

LEGISLATIVE FISCAL ESTIMATE
[Fourth Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4496
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: JANUARY 12, 2024

SUMMARY

- Synopsis:** Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority; establishes “Charter School and Renaissance School Project Facilities Loan Program” in EDA.
- Type of Impact:** State expenditure increase. Revenue and expenditure increase for charter school and renaissance school projects located in SDA districts. Revenue increase for local school districts. Revenue decrease for certain municipalities.
- Agencies Affected:** New Jersey Schools Development Authority. Department of Education. New Jersey Economic Development Authority. Local school districts. Charter schools and renaissance school projects located in SDA districts. Certain municipalities. County improvement authorities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Minimum of \$15 million, with likelihood for higher costs
Charter School and Renaissance School Project Revenue and Expenditure Increase	Indeterminate
Local School District Revenue Increase	Indeterminate
Municipal PILOT Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will primarily lead to an increase in State expenditures due to several notable provisions included in the bill.

- The OLS finds that expenditures related to providing State appropriations for certain administrative, non-project insurance, operating, and other expenses of the New Jersey Schools Development Authority will lead to an increase in State expenditures of at least \$15 million. This figure is a minimum estimate of cost based on the authority's budgeted amounts and expenditures on salaries and benefits charged to school facilities projects in recent years.
- The OLS notes that the operations of the Schools Development Authority related to its management of the school construction program are currently funded by appropriations from the New Jersey Debt Defeasance and Prevention Fund. Therefore, the State will generally not experience any cost increases as a result of this provision of the bill until such time as the authority is not supported by moneys from the New Jersey Debt Defeasance and Prevention Fund.
- The OLS expects the bill to increase annual State expenditures associated with the establishment and operation of the Charter School and Renaissance School Project Facilities Loan Program. These cost increases would be borne by the New Jersey Economic Development Authority and would primarily stem from providing program loans and the ongoing administration of the program.
- The bill's establishment of the loan program would also increase expenditures and revenues for eligible borrowers who qualify for loans, including non-profit charter schools and renaissance school projects in Schools Development Authority districts.
- The OLS notes that indeterminate State debt service aid cost increases will occur as a result of providing State aid incentives for non-Schools Development Authority districts (also known as "regular operating districts") to undertake school facilities projects that implement energy efficiency features.

BILL DESCRIPTION

This bill provides various changes to the laws governing the construction of school facilities projects and the operations of the Schools Development Authority. The notable provisions of the bill that will affect State finances are as follows:

- establishing a loan program in the Economic Development Authority for the financing of school facilities projects for non-profit charter schools and renaissance school projects in Schools Development Authority districts;
- newly appropriating State funds for certain administrative, non-project insurance, operating, and other expenses of the Schools Development Authority and the New Jersey Economic Development Authority in carrying out the operation and financing of the school construction program;
- providing for State aid incentives to regular operating districts undertaking school facilities projects that incorporate energy efficiency improvements or the installation of energy efficient features or equipment;
- allowing a school district to raise bonds for a school facilities project without the approval of the voters of the district if 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 the district pledges those moneys to the full repayment of the bonds; and

- codifying the Emergent Condition Remediation Program for certain projects in Schools Development Authority districts.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will primarily lead to an increase in State expenditures. As discussed in more detail below, the OLS estimates that the minimum increase in annual State costs would be \$15 million, solely to cover the salaries and benefits charged to school facilities projects undertaken by the Schools Development Authority in years in which school construction bonds are issued. Other provisions of the bill will likely cause State costs to be higher. Perhaps most notable among these provisions are those that require the Economic Development Authority to establish and administer a loan program for the financing of school facilities projects for non-profit charter schools and renaissance school projects in Schools Development Authority districts.

