.); except that in the event that any actions required to be taken pursuant to this section by the New Jersey Economic Development Authority or its subsidiary, the New Jersey Schools Construction Corporation, have not been taken prior to the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), authority shall mean the New Jersey Schools Development Authority.

b. A district and municipality may apply to the authority for the designation of a school facilities project contained in a long-range facilities plan submitted to the commissioner pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4) to be a demonstration project to provide for the coordination of local economic development, redevelopment or community development with a school facilities project. The application shall be accompanied by resolutions requesting the designation adopted by the board of education of the district and the governing body of the municipality. The application shall set forth:

(1) a plan for carrying out the redevelopment project as a whole, including the construction of the school facilities project;

(2) the name of the redevelopment entity to undertake the project under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

(3) a description of how the project fits into a redevelopment plan adopted or to be adopted by the municipal governing body pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7); and

(4) a description of the community design features to be included in the school facilities project.

c. The authority shall evaluate the request to determine whether the school facilities project is suitable for designation as a demonstration project and whether the proposed redevelopment entity is suitable for designation as the entity to construct the demonstration project based upon consideration of the following factors:

(1) whether the demonstration project furthers definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements;

(2) whether the demonstration project provides significant social and economic benefits to the municipality, its neighborhoods and residents;

(3) whether the development of the school facilities project is consistent with the local development plan;

(4) the extent to which the school facilities project contains community design features which can be used by the community;

(5) whether the redevelopment entity has the current capacity to construct the demonstration project;

(6) whether the redevelopment entity has the appropriate prior experience in developing similar types of projects; and

(7) whether there exist donations from private entities for the purpose of the demonstration project.

d. The authority's review of the proposed school facilities project for designation as a demonstration project under this section shall commence upon approval by the commissioner of the school facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5). Upon approval by the commissioner of the school facilities project, and recommendation by the authority that the school facilities project be a demonstration project, the recommendation of the authority shall be forwarded to the State Treasurer who shall determine whether the school facilities project should be designated as a demonstration project. At the same time as

the authority forwards its recommendation to the State Treasurer, the authority shall forward its recommendation to the Urban Coordinating Council for review pursuant to subsection i. of this section.

e. In addition to the requirements set forth in section 5 of P.L.2000, c.72 (C.18A:7G-5), a demonstration project may request inclusion in the final eligible costs of the school facilities project, of all or any portion of the cost of any community design features including any area, rooms, equipment, recreational area or playground included in the school facilities project which are to be used in common by students of the district and by residents of the community, but there shall not be included in the final eligible costs any portion of the cost of any features which are not an integral part of the school building and grounds or exceed the facilities efficiency standards. The commissioner shall approve the inclusion of the community design features as part of the school facilities project if he finds that the inclusion of the community design features as part of the school facilities project would be conducive to the usefulness and success of the project for both the students of the district and the residents of the community. The commissioner may condition his approval upon the adoption by the district of policies suitable for assuring continuing community or educational access to the community design features.

f. The cost of the community design features approved by the commissioner shall be reviewed by the authority. The district shall submit the documentation required by the authority for the authority to make its determination. The authority shall, in its recommendation to the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5), include its recommendation with respect to the cost of the community design features. The commissioner shall make the final determination with respect to the inclusion of the cost of community design features in the final eligible costs.

g. The authority shall provide funding for the State's share of the final eligible costs of a school facilities project to be constructed as part of a demonstration project pursuant to an agreement among the authority, the redevelopment entity and the district which shall, in addition to any other terms and conditions, set forth the terms for disbursement of the State share and provide for the monitoring of construction by the authority.

h. Upon completion of a demonstration project by a redevelopment entity, the district shall submit to the commissioner a plan to provide for the maintenance of the project and shall enter into a contract which provides for that maintenance.

i. The Urban Coordinating Council shall review the recommendations of the authority with respect to the demonstration projects and shall advise the authority, redevelopment entity and the district regarding the potential availability of funding for the demonstration project, including, but not limited to, sources of funds for acquisition, clearance, site remediation, and assemblage of land and the development, redevelopment, construction or rehabilitation of any structure or improvement included in the project.

j. Any district may consult with the Urban Coordinating Council with respect to the potential availability of funding for aspects of the school facilities project, including, but not limited to, sources of funds for acquisition, clearance, site remediation, and assemblage of land and the development, redevelopment, construction or rehabilitation of any structure or improvement included in the project.

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

C.18A:7G-9 Distribution of State debt service aid.

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

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

$$A = B \times AC/P \times (DAP \times 1.15) \times M, \text{ with } AC/P = 1$$

whenever AC/P would otherwise yield a number greater than one, and where:

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

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

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

DAP is the district's district aid percentage as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3) and where (DAP x 1.15) shall not be less than 40%; and

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

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

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

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

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

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

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

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

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

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

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

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

C.18A:7G-12 Submission of project to commissioner for approval of local share.

12. A district, other than a district under full State intervention, that sought approval pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11) of a school facilities project without excess costs but failed to receive that approval, and within the three years prior to that, sought and failed to receive approval of that school facilities project with or without excess costs, may submit the project to the commissioner and request that the commissioner approve the project and authorize the issuance of school bonds for the local share of the project. Upon receipt of the request, the commissioner shall review the school facilities project and determine whether the project is necessary for the provision of a thorough and efficient system of education in the district. If the commissioner concludes that the project is necessary, the commissioner may approve the project without excess costs and authorize the issuance of school bonds to fund the local share. In addition to the amount of taxes determined by the legal voters of the district at the annual school election, the secretary of the board of education shall certify the amount required for the repayment of the interest and principal of the bonds required to fund the local share amount approved by the commissioner in the same manner required for interest and debt redemption charges pursuant to N.J.S.18A:22-33, and the amount so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the school district for those purposes.

Any school facilities project authorized pursuant to this section shall be undertaken by the development authority in accordance with an agreement between the development authority and the district. Nothing in this section shall preclude a school district under full State intervention from using the process established pursuant to section 2 of P.L.1991, c.139 (C.18A:7A-46.2) to obtain the approval of the commissioner to undertake a school facilities project.

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

C.18A:7G-13 Responsibilities of financing authority, development authority.

