



LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 216th Legislature \*\*\*  
\*\*\* First Annual Session, L. 2014 c. 90 and J.R. 6 \*\*\*  
\*\*\* N.J. Constitution current through November 2014 election \*\*\*

TITLE 34. LABOR AND WORKERS' COMPENSATION  
CHAPTER 1B. BUSINESS AND INDUSTRY PROMOTION  
PART I. NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ACT

**GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY**

*N.J. Stat. § 34:1B-1 (2014)*

§ 34:1B-1. Short title

This act shall be known and may be cited as "The New Jersey Economic Development Authority Act."

**HISTORY:** L. 1974, c. 80, § 1, eff. Aug. 7, 1974.

**NOTES:**

Cross References:

Definitions relative to construction, financing of public school facilities, see *18A:7G-3*.

Powers of financing authority; powers of development authority, see *18A:7G-14*.

State, county college may enter into certain contracts with a private entity, see *18A:64-85*.

HCFFA, EDA powers relative to for profit projects, see *26:2I-5.2*.

Definitions, see *34:1B-3*.

"New Jersey Economic Development Authority.", see *34:1B-4*.

Powers, see *34:1B-5*.

Power to authorize issuance of bonds, see *34:1B-9*.

Contracts to secure bonds, other obligations, see *34:1B-4.1*.

Fund for community development purposes, see *34:1B-7.2*.

Projects; factors for consideration for financial assistance, see *34:1B-7.5*.

Funds transferred, see *34:1B-7.8*.

Powers of authority concerning bonds, see *34:1B-7.48*.

Definitions relative to business retention and relocation assistance, see *34:1B-113*.

Definitions relative to business employment incentives, see *34:1B-125*.

Use of moneys in Port Facility Revenue Fund, see *34:1B-150*.

Agreements authorized, see *34:1B-156*.

Definitions relative to sports and entertainment districts, see *34:1B-192*.

Issuance of Market Transition Facility, Motor Vehicle Commission bonds, notes, see *34:1B-21.4*.

Use of monies, agreements, exemption from taxation, see *34:1B-21.8*.

Agreements between EDA and State; EDA and Motor Vehicle Commission, see *34:1B-21.13*.

Definitions relative to issuance of cigarette tax securitization bonds, see *34:1B-21.17*.

Powers of authority, see *34:1B-21.19*.

Definitions relative to motor vehicle surcharges securitization bonds, see *34:1B-21.24*.

Powers of authority, see *34:1B-21.26*.

Definitions relative to financing of certain stem cell, life sciences, and biomedical research facilities, see *34:1B-21.31*.

Powers of authority, see *34:1B-21.33*.

Definitions relative to *C.34:1B-210* et seq, see *34:1B-211*.

Transfer of authority to appoint certain executive directors; transfer of functions, powers, duties, see *34:1B-228*.

Powers of authority relative to bonds, see *34:1B-139.1*.

Municipalities qualified to receive certain state aid; urban growth zones; determination by ordinance; exemption of projects from land use ordinances, see *40:55-21.15*.

Findings, declarations relative to landfill reclamation improvement districts, see *40A:12A-50*.

Definitions used in *C.40A:12A-50* et seq, see *40A:12A-51*.

Definitions relative to "Redevelopment Area Bond Financing Law", see *40A:12A-65*.

Status of New Jersey Economic Development Authority, see *52:27C-82*.

"New Jersey Women's Micro-Business Credit Program.", see *52:27D-446*.

New Jersey economic development authority in department of labor and industry with its functions, powers and duties to department, see *52:27H-12*.

Designated redeveloper, see *52:27I-33*.

Definitions relative to municipal rehabilitation and economic recovery, see *52:27BBB-3*.

Use of moneys, priorities, relative to Local Development Financing Fund, see *55:19-51*.

Allocation of loans, loan guarantees, see *55:19-73*.

Definitions relative to upgrade, remediation, closure of underground storage tanks, see *58:10A-37.2*.

Definitions, see *58:10B-1*.

#### Administrative Code:

1. *N.J.A.C. 17:45-1.2* (2013), CHAPTER DEVELOPMENT OF SMALL BUSINESSES AND WOMEN AND MINORITY BUSINESSES, Definitions.

2. *N.J.A.C. 19:30* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, 19, Chapter 30 -- Chapter Notes.

3. *N.J.A.C. 19:31* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, 19, Chapter 31 -- Chapter Notes.

4. *N.J.A.C. 19:31-10.2* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.

5. *N.J.A.C. 19:31C-3.2* (2013), FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY, Definitions.

6. *N.J.A.C. 19:32-1.3* (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Definitions.

7. *N.J.A.C. 19:34-1.2* (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Definitions.
8. *N.J.A.C. 19:34A-1.2* (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Definitions.
9. *N.J.A.C. 19:34B-1.2* (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Definitions.
10. *N.J.A.C. 19:37-1.2* (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Definitions.
11. *N.J.A.C. 19:38A-1.3* (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Definitions.
12. *N.J.A.C. 19:38C-1.2* (2013), NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY, Definitions.
13. *N.J.A.C. 5:62-3.1* (2013), CHAPTER WOMEN'S MICRO-BUSINESS PROGRAM, Implementation.
14. *N.J.A.C. 6A:26-1.2* (2013), CHAPTER EDUCATIONAL FACILITIES, Definitions.
15. *N.J.A.C. 6A:26A-1.3* (2013), CHAPTER COMPREHENSIVE MAINTENANCE PLANS, Definitions.

LexisNexis (R) Notes:

#### OPINIONS OF ATTORNEY GENERAL

1. FORMAL OPINION No. 7 -- 1977, *1977 N.J. AG LEXIS 19*.



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*N.J. Stat. § 34:1B-2 (2014)*

§ 34:1B-2. Legislative findings, determinations

The Legislature hereby finds and determines that:

a. Department of Labor and Workforce Development statistics of recent years indicate a continuing decline in manufacturing employment within the State, which is a contributing factor to the drastic unemployment existing within the State, which far exceeds the national average, thus adversely affecting the economy of the State and the prosperity, safety, health and general welfare of its inhabitants and their standard of living; that there is an urgent need to protect and enhance the quality of the natural environment and to reduce, abate and prevent environmental pollution derived from the operation of industry, utilities and commerce within the State; and that the availability of financial assistance and suitable facilities are important inducements to new and varied employment promoting enterprises to locate in the State, to existing enterprises to remain and expand in the State, and to industry, utilities and commerce to reduce, abate and prevent environmental pollution.

b. The provision of buildings, structures and other facilities to increase opportunity for employment in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State is in the public interest and it is a public purpose for the State to induce and to accelerate opportunity for employment in such enterprises.