Providing State Appropriations for the Operating Expenses of the School Construction Program

This bill generally provides that the State will appropriate funds for certain administrative, non-project insurance, operating, and other expenses of the Schools Development Authority and the New Jersey Economic Development Authority in carrying out the operation and the financing of the school construction program. The OLS projects that this portion of the bill will annually cost at least \$15 million, which is based on the Schools Development Authority's budgeted amounts and expenditures on salaries and benefits charged to school facilities projects in recent years. These costs, however, would only be borne by the State during years in which the Economic Development Authority issues bonds to finance school facilities projects, with the proceeds of those bonds being transferred to the Schools Development Authority.

The OLS notes that the operations of the Schools Development Authority related to its management of the school construction program are currently funded by appropriations, primarily from the New Jersey Debt Defeasance and Prevention Fund pursuant to P.L.2022, c.18. That law appropriated \$1.9 billion to the Schools Development Authority, with \$1.55 billion being dedicated to school facilities projects, emergent needs, and capital maintenance in Schools Development Authority districts and the remaining \$350 million being dedicated to school facilities projects, emergent needs, and capital maintenance in all other districts. The annual distribution of these funds to the Schools Development Authority from the New Jersey Debt Defeasance and Prevention Fund is stipulated in a grant agreement between the State Treasurer and the authority. According to the Schools Development Authority's 2022 financial statement, Debt Defeasance and Prevention Fund moneys will be annually disbursed to the authority through FY 2029. Given that the Schools Development Authority's current source of funding for the school construction program is appropriations from the Debt Defeasance and Prevention Fund and assuming no other new moneys are provided from the fund, the State will generally not experience cost increases as a result of this provision of the bill until FY 2029.

Despite the enactment of appropriations to support the Schools Development Authority, current statutory law requires the Schools Development Authority to undertake, and the Economic Development Authority to provide for the financing of, the school facilities projects of the 31 Schools Development Authority districts (formerly known as Abbott districts). The Economic Development Authority also issues bonds for the financing of school facilities projects in non-Schools Development Authority districts and county vocational school districts.

The State currently provides 100 percent of the funding of final eligible costs for school facilities projects in the Schools Development Authority districts. In undertaking the school facilities projects, the Schools Development Authority is generally responsible for the planning, design, construction management, acquisition, construction, and completion of school facilities projects in the authority districts. The authority is responsible for: 1) capital projects, which are new schools, major renovations, and rehabilitation projects in Schools Development Authority districts; and 2) emergent projects, which are projects deemed necessary in those districts due to potential health and safety issues. In financing the school facilities projects, the Economic Development Authority issues bonds on behalf of the Schools Development Authority to fund school facilities projects. The aggregate amounts of the bonds authorized in statute totals \$12.5 billion, of which \$8.9 billion is dedicated for Schools Development Authority districts. In addition to this amount, current law authorizes bond issuances up to an aggregate amount of \$3.45 billion for the State share of the costs of school facilities projects in non-Schools Development Authority districts (also known as “regular operating districts”) and \$150 million for the State share of costs of school facilities projects in county vocational school districts.

During years in which the Economic Development Authority issues bonds to finance school facilities projects and transfers the proceeds of those bonds to the Schools Development Authority, this bill would shift the source of funds for certain administrative, non-project insurance, operating, and other expenses of the Schools Development Authority to undertake school facilities projects from bond proceeds to State appropriations. To fund this requirement of the bill, the OLS estimates an increase in State expenditures of at least \$15 million. This estimate is based on figures noted in public budget documents included in Schools Development Authority board meeting agenda materials, which detail the amounts dedicated for employee salary and benefit costs charged to school facilities projects. In addition to figures on salary and benefit costs charged to school facilities projects, the materials indicate that the authority’s remaining operating expenses, which are not charged to school facilities projects, have averaged approximately \$17.18 million since calendar year 2019. It is possible that a portion of these costs would also be covered by State appropriations, but the OLS is uncertain of the extent to which these other operating costs would be funded by the State as a result of the bill. The OLS further notes that the amount also likely does not completely account for potential costs to the Schools Development Authority in establishing an Office of Contracting Accountability, as required by the bill, and the cost of additional administrative and regulatory functions the authority would assume as a result of other provisions in the bill.