13. a. The financing authority shall be responsible for the issuance of bonds pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and the development authority shall be responsible for the planning, design, construction management, acquisition, construction, and completion of school facilities projects. In the case of a capital maintenance project, the development authority may, in its discretion, authorize an Abbott district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete the capital maintenance project and shall enter into a grant agreement with the district for the payment of the State share. The development authority may also authorize an Abbott district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete any other school facilities project in accordance with the procedures established pursuant to subsection e. of this section.

b. The financing authority shall undertake the financing of school facilities projects pursuant to the provisions of this act. The financing authority shall finance the State share of a school facilities project and may, in its discretion and upon consultation with the district, finance the local share of the project. In the event that the financing authority finances only the State share of a project, the development authority shall not commence acquisition or construction of the project until the development authority receives the local share from the district.

c. In order to implement the arrangements established for school facilities projects which are to be constructed by the development authority and financed pursuant to this section, a district shall enter into an agreement with the development authority and the commissioner containing the terms and conditions determined by the parties to be necessary to effectuate the project.

d. Upon completion by the development authority of a school facilities project, the district shall enter into an agreement with the development authority to provide for the maintenance of the project by the district. In the event that the school facilities project is constructed by a district, upon the completion of the project, the district shall submit to the commissioner a plan to provide for the maintenance of the project by the district. Any agreement or plan shall contain, in addition to any other terms and provisions, a requirement for the establishment of a maintenance reserve fund consistent with the appropriation and withdrawal requirements for capital reserve accounts established pursuant to section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be as set forth in regulations adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26).

e. (1) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner, in consultation with the development authority, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the commissioner shall determine whether an Abbott district is eligible to be considered by the development authority to manage a school facilities project or projects. In making the determination, the commissioner shall consider the district's fiscal integrity and operations, the district's performance in each of the five key components of school district effectiveness under the New Jersey Quality Single Accountability Continuum (NJQSAC) in accordance with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant factors.

(2) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the development authority, in consultation with the commissioner, shall adopt pursuant to the

“Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the development authority shall determine the capacity of an Abbott district, deemed eligible by the commissioner pursuant to paragraph (1) of this subsection, to manage a school facilities project or projects identified by the development authority. In making the determination, the development authority shall consider the experience of the Abbott district, the size, complexity, and cost of the project, time constraints, and other relevant factors.

(3) The development authority, in consultation with the commissioner, shall develop and implement training programs, seminars, or symposia to provide technical assistance to Abbott districts deemed to lack the capacity to manage a school facility project or projects; except that nothing herein shall be construed to require the development authority or the commissioner to authorize an Abbott district to hire additional staff in order to achieve capacity.

(4) If the development authority determines to delegate a school facilities project to an Abbott district in accordance with paragraph (2) of this subsection, the development authority, the commissioner, and the district shall enter into a grant agreement.

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

C.18A:7G-14 Powers of financing authority; powers of development authority.

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

a. The financing authority shall have the power, pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19) for the purposes of: financing all or a portion of the costs of school facilities projects and any costs related to the issuance thereof, including, but not limited to, the administrative, insurance, operating and other expenses of the financing authority to undertake the financing, and the development authority to undertake the planning, design, and construction of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects and any costs related to the issuance thereof; funding the grants to be made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of the bonds, notes or other obligations issued by the financing authority shall not exceed: \$100,000,000 for the State share of costs for county vocational school district school facilities projects; \$6,000,000,000 for the State share of costs for Abbott district school facilities projects; and \$2,500,000,000 for the State share of costs for school facilities projects in all other districts. This limitation shall not include any bonds, notes or other obligations issued for refunding purposes.

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

b. The financing authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.),

P.L.1974, c.80 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.); provided that notwithstanding any other law to the contrary, no resolution adopted by the financing authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the financing authority and the State Treasurer. The financing authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the financing authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the financing authority for the purposes set forth in this act may be paid by the financing authority from amounts it receives from the proceeds of the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the financing authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section.

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

(1) Pledge of the revenues and other receipts to be derived from the payment of local unit obligations and any other payment made to the financing authority pursuant to agreements with any local unit, or a pledge or assignment of any local unit obligations, and the rights and interest of the financing authority 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 units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interests of the financing authority therein;

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

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

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

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

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

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

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

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

f. Bonds and refunding bonds issued by the financing authority pursuant to this section shall be special and limited obligations of the financing authority payable from, and secured by, funds and moneys determined by the financing authority in accordance with this section. Notwithstanding any other provision of law or agreement to the contrary, any bonds and refunding bonds issued by the financing authority pursuant to this section shall not be secured by the same property as bonds and refunding bonds issued by the financing authority to finance projects other than school facilities projects. Neither the members of the financing authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the financing authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the financing authority shall contain a statement to that effect on their face.

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

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

i. Upon the issuance by the financing authority of bonds pursuant to this section, other than refunding bonds, the net proceeds of the bonds shall be transferred to the development authority.

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

C.18A:7G-15 Election by district to receive one-time grant for State share.

15. In the case of a district other than an Abbott district, for any project approved by the commissioner after the effective date of this act, the district may elect to receive a one-time grant for the State share of the project rather than annual debt service aid under section 9 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the district shall equal the product of the project's final eligible costs and 115% of the district aid percentage or 40%, whichever is greater. The development authority shall provide grant funding for the State's share of the final eligible costs of a school facilities project pursuant to an agreement between the district and the development authority which shall, in addition to other terms and conditions, set forth the terms of disbursement of the State share. The funding of the State share shall not commence until the district secures financing for the local share.

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

C.18A:7G-16 Additional powers, duties of financing authority.

16. In addition to the other powers and duties which have been granted to the financing authority, whenever any local unit finances the construction or acquisition of a school facilities project which would otherwise qualify under this act except that the debt was issued prior to the effective date of this act, the financing authority may refinance the debt issued by the local unit through the issuance of bonds secured by repayments of loans made to the local units and may purchase the work or improvement and lease the same to the district, subject to the approval of the State Treasurer; except that the amount of the purchase price for a school facilities project shall not exceed the original cost. Each loan to a local unit pursuant to this section shall be evidenced by local unit obligations and shall be authorized and issued as provided by law. Notwithstanding the provisions of any law to the contrary, the local unit obligations may be sold at private sale to the financing authority 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 financing authority and the local unit may agree. All powers, rights, obligations and duties granted to or imposed upon the financing authority, districts, State departments and agencies or others by this act in respect to school facilities projects shall apply to the same extent with respect to any refinance of debt pursuant to this section; except

that any action otherwise required to be taken at a particular time in the implementation of a school facilities project may, when the circumstances require in connection with a refinance of debt pursuant to this section, be taken with the same effect as if taken at that particular time. Upon repayment of the bonds or provision for repayment of bonds issued by the financing authority to refinance the debt of the local unit, the school facilities project shall be transferred to the district.

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

C.18A:7G-17 Annual payment to financing authority by State.

17. In each fiscal year the State Treasurer shall pay from the General Fund to the financing authority, in accordance with a contract between the State Treasurer and the financing authority as authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), an amount equal to the debt service amount due to be paid in the State fiscal year on the bonds or refunding bonds of the financing authority issued or incurred pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and any additional costs authorized pursuant to that section; provided that all such payments from the General Fund shall be subject to and dependent upon appropriations being made from time to time by the Legislature for those purposes, and provided further that all payments shall be used only to pay for the costs of school facilities projects and the costs of financing those projects.