c. In order to aid in supplying these needs and to assist in the immediate reduction of unemployment and to provide sufficient employment for the citizens of the State in the future, it is necessary and in the public interest to aid and encourage the immediate commencement of new construction projects of all types, to induce and facilitate the acquisition and installation at an accelerated rate of such devices, equipment and facilities as may be required to reduce, abate and prevent environmental pollution by industry, utilities and commerce.

d. The availability of financial assistance by the State will reduce present unemployment and improve future employment opportunities by encouraging and inducing the undertaking of such construction projects, the location, retaining or expanding of employment promoting enterprises within the State, and the accelerated acquisition and installation of energy saving improvements and pollution control devices, equipment and facilities.

e. In many municipalities in our State substantial and persistent unemployment exists; and many existing residential, industrial, commercial and manufacturing facilities within such municipalities are either obsolete, inefficient, dilapidated or are located without regard to the master plans of such municipalities; and the obsolescence and abandonment of existing facilities will increase with further technological advances, the provision of modern, efficient facilities in other states and the difficulty which many municipalities have in attracting new facilities; and that many existing and planned employment promoting facilities are far from or not easily accessible to the places of residence of substantial numbers of unemployed and underemployed persons.

f. By virtue of their architectural and cultural heritage, their positions as principal centers of communication and transportation and their concentration of productive and energy efficient facilities, many municipalities are capable of

ameliorating the conditions of deterioration which impede sound community growth and development; and that building a proper balance of housing, industrial and commercial facilities and increasing the attractiveness of such municipalities to persons of all income levels is essential to restoring such municipalities as desirable places to live, work, shop and enjoy life's amenities; that the accomplishment of these objectives is beyond remedy solely by the regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the powers provided herein, and that the exercise of the powers herein provided is critical to continuing the process of revitalizing such municipalities and will serve an urgent public use and purpose.

The Legislature further determines that in order to aid in remedying the aforesaid conditions and to further and implement the purposes of this act, that there shall be created a body politic and corporate having the powers, duties and functions provided in this act; and that the authority and powers conferred under this act, and the expenditure of moneys pursuant thereto constitute a serving of a valid public purpose; and that the enactment of the provisions hereinafter set forth is in the public interest and for the public benefit and good, and is hereby so declared to be as a matter of express legislative determination.

The Legislature further finds and determines that:

g. It is essential that this and future generations of young people be given the fullest opportunity to learn and develop their intellectual capacities; that institutions of public elementary and secondary education within the State be provided with the appropriate additional means required to assist these young citizens in achieving the required levels of learning and the complete development of their intellectual abilities; and that the resources of the State be employed to meet the tremendous demand for public elementary and secondary educational opportunities.

h. Public elementary and secondary educational facilities are an integral part of the effort in this State to provide educational opportunities; it is the purpose of P.L.2000, c.72 (*C.18A:7G-1* et al.) and P.L.2007, c.137 (*C.52:18A-235* et al.) to provide a measure of assistance and an alternative method of financing to enable school districts to provide the facilities which are so critically needed; the inventory of public elementary and secondary school buildings and the equipment and capital resources currently available are aging, both chronologically and technologically; and the current funding at the federal, State, and local levels and the current mechanisms for construction of these capital projects are inadequate to meet the demonstrated need for school facilities, and these inadequacies necessitate additional sources of funding and the coordination of construction activities at the State level to meet those needs.

i. While the credit status of New Jersey's school districts is sound, it can be economically more reasonable to finance the costs of developing the educational infrastructure of the State's public elementary and secondary schools by providing for the funding of capital projects through the issuance of bonds, notes or other obligations by the New Jersey Economic Development Authority, to be retired through annual payments made by the State subject to appropriation by the State Legislature, and to provide for the use of the proceeds of those bonds, notes or other obligations to pay for educational infrastructure projects; and such a structure would substantially reduce the costs of financing and provide for a more efficient use of the funds available for the development of the educational infrastructure.

j. (Deleted by amendment, P.L.2007, c.137).

**HISTORY:** L. 1974, c. 80, § 2; amended 1975, c. 32, § 1; 1975, c. 253, § 1; 1977, c. 393, § 1; 1983, c. 282, § 1; 2000, c. 72, § 43, eff. July 18, 2000; 2007, c. 137, § 51, eff. Aug. 6, 2007.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 137, inserted "and P.L.2007, c.137 (*C.52:18A-235* et al.)" in h.; and deleted former j., which read: "The New Jersey Economic Development Authority has substantial and significant experience in undertaking major capital construction projects, has a system of internal controls and procedures to ensure the integrity of construction activities, and is therefore the appropriate entity to undertake the planning, design, construction, and operation of educational infrastructure projects; and by authorizing the New Jersey Economic Development Authority to undertake these activities, there will be achieved economies of scale, better coordination of resources, more effective financial management and control and increased monitoring and quality control of school district construction."

OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, substituted "Department of Labor and Workforce Development" for "Department of Labor" and corrected an additional technical error in L. 2007, c. 137, § 51.

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*N.J. Stat. § 34:1B-3 (2014)*

§ 34:1B-3. Definitions

As used in the provisions of P.L.1974, c.80 (*C.34:1B-1* et seq.), P.L.1979, c.303 (*C.34:1B-5.1* et seq.), sections 50 through 54 of P.L.2000, c.72 (*C.34:1B-5.5* through *34:1B-5.9*), P.L.1981, c.505 (*C.34:1B-7.1* et seq.), P.L.1986, c.127 (*C.34:1B-7.7* et seq.), P.L.1992, c.16 (*C.34:1B-7.10* et al.), section 6 of P.L.2001, c.401 (*C.34:1B-4.1*), and P.L.2007, c.137 (*C.52:18A-235* et al.), unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority, created by section 4 of P.L.1974, c.80 (*C.34:1B-4*).

"Bonds" means bonds or other obligations issued by the authority pursuant to P.L.1974, c.80 (*C.34:1B-1* et seq.), "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16 (*C.34:1B-7.10* et al.), or bonds, notes, other obligations and refunding bonds issued by the authority pursuant to P.L.2000, c.72 (*C.18A:7G-1* et al.) and P.L.2007, c.137 (*C.52:18A-235* et al.).

"Cost" means the cost of the acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility including water transmission facilities, or other improvement; the cost of machinery and equipment; the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of energy saving improvements or pollution control devices, equipment or facilities; the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or useful and convenient for any project or school facilities project or in connection therewith; discount on bonds; cost of issuance of bonds; engineering and inspection costs; costs of financial, legal, professional and other estimates and advice; organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be necessary or incident to the financing, acquisition, construction or completion of any project or school facilities project or part thereof, and also such provision for reserves for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine.

"County" means any county of any class.

