

CHAPTER 211

AN ACT concerning school district borrowing and supplementing chapter 22 of Title 18A of the New Jersey Statutes.

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

C.18A:24-12.1 Type II school district without a board of school estimate, bonds, repairs to school facilities, furnishings, equipment, natural disasters, deemed necessary.

1. a. Notwithstanding the provisions of N.J.S.18A:24-10 or any other law, rule, or regulation to the contrary, the board of education of a Type II school district without a board of school estimate may issue bonds without the approval of the voters of the district in order to finance costs related to repairs to school facilities and other furnishings and equipment that were damaged due to a natural disaster, provided that the repairs are deemed to be necessary in order to provide a thorough and efficient system of education in the school district. In the case of a Type II school district without a board of school estimate that is under full State intervention or partial State intervention in which the governance component of school district effectiveness has not been returned to the district, notwithstanding the provisions of P.L.1991, c.139 (C.18A:7A-46.1 et seq.) or any other law, rule, or regulation to the contrary, such bonds may be issued without the approval of the capital project control board. The provisions of this section shall not be applicable to any Type II school district without a board of school estimate that is an SDA district, as that term is defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3).

As used in this section, “school facility” means and includes any structure, building, or facility used wholly or in part for educational purposes by a school 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.

b. (1) The issuance of bonds pursuant to this section shall be approved by the board of education of the school district, or the State district superintendent in the case of a school district under full State intervention or partial State intervention in which the governance component of school district effectiveness has not been returned to the district. The approval shall be evidenced by the adoption of a resolution by the board of education in a public meeting upon an affirmative vote of two-thirds of its full membership. If the school district is under full or partial State intervention and the governance component of school district effectiveness has not been returned to the district, the approval shall be evidenced by a certification, affidavit, or other sworn statement signed by the State district superintendent supporting the issuance. The resolution or certification, affidavit, or other sworn statement as applicable shall, at a minimum:

(a) certify support for the issuance of the bonds and authorize the submission of an application to the Commissioner of Education pursuant to subsection c. of this section;

(b) petition the commissioner to authorize the issuance of bonds pursuant to this section;

(c) include the total estimated cost of the damage to school facilities and other furnishings and equipment, caused by a natural disaster;

(d) state the project or projects to be submitted to the commissioner and the amounts to be raised for the project or projects;

(e) the amount necessary to be raised by school bonds for repairs to the damage to school facilities and other furnishings and equipment; and

(f) the amount of funds, if any, that the school district has been or will be reimbursed by an applicable disaster relief agency.

(2) (a) In the event that the repairs for which bonds are to be issued pursuant to this section are deemed to be a school facilities project that is eligible for State debt service aid pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.), the board of education or State superintendent as applicable shall apply to the commissioner seeking approval for the school facilities project prior to the adoption of a resolution or the signing of a certification, affidavit, or other sworn statement pursuant to paragraph (1) of this subsection. The application shall be reviewed by the commissioner on an expedited basis pursuant to a process to be established by the commissioner. The application shall include items to be required by the commissioner including, but not 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. Notwithstanding the provisions of section 4 of P.L.2000, c.72 (C.18A:7G-4) or section 5 of P.L.2000, c.72 (C.18A:7G-5) or the provisions of any other law, rule, or regulation to the contrary, the approval or disapproval of an application for a school facilities project pursuant to this section shall not be contingent upon the school facilities project being consistent or inconsistent with the school district's long-range facilities plan required pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4) or upon the fact that the long-range facilities plan has not been amended to incorporate the school facilities project.

(b) Upon approval of an application submitted pursuant to subparagraph (a) of this paragraph, the applicant board of education shall adopt a resolution approving the issuance of bonds in a public meeting upon an affirmative vote of two-thirds of its full membership. If the school district is under full or partial State intervention and the governance component of school district effectiveness has not been returned to the district, the approval shall be evidenced by a certification, affidavit, or other sworn statement signed by the State district superintendent supporting the issuance. The resolution or certification, affidavit, or other sworn statement as applicable shall include, in addition to the information required pursuant to paragraph (1) of this subsection:

- (i) the amount needed to be raised by school bonds;
- (ii) the final eligible costs of the school facilities project as approved by the commissioner;
- (iii) the total costs;
- (iv) the State share or State debt-service-aid percentage;
- (v) the local share, if applicable; and
- (vi) the excess costs, if applicable.

c. (1) Upon the adoption of a resolution or the signing of a certification, affidavit, or other sworn statement pursuant to subsection b. of this section, a board of education or State district superintendent as applicable shall apply to the Commissioner of Education for approval of the issuance of bonds for the purposes laid out in subsection a. of this section. An application shall be submitted in a manner and in accordance with procedures prescribed by the commissioner. At a minimum, the application shall:

(a) demonstrate the need to borrow and that borrowing is necessary to provide a thorough and efficient system of education and to meet an emergency caused by a natural disaster;

(b) include the resolution adopted, or certification, affidavit, or other sworn statement signed, pursuant to subsection b. of this section; and

(c) demonstrate that reasonable efforts have been made to employ other methods provided by law to finance repairs to school facilities and other furnishings and equipment that were damaged due to a natural disaster.

(2) A decision by the commissioner concerning the approval or disapproval of an application shall be rendered to the applicant board of education or State district superintendent within 15 business days of receipt of the application.

d. (1) Notwithstanding the provisions of any law, rule, or regulation to the contrary, in the event that the commissioner approves an application submitted pursuant to subsection c. of this section, the principal of and interest on the bonds issued pursuant to this section shall be repaid with funds of the school district. Notwithstanding the bond limitations on a school district pursuant to the provisions of N.J.S.18A:24-19 or the provisions of any other law, rule, or regulation to the contrary, a school bond may be issued in a manner prescribed in this section even if the principal amount of the bond, when added to the net school debt of the district, exceeds the limitations enumerated under N.J.S.18A:24-19 or under any other provision of law prescribing bond limitations on a Type II school district without a board of school estimate. In the event that a school district exceeds the applicable bond limitations after issuance of a bond pursuant to this section, the commissioner shall, along with the approval of an application provided under subsection c. of this section, endorse the commissioner's consent and shall record in writing that the borrowing is necessary for the school district to provide a thorough and efficient system of education and to meet an emergency caused by a natural disaster.

(2) 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.

2. This act shall take effect immediately.

Approved January 8, 2024.