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

C.18A:7G-18 Financing authority to enter into contracts for State payments.

18. The State Treasurer and the financing authority are authorized to enter into one or more contracts to implement the payment arrangement provided for in section 17 of P.L.2000, c.72 (C.18A:7G-17). The contract shall provide for payment by the State Treasurer of the amounts required pursuant to section 17 of P.L.2000, c.72 (C.18A:7G-17) and shall set forth the procedure for the transfer of moneys for the purpose of that payment. The contract shall contain terms and conditions as determined by the parties and shall, where appropriate, contain terms and conditions necessary and desirable to secure any bonds or refunding bonds of the financing authority issued or incurred pursuant to this act; provided that notwithstanding any other provision of law or regulation of the financing authority to the contrary, the financing authority shall be paid only such funds as shall be determined by the contract, and the incurrence of any obligation of the State under the contract, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

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

C.18A:7G-19 Loans to local units.

19. a. The financing authority may make and contract to make loans to local units in accordance with and subject to the provisions of this act to finance all or any portion of the cost of a school facilities project which the local unit may lawfully undertake or acquire and for which the local unit is authorized by law to borrow money; or to refund obligations of the local unit which were issued to provide funds to pay for the cost of a school facilities project. The loans may be made subject to the terms and conditions the financing authority

determines to be consistent with the purposes of this act. Each loan by the financing authority and the terms and conditions thereof shall be subject to approval by the State Treasurer.

b. Each loan to a local unit shall be evidenced by local unit obligations and shall be authorized and issued as provided by law. Notwithstanding the provisions of any other law to the contrary, the local unit obligations may be sold at private sale to the financing authority 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 financing authority and the local unit may agree. Each loan to a local unit and the local unit obligations issued to evidence the loan shall bear interest at a rate or rates per annum, including zero interest, and shall be repaid in whole or in part, as the financing authority and the local unit may agree, with the approval of the State Treasurer.

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

C.18A:7G-20 Acquisition of school facilities by local unit.

20. A local unit may purchase, lease, rent, sublease or otherwise acquire any school facilities project or any space within a project and pay the amounts as may be agreed upon between the local unit and the development authority as the purchase price, rent or other charge therefor; provided that the terms and conditions of the agreement between the development authority and the local unit relating to the purchase, lease, rental or sublease shall be subject to the approval of the State Treasurer.

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

C.18A:7G-21 Payment to financing, development authority to cover deficiency.

21. a. In the event that a local unit has failed or is unable to pay to the financing authority or the development authority in full when due any local unit obligations issued by the local unit to the financing authority, including, but not limited to, any lease or sublease obligations, or any other moneys owed by the district to the financing authority, to assure the continued operation and solvency of the authority, the State Treasurer shall pay directly to the financing authority an amount sufficient to satisfy the deficiency from State aid payable to the local unit; provided that if the local unit is a school district, the State aid shall not include any State aid which may otherwise be restricted pursuant to the provisions of P.L.1996, c.138 (C.18A:7F-1 et al.). As used in this section, local unit obligations include the principal or interest on local unit obligations or payment pursuant to a lease or sublease of a school facilities project to a local unit, including the subrogation of the financing authority to the right of the holders of those obligations, any fees or charges payable to the financing authority, and any amounts payable by a local unit under a service contract or other contractual arrangement the payments under which are pledged to secure any local unit obligations issued to the financing authority by another local unit.

b. If the financing authority requires, and if there has been a failure or inability of a local unit to pay its local unit obligations to the financing authority for a period of 30 days, the chairman or the executive director of the financing authority shall certify to the State Treasurer, with written notice to the fiscal officer of the local unit, the amount remaining unpaid, and the State Treasurer shall pay that amount to the financing authority; or if the right to receive those payments has been pledged or assigned to a trustee for the benefit of the holders of bonds or refunding bonds of the financing authority, to that trustee, out of the

State aid payable to the local unit, until the amount so certified has been paid. Notwithstanding any provision of this act to the contrary, the State Treasurer's obligation to pay the financing authority pursuant to this section shall not extend beyond the amount of State aid payable to the local unit.

c. The amount paid to the financing authority pursuant to this section shall be deducted from the appropriation or apportionment of State aid payable to the local unit and shall not obligate the State to make, nor entitle the local unit to receive, any additional appropriation or apportionment. The obligation of the State Treasurer to make payments to the financing authority or trustee and the right of the financing authority or trustee to receive those payments shall be subject and subordinate to the rights of holders of qualified bonds issued prior to the effective date of this act pursuant to P.L.1976, c.38 (C.40A:3-1 et seq.) and P.L.1976, c.39 (C.18A:24-85 et seq.).

33. Section 22 of P.L.2000, c.72 (C.18A:7G-22) is amended to read as follows:

C.18A:7G-22 Powers of financing and development authorities relative to acceptance and use of funds.

22. a. The financing authority and the development authority shall have the power to accept and use any funds appropriated and paid by the State to the financing authority and the development authority for the purposes for which the appropriations are made. The financing authority and the development authority shall have the power to apply for and receive and accept appropriations or grants of property, money, services or reimbursements for money previously spent and other assistance offered or made available to it by or from any person, government agency, public authority or any public or private entity whatever for any lawful corporate purpose of the financing authority or the development authority, including, without limitation, grants, appropriations or reimbursements from the federal government, and to apply and negotiate for the same upon such terms and conditions as may be required by any person, government agency, authority or entity as the financing authority or the development authority may determine to be necessary, convenient or desirable.

b. The development authority and the State Treasurer may establish a financial incentive program for the purpose of promoting donations to school facilities projects. Any entity which makes a donation approved by the State Treasurer to the preliminary eligible costs of a school facilities project shall receive an incentive payment pursuant to the provisions of this subsection. The amount of the incentive payment shall equal 50% of the fair market value of the donation but shall not in any one year exceed one-half of the amount of taxes paid or otherwise due from the donor pursuant to the provisions of the "New Jersey Gross Income Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation Business Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), as applicable, for the tax year in which the donation is made. The fair market value of a non-cash donation shall be determined by the State Treasurer. The carry-forward for incentive payments shall not be inconsistent with that allowed by P.L.1976, c.47 (C.54A:1-1 et seq.) in the case of a donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.) in the case of a donation by a corporation.

All incentive payments made pursuant to this section shall be funded by and shall be subject to annual appropriations for this purpose, and shall in no way rely upon funds raised by the issuance of bonds for school facilities projects.

34. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to read as follows:

C.18A:7G-23 Prevailing wage rates on construction contracts.

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

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

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

C.18A:7G-24 Biannual report on school facilities construction program.

