

P.L. 2024, CHAPTER 79, *approved September 12, 2024*
Assembly, No. 4533

AN ACT concerning the financing of school facilities projects and amending P.L.2023, c.311.

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

1. Section 5 of P.L.2023, c.311 (C.18A:7G-5b) is amended to read as follows:

5. a. Notwithstanding the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to the contrary, the board of education of a district other than an SDA district may enter into an agreement with a county improvement authority to construct a school facilities project and to issue its bonds to finance the local share of a project that is to be financed pursuant to section 15 of P.L.2000, c.72 (18A:7G-15), or to finance the total costs of a project that is not to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15). The bonds of a county improvement authority issued to finance the total costs of a school facilities project that is not to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt service aid in accordance with the formula established pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9).

b. A district other than an SDA district may lease its lands or facilities to the county improvement authority, which may construct the school facilities project. Whenever a school facilities project is constructed by a county improvement authority pursuant to the provisions of this section, the improvement authority shall follow the applicable public bidding procedures or requirements under the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., section 2 of P.L.2018, c.90 (C.18A:18A-60), or sections 34 through 41 of P.L.2021, c.71 (C.18A:18A-61 through C.18A:18A-68).

c. The county improvement authority **[shall]** may lease the school facilities project to the county, which shall then lease it **[for nominal consideration]** to the district for as long as the county improvement authority bonds or refunding bonds are outstanding. **[Nothing in this section shall be construed to authorize a county to require the district to bear any portion of the cost of the debt service on the county improvement authority bonds issued to fund the school facilities project or any refunding bonds]** The leases executed pursuant to this subsection shall be valid and binding on the county and the district.

d. **[The]** In the event that leases of a school facilities project are executed pursuant to subsection c. of this section, the district lease payments made to the county and the county lease payments made to the county improvement authority **[pursuant to subsection c. of this section]** shall not be subject to any cap on appropriations or on spending or to any tax levy cap. The **[county]** district lease payments shall be sufficient to pay all debt service on the county improvement authority bonds issued to fund the school facilities project, or any refunding bonds, that remains after the application of any State debt service aid paid on those bonds pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9). The [county] district lease payments shall be binding, and the full amount of annual district lease payment obligations shall be included in each school budget adopted over the life of the bonds. All lease payments pursuant to this section shall be payable over the life of the bonds.

e. When the bonds issued by a county improvement authority are no longer outstanding, ~~the~~ any leases and liens of the county and the county improvement authority that are executed pursuant to subsection c. of this section shall expire and the school facilities project shall be solely vested in the school district. The school district shall be responsible for the operation, maintenance, and improvement of the school facility upon the completion of the school facilities project.

(cf: P.L.2023, c.311, s.5)

2. Section 7 of P.L.2023, c.311 (C.18A:7G-15.1a) is amended to read as follows:

7. a. Notwithstanding any provision of law to the contrary, when the board of education of a district determines that it is not financing a school facilities project under section 15 of P.L.2000, c.72 (C.18A:7G-15) and that it is necessary to sell bonds to raise money for the total costs of a school facilities project, the board of education may issue such bonds as are necessary to fund the project without the approval of the voters of the district, provided that before issuing the bonds:

(1) the board of education has entered into a written contract with one or more municipalities, wherein the municipality shall annually remit to the board of education a portion of the payments in lieu of taxes received by the municipality from one or more designated properties, which portion shall be sufficient for the ~~full~~ repayment of the ~~bonds~~ amount of debt service on the school facilities project bonds that remains after the application of any State debt service aid paid on the bonds in accordance with the formula established under section 9 of P.L.2000, c.72 (C.18A:7G-9), and the board of education shall pledge all remittances to the ~~full~~ repayment of the bonds; and

(2) the bond issuance and contract has been approved by the Local Finance Board pursuant to subsection b. of this section and the commissioner pursuant to subsection c. of this section.

b. A municipality intending to enter into a contract to pledge a portion of the payments in lieu of taxes received by the municipality from one or more designated properties pursuant to this section shall obtain the approval of the Local Finance Board prior to the adoption of an ordinance or resolution, as applicable, authorizing the municipality to enter into the contract. The board shall be entitled to receive from the applicant an amount sufficient to provide for all reasonable professional and other fees and expenses incurred by it for the review, analysis, and determination with respect thereto. As part of the board's review and approval, the board shall consider whether the proposed contract will adversely impact the financial stability of the municipality.

c. (1) If a board of education elects to issue bonds pursuant to this section, the board of education shall apply to the commissioner for approval of the bond issuance. The commissioner shall be entitled to receive from the applicant an amount sufficient to provide for all reasonable professional and other fees and expenses incurred for the review, analysis, and determination with respect thereto. In addition to any other information that the commissioner may deem appropriate, the application shall include: a description of the school facilities project; a certification of the amount to be raised by the bonds; a description of the anticipated annual debt service costs, including the amounts to be supported by municipal remittances; and a copy of the contract.

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

d. Any debt service on a bond issued by a school district pursuant to this section [that is not supported by municipal remittances authorized under this section and is paid by the board of education] shall be eligible for State debt service aid in accordance with the formula established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

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

(cf: P.L.2023, c.311, s.7)

3. This act shall take effect immediately.

STATEMENT

This bill modifies certain sections of law concerning financing mechanisms for school facilities projects that are constructed by districts other than SDA districts. These districts are often referred to as "regular operating districts."

Pursuant to current State law, a regular operating district may enter into an agreement with a county improvement authority to construct a school facilities project and to issue bonds to finance the project. In this case, the county improvement authority is required to lease the school facilities project to the county, which then leases it for nominal consideration to the school district for as long as the county improvement authority bonds are outstanding. The law stipulates that a county is not authorized to require a district to bear any portion of the cost of the bonds issued by a county improvement authority to fund the school facilities project. County lease payments made to the county improvement authority are not subject to any cap on appropriations or on spending or to any tax levy cap. This bill would modify this section of law to:

- permit, rather than require, a county improvement authority to lease the school facilities project to the county;
- remove the requirement that the lease of a school facilities project from a county to a district be for nominal consideration;
- remove language that prohibits a county from requiring a district to bear any portion of the debt service costs for bonds issued by a county improvement authority to fund a school facilities project;

- require that district lease payments pursuant to the bill be sufficient to pay all debt service on county improvement authority bonds that remain after the application of State debt service aid; and
- provide that school district lease payments to a county for a school facilities project are not subject to any cap on appropriations or on spending or to any tax levy cap.

Current State law also permits a regular operating district to raise bonds for a school facilities project without the approval of the voters of the district if: 1) the school district enters into a contract with one or more municipalities under which the municipality remits a portion of the payments in lieu of taxes received from one or more designated properties; and 2) the amounts remitted from the municipality to the school district are used for the full repayment of the bonds raised for the school facilities project. This bill modifies the law to provide that municipal remittances to school districts are to be sufficient to cover only the portion of bond proceeds that are not supported by debt service aid provided by the State. The bill further clarifies that bonds, which are supported by municipal remittances of payments in lieu of taxes to a school district for a school facilities project, are eligible for State debt service aid.

Revises certain sections of law concerning financing mechanisms for school facilities projects of regular operating districts.