

ASSEMBLY, No. 2873

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 22, 2008

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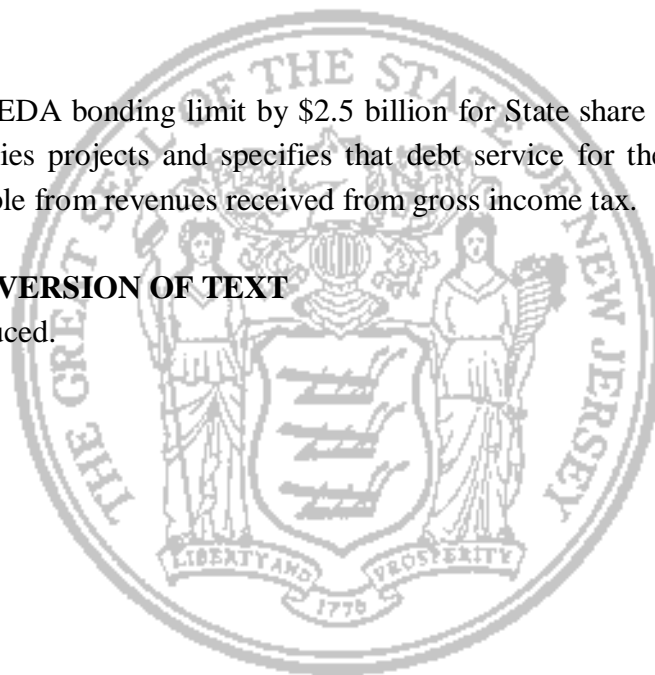
Assemblyman Giblin

SYNOPSIS

Increases EDA bonding limit by \$2.5 billion for State share of SDA district school facilities projects and specifies that debt service for these bonds shall first be payable from revenues received from gross income tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/20/2008)

1 AN ACT concerning State support for school facilities projects and
2 amending P.L.2000, c.72.

3

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

6

7 1. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to
8 read as follows:

9 14. Notwithstanding any other provisions of law to the contrary:

10 a. The financing authority shall have the power, pursuant to the
11 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
12 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to
13 issue bonds and refunding bonds, incur indebtedness and borrow
14 money secured, in whole or in part, by moneys received pursuant to
15 sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-
16 18 and C.18A:7G-19) for the purposes of: financing all or a portion
17 of the costs of school facilities projects and any costs related to the
18 issuance thereof, including, but not limited to, the administrative,
19 insurance, operating and other expenses of the financing authority
20 to undertake the financing, and the development authority to
21 undertake the planning, design, and construction of school facilities
22 projects; lending moneys to local units to pay the costs of all or a
23 portion of school facilities projects and any costs related to the
24 issuance thereof; funding the grants to be made pursuant to section
25 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition
26 of school facilities projects to permit the refinancing of debt by the
27 district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16).
28 The aggregate principal amount of the bonds, notes or other
29 obligations issued by the financing authority shall not exceed:
30 \$100,000,000 for the State share of costs for county vocational
31 school district school facilities projects; **[\$6,000,000,000]**
32 \$8,500,000,000 for the State share of costs for **[Abbott]** SDA
33 district school facilities projects; and \$2,500,000,000 for the State
34 share of costs for school facilities projects in all other districts.
35 This limitation shall not include any bonds, notes or other
36 obligations issued for refunding purposes.

37 The financing authority may establish reserve funds to further
38 secure bonds and refunding bonds issued pursuant to this section
39 and may issue bonds to pay for the administrative, insurance and
40 operating costs of the financing authority and the development
41 authority in carrying out the provisions of this act. In addition to its
42 bonds and refunding bonds, the financing authority shall have the
43 power to issue subordinated indebtedness, which shall be
44 subordinate in lien to the lien of any or all of its bonds or as the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 financing authority may determine.

2 b. The financing authority shall issue the bonds or refunding
3 bonds in such manner as it shall determine in accordance with the
4 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
5 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);
6 provided that notwithstanding any other law to the contrary, no
7 resolution adopted by the financing authority authorizing the
8 issuance of bonds or refunding bonds pursuant to this section shall
9 be adopted or otherwise made effective without the approval in
10 writing of the State Treasurer; and refunding bonds issued to refund
11 bonds issued pursuant to this section shall be issued on such terms
12 and conditions as may be determined by the financing authority and
13 the State Treasurer. The financing authority may, in any resolution
14 authorizing the issuance of bonds or refunding bonds issued
15 pursuant to this section, pledge the contract with the State Treasurer
16 provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-
17 18), or any part thereof, or may pledge all or any part of the
18 repayments of loans made to local units pursuant to section 19 of
19 P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the
20 bonds or refunding bonds, and covenant as to the use and
21 disposition of money available to the financing authority for
22 payment of the bonds and refunding bonds. All costs associated
23 with the issuance of bonds and refunding bonds by the financing
24 authority for the purposes set forth in this act may be paid by the
25 financing authority from amounts it receives from the proceeds of
26 the bonds or refunding bonds, and from amounts it receives
27 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-
28 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but
29 shall not be limited to, any costs relating to the issuance of the
30 bonds or refunding bonds, administrative costs of the financing
31 authority attributable to the making and administering of loans and
32 grants to fund school facilities projects, and costs attributable to the
33 agreements entered into pursuant to subsection d. of this section.