24. The development authority, in consultation with the State Treasurer, the financing authority, and the commissioner, shall biannually submit to the Governor, the Joint Budget Oversight Committee, the President of the Senate and the Speaker of the General Assembly a report on the school facilities construction program established pursuant to the provisions of this act. The report shall be submitted no later than June 1 and December 1 of each year and shall include, but not be limited to, the following information for the prior six-month period: the number of school facilities projects approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); the number of projects undertaken and funded by the development authority; the aggregate principal amount of bonds, notes or other obligations issued by the financing authority for the State share of construction and renovation of school facilities and whether there is a need to adjust the aggregate principal amount of bonds, notes or other obligations authorized for issuance pursuant to subsection a. of section 14 of P.L.2000, c.72 (C.18A:7G-14); the number of approved projects which exceeded the facilities efficiency standards, the components of those projects which exceeded the standards, and the amount of construction by individual districts and Statewide estimated to have exceeded the standards; and recommendations for changes in the school facilities construction program established pursuant to this act which have been formulated as a result of its experience with the program or through collaboration with program stakeholders.

In addition, the biannual report shall include a comparison of the costs of school facilities projects undertaken and funded by the development authority to similar school facilities projects constructed in the New York City Metropolitan Statistical Area and the Philadelphia Metropolitan Statistical Area as defined by the United States Department of Labor. The development authority shall include in the report an explanation of the methodology used in making the comparison.

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

C.18A:7G-26 Rules, regulations.

26. a. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of sections 1 through 12 and 57 and 58 and 64 of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.); except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as

the commissioner deems necessary to implement the provisions of sections 1 through 12 and 57 and 58 and 64 of this act which shall be effective for a period not to exceed 12 months. Determinations made by the commissioner pursuant to this act and the rules and regulations adopted by the commissioner to implement this act shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The regulations shall thereafter be amended, adopted or re-adopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The development authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) that apply to the development authority; except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the development authority may adopt immediately upon filing with the Office of Administrative Law, such rules and regulations as the development authority deems necessary which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted by the authority, in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

The rules and regulations promulgated by the New Jersey Schools Construction Corporation pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and effect unless subsequently revised by the development authority following the enactment of P.L.2007, c.137 (C.52:18A-235 et al.).

c. Any regulations adopted to implement this act shall include provisions to ensure that all programs necessary to comply with *Abbott v. Burke*, 153 N.J. 480 (1998) (*Abbott V*), are approved.

37. Section 27 of P.L.2000, c.72 (C.18A:7G-27) is amended to read as follows:

C.18A:7G-27 Development or financing authority property exempt from levy, sale.

27. All property of the development authority and the financing authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the development authority or the financing authority be a charge or lien upon its property; provided that nothing herein contained shall apply to or limit the rights of the holder of any bonds, notes or other obligations to pursue any remedy for the enforcement of any pledge or lien given by the development authority or the financing authority on or with respect to any project, school facilities project, or any revenues or other moneys.

38. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to read as follows:

C.18A:7G-33 Process for prequalification of contractors.

59. The development authority shall establish a process for the prequalification of contractors that desire to bid on school facilities projects. A contractor shall not be permitted to bid on such a school facilities project unless the contractor has been prequalified pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

The prequalification process shall apply to general contractors, construction managers, and contractors including those in the following areas:

- (1) plumbing and gas fitting and all work and materials kindred thereto;

- (2) steam and hot water heating and ventilating apparatus, steam power plants and all work and materials kindred thereto;
- (3) electrical work; and
- (4) structural steel and miscellaneous iron work and materials.

The prequalification process established by the New Jersey Schools Construction Corporation pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and effect unless subsequently revised by the development authority following the enactment of P.L.2007, c.137 (C.52:18A-235 et al.).

39. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to read as follows:

C.18A:7G-34 Prequalification process, submission requirements.

60. a. The prequalification process shall include a requirement that the contractor proposing to submit bids on a school facilities project submit a statement under oath on a form designated by the development authority. The form shall fully describe and establish the financial ability, responsibility, plant and equipment, organization, ownership, relationships and prior experience of the prospective bidder and any other pertinent and material facts as may be deemed necessary by the development authority. The submission shall include:

- (1) A certified, audited financial statement or compilation of financial statements or other documentation of financial status acceptable to the development authority;

- (2) Proof of any contractor or trade license required by law for any trade or specialty area in which the contractor is seeking prequalification and a statement as to whether any contractor or trade license has been revoked;

- (3) A statement as to bonding capacity, which shall be from a surety authorized to issue bid, performance and payment bonds in the State of New Jersey in accordance with N.J.S.2A:44-143 through N.J.S.2A:44-147 to the contractor, and shall indicate aggregate bonding limits;

- (4) A list of the names and titles of all individuals who own 10% or more of any class of stock in the corporation or are a 10% or more partner in the firm. If any of the aforementioned stockholders or partners is itself a corporation, or a partnership, that entity shall also provide the information specified herein;

- (5) Disclosure of any judgments, convictions or criminal indictments for any conduct constituting a crime under local, State or federal law;

- (6) Disclosure of any unsatisfied judgments, injunctions or liens obtained by a governmental agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any government agency;

- (7) Disclosure of any determination for violations of federal, State or local laws, rules or regulations, including health laws, unemployment insurance or workers' compensation coverage or claim requirements, the "Employee Retirement Income Security Act of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws, environmental laws, safety laws, licensing laws, tax laws and antitrust laws;

- (8) Disclosure of any federal, State or local debarments, non-responsibility findings or denials of prequalification;

- (9) Disclosure of any bankruptcy filings or proceedings;

- (10) A statement as to past performance, which shall give an accurate and complete record of work completed in the past five years by the contractor giving the names of the projects, type of work, location, contract price, bid and final contract amount paid and the names of

the owner and of the architect or engineer in charge for the owner. This statement shall also disclose any labor problems experienced, any failure to complete a contract on schedule, any penalties, judgments, orders or liens imposed by reason of any contract undertaken within the five-year period and whether the contractor has been defaulted for cause on any project as determined by an unappealed or nonappealable decision. This statement shall also indicate the status of any litigation pending against the potential bidder. The contractor shall be required to attach to this statement all performance evaluations in his possession for any work performed by the contractor on any public or private projects;

(11) A statement as to organization, which shall demonstrate the adequacy of such organization to undertake a school facilities project. This statement shall include the resumes of the management and professional staff;

(12) A statement setting forth the contractor's equipment inventory and technical resources; and

(13) A statement on staffing capabilities, including labor sources, staffing plans, turnover rates, and any use of registered apprenticeship programs and journeyman training programs.

b. After the receipt of the submission provided for in subsection a. of this section, the development authority may verify information provided in the contractor's submission, including applicable license and certificate requirements, federal or State debarments and violations of law. The development authority may also conduct random inquiries or surveys of the contractor's prior customers.

c. Based upon the submission provided for in subsection a. of this section the development authority shall assign a contractor the following classification and limits for the purpose of determining the types of projects for which a contractor is entitled to bid:

(1) a trade or work classification; and

(2) an aggregate rating limit.