"County solid waste facility" means a solid waste facility that is designated by a public authority or county in its adopted district solid waste management plan as approved by the department prior to November 10, 1997 as the in-county facility to which solid waste generated within the boundaries of the county is transported for final disposal, or transfer for transportation to an offsite solid waste facility or designated out-of-district disposal site for disposal, as appropriate, pursuant to interdistrict or intradistrict waste flow orders issued by the department, regardless of whether the county solid waste facility was acquired, constructed, operated, abandoned or canceled.

"Department" means the Department of Environmental Protection.

"Development property" means any real or personal property, interest therein, improvements thereon, appurtenances thereto and air or other rights in connection therewith, including land, buildings, plants, structures, systems, works, machinery and equipment acquired or to be acquired by purchase, gift or otherwise by the authority within an urban growth zone.

"Person" means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, or other legal entities, including public or governmental bodies, as well as natural persons. "Person" shall include the plural as well as the singular.

"Pollution control project" means any device, equipment, improvement, structure or facility, or any land and any building, structure, facility or other improvement thereon, or any combination thereof, whether or not in existence or under construction, or the refinancing thereof in order to facilitate improvements or additions thereto or upgrading thereof, and all real and personal property deemed necessary thereto, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, thermal pollution control facility, radiation contamination control facility, wastewater collection system, wastewater treatment works, sewage treatment works system, sewage treatment system or solid waste facility or site; provided that the authority shall have received from the Commissioner of the State Department of Environmental Protection or the commissioner's duly authorized representative a certificate stating the opinion that, based upon information, facts and circumstances available to the State Department of Environmental Protection and any other pertinent data, (1) the pollution control facilities do not conflict with, overlap or duplicate any other planned or existing pollution control facilities undertaken or planned by another public agency or authority within any political subdivision, and (2) the facilities, as designed, will be a pollution control project as defined in the provisions of P.L.1974, c.80 (*C.34:1B-1* et seq.) and are in furtherance of the purpose of abating or controlling pollution.

"Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure, including parking facilities or structures, and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (*C.34:1B-146*). Project may also include: (i) reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if determined by the authority as necessary and in the public interest to maintain employment and the tax base of any political subdivision and will facilitate improvements thereto or the completion thereof, and (ii) development property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and design-

ing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (*C.55:14K-64* et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (*C.34:1B-7.13*). Project shall not include a school facilities project.

"Public authority" means a municipal or county utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (*C.40:14B-1* et seq.); a county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (*C.40:37A-44* et seq.); or a pollution control financing authority created pursuant to the "New Jersey Pollution Control Financing Law," P.L.1973, c.376 (*C.40:37C-1* et seq.) that has issued solid waste facility bonds or that has been designated by the county pursuant to section 12 of P.L.1975, c.326 (*C.13:1E-21*) to supervise the implementation of the district solid waste management plan.

"Revenues" means receipts, fees, rentals or other payments to be received on account of lease, mortgage, conditional sale, or sale, and payments and any other income derived from the lease, sale or other disposition of a project, moneys in such reserve and insurance funds or accounts or other funds and accounts, and income from the investment thereof, established in connection with the issuance of bonds or notes for a project or projects, and fees, charges or other moneys to be received by the authority in respect of projects or school facilities projects and contracts with persons.

"Resolution" means any resolution adopted or trust agreement executed by the authority, pursuant to which bonds of the authority are authorized to be issued.

"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for source separated recyclable materials or source separated food waste collected by livestock producers approved by the State Department of Agriculture to collect, prepare and feed such wastes to livestock on their own farms.

"Solid waste disposal" means the storage, treatment, utilization, processing, or final disposal of solid waste.

"Solid waste facility bonds" means the bonds, notes or other evidences of financial indebtedness issued by, or on behalf of, any public authority or county related to the planning, design, acquisition, construction, renovation, installation, operation or management of a county solid waste facility.

"Solid waste facilities" means, and includes, the plants, structures and other real and personal property acquired, constructed or operated by, or on behalf of, any county or public authority pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (*C.13:1E-1* et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, including co-composting facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Energy saving improvement" means the construction, purchase and installation in a building devoted to industrial or commercial purposes of any of the following, designed to reduce the amount of energy from nonrenewable sources needed for heating and cooling that building: insulation, replacement burners, replacement high efficiency heating and air conditioning units, including modular boilers and furnaces, water heaters, central air conditioners with or without heat recovery to make hot water for industrial or commercial purposes or in office buildings, and any solar heating or cooling system improvement, including any system which captures solar radiation to heat a fluid which passes over or through the collector element of that system and then transfers that fluid to a point within the system where the heat is withdrawn from the fluid for direct usage or storage. These systems shall include, but not necessarily be limited to, systems incorporating flat plate, evacuated tube or focusing solar collectors.

The foregoing list shall not be construed to be exhaustive, and shall not serve to exclude other improvements consistent with the legislative intent of the provisions of P.L.1983, c.282.

"Urban growth zone" means any area within a municipality receiving State aid pursuant to the provisions of P.L.1978, c.14 (*C.52:27D-178* et seq.) or a municipality certified by the Commissioner of Community Affairs to qualify under such law in every respect except population, which area has been so designated pursuant to an ordinance of the governing body of such municipality.

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 [C.18A:46-29 et seq.] of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 [N.J.S.18A:54-11 et seq.] of chapter 54 of Title 18A of the New Jersey Statutes, and a school district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.).

"Local unit" means a county, municipality, board of education or any other political entity authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law.

"Other facilities" means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration.

"Refunding bonds" means bonds, notes or other obligations issued to refinance bonds previously issued by the authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.).

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project.

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a 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.

**HISTORY:** L. 1974, c. 80, § 3; amended 1975, c. 32, § 2; 1975, c. 253, § 2; 1977, c. 43, § 1; 1977, c. 393, § 2; 1978, c. 20, § 1; 1979, c. 199, § 11; 1983, c. 282, § 2; 1992, c. 16, § 11; 1995, c. 359, § 8; 1997, c. 150, § 22, eff. June 30, 1997; 2000, c. 72, § 44, eff. July 18, 2000; 2001, c. 401, § 1, eff. Jan. 8, 2002; 2007, c. 137, § 52, eff. Aug. 6, 2007; 2009, c. 57, § 1, eff. May 6, 2009.

#### NOTES:

##### Amendment Note:

2007 amendment, by Chapter 137, added "and P.L.2007, c.137 (C.52:18A-235 et al.)" in the introductory paragraph and in the definitions of "Bonds" and "Refunding Bonds"; in the definition of "District", substituted "a school district under full State intervention" for "a State-operated school district established"; inserted the definition of "Other facilities"; in the definition of "School facilities project", inserted "planning", deleted "repair" following "improvement", and inserted "capital" preceding "maintenance"; and in the definition of "School facility", substituted "educational" for "academic", inserted "and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities", and substituted "other facilities" for "athletic stadiums, grandstands, and any structure, building or facility used solely for school administration."

