

CHAPTER 122

AN ACT authorizing the expenditure of funds by the New Jersey Infrastructure Bank for the purpose of making loans to eligible project sponsors to finance the cost to construct transportation infrastructure projects, and making an appropriation.

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

1. As used in this act:

“Bank” means the New Jersey Infrastructure Bank, established pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4).

“Capitalized interest” means an amount equal to the interest paid on bank transportation bonds that is funded with bank transportation bond proceeds and the earnings thereon.

“Debt service reserve fund expenses” means the debt service reserve fund costs associated with reserve capacity expenses.

“Issuance expenses” means any costs related to the issuance of bank transportation bonds, including, but not limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters’ discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents.

“Loan origination fee” means the fee charged by the bank to pay a portion of the costs incurred by the bank and the Department of Transportation in the implementation of the New Jersey Transportation Infrastructure Financing Program.

“Project sponsor” means a local government unit receiving a loan from the bank pursuant to this act.

“Reserve capacity expenses” means those project costs for reserve capacity which are eligible for loans from the bank in accordance with the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Infrastructure Financing Program to be set forth in the State Fiscal Year 2024 Transportation Infrastructure Financing Program Financial Plan.

2. a. The New Jersey Infrastructure Bank is authorized to expend the aggregate sum of \$73,530,363 or such amounts as can be supported through balances in the State Transportation Infrastructure Bank Fund, established pursuant to section 39 of P.L.2016, c.56 (C.58:11B-10.4), and via direct appropriation through the State transportation capital program for the purpose of making loans to or on behalf of local government units to finance all or a portion of the cost of construction of transportation infrastructure projects listed in section 4 of this act.

b. The bank is authorized to increase the aggregate sums specified in subsection a. of this section for the bank’s costs to acquire lending capital, including:

(1) the amounts of capitalized interest, interest accrued pursuant to a short-term or temporary loan made to a project sponsor pursuant to the Interim Transportation Financing Program, and the bond issuance expenses, as provided in subsection b. of section 7 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements, as provided in subsection c. of section 7 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors, as provided in subsection d. of section 7 of this act;

(4) the amounts of the loan origination fee, as provided in subsection e. of section 7 of this act; and

(5) the amounts of the debt service reserve or guarantees provided to local government units from the Economic Development and Infrastructure Improvement Revolving Fund, as provided in subsection f. of section 7 of this act.

3. The New Jersey Infrastructure Bank is authorized to make loans to, or on behalf of, the project sponsors for the transportation projects listed in subsection a. of section 4 of this act up to the individual amounts indicated and in the priority stated, except that any such amount may be reduced by the bank pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The bank is authorized to increase any such amount pursuant to subsection b. through subsection e. of section 7 of this act or section 8 of this act.

4. a. The following transportation infrastructure projects shall be known and may be cited as the “State Fiscal Year 2024 Transportation Financing Program Project Eligibility List”:

Applicant, Project No.	Project Description	Estimated Total Allowable State Loan Amount	Estimated Total Allowable Loan Amount
Bayonne City, TB0901-001	E. 25th Street Pedestrian Bridge Replacement	\$1,460,615	\$2,921,230
Essex County, TB0700-004	Priority Bridge Repairs: Harrison, East Newark, and Newark	\$2,586,269	\$5,172,537
Flemington Boro., TB1009-001	Corcoran S. Main Dewey Road Improvements	\$835,775	\$1,671,550
Wildwood City, TB0514-001	City of Wildwood Capital Improvements Plan	\$5,227,500	\$10,455,000
Orange City, TB0717-001	City of Orange Various Street Paving Project	\$4,955,000	\$9,910,000
Atlantic County, TB0100-001	County Route 629 Signal Improvement Project	\$6,085,250	\$12,170,500
Hackensack City, TB0223-001	Streetscape and Two Way Conversion of Main St.	\$1,960,890	\$3,921,780
Bayonne City, TB0901-002	2021 Roadway Improvements	\$814,452	\$1,628,903
Raritan Twp., TB1021-002	Road Resurfacing Project (2022)	\$1,316,535	\$2,633,070
Flemington Boro., TB1009-002	Bloomfield Ave. and Academy St. Road Improvements	\$761,288	\$1,522,575
Princeton, TB1110-001	Witherspoon St. Improvements: Phases 2 and 3	\$4,100,600	\$8,201,200
Plumsted Twp., TB1523-001	Plumsted Road and Drainage Projects (2021)	\$666,781	\$1,333,561
Robbinsville Twp., TB1112-001	Improvements to Newtown Village	\$1,149,705	\$2,299,409
Marlboro Twp., TB1328-002	2022 Road Improvement Program	\$1,650,391	\$3,300,781
Hoboken City, TB0905-001	Sinatra Dr. Redesign Project	\$3,194,134	\$6,388,267
Total Projects: 15		\$36,765,185	\$73,530,363