34 c. Each issue of bonds or refunding bonds of the financing
35 authority shall be special obligations of the financing authority
36 payable out of particular revenues, receipts or funds, subject only to
37 any agreements with the holders of bonds or refunding bonds, and
38 may be secured by other sources of revenue, including, but not
39 limited to, one or more of the following:

40 (1) Pledge of the revenues and other receipts to be derived from
41 the payment of local unit obligations and any other payment made
42 to the financing authority pursuant to agreements with any local
43 unit, or a pledge or assignment of any local unit obligations, and the
44 rights and interest of the financing authority therein;

45 (2) Pledge of rentals, receipts and other revenues to be derived
46 from leases or other contractual arrangements with any person or
47 entity, public or private, including one or more local units, or a
48 pledge or assignment of those leases or other contractual

1 arrangements and the rights and interests of the financing authority
2 therein;

3 (3) Pledge of all moneys, funds, accounts, securities and other
4 funds, including the proceeds of the bonds;

5 (4) Pledge of the receipts to be derived from payments of State
6 aid to the financing authority pursuant to section 21 of P.L.2000,
7 c.72 (C.18A:7G-21);

8 (5) Pledge of the contract or contracts with the State Treasurer
9 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

10 (6) Pledge of any sums remitted to the local unit by donation
11 from any person or entity, public or private, subject to the approval
12 of the State Treasurer;

13 (7) A mortgage on all or any part of the property, real or
14 personal, comprising a school facilities project then owned or
15 thereafter to be acquired, or a pledge or assignment of mortgages
16 made to the financing authority by any person or entity, public or
17 private, including one or more local units and rights and interests of
18 the financing authority therein; and

19 (8) The receipt of any grants, reimbursements or other payments
20 from the federal government.

21 d. The resolution authorizing the issuance of bonds or
22 refunding bonds pursuant to this section may also provide for the
23 financing authority to enter into any revolving credit agreement,
24 agreement establishing a line of credit or letter of credit,
25 reimbursement agreement, interest rate exchange agreement,
26 currency exchange agreement, interest rate floor or cap, options,
27 puts or calls to hedge payment, currency, rate, spread or similar
28 exposure or similar agreements, float agreements, forward
29 agreements, insurance contracts, surety bonds, commitments to
30 purchase or sell bonds, purchase or sale agreements, or
31 commitments or other contracts or agreements and other security
32 agreements approved by the financing authority in connection with
33 the issuance of the bonds or refunding bonds pursuant to this
34 section. In addition, the financing authority may, in anticipation of
35 the issuance of the bonds or the receipt of appropriations, grants,
36 reimbursements or other funds, including, without limitation, grants
37 from the federal government for school facilities projects, issue
38 notes, the principal of or interest on which, or both, shall be payable
39 out of the proceeds of notes, bonds or other obligations of the
40 financing authority or appropriations, grants, reimbursements or
41 other funds or revenues of the financing authority.

42 e. The financing authority is authorized to engage, subject to
43 the approval of the State Treasurer and in such manner as the State
44 Treasurer shall determine, the services of financial advisors and
45 experts, placement agents, underwriters, appraisers, and other
46 advisors, consultants and agents as may be necessary to effectuate
47 the financing of school facilities projects.

1 f. Bonds and refunding bonds issued by the financing authority
2 pursuant to this section shall be special and limited obligations of
3 the financing authority payable from, and secured by, funds and
4 moneys determined by the financing authority in accordance with
5 this section. Notwithstanding any other provision of law or
6 agreement to the contrary, any bonds and refunding bonds issued by
7 the financing authority pursuant to this section shall not be secured
8 by the same property as bonds and refunding bonds issued by the
9 financing authority to finance projects other than school facilities
10 projects. Neither the members of the financing authority nor any
11 other person executing the bonds or refunding bonds shall be
12 personally liable with respect to payment of interest and principal
13 on these bonds or refunding bonds. Bonds or refunding bonds
14 issued pursuant to this section shall not be a debt or liability of the
15 State or any agency or instrumentality thereof, except as otherwise
16 provided by this subsection, either legal, moral or otherwise, and
17 nothing contained in this act shall be construed to authorize the
18 financing authority to incur any indebtedness on behalf of or in any
19 way to obligate the State or any political subdivision thereof, and
20 all bonds and refunding bonds issued by the financing authority
21 shall contain a statement to that effect on their face.