2009 amendment, by Chapter 57, in (4) of the definition of "Project", inserted "including parking facilities or structures."

##### OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected technical errors in L. 2007, c. 137, § 52.

Publisher's Note: The bracketed material was added by the Publisher to provide a reference.

##### Editor's Note:

Section 18 of P.L.2007, c.137 amended 18A:7G-3, a definitional section applicable to 18A:7G-1 et seq., to delete the former definition of Authority, which referred to the New Jersey Economic Development Authority, and add the

terms Development authority, which refers to the New Jersey Schools Development Authority, and Financing authority, which refers to the New Jersey Economic Development Authority.

"P.L.1983, c.282," cited in the definition of "Energy saving improvement," amended this section, *34:1B-2*, *34:1B-5*, and *34:1B-6*.

Cross References:

Use of moneys in fund, see *34:1B-7.13*.

Application for issuance of negotiable bonds, obligations secured by payments in lieu of taxes, special assessments, see *40A:12A-57*.

Issuance of bonds by municipality, see *40A:12A-67*.

Funding provided by New Jersey Economic Development Authority, see *55:14K-70*.



LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 216th Legislature \*\*\*

\*\*\* First Annual Session, L. 2014 c. 90 and J.R. 6 \*\*\*

\*\*\* N.J. Constitution current through November 2014 election \*\*\*

TITLE 34. LABOR AND WORKERS' COMPENSATION  
 CHAPTER 1B. BUSINESS AND INDUSTRY PROMOTION  
 PART I. NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ACT

**GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY**

*N.J. Stat. § 34:1B-4 (2014)*

§ 34:1B-4. "New Jersey Economic Development Authority"

a. There is hereby established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "New Jersey Economic Development Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the provisions of P.L.1974, c.80 (*C.34:1B-1 et seq.*) or section 6 of P.L.2001, c.401 (*C.34:1B-4.1*) shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of the Commissioner of Banking and Insurance, the Commissioner of Labor and Workforce Development, the Commissioner of Environmental Protection, an officer or employee of the Executive Branch of State government appointed by the Governor, and the State Treasurer, who shall be members ex officio, and eight public members appointed by the Governor as follows: two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Senate President; two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and four public members shall be appointed by the Governor, all for terms of three years. In addition, a public member of the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (*C.52:27BBB-36*) appointed by the board, shall serve as a non-voting, ex officio member of the authority. Each member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. In the event the authority shall by resolution determine to accept the declaration of an urban growth zone by any municipality, the mayor or other chief executive officer of such municipality shall ex officio be a member of the authority for the purpose of participating and voting on all matters pertaining to such urban growth zone.

The Governor shall appoint three alternate members of the authority, of which one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Senate President, and one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly; and one alternate member shall be appointed by the Governor, all for terms of three years. The chairperson may authorize an alternate member, in order of appointment, to exercise all of the powers, duties and responsibilities of such member, including, but not limited to, the right to vote on matters before the authority.

Each alternate member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. An alternate member shall be eligible for reappointment. Any vacancy in the alternate membership occurring other than by the expiration of a term shall be filled in the same manner as the original appointment but for the unexpired term only. Any reference to a member of the authority in this act shall be deemed to include alternate members unless the context indicates otherwise.

The terms of office of the members and alternate members of the authority appointed by the Governor who are serving on July 18, 2000 shall expire upon the appointment by the Governor of eight public members and three alternate members. The initial appointments of the eight public members shall be as follows: the two members appointed upon the recommendation of the President of the Senate and the two members appointed upon the recommendation of the Speaker of the General Assembly shall serve terms of three years; two members shall serve terms of two years; and two members shall serve terms of one year. The initial appointments of the alternate members shall be as follows: the alternate member appointed upon the recommendation of the President of the Senate shall serve a term of three years; the alternate member appointed upon the recommendation of the Speaker of the General Assembly shall serve a term of two years; and one alternate member shall serve a term of one year. No member shall be appointed who is holding elective office.

c. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. A chairperson shall be appointed by the Governor from the public members. The members of the authority shall elect from their remaining number a vice chairperson and a treasurer thereof. The authority shall employ an executive director who shall be its secretary and chief executive officer. The powers of the authority shall be vested in the members thereof in office from time to time and seven members of the authority shall constitute a quorum at any meeting thereof; provided, however, that the public member designated by the State Economic Recovery Board pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not count toward the quorum. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least seven members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit any office or employment or any benefits or emoluments thereof by reason of the acceptance of the office of ex officio member of the authority or any services therein.

g. Each ex officio member of the authority may designate an officer or employee of the member's department to represent the member at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom the person constitutes the designee. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in that 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection i. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection i. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

j. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Director of the Division of Budget and Accounting in the Department of the Treasury.

k. The Director of the Division of Budget and Accounting in the Department of the Treasury and the director's legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts, books and records of the authority including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating thereto and to its financial standing.

l. No member, officer, employee or agent of the authority shall be interested, either directly or indirectly, in any project or school facilities project, or in any contract, sale, purchase, lease or transfer of real or personal property to which the authority is a party.

**HISTORY:** L. 1974, c. 80, § 4; amended 1977, c. 393, § 3; 1980, c. 50; 1981, c. 122, § 13; 1991, c. 392, § 1; 1992, c. 16, § 12; 1995, c. 227, § 1; 2000, c. 72, § 45, eff. July 18, 2000; 2001, c. 401, § 2, eff. Jan. 8, 2002; 2002, c. 43, § 69, eff. July 22, 2002; 2007, c. 253, § 13, eff. Jan. 4, 2008; 2008, c. 27, § 27, eff. July 1, 2008.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 253, in the first sentence of b., substituted "Executive Director of the New Jersey Commerce Commission" for "Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission" and substituted "Commissioner of Labor and Workforce Development" for "Commissioner of Labor."

2008 amendment, by Chapter 27, in the first sentence of b., deleted "the Executive Director of the New Jersey Commerce Commission" following "the Commissioner of Banking and Insurance", deleted "the Commissioner of Education" following "the Commissioner of Labor and Workforce Development", and inserted "the Commissioner of Environmental Protection, an officer or employee of the Executive Branch of State government appointed by the Governor."

Editor's Note:

L. 2008, c. 27 abolished the New Jersey Commerce Commission and established the Division of Business Assistance, Marketing, and International Trade, within the New Jersey Economic Development Authority. See *34:1B-210* et seq.