b. The bank is authorized to adjust the allowable State loan amount and estimated total allowable loan amount for each project authorized in this section as appropriate, provided that the total amount of loan issuance remains within available funds, and each loan is issued pursuant to the terms and conditions of the financing program from the year in which each construction contract for a project was certified if subject to an interim financing program loan or, in the absence of an interim financing program loan, the terms and conditions of the State Fiscal Year 2024 Transportation Infrastructure Financing Program.

c. The bank is authorized to increase the loan amount of projects authorized pursuant to this section in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to this act.

5. In accordance with and subject to the provisions of sections 5, 6, and 23 of P.L.1985, c.334 (C.58:11B-5, C.58:11B-6, and C.58:11B-23), and as set forth in the financial plan required pursuant to section 42 of P.L.2016, c.56 (C.58:11B-22.3), any proceeds from bonds issued by the bank to make loans for priority transportation infrastructure projects listed in section 4 of this act that are not expended for that purpose may be applied for the payment of all or any part of the principal of, or interest and premium on, the bank transportation bonds whether due at stated maturity, the interest payment dates, or earlier upon redemption. A portion of the proceeds from bonds issued by the bank to make loans for priority transportation infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses; for the payment of the loan origination fees; and for the payment of increased costs, as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Infrastructure Financing Program to be set forth in the State Fiscal Year 2024 Transportation Infrastructure Financing Program Financial Plan.

6. Any loan made by the New Jersey Infrastructure Bank pursuant to this act shall be subject to the following requirements:

a. The chairperson, vice-chairperson, or secretary of the bank shall certify that the project complies with the applicable provisions of P.L.1984, c.73, P.L.1985, c.334, P.L.2016, c.56, and any amendatory and supplementary acts thereto, and any rules and regulations adopted pursuant thereto, as applicable, and satisfies the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Infrastructure Financing Program set forth in the State Fiscal Year 2024 Transportation Infrastructure Financing Program Financial Plan. In making this certification, the chairperson, vice-chairperson, or secretary may conclusively rely on the project review conducted by the Department of Transportation without any independent review thereof by the bank;

b. The loan shall be conditioned upon inclusion of the project on a project eligibility list approved pursuant to section 41 of P.L.2016, c.56 (C.58:11B-20.2);

c. The loan shall be repaid within a period not to exceed 31 years of the making of the loan or, for loans funded pursuant to the "Transportation Infrastructure Finance and Innovation Act" (TIFIA), 23 U.S.C. s.601 et seq., as amended and superseded, not later than the maximum time period allowed by the TIFIA;

d. The loan shall not exceed the allowable project cost of the transportation infrastructure project, exclusive of capitalized interest, administrative expenses associated with federal funding programs, if applicable, and issuance expenses as provided in subsection b. of section 7 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of this act, interest earned on project costs as provided in subsection d. of section 7 of this act, the amounts of the loan origination fee as provided in subsection e. of section 7 of this act, refunding increases as provided in section 8 of this act, and increased costs as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the

requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Infrastructure Financing Program to be set forth in the State Fiscal Year 2024 Transportation Infrastructure Financing Program Financial Plan;

e. The loan shall bear interest, exclusive of any cost of issuance charges, late charges, or administrative fees payable to the bank pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving bank transportation loans, at or below the interest rate paid by the bank on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 42 of P.L.2016, c.56 (C.58:11B-22.3); and

f. The loan shall be subject to all other terms and conditions as the bank shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9), and any policy statements relating to the Transportation Infrastructure Financing Program and the financial plan required by section 42 of P.L.2016, c.56 (C.58:11B-22.3). The eligibility lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2024, and any project sponsor which has not executed and delivered a loan agreement with the bank for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Infrastructure Bank is authorized to reduce the individual amount of loan funds made available to, or on behalf of, project sponsors pursuant to section 4 of this act based upon final building costs, as defined and determined in accordance with rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Infrastructure Financing Program to be set forth in the State Fiscal Year 2024 Transportation Infrastructure Financing Program Financial Plan. The bank is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses, as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Infrastructure Financing Program to be set forth in the State Fiscal Year 2024 Transportation Infrastructure Financing Program Financial Plan.