To effectuate these requirements of the prequalification process, the development authority shall develop rules and regulations for assigning classifications and aggregate limits.

d. The classification shall be made and an immediate notice thereof shall be sent to the contractor by registered or certified mail or other legally valid methods.

e. The development authority shall establish procedures to permit contractors to challenge a classification made pursuant to this section.

f. The prequalification submission shall include an affidavit which acknowledges receipt of information regarding the appropriate federal Bureau of Apprenticeship and Training apprenticeship laws and regulations as adopted by the State and information regarding the county apprenticeship coordinators and the federal Bureau of Apprenticeship and Training.

g. The development authority shall maintain a registry of all contractors prequalified to bid on school facilities projects. The registry shall include the classification of the bidder and aggregate building limit.

40. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to read as follows:

C.18A:7G-35 Validity of contractor's prequalification classification.

61. a. A contractor's prequalification classification shall be valid for 24 months. A contractor shall be reclassified after the 24-month period in order to remain eligible to bid on school facilities projects.

b. Any material changes relevant to the prequalification process shall be reported by the contractor to the development authority in writing within 10 days. Based on the information provided, the development authority may change the classification or revoke prequalification for cause.

41. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to read as follows:

C.18A:7G-36 Mandatory uniform performance evaluation of contractors.

62. a. A mandatory uniform performance evaluation shall be conducted on all school facilities projects undertaken by the development authority. The evaluation shall, at a minimum, include cost, schedule adherence and quality.

b. A contractor shall be notified of a performance evaluation. The contractor shall be afforded an opportunity to respond to an adverse evaluation.

c. The contractor performance evaluations shall be utilized in reviewing bid submissions.

42. Section 66 of P.L.2000, c.72 (C.18A:7G-40) is amended to read as follows:

C.18A:7G-40 Prequalified contractors exempt from other prequalifying process.

66. A contractor who has been prequalified as a bidder on school facilities projects in accordance with the process established by the development authority pursuant to section 59 of P.L.2000, c.72 (C.18A:7G-33) shall not be required to undergo any other prequalification process to bid on a school facilities project.

43. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to read as follows:

C.18A:7G-44 Requirement for "wrap-up insurance coverage."

71. a. In the case of any school facilities project which has a State share of 100%, the development authority may require the use of wrap-up insurance coverage for the project and shall establish the terms and requirements for any such coverage.

b. For any school facilities project which has a State share of less than 100%, the district may elect to purchase wrap-up insurance coverage for the school facilities project. A district may purchase the coverage on its own or may enter into a joint purchasing agreement with one or more other districts to purchase coverage.

c. As used in this section, "wrap-up insurance coverage" means a single insurance and loss control program for all parties involved in the school facilities project, including the owners, administrators, contractors and all tiers of subcontractors, which is controlled and authorized by the owner or financing administrator and applicable to defined construction work sites. Wrap-up insurance coverage may include, but not be limited to, workers' compensation and employers' liability, commercial general liability, umbrella/excess liability, builder's risk, architects' and engineers' errors and omissions, liability, environmental liability, and force majeure.

44. N.J.S.18A:20-5 is amended to read as follows:

Disposition of property and title of purchaser.

18A:20-5. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), the board of education of any district by a recorded roll call majority vote of

its full membership may dispose, by sale or otherwise, in the manner prescribed in this chapter, of any lands or any rights or interest therein, owned by it, which cease to be suitable or convenient for the use for which they were acquired or which are no longer needed for school purposes, whether acquired by purchase or through condemnation proceedings and the purchaser thereof shall acquire title thereto free from any use or purpose for which it may have been acquired by the board.

45. N.J.S.18A:20-8 is amended to read as follows:

Exchange of lands.

18A:20-8. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), the board of education of any school district, by a recorded roll call majority vote of its full membership, may exchange any lands owned by it and not needed for school purposes for lands located in the school district and at least equal in value to the lands conveyed by the board in such exchange.

46. Section 1 of P.L.1970, c.106 (C.18A:20-8.1) is amended to read as follows:

C.18A:20-8.1 Transfer of land for vocational school purposes.

1. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), the board of education of any school district or regional school district may, by resolution, transfer land to the board of education of a county vocational school district for the purpose of constructing a vocational school on such land.

47. Section 1 of P.L.1978, c.91 (C.18A:20-8.2) is amended to read as follows:

C.18A:20-8.2 Lease of school lands.

1. a. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), whenever any board of education shall by resolution determine that any tract of land, whether there is a building thereon or not, or part or all of a school building, is not necessary for school purposes, but which it does not desire to dispose of for reason that the property may, at some future time, again be required for school purposes, it may authorize the lease thereof for a term extending beyond the official life of the board; provided that the noneducational uses of such building or tract of land are compatible with the establishment and operation of a school, as determined by the Commissioner of Education, if joint occupancy of such site is considered. The lease shall be binding upon the successor board as follows:

(1) After advertisement of the request for bids to lease to the highest bidder in a newspaper published in the school district, or, if none is published therein, then in a newspaper circulating in the district in which the same is situate, at least once a week for two weeks prior to the date fixed for the receipt and opening of bids, unless:

(2) The same is leased to the federal government, State, a political subdivision thereof, another school district, any board, body or commission of a municipality within the school district, any volunteer fire company or rescue squad actively engaged in the protection of life and property and duly incorporated under the laws of the State of New Jersey, or to any American Legion post, Veterans of Foreign Wars, or other recognized veterans' organization of the United States of America, located in the municipality or the county, as a meeting place for such organization, or to a nonprofit child care service organization duly incorporated

under the laws of the State of New Jersey, or to a nonprofit hospital duly licensed under the laws of the State of New Jersey, or to a nonprofit organization duly licensed under the laws of the State of New Jersey to provide emergency shelter for the homeless, or to a nonprofit senior citizen organization, or to a nonprofit historic preservation organization duly incorporated under the laws of the State of New Jersey, in which case the same may be leased by private agreement for a nominal fee without advertisement for bids.

b. Any lease in excess of five years shall be approved by the Commissioner of Education.

48. N.J.S.18A:20-9 is amended to read as follows:

Conveyance of certain school property for public, civic purposes for nominal consideration.