Section 21 of L. 2013, c. 161, provides: "On or before July 1, 2018, the authority shall submit a written report to the Governor and the Legislature providing a comprehensive review and analysis of the Grow New Jersey Assistance Program, established pursuant to P.L.2011, c.149 (*C.34:1B-242* et seq.), the State Economic Redevelopment and Growth Grant program, established pursuant to section 5 of P.L.2009, c.90 (*C.52:27D-489e*), and other economic incentive laws under the authority's jurisdiction, with particular emphasis on the recalibration of those programs and the creation of Garden State Growth Zones, pursuant to P.L.2013, c.161 (*C.52:27D-489p* et al.), and the effectiveness of those programs on economic development and private-sector job retention and growth. In order to ensure the independence and objectivity of the report, the authority shall retain a premier, not-for-profit, non-partisan entity to undertake the review and analysis of the State economic incentive laws, which shall include a cost-benefit analysis of each incentive program, an assessment of the success of each program in meeting the goals of the program, and any recommendations for improving the operation and effectiveness of each program, including recommendations for legislation."

Effective Dates:

Section 31 of L. 2008, c. 27 provides: "This act shall take effect on July 1, 2008 and any actions necessary to implement this act may be taken at any time thereafter. General implementation is to be completed no later than the 90th day following enactment." Chapter 27, L. 2008, was approved on June 30, 2008.

Cross References:

Definitions, see *34:1B-3*.

Definitions, see *34:1B-64*.

Definitions, see *34:1B-7.22*.

Definitions, see *34:1B-7.30*.

Definitions relative to emerging technology, biotechnology, see *34:1B-7.39*.

Definitions relative to issuance of bonds, notes, other obligations to fund accrued pension liability, see *34:1B-7.47*.

Powers of authority concerning bonds, see *34:1B-7.48*.

Definitions relative to certain corporation tax benefit program, see *34:1B-7.42b*.

Definitions, see *34:1B-95*.

New Jersey Purchase First Program, see *34:1B-103*.

Definitions relative to unification of ports, see *34:1B-146*.

Definitions relative to local-State business incentive promotion, see *34:1B-166*.

Report, contents, see *34:1B-172*.

Development of informational sessions by EDA, see *34:1B-176*.

Definitions relative to film production assistance, see *34:1B-180*.

Definitions relative to the "Urban Transit Hub Tax Credit Act", see *34:1B-208*.

Definitions, see *34:1B-21.3*.

Powers of authority, see *34:1B-21.19*.

Powers of authority, see *34:1B-21.26*.

Powers of authority, see *34:1B-21.33*.

Definitions relative to the "InvestNJ Business Grant Program Act.", see *34:1B-238*.

Definitions relative to the "Grow New Jersey Assistance Act.", see *34:1B-243*.

Powers of authority relative to bonds, see *34:1B-139.1*.

Definitions relative to a small business loan program, see *34:1B-241.1*.

Definitions relative to economic stimulus, see *52:27D-489c*.

Definitions relative to Fort Monmouth economic revitalization, see *52:27I-20*.

State Economic Recovery Board created for qualified municipality, see *52:27BBB-36*.

Powers of authority, see *52:27BBB-46*.

#### Administrative Code:

1. *N.J.A.C. 19:31-4.2* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.
2. *N.J.A.C. 19:31-14.2* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.
3. *N.J.A.C. 19:31-15.2* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.
4. *N.J.A.C. 19:31-16.2* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.
5. *N.J.A.C. 19:31-18.2* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Definitions.

#### LexisNexis (R) Notes:

#### OPINIONS OF ATTORNEY GENERAL

1. FORMAL OPINION No. 7 -- 1977, *1977 N.J. AG LEXIS 19*.



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*N.J. Stat. § 34:1B-4.1 (2014)*

§ 34:1B-4.1. Contracts to secure bonds, other obligations

a. The New Jersey Economic Development Authority and the State Treasurer are hereby authorized to enter into one or more contracts to secure, in whole or in part, any bonds, refunding bonds or other obligations of the authority issued for the purposes set forth in subsection ee. of section 5 of P.L. 1974, c. 80 (*C. 34:1B-5*), upon such terms and conditions as are determined by the parties; provided, however, that any obligation of the State incurred under the contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes set forth in subsection ee. of section 5 of P.L. 1974, c. 80 (*C. 34:1B-5*), as provided by law.

b. In any resolution authorizing the issuance of bonds, refunding bonds or other obligations of the authority issued for the purposes set forth in subsection ee. of section 5 of P.L. 1974, c. 80 (*C. 34:1B-5*), the authority may pledge the contract with the State Treasurer, or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds, refunding bonds or other obligations of the authority.

c. The State Treasurer shall pay from the General Fund to the authority in each State fiscal year, in accordance with a contract or contracts between the State Treasurer and the authority, an amount equivalent to the amount due to be paid for debt service incurred in the particular fiscal year on the bonds or refunding bonds of the authority issued pursuant to subsection ee. of section 5 of P.L. 1974, c. 80 (*C. 34:1B-5*), and any additional costs incurred in connection with any agreements entered into by the authority relating to these bonds or refunding bonds.

d. The provisions of any other law, rule, regulation or order to the contrary notwithstanding, the bonds, refunding bonds or other obligations of the authority issued for the purposes set forth in subsection ee. of section 5 of P.L. 1974, c. 80 (*C. 34:1B-5*) shall be special and limited obligations of the authority, payable from and secured by such funds and moneys as determined by the authority in accordance with the provisions of P.L. 1974, c. 80 (*C. 34:1B-1* et seq.) or section 6 of P.L. 2001, c. 401 (*C. 34:1B-4.1*), and shall not be in any way a debt or liability of the State or of any political subdivision thereof, except as otherwise provided in this section, and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, either legal, moral or otherwise, and nothing contained in the provisions of P.L. 1974, c. 80 (*C. 34:1B-1* et seq.) or section 6 of P.L. 2001, c. 401 (*C. 34:1B-4.1*) shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority in connection therewith shall contain on the face thereof a statement to that effect.

**HISTORY:** L. 2001, c. 401, § 6, eff. Jan. 8, 2002.

Cross References:

Definitions, see *34:1B-3*.

"New Jersey Economic Development Authority.", see *34:1B-4*.

Powers, see *34:1B-5*.

Power to authorize issuance of bonds, see *34:1B-9*.

Powers of authority by resolution, see *34:1B-10*.



