

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 4496**

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2023

The Assembly Appropriations Committee reports favorably the Assembly Committee Substitute for Assembly Bill No. 4496, with committee amendments.

As amended, this committee substitute provides various changes to the laws governing the construction of school facilities projects and the operations of the New Jersey Schools Development Authority (SDA).

Model School Designs

As amended, the committee substitute requires the SDA, in consultation with the Commissioner of Education, to establish a model school design program that would establish uniform standards for the exterior and interior design of school facilities projects. The bill defines the components of the model school design program.

The committee substitute requires all projects in SDA districts to conform to the standards of the model school design program.

Non-SDA Projects

As amended, the committee substitute also provides several changes to the laws governing the construction of school facilities projects in non-SDA school districts.

The amended substitute 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 not less than 60 percent of the payments in lieu of taxes received from one or more designated properties, and the district pledges those monies to the repayment of the bonds. However, after entering into the contract, the school district would also be required to submit an application to the commissioner before issuing the bonds without voter approval.

Additionally, the committee substitute permits the board of education of a district other than an SDA district to enter into an agreement with a county improvement authority to construct a school facilities project and to issue bonds to finance certain portions of the project.

The committee substitute also permits a board of education of a school district to draw against its capital reserve account in order to finance a portion of a project for which a school district and private entity enter into a public-private partnership agreement pursuant to current law.

The committee substitute also requires the commissioner, in consultation with the SDA, to promulgate regulations concerning the incorporation of construction contract provisions that encourage the completion of construction projects on schedule.

SDA Finances and Operations

As amended, the committee substitute provides that bonds issued by the New Jersey Economic Development Authority (EDA) for the State share of school facilities projects, the proceeds of which are transferred to the SDA, will not support the costs of either agency related to the issuance of the bonds. Bonds issued after the effective date of the committee substitute will not support the administrative, non-project insurance, operating and other expenses of the EDA to issue the bonds. Under the committee substitute, the costs related to the undertaking of the planning, design, and construction of school facilities projects will also not be supported by bonds issued after the substitute's effective date. These administrative costs would instead be annually supported by State appropriations.

As amended, the substitute also requires the SDA to establish three funds in which the net proceeds of the bonds issued for school facilities projects, and any State appropriations for school facilities projects, would be deposited. The three funds are as follows: (1) the SDA District Project Fund; (2) the Regular Operating District Construction and Maintenance Grants Fund; and (3) the SDA District Emergent Project Fund.

The committee substitute stipulates that no less than 70 percent of any appropriations providing direct funding for school facilities projects would be appropriated for SDA district school facilities projects and SDA district emergent needs. The remaining funds would be disbursed to the Regular Operating District Construction and Maintenance Grant Fund.

School Facilities Projects of Charter Schools and Renaissance School Projects in SDA Districts and the Charter School and Renaissance School Project Facilities Loan Program.

As amended, the committee substitute establishes 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 an SDA district.

COMMITTEE AMENDMENTS:

The committee amended the committee substitute to:

- remove provisions that would have increased a non-SDA district's debt service aid by 15 percent if the non-SDA district constructed a project that conformed to the standards of the model school design program;
- modify the information required to be included in the Statewide strategic plan required for school facilities projects in SDA districts;
- clarify what purposes bonds issued by the New Jersey Economic Development Authority (EDA) for the State share of school facilities projects may be used for;
- reduce the number of funds the development authority is to establish in which the net proceeds of the bonds issued for school facilities projects, and any State appropriations for school facilities projects, would be deposited from four to three;
- require that a prospective bidder seeking prequalification to bid on school facilities projects would disclose whether, in the past five years, certain employees of the contractor and other individuals have been convicted of a criminal offense;
- require that a contractor seeking prequalification to bid on school facilities projects would seek certification from the Department of Labor and Workforce Development and the Department of the Treasury that the contractor is in substantial good standing with the respective department or has entered into an agreement with the respective department that includes a practical corrective action plan for the contractor;
- require that a contractor seeking prequalification would undertake a moral integrity review;
- clarify that the SDA would not approve a contractor's application for prequalification to bid on school facilities projects if the contractor: has been convicted of a criminal offense; is debarred, suspended, or disqualified from government contracting at the time of the application; or the contractor is prohibited from contracting with any public body;
- provide that the SDA or an SDA district that has been delegated management of a school facilities project may not enter into a contract for work with a person or firm that is currently debarred, suspended, or disqualified from government contracting;
- stipulate that the SDA or an SDA district that has been delegated management of a school facilities project may terminate a contract for a school facilities project due to a contractor's inclusion on certain government lists, provided that the authority or district is able to replace the bidder

without significantly impacting the cost and delivery date of the project;

- increase the number of public members appointed to the board of the development authority from 11 to 12, and require the public members to have knowledge in education in addition to the fields currently listed;
- amend the “Design-Build Construction Services Procurement Act” to permit a government entity that enters a contract pursuant to P.L.2007, c.137 (C.52:18A-235 et seq.) that already has an established prequalification, project rating, or proposal process for design-build contracts as of the effective date of the “Design-Build Construction Services Procurement Act” to continue to award design-build contracts pursuant to that process;
- clarify that an affirmative vote of the development authority is required for the hiring, termination, and disciplining of the management team of the development authority;
- remove provisions permitting a State funding mechanism for school facilities projects undertaken by charter schools and renaissance school projects physically located in an SDA district under provisions governing school facilities projects for SDA districts and regular operating districts; and
- create 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 an SDA district.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.