18A:20-9. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), whenever any board of education shall by resolution determine that any tract of land is no longer desirable or necessary for school purposes it may authorize the conveyance thereof, whether there is a building thereon or not, for a nominal consideration, to the municipality or any board, body or commission thereof, or to any volunteer fire company or rescue squad actively engaged in the protection of life and property and duly incorporated under the laws of the State of New Jersey, or to any American Legion post, Veterans of Foreign Wars, or other recognized veterans' organization of the United States of America, located in the municipality or the county, as a meeting place for such organization, or to a nonprofit child care service organization duly incorporated under the laws of the State of New Jersey, to a nonprofit hospital duly licensed under the laws of the State, or to a nonprofit organization duly licensed under the laws of the State of New Jersey to provide emergency shelter for the homeless, or to a nonprofit historic preservation organization duly incorporated under the laws of the State of New Jersey to provide a place for educational, cultural and musical functions. The president and secretary of the board shall be authorized to execute and deliver a conveyance for the same in the name and under the seal of the board, which conveyance may, in the discretion of the board, be made subject to a condition or limitation that said land shall be used by such municipality, board, body or commission thereof for public purposes and by any such fire company for fire company purposes or by such rescue squad for rescue squad purposes or to any veterans' organization, or to any child care service organization, or to any nonprofit hospital, or to any provider of emergency shelter for the homeless, or to any nonprofit historic preservation organization, and in the event that the property shall cease to be used for any of the purposes contemplated by this section, such property shall thereupon revert to and the title thereof shall vest in the board of education making the conveyance thereof hereunder.

49. Section 1 of P.L.1990, c.35 (C.18A:20-9.2) is amended to read as follows:

C.18A:20-9.2 Sale of school property to nonprofit private school for the handicapped.

1. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), whenever any board of education shall by resolution determine that any tract of land is no longer desirable or necessary for public school purposes it may authorize the conveyance thereof, at no less than the fair market price, whether there is a building thereon or not, to a nonprofit private school for the handicapped duly incorporated under the laws of the State of New Jersey. As used in this section, market price shall equal the median of two or more appraisals conducted by qualified real estate appraisers. The president and secretary of the

board shall be authorized to execute and deliver a conveyance for the same in the name and under the seal of the board, which conveyance may, in the discretion of the board, be made subject to a condition or limitation that said land shall be used by such nonprofit private school for the handicapped and in the event that the property shall cease to be used for the purposes contemplated by this section, such property shall first be offered for resale to the board of education making the conveyance thereof hereunder at the market price current at the time of resale.

50. N.J.S.18A:22-39 is amended to read as follows:

Type II districts without board of school estimate; submission of capital projects.

18A:22-39. Whenever the undertaking of any capital project or projects to be paid for from the proceeds of an issue or issue of bonds is submitted to the voters of a type II district at an annual or special school election for their approval or disapproval, the board shall frame and adopt by a recorded roll call majority vote of its full membership the question or questions to be submitted so that each project is submitted in a separate question, or all or any number of them are submitted in one question, which shall state the project or projects so submitted and the amounts to be raised for each of the projects so separately submitted or for each or for all of the projects so jointly submitted, as the case may be, but any proposal for the purchase of land shall be sufficient to authorize the taking and condemning of such land. If the project is to be constructed by the New Jersey Schools Development Authority or a redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the local share and shall disclose the final eligible costs of the project as approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and in the case of a demonstration project pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6), and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs. If the school facilities project is not to be constructed by the New Jersey Schools Development Authority or a redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the total costs of the project, shall disclose State debt service aid for the project and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs of the project. When a project is framed in more than one question, a summary shall be included in the explanatory statement which accompanies the questions that includes the total costs of the project, total State debt service aid, and, if applicable, the amount of the costs of the project which are in addition to the final eligible costs of the project, and any individual question containing costs in addition to the final eligible costs shall include the amount of those additional costs.

The statement of additional costs in any ballot question and in any explanatory statement that accompanies a ballot question shall describe the additional costs as follows: "This project includes \$(insert amount) for school facility construction elements in addition to the facilities efficiency standards developed by the Commissioner of Education."

51. Section 2 of P.L.1974, c.80 (C.34:1B-2) is amended to read as follows:

C.34:1B-2 Legislative findings, determinations.

2. The Legislature hereby finds and determines that:

a. Department of Labor and Workforce Development statistics of recent years indicate a continuing decline in manufacturing employment within the State, which is a contributing factor to the drastic unemployment existing within the State, which far exceeds the national average, thus adversely affecting the economy of the State and the prosperity, safety, health and general welfare of its inhabitants and their standard of living; that there is an urgent need to protect and enhance the quality of the natural environment and to reduce, abate and prevent environmental pollution derived from the operation of industry, utilities and commerce within the State; and that the availability of financial assistance and suitable facilities are important inducements to new and varied employment promoting enterprises to locate in the State, to existing enterprises to remain and expand in the State, and to industry, utilities and commerce to reduce, abate and prevent environmental pollution.

b. The provision of buildings, structures and other facilities to increase opportunity for employment in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State is in the public interest and it is a public purpose for the State to induce and to accelerate opportunity for employment in such enterprises.

c. In order to aid in supplying these needs and to assist in the immediate reduction of unemployment and to provide sufficient employment for the citizens of the State in the future, it is necessary and in the public interest to aid and encourage the immediate commencement of new construction projects of all types, to induce and facilitate the acquisition and installation at an accelerated rate of such devices, equipment and facilities as may be required to reduce, abate and prevent environmental pollution by industry, utilities and commerce.

d. The availability of financial assistance by the State will reduce present unemployment and improve future employment opportunities by encouraging and inducing the undertaking of such construction projects, the location, retaining or expanding of employment promoting enterprises within the State, and the accelerated acquisition and installation of energy saving improvements and pollution control devices, equipment and facilities.

e. In many municipalities in our State substantial and persistent unemployment exists; and many existing residential, industrial, commercial and manufacturing facilities within such municipalities are either obsolete, inefficient, dilapidated or are located without regard to the master plans of such municipalities; and the obsolescence and abandonment of existing facilities will increase with further technological advances, the provision of modern, efficient facilities in other states and the difficulty which many municipalities have in attracting new facilities; and that many existing and planned employment promoting facilities are far from or not easily accessible to the places of residence of substantial numbers of unemployed and underemployed persons.

f. By virtue of their architectural and cultural heritage, their positions as principal centers of communication and transportation and their concentration of productive and energy efficient facilities, many municipalities are capable of ameliorating the conditions of deterioration which impede sound community growth and development; and that building a proper balance of housing, industrial and commercial facilities and increasing the attractiveness of such municipalities to persons of all income levels is essential to restoring such municipalities as desirable places to live, work, shop and enjoy life's amenities; that the accomplishment of these objectives is beyond remedy solely by the regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the powers provided herein, and that the exercise of the powers herein provided is critical to continuing the process of revitalizing such municipalities and will serve an urgent public use and purpose.

The Legislature further determines that in order to aid in remedying the aforesaid conditions and to further and implement the purposes of this act, that there shall be created a body politic and corporate having the powers, duties and functions provided in this act; and that the authority and powers conferred under this act, and the expenditure of moneys pursuant thereto constitute a serving of a valid public purpose; and that the enactment of the provisions hereinafter set forth is in the public interest and for the public benefit and good, and is hereby so declared to be as a matter of express legislative determination.