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*N.J. Stat. § 34:1B-5 (2014)*

§ 34:1B-5. Powers

The authority shall have the following powers:

- a. To adopt bylaws for the regulation of its affairs and the conduct of its business;
- b. To adopt and have a seal and to alter the same at pleasure;
- c. To sue and be sued;
- d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (*C.20:3-1 et seq.*), any lands or interests therein or other property which it may determine is reasonably necessary for any project; provided, however, that the authority in connection with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project in qualifying municipalities as defined under the provisions of P.L.1978, c.14 (*C.52:27D-178 et seq.*), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;
- e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and to pay or compromise any claims arising therefrom;
- f. To establish and maintain reserve and insurance funds with respect to the financing of the project or the school facilities project and any project financed pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*);
- g. To sell, convey or lease to any person all or any portion of a project for such consideration and upon such terms as the authority may determine to be reasonable;
- h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project, or revenues, whenever it shall find such action to be in furtherance of the purposes of this act, P.L.2000, c.72 (*C.18A:7G-1 et al.*), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*), P.L.2007, c.137 (*C.52:18A-235 et al.*), and sections 3 through 18 of P.L.2009, c.90 (*C.52:27D-489c et al.*);
- i. To grant options to purchase or renew a lease for any of its projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (*C.34:1B-1 et seq.*), section 6 of P.L.2001, c.401 (*C.34:1B-4.1*), P.L.2000, c.72 (*C.18A:7G-1 et al.*), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*), and P.L.2007, c.137 (*C.52:18A-235 et al.*), with the terms and conditions thereof;

k. In connection with any action undertaken by the authority in the performance of its duties and any application for assistance or commitments therefor and modifications thereof, to require and collect such fees and charges as the authority shall determine to be reasonable, including but not limited to fees and charges for the authority's administrative, organizational, insurance, operating, legal, and other expenses;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (*C.34:1B-1 et seq.*), section 6 of P.L.2001, c.401 (*C.34:1B-4.1*), P.L.2000, c.72 (*C.18A:7G-1 et al.*), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*), and P.L.2007, c.137 (*C.52:18A-235 et al.*);

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act, P.L.2000, c.72 (*C.18A:7G-1 et al.*), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*), P.L.2007, c.137 (*C.52:18A-235 et al.*), and sections 3 through 18 of P.L.2009, c.90 (*C.52:27D-489c et al.*);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (*C.34:1B-1 et seq.*), section 6 of P.L.2001, c.401 (*C.34:1B-4.1*), P.L.2000, c.72 (*C.18A:7G-1 et al.*), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*), P.L.2007, c.137 (*C.52:18A-235 et al.*), and sections 3 through 18 of P.L.2009, c.90 (*C.52:27D-489c et al.*);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, of such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the redevelopment utility to carry out the purposes of P.L.1974, c.80 (*C.34:1B-1 et seq.*), section 6 of P.L.2001, c.401 (*C.34:1B-4.1*), P.L.2000, c.72 (*C.18A:7G-1 et al.*), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*), P.L.2007, c.137 (*C.52:18A-235 et al.*), and sections 3 through 18 of P.L.2009, c.90 (*C.52:27D-489c et al.*), and to fix and pay their compensation from funds available to the redevelopment utility therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (*C.34:1B-1 et seq.*), section 6 of P.L.2001, c.401 (*C.34:1B-4.1*), P.L.2000, c.72 (*C.18A:7G-1 et al.*), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1 et al.*), P.L.2007, c.137 (*C.52:18A-235 et al.*), and sections 3 through 18 of P.L.2009, c.90 (*C.52:27D-489c et al.*), under, through or by means of its own officers, agents and employees, or by contract with any person;

u. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (*C.34:1B-1* et seq.), section 6 of P.L.2001, c.401 (*C.34:1B-4.1*), P.L.2000, c.72 (*C.18A:7G-1* et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1* et al.), P.L.2007, c.137 (*C.52:18A-235* et al.), and sections 3 through 18 of P.L.2009, c.90 (*C.52:27D-489c* et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (*C.34:1B-124* et al.);

z. To enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the redevelopment utility to carry out any power expressly provided pursuant to P.L.1974, c.80 (*C.34:1B-1* et seq.), P.L.2000, c.72 (*C.18A:7G-1* et al.), and P.L.2007, c.137 (*C.52:18A-235* et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts, the New Jersey Schools Development Authority, and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (*C.18A:7G-1* et al.), P.L.2007, c.137 (*C.52:18A-235* et al.), and sections 3 through 18 of P.L.2009, c.90 (*C.52:27D-489c* et al.);

aa. (Deleted by amendment, P.L.2007, c.137);

bb. To make and contract to make loans to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans, all in accordance with the provisions of P.L.2000, c.72 (*C.18A:7G-1* et al.), and P.L.2007, c.137 (*C.52:18A-235* et al.);

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds of the authority or for the purchase upon tender or otherwise of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing of school facilities projects;

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county

solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time;

ff. To pool loans for any local government units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units;

gg. To finance projects approved by the board, provide staff support to the board, oversee and monitor progress on the part of the board in carrying out the revitalization, economic development and restoration projects authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (*C.52:27BBB-1* et al.) and otherwise fulfilling its responsibilities pursuant thereto;

hh. To offer financial assistance to qualified film production companies as provided in the "New Jersey Film Production Assistance Act," P.L.2003, c.182 (*C.34:1B-178* et al.); and

ii. To finance or develop private or public parking facilities or structures, which may include the use of solar photovoltaic equipment, in municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (*C.52:27D-178* et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (*C.52:18A-196* et al.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and to provide appropriate assistance, including but not limited to, extensions of credit, loans, and guarantees, to municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (*C.52:27D-178* et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (*C.52:18A-196* et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and their agencies and instrumentalities or to private entities whose projects are located in those municipalities, in order to facilitate the financing and development of parking facilities or structures in such municipalities. The authority may serve as the issuing agent of bonds to finance the undertaking of a project for the purposes of this subsection.

**HISTORY:** L. 1974, c. 80, § 5; amended 1977, c. 393, § 4; 1981, c. 462, § 31; 1983, c. 282, § 3; 1996, c. 26, § 16, eff. May 9, 1996; 2000, c. 72, § 46, eff. July 18, 2000; 2001, c. 401, § 3, eff. Jan. 8, 2002; 2002, c. 42, § 10, eff. July 12, 2002; 2002, c. 43, § 41, eff. July 22, 2002, retroactive to June 30, 2002; 2003, c. 182, § 8, eff. Sept. 15, 2003; 2007, c. 137, § 53, eff. Aug. 6, 2007; 2009, c. 57, § 2, eff. May 6, 2009; 2009, c. 90, § 14, eff. July 28, 2009; 2010, c. 28, § 3, eff. June 29, 2010.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 137, added "and P.L.2007, c.137 (*C.52:18A-235* et al.)" or a variation thereof throughout the section; in d., deleted "or school facilities project" preceding "provided, however"; in e., deleted "or the school facilities project" following "the project"; in g., deleted "or school facilities project" following "project"; in h., deleted "school facilities project" following "project"; in i., deleted "or school facilities projects" following "projects"; in z., deleted "undertake school facilities projects and to" following "To" and inserted "the New Jersey Schools Development Authority"; deleted former aa., which read: "To enter into leases, rentals or other disposition of a real property interest in and of any school facilities project to or from any local unit pursuant to P.L.2000, c.72 (*C.18A:7G-1* et al.)"; in bb., deleted "or leases and to make grants" following "to make loans" and deleted "or leases" following "to evidence the loans"; in dd., substituted "financing of school facilities projects" for "financing, construction and placing into service and maintenance of school facilities projects"; and made related changes.