b. The bank is authorized to increase each loan amount authorized in section 4 of this act by the amount of capitalized interest, interest accrued pursuant to a short-term or temporary loan made to a project sponsor pursuant to the Interim Transportation Financing Program, issuance expenses, and administrative expenses associated with federal funding programs allocable to each loan made by the bank pursuant to this act.

c. The bank is authorized to increase each loan amount authorized in section 4 of this act by the amount of reserve capacity expenses and the debt service reserve fund expenses associated with the costs identified in subsection b. of section 2 of this act.

d. The bank is authorized to increase each loan amount authorized in section 4 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The bank is authorized to increase each loan amount authorized in section 4 of this act by the loan origination fee.

f. The bank is authorized to utilize the funds appropriated to the bank for deposit into the Economic Development and Infrastructure Improvement Revolving Fund for the provision of debt service reserves and guarantees to local government units that finance a transportation project or redevelopment project, which debt service reserves and guarantees shall be used to satisfy any applicable creditworthiness requirements of the local government unit.

8. The New Jersey Infrastructure Bank is authorized to utilize the proceeds from the refunding of bank transportation bonds to increase the individual amount of loan funds made available to project sponsors by the bank pursuant to this act provided that the amount of the increase is limited to the amount of savings achieved by the refunding of bank transportation bonds issued to make loans authorized by this act. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.2016, c.56, and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Infrastructure Financing Program to be set forth in the State Fiscal Year 2024 Transportation Infrastructure Financing Program Financial Plan, as appropriate.

9. Notwithstanding any provision of law or regulation to the contrary, including, but not limited to, the provisions of subsection b. of section 23 of P.L.1985, c.334 (C.58:11B-23), the New Jersey Infrastructure Bank is authorized to utilize the following funds generated by the operation of the bank to defray the annual operating expenses of the bank:

- a. the proceeds from the sale of the bank's bonds, notes or other obligations;
- b. the revenues derived from investments by the bank;
- c. any loan repayments paid to the bank, including interest from local government units;
- d. the proceeds of any fees and charges levied by the bank;
- e. any funds received from the federal government that are permitted by the federal government to be used for the operating expenses of the bank; and
- f. any funds otherwise permitted to be used for the operating expenses of the bank.

10. a. There is appropriated to the New Jersey Infrastructure Bank from the General Fund, for deposit in the transportation subaccount of the special fund created and established by the bank for the short-term or temporary loan financing or refinancing under the Disaster Relief Emergency Financing Program, authorized pursuant to subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5), such sums as are needed consisting of:

(1) sums from the Interim Transportation Financing Program Fund as needed by the bank to make short-term or temporary loans pursuant to the Disaster Relief Emergency Financing Program to any one or more of the project sponsors, for the respective projects thereof; and

(2) such other amounts to be deposited in the Disaster Relief Emergency Financing Program Fund, established pursuant to subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5), provided that the amount so appropriated to the bank for deposit in the Disaster Relief Emergency Financing Program Fund shall be utilized by the bank to make short-term or temporary loans pursuant to the Disaster Relief Emergency Financing Program to any one or more of the project sponsors, for the respective projects thereof. Any transportation projects funded by the Disaster Relief Emergency Financing Program shall be subject to the approval of the Commissioner of Transportation.

b. The Transportation Disaster Relief Emergency Financing Program Project Priority List shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. Any transportation infrastructure project or the project sponsor

thereof not identified in the Transportation Disaster Relief Emergency Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Transportation Disaster Relief Emergency Financing Program Fund.

11. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the bank shall not be required to adopt rules and regulations governing the issuance of loans under the “Disaster Relief Emergency Financing Program.”

12. This act shall take effect immediately and shall expire on July 1, 2024.

Approved July 20, 2023.