The Legislature further finds and determines that:

g. It is essential that this and future generations of young people be given the fullest opportunity to learn and develop their intellectual capacities; that institutions of public elementary and secondary education within the State be provided with the appropriate additional means required to assist these young citizens in achieving the required levels of learning and the complete development of their intellectual abilities; and that the resources of the State be employed to meet the tremendous demand for public elementary and secondary educational opportunities.

h. Public elementary and secondary educational facilities are an integral part of the effort in this State to provide educational opportunities; it is the purpose of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) to provide a measure of assistance and an alternative method of financing to enable school districts to provide the facilities which are so critically needed; the inventory of public elementary and secondary school buildings and the equipment and capital resources currently available are aging, both chronologically and technologically; and the current funding at the federal, State, and local levels and the current mechanisms for construction of these capital projects are inadequate to meet the demonstrated need for school facilities, and these inadequacies necessitate additional sources of funding and the coordination of construction activities at the State level to meet those needs.

i. While the credit status of New Jersey's school districts is sound, it can be economically more reasonable to finance the costs of developing the educational infrastructure of the State's public elementary and secondary schools by providing for the funding of capital projects through the issuance of bonds, notes or other obligations by the New Jersey Economic Development Authority, to be retired through annual payments made by the State subject to appropriation by the State Legislature, and to provide for the use of the proceeds of those bonds, notes or other obligations to pay for educational infrastructure projects; and such a structure would substantially reduce the costs of financing and provide for a more efficient use of the funds available for the development of the educational infrastructure.

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

52. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as follows:

C.34:1B-3 Definitions.

3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.), P.L.1992, c.16 (C.34:1B-7.10 et al.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), and P.L.2007, c.137 (C.52:18A-235 et al.), unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority, created by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Bonds" means bonds or other obligations issued by the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and refunding bonds issued by the authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.).

"Cost" means the cost of the acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility including water transmission facilities, or other improvement; the cost of machinery and equipment; the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of energy saving improvements or pollution control devices, equipment or facilities; the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or useful and convenient for any project or school facilities project or in connection therewith; discount on bonds; cost of issuance of bonds; engineering and inspection costs; costs of financial, legal, professional and other estimates and advice; organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be necessary or incident to the financing, acquisition, construction or completion of any project or school facilities project or part thereof, and also such provision for reserves for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine.

"County" means any county of any class.

"County solid waste facility" means a solid waste facility that is designated by a public authority or county in its adopted district solid waste management plan as approved by the department prior to November 10, 1997 as the in-county facility to which solid waste generated within the boundaries of the county is transported for final disposal, or transfer for transportation to an offsite solid waste facility or designated out-of-district disposal site for disposal, as appropriate, pursuant to interdistrict or intradistrict waste flow orders issued by the department, regardless of whether the county solid waste facility was acquired, constructed, operated, abandoned or canceled.

"Department" means the Department of Environmental Protection.

"Development property" means any real or personal property, interest therein, improvements thereon, appurtenances thereto and air or other rights in connection therewith, including land, buildings, plants, structures, systems, works, machinery and equipment acquired or to be acquired by purchase, gift or otherwise by the authority within an urban growth zone.

"Person" means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, or other legal entities, including public or governmental bodies, as well as natural persons. "Person" shall include the plural as well as the singular.

"Pollution control project" means any device, equipment, improvement, structure or facility, or any land and any building, structure, facility or other improvement thereon, or any combination thereof, whether or not in existence or under construction, or the refinancing thereof in order to facilitate improvements or additions thereto or upgrading thereof, and all real and personal property deemed necessary thereto, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, thermal pollution control facility, radiation

contamination control facility, wastewater collection system, wastewater treatment works, sewage treatment works system, sewage treatment system or solid waste facility or site; provided that the authority shall have received from the Commissioner of the State Department of Environmental Protection or the commissioner's duly authorized representative a certificate stating the opinion that, based upon information, facts and circumstances available to the State Department of Environmental Protection and any other pertinent data, (1) the pollution control facilities do not conflict with, overlap or duplicate any other planned or existing pollution control facilities undertaken or planned by another public agency or authority within any political subdivision, and (2) the facilities, as designed, will be a pollution control project as defined in the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) and are in furtherance of the purpose of abating or controlling pollution.

"Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i)

reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if determined by the authority as necessary and in the public interest to maintain employment and the tax base of any political subdivision and will facilitate improvements thereto or the completion thereof, and (ii) development property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). Project shall not include a school facilities project.

"Public authority" means a municipal or county utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control financing authority created pursuant to the "New Jersey Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that has issued solid waste facility bonds or that has been designated by the county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21) to supervise the implementation of the district solid waste management plan.

"Revenues" means receipts, fees, rentals or other payments to be received on account of lease, mortgage, conditional sale, or sale, and payments and any other income derived from the lease, sale or other disposition of a project, moneys in such reserve and insurance funds or accounts or other funds and accounts, and income from the investment thereof, established in connection with the issuance of bonds or notes for a project or projects, and fees, charges or other moneys to be received by the authority in respect of projects or school facilities projects and contracts with persons.

"Resolution" means any resolution adopted or trust agreement executed by the authority, pursuant to which bonds of the authority are authorized to be issued.

"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for source separated recyclable materials or source separated food waste collected by livestock producers approved by the State Department of Agriculture to collect, prepare and feed such wastes to livestock on their own farms.

"Solid waste disposal" means the storage, treatment, utilization, processing, or final disposal of solid waste.

"Solid waste facility bonds" means the bonds, notes or other evidences of financial indebtedness issued by, or on behalf of, any public authority or county related to the planning, design, acquisition, construction, renovation, installation, operation or management of a county solid waste facility.

"Solid waste facilities" means, and includes, the plants, structures and other real and personal property acquired, constructed or operated by, or on behalf of, any county or public authority pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, including co-composting facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal

property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Energy saving improvement" means the construction, purchase and installation in a building devoted to industrial or commercial purposes of any of the following, designed to reduce the amount of energy from nonrenewable sources needed for heating and cooling that building: insulation, replacement burners, replacement high efficiency heating and air conditioning units, including modular boilers and furnaces, water heaters, central air conditioners with or without heat recovery to make hot water for industrial or commercial purposes or in office buildings, and any solar heating or cooling system improvement, including any system which captures solar radiation to heat a fluid which passes over or through the collector element of that system and then transfers that fluid to a point within the system where the heat is withdrawn from the fluid for direct usage or storage. These systems shall include, but not necessarily be limited to, systems incorporating flat plate, evacuated tube or focusing solar collectors.

The foregoing list shall not be construed to be exhaustive, and shall not serve to exclude other improvements consistent with the legislative intent of the provisions of P.L.1983, c.282.