2009 amendment, by Chapter 57, added ii., and made related changes.

2009 amendment, by Chapter 90, added "and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.)" in h., o., p., s., t., v., and z., and made related changes.

2010 amendment, by Chapter 28, in d., substituted "in qualifying municipalities as defined under" for "to municipalities receiving State aid under"; and rewrote k., which formerly read: "In connection with any application for assistance under P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the 'Municipal Rehabilitation and Economic Recovery Act,' P.L.2002, c.43 (C.52:27BBB-1 et al.), or P.L.2007, c.137 (C.52:18A-235 et al.) or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable."

OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, inserted "of" preceding "such provisions" in q. and corrected an additional technical error in L. 2009, c. 57, § 2.

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected a technical error in L. 2009, c. 90, § 14.

Cross References:

Contracts to secure bonds, other obligations, see *34:1B-4.1*.

Additional powers of authority, see *34:1B-77*.

Investment of moneys, see *34:1B-170*.

Series of special funds, see *52:27BBB-49*.

LexisNexis (R) Notes:

OPINIONS OF ATTORNEY GENERAL

1. FORMAL OPINION No. 7 -- 1977, 1977 N.J. AG LEXIS 19.



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*N.J. Stat. § 34:1B-5.1 (2014)*

§ 34:1B-5.1. Rules and regulations relative to payment of prevailing wage rate; "authority financial assistance" defined

The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (*C.52:27BBB-1* et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 55% of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (*C.34:11-56.25* et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (*C.34:1B-124* et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

**HISTORY:** L. 1979, c. 303, § 1; amended 2000, c. 72, § 47, eff. July 18, 2000; 2002, c. 43, § 58, eff. July 22, 2002; 2002, c. 78, § 1, eff. Sept. 5, 2002; 2007, c. 137, § 54, eff. Aug. 6, 2007; 2007, c. 245, § 1, eff. Jan. 4, 2008.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 137, in the first sentence, deleted "or school facilities projects" following "*(C.52:27BBB-1* et al.)" and made a stylistic change.

2007 amendment, by Chapter 245, in the first sentence, inserted "including contracts for millwork fabrication" and "authority financial assistance or", and added the language beginning "including the performance"; and in the third sentence, inserted "that is", inserted "and is provided before, during or after completion of a project", inserted "the 'Business Employment Incentive Program Act'", inserted "section" preceding "shall not be construed", and substituted "after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received" for "after the assistance is received."

## OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, substituted "Commissioner of Labor and Workforce Development" for "Commissioner of Labor" and corrected an additional technical error in L. 2007, c. 137, § 54.

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected a technical error in L. 2007, c. 245, § 1.

## Cross References:

Definitions, see *34:1B-3*.

Violation of rules and regulations, see *34:1B-5.3*.

Status of New Jersey Economic Development Authority, see *52:27C-82*.

## Administrative Code:

1. *N.J.A.C. 19:30-4.2* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Payments of prevailing wages in projects receiving assistance.

2. *N.J.A.C. 19:31-4.7* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, State incentive grant agreement.

3. *N.J.A.C. 19:31-4.10* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Affirmative action and prevailing wage.

4. *N.J.A.C. 19:31-6.5* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Affirmative action and prevailing wage.

5. *N.J.A.C. 19:31-9.7* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Review of application and certification of project completion.

6. *N.J.A.C. 19:31-16.8* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Undertaking the project.

7. *N.J.A.C. 19:31-18.7* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Review of application and certification of project completion.



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*N.J. Stat. § 34:1B-5.2 (2014)*

§ 34:1B-5.2. Administration and enforcement of rules and regulations

The rules and regulations adopted under section 1 of this act shall provide for the proper and appropriate administration and enforcement of such regulations.

**HISTORY:** L. 1979, c. 303, § 2; amended 2002, c. 78, § 2, eff. Sept. 5, 2002.



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*N.J. Stat. § 34:1B-5.3 (2014)*

§ 34:1B-5.3. Violation of rules and regulations

A violation of the rules and regulations adopted pursuant to section 1 [*C.34:1B-5.1*] of this act shall be deemed to be a violation of P.L.1963, c. 150 (*C. 34:11-56.25 et seq.*). The Commissioner of Labor and Industry and any worker shall have the same powers of enforcement against violations of such rules and regulations as are provided by Sections 11 through 16, inclusive, of P.L.1963, c. 150 (*C. 34:11-56.35---34:11-56.40*).

**HISTORY:** L. 1979, c. 303, § 3, eff. Jan. 17, 1980.

**NOTES:**

Publisher's Note: The bracketed material was added by the Publisher to provide a reference.



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*N.J. Stat. § 34:1B-5.4 (2014)*

§ 34:1B-5.4. Rules, regulations relative to establishment of affirmative action program

a. The New Jersey Economic Development Authority shall adopt rules and regulations to establish an affirmative action program for the hiring of minority workers employed in the performance of construction contracts undertaken in connection with any of its projects, and to expand the business opportunities of socially and economically disadvantaged contractors and vendors seeking to provide materials and services for those contracts, consistent with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (*C.10:5-1* et seq.) and the authority shall provide for the proper enforcement and administration of such rules and regulations.

b. (Deleted by amendment, P.L.2007, c.137).

**HISTORY:** L. 1979, c. 303, § 4; amended 2000, c. 72, § 48, eff. July 18, 2000; 2007, c. 137, § 55, eff. Aug. 6, 2007.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 137, in a., deleted "and school facilities projects" following "any of its projects"; and deleted former b., which read: "Within 180 days of the effective date of P.L.2000, c.72 (*C.18A:7G-1* et al.), but before adoption of its rules and regulations concerning its affirmative action program, the authority shall submit the proposed rules and regulations to the presiding officers and the standing committees on State government of both houses of the Legislature for their review."

OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected a technical error in L. 2007, c. 137, § 55.

Administrative Code:

1. *N.J.A.C. 19:31-4.7* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, State incentive grant agreement.
2. *N.J.A.C. 19:31-4.10* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Affirmative action and prevailing wage.
3. *N.J.A.C. 19:31-6.5* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Affirmative action and prevailing wage.
4. *N.J.A.C. 19:31-9.7* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Review of application and certification of project completion.