The OLS also notes that the bill requires that certain administrative, non-project insurance, operating, and other expenses of the Economic Development Authority to undertake the financing of school facilities projects would be funded through State appropriations. The costs of funding the authority’s operations in this regard are indeterminate.

Charter School and Renaissance School Project Facilities Loan Program

The bill requires the New Jersey Economic Development Authority to establish and administer the Charter School and Renaissance School Project Facilities Loan Program, which would provide eligible borrowers with a loan including, but not limited to, subordinate loans, to undertake or

facilitate school facilities projects for non-profit charter schools and non-profit renaissance school projects located in a Schools Development Authority district. The OLS concludes that this requirement will increase the annual expenditures and revenues of the Economic Development Authority associated with the establishment and operations of the loan program. The OLS also expects the authority to incur additional expenses related to the ongoing administration of the program, which responsibilities will include creating program rules, reviewing applications, and verifying compliance with the terms of the loan program. However, the OLS is unable to quantify the magnitude of these administrative expenses because it is unclear whether the Economic Development Authority would be required to hire additional staff to administer the program.

The repayment of program loans will also increase annual Economic Development Authority revenues by an indeterminate amount. The magnitude of the revenue gain will depend on the performance of the loan portfolio and the rate of interest approved for program loans. The OLS notes that the bill includes certain restrictions on the interest rate that may be charged to a loan issued under the loan program.

Under the bill, the authority may determine the repayment schedule of each loan. Accordingly, depending on the terms of each program loan, there may be a significant lag between the times in which the Economic Development Authority incurs program expenses and the times in which the authority receives loan repayments. While the bill requires the Legislature to annually appropriate such funds as are necessary to implement the loan program until it becomes self-sustaining, the bill does not provide for a supplemental appropriation to capitalize the program.

Finally, the OLS notes that the provision of loans for the financing of school facilities projects under the bill will increase expenditures and revenues for eligible borrowers, including non-profit charter schools and renaissance school projects in Schools Development Authority districts. Specifically, loan recipients would experience a one-time revenue increase when a program loan is received, followed by expenditure increases from loan repayments and interest charges until the loan has been fully repaid. To the extent that the availability of low interest loans induces eligible borrowers to undertake school facilities projects they otherwise would not have, these borrowers will also experience higher costs.

Other Cost Considerations

Other cost considerations under the bill are as follows:

- **Municipal remittances of PILOTs to boards of education for school facilities projects.** The bill allows a school district to raise bonds for a school facilities project without the approval of the voters of the district if the school district enters into a contract with one or more municipalities, wherein the municipality provides the district with a portion of the payments in lieu of taxes received from one or more designated properties, and the district pledges those moneys to the repayment of the bonds. The portion of the payments in lieu of taxes that would be remitted to school districts under this portion of the bill is to be sufficient for the full repayment of the school facilities project bonds. The OLS notes that it is likely that this provision would not have widespread applicability across the State as approximately 43.2 percent of municipalities have payment in lieu of taxes agreements according to data included in the Department of Community Affairs' PILOT Database and Viewer for calendar year 2021.
- **Codifying the Emergent Condition Remediation Program.** The bill would codify an existing Emergent Program, for which the Schools Development Authority currently provides funding to authority districts for projects that address conditions deemed necessary by the Department of Education due to potential health and safety concerns. This

provision of the bill does not necessarily impose costs on the State since the program effectively already exists. The OLS also notes that, in addition to funds that are available for emergent needs through appropriations made by P.L.2022, c.18, the FY 2024 Appropriations Act provides \$75 million to the Schools Development Authority for “SDA Capital Maintenance and Emergent Projects.” In the event that currently available funds are depleted for this program, however, the OLS notes that the Schools Development Authority’s most recent biannual report from June 2023 indicates that it is “currently managing 13 emergent projects that represent a greater than \$44 million State investment...”

Section: Revenue, Finance, and Appropriations
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).