"Urban growth zone" means any area within a municipality receiving State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) or a municipality certified by the Commissioner of Community Affairs to qualify under such law in every respect except population, which area has been so designated pursuant to an ordinance of the governing body of such municipality.

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

"Local unit" means a county, municipality, board of education or any other political entity authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law.

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

"Refunding bonds" means bonds, notes or other obligations issued to refinance bonds previously issued by the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.).

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

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such

structures, buildings, and facilities such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities.

53. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

C.34:1B-5 Powers.

5. The authority shall have the following powers:

- a. To adopt bylaws for the regulation of its affairs and the conduct of its business;
- b. To adopt and have a seal and to alter the same at pleasure;
- c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project; provided, however, that the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project to municipalities receiving State aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project and any project financed pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

g. To sell, convey or lease to any person all or any portion of a project for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project, or revenues, whenever it shall find such action to be in furtherance of the purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

i. To grant options to purchase or renew a lease for any of its projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and conditions thereof;

k. In connection with any application for assistance under P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or P.L.2007, c.137 (C.52:18A-235 et al.) or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

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

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et

al.), and P.L.2007, c.137 (C.52:18A-235 et al.), under, through or by means of its own officers, agents and employees, or by contract with any person;

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

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the authority to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts, the New Jersey Schools Development Authority, and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

aa. (Deleted by amendment, P.L.2007, c.137);

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

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, 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 of the authority or for the purchase upon tender or otherwise of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements

or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing of school facilities projects;

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time;

ff. To pool loans for any local government units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units;

gg. To finance projects approved by the board, provide staff support to the board, oversee and monitor progress on the part of the board in carrying out the revitalization, economic development and restoration projects authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities pursuant thereto; and

hh. To offer financial assistance to qualified film production companies as provided in the "New Jersey Film Production Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.).

54. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

C.34:1B-5.1 Rules, regulations relative to payment of prevailing wage rate; "authority financial assistance" defined.

1. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract undertaken in connection with any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance approved, funded, authorized, administered or provided by the authority to any entity, including but not limited to, all authority financial assistance received by the entity pursuant to P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after the assistance is received.

55. Section 4 of P.L.1979, c.303 (C.34:1B-5.4) is amended to read as follows:

C.34:1B-5.4 Rules, regulations relative to establishment of affirmative action program.

4. a. The New Jersey Economic Development Authority shall adopt rules and regulations to establish an affirmative action program for the hiring of minority workers employed in the performance of construction contracts undertaken in connection with any of its projects, and to expand the business opportunities of socially and economically disadvantaged contractors and vendors seeking to provide materials and services for those contracts, consistent with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and the authority shall provide for the proper enforcement and administration of such rules and regulations.

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

56. Section 50 of P.L.2000, c.72 (C.34:1B-5.5) is amended to read as follows:

C.34:1B-5.5 Limitation of claims, damages, losses, liabilities, costs for school facilities projects.

50. In the exercise of powers granted by P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) in connection with any school facilities project, any and all claims, damages, losses, liabilities or costs that the authority may incur shall be payable only from the amounts made available to the authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.). In connection with any agreement or contract entered into by the authority relating to any school facilities project, there shall be no recovery against the authority for punitive or consequential damages arising out of contract nor shall there be any recovery against the authority for claims based upon implied warranties or upon contracts implied in law.

57. Section 54 of P.L.2000, c.72 (C.34:1B-5.9) is amended to read as follows:

C.34:1B-5.9 Bonds deemed fully negotiable.

54. Notwithstanding the provisions of any law to the contrary, any bonds issued pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting the bond or coupon shall be conclusively deemed to have agreed that the bond or coupon is and shall be fully negotiable within the meaning and for all purposes of Title 12A.

58. Section 15 of P.L.1974, c.80 (C.34:1B-15) is amended to read as follows:

C.34:1B-15 Powers constitute essential government function; tax exempt status.

15. The exercise of the powers granted by this act, P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.) shall constitute the performance of an essential governmental function and the authority shall not be required to pay any taxes or assessments upon or in respect of a project or school facilities project, or any property or moneys of the authority, and the authority, its projects and school facilities projects, property and moneys and any bonds and notes issued under the provisions of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.), their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance and estate taxes and by any political subdivision of the State; provided, that any person occupying a project whether as lessee, vendee or otherwise shall, as long as title thereto shall remain in the authority, pay to the political subdivision in which such project is located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made and neither the authority nor its projects, properties, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. If and to the extent the proceedings under which the bonds authorized to be issued under the provisions of this act so provide, the authority may agree to cooperate with such person occupying a project, in connection with any administrative or judicial proceedings for determining the validity or amount of such payments and may agree to appoint or designate and reserve the right in and for such person to take all action which the authority may lawfully take in respect of such payments and all matters relating thereto, provided such person shall bear and pay all costs and expenses of the authority thereby incurred at the request of such person or by reason of any such action taken by such person in behalf of the authority. If such person occupying a project has paid the amounts in lieu of taxes required by this section to be paid such person shall not be required to pay any such taxes as to which a payment in lieu thereof has been made to the State or to any political subdivision, any other statute to the contrary notwithstanding.

59. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to read as follows:

C.40:55D-28 Preparation; contents; modification.

19. Preparation; contents; modification.

a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (15):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (14) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et al.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected

to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) An historic preservation plan element: (a) indicating the location and significance of historic sites and historic districts; (b) identifying the standards used to assess worthiness for historic site or district identification; and (c) analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements;

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(13) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging moneys made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements, installment purchases, and encouraging donations of permanent development easements;

(14) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and

(15) An educational facilities plan element which incorporates the purposes and goals of the "long-range facilities plan" required to be submitted to the Commissioner of Education by a school district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4).

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

In the case of a municipality situated within the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

60. Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to read as follows:

C.40:55D-70 Powers.

57. Powers. The board of adjustment shall have the power to:

a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;

b. Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;

c. (1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; (2) where in an application or appeal relating to a specific piece of property the purposes of this act or the purposes of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in subsection d. of this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use, in conjunction with which the planning board has power to review a request for a variance pursuant to subsection a. of section 47 of this act; and

d. In particular cases for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4), (5) an increase in the permitted density as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members, in the case of a municipal board, or two-thirds of the full authorized membership, in the case of a regional board, pursuant to article 10 of this act.

If an application development requests one or more variances but not a variance for a purpose enumerated in subsection d. of this section, the decision on the requested variance or variances shall be rendered under subsection c. of this section.

No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning

ordinance. In respect to any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or other relief may be granted under the terms of this section, permitting the creation or establishment of a nonconforming use which would be prohibited under standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation. An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

Repealer.

61. The following sections are repealed:

Sections 51, 52, and 53 of P.L.2000, c.72 (C.34:1B-5.6, 34:1B-5.7, and 34:1B-5.8).

62. This act shall take effect immediately.

Approved August 6, 2007.