22 g. The State hereby pledges and covenants with the holders of
23 any bonds or refunding bonds issued pursuant to this act that it will
24 not limit or alter the rights or powers vested in the financing
25 authority by this act, nor limit or alter the rights or powers of the
26 State Treasurer in any manner which would jeopardize the interest
27 of the holders or any trustee of the holders, or inhibit or prevent
28 performance or fulfillment by the financing authority or the State
29 Treasurer with respect to the terms of any agreement made with the
30 holders of the bonds or refunding bonds or agreements made
31 pursuant to subsection d. of this section; except that the failure of
32 the Legislature to appropriate moneys for any purpose of this act
33 shall not be deemed a violation of this section.

34 h. The financing authority and the development authority may
35 charge to and collect from local units, districts, the State and any
36 other person, any fees and charges in connection with the financing
37 authority's or development authority's actions undertaken with
38 respect to school facilities projects, including, but not limited to,
39 fees and charges for the financing authority's administrative,
40 organization, insurance, operating and other expenses incident to
41 the financing of school facilities projects, and the development
42 authority's administrative, organization, insurance, operating,
43 planning, design, construction management, acquisition,
44 construction, completion and placing into service and maintenance
45 of school facilities projects. Notwithstanding any provision of this
46 act to the contrary, no SDA district shall be responsible for the
47 payment of any fees and charges related to the development
48 authority's operating expenses.

1 i. Upon the issuance by the financing authority of bonds
2 pursuant to this section, other than refunding bonds, the net
3 proceeds of the bonds shall be transferred to the development
4 authority.

5 (cf: P.L.2007, c.260, s.45)

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7 2. Section 17 of P.L.2000, c.72 (C.18A:7G-17) is amended to
8 read as follows:

9 17. In each fiscal year the State Treasurer shall pay from the
10 General Fund to the financing authority, in accordance with a
11 contract between the State Treasurer and the financing authority as
12 authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18),
13 an amount equal to the debt service amount due to be paid in the
14 State fiscal year on the bonds or refunding bonds of the financing
15 authority issued or incurred pursuant to section 14 of P.L.2000, c.72
16 (C.18A:7G-14) and any additional costs authorized pursuant to that
17 section; provided that all such payments from the General Fund
18 shall be subject to and dependent upon appropriations being made
19 from time to time by the Legislature for those purposes, and
20 provided further that all payments shall be used only to pay for the
21 costs of school facilities projects and the costs of financing those
22 projects.

23 In regard to the increase in the amount of bonds authorized to be
24 issued by the financing authority pursuant to P.L. , c. (pending
25 before the Legislature as this bill) for the State share of costs for
26 SDA district school facilities projects, debt service on the bonds or
27 refunding bonds issued or incurred by the financing authority
28 pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and any
29 additional costs authorized pursuant to that section shall first be
30 payable from revenues received from the gross income tax pursuant
31 to the "New Jersey Gross Income Tax Act," P.L.1976, c.47
32 (C.54A:1-1 et seq.), except for debt service and additional costs for
33 the administrative, insurance, operating, and other expenses of the
34 financing authority and the development authority incurred in
35 connection with school facilities projects.

36 (cf: P.L.2007, c.137, s.28)

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38 3. This act shall take effect immediately.

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STATEMENT

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43 This bill amends the "Educational Facilities Construction and
44 Financing Act," (EFCFA) P.L.2000, c.72, to increase by \$2.5
45 billion the amount of bonds authorized to be issued by the New
46 Jersey Economic Development Authority to finance the State share
47 of school facilities projects in SDA districts (formerly Abbott
48 districts). In regard to this \$2.5 billion increase in bond

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1 authorization, the bill provides that debt service on these bonds and
2 refunding bonds and any additional authorized costs must first be
3 payable from revenues received from the gross income tax pursuant
4 to the "New Jersey Gross Income Tax Act," except for debt service
5 and additional costs for the administrative, insurance, operating,
6 and other expenses of the New Jersey Economic Development
7 Authority and the New Jersey Schools Development Authority
8 incurred in connection with school facilities projects.