5. *N.J.A.C. 19:31-16.8* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Undertaking the project.

6. *N.J.A.C. 19:31-18.7* (2013), NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY, Review of application and certification of project completion.

**LexisNexis 50 State Surveys, Legislation & Regulations**

Affirmative Action Compliance



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*N.J. Stat. § 34:1B-5.5 (2014)*

§ 34:1B-5.5. Limitation of claims, damages, losses, liabilities, costs for school facilities projects

In the exercise of powers granted by P.L.2000, c.72 (*C.18A:7G-1 et al.*) and P.L.2007, c.137 (*C.52:18A-235 et al.*) in connection with any school facilities project, any and all claims, damages, losses, liabilities or costs that the authority may incur shall be payable only from the amounts made available to the authority pursuant to P.L.2000, c.72 (*C.18A:7G-1 et al.*) and P.L.2007, c.137 (*C.52:18A-235 et al.*). In connection with any agreement or contract entered into by the authority relating to any school facilities project, there shall be no recovery against the authority for punitive or consequential damages arising out of contract nor shall there be any recovery against the authority for claims based upon implied warranties or upon contracts implied in law.

**HISTORY:** L. 2000, c. 72, § 50, eff. July 18, 2000; amended 2007, c. 137, § 56, eff. Aug. 6, 2007.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 137, in the first sentence, inserted "and P.L.2007, c.137 (*C.52:18A-235 et al.*)" and substituted "P.L.2000, c.72 (*C.18A:7G-1 et al.*) and P.L.2007, c.137 (*C.52:18A-235 et al.*)" for "that act" at the end of the sentence.

Cross References:

Definitions, see *34:1B-3*.



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*N.J. Stat. § 34:1B-5.6 (2014)*

§ 34:1B-5.6. Role of municipality relative to school facilities projects [Repealed]

This section was repealed by L. 2007, c. 137, § 61, eff. Aug. 6, 2007. See now 52:18A-242.

**HISTORY:** L. 2000, c. 72, § 51, eff. July 18, 2000; 2007, c. 137, § 61 (repealed).



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*N.J. Stat. § 34:1B-5.7 (2014)*

§ 34:1B-5.7. Preparation of separate plan, specifications; bids; advertisements; notice of revisions [Repealed]

This section was repealed by L. 2007, c. 137, § 61, eff. Aug. 6, 2007. See now 52:18A-243.

**HISTORY:** L. 2000, c. 72, § 52, eff. July 18, 2000; amended 2005, c. 191, § 4, eff. Aug. 18, 2005; 2007, c. 137, § 61 (repealed).



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*N.J. Stat. § 34:1B-5.8 (2014)*

§ 34:1B-5.8. Authority's powers relative to property and execution of school facilities project [Repealed]

This section was repealed by L. 2007, c. 137, § 61, eff. Aug. 6, 2007. See now 52:18A-244.

**HISTORY:** L. 2000, c. 72, § 53, eff. July 18, 2000; 2007, c. 137, § 61 (repealed).



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*N.J. Stat. § 34:1B-5.9 (2014)*

§ 34:1B-5.9. Bonds deemed fully negotiable

Notwithstanding the provisions of any law to the contrary, any bonds issued pursuant to P.L.2000, c.72 (*C.18A:7G-1* et al.) or P.L.2007, c.137 (*C.52:18A-235* et al.) or P.L.2008, c.39 (*C.18A:7G-14.1* et al.) shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting the bond or coupon shall be conclusively deemed to have agreed that the bond or coupon is and shall be fully negotiable within the meaning and for all purposes of Title 12A.

**HISTORY:** L. 2000, c. 72, § 54, eff. July 18, 2000; amended 2007, c. 137, § 57, eff. Aug. 6, 2007; 2008, c. 39, § 7, eff. July 9, 2008.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 137, inserted "or P.L.2007, c.137 (*C.52:18A-235* et al.)."

2008 amendment, by Chapter 39, inserted "or P.L.2008, c.39 (*C.18A:7G-14.1* et al.)."



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*N.J. Stat. § 34:1B-6 (2014)*

§ 34:1B-6. Determinations prior to commitment for assistance

Prior to making any commitment for assistance, the authority shall, by resolution duly adopted, find and determine, on the basis of all information reasonably available to it, that such assistance will tend to maintain or provide gainful employment for the inhabitants of the State, or will reduce the consumption, in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy, or will eliminate and reduce environmental pollution derived from the operation of industry, utilities and commerce, and improve living conditions, and shall serve a public purpose by contributing to the prosperity, health and general welfare of the inhabitants of the State, and will tend to aid and assist in the economic growth, development or redevelopment of the political subdivision wherein it is to be located, and such finding and determination shall be conclusive for all purposes of this act.

The authority shall also find and determine, on the basis of all information reasonably available to it, that such assistance, or any part thereof, used to construct, improve or refinance any pollution control facility as defined by this act will not impair any obligation undertaken by any County Industrial Pollution Control Financing Authority created pursuant to P.L.1973, c.376 (*C.40:37C-1 et seq.*).

**HISTORY:** L. 1974, c. 80, 6, eff. Aug. 7, 1974. Amended by L. 1975, c. 32, 3, eff. March 10, 1975; L. 1975, c. 253, 3, eff. Nov. 25, 1975; L. 1983, c. 282, 4, eff. July 29, 1983; 2008, c. 27, § 28, eff. July 1, 2008.

**NOTES:**

Amendment Note:

2008 amendment, by Chapter 27, deleted the former first sentence, which read: "A copy of any application for assistance under this act received by the authority shall be submitted to, and for the review and advice of, the Director of the Division of Economic Development"; and in the present first (former second) sentence, deleted "such" preceding the first occurrence of "assistance" and deleted "after consultation with the director of said division" preceding "shall, by resolution duly adopted."

Effective Dates:

Section 31 of L. 2008, c. 27 provides: "This act shall take effect on July 1, 2008 and any actions necessary to implement this act may be taken at any time thereafter. General implementation is to be completed no later than the 90th day following enactment." Chapter 27, L. 2008, was approved on June 30, 2008.



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*N.J. Stat. § 34:1B-7 (2014)*

§ 34:1B-7. Economic development fund

a. The authority shall establish and maintain a special fund called the "economic development fund" into which shall be deposited such moneys (1) as shall be appropriated by the State for the purpose of such fund; (2) if the authority so determines in any resolution authorizing any particular bonds, as shall be received by the authority from the sale of such bonds as provided by law; (3) as shall be received by the authority from the repayment of loans made pursuant to this act; (4) any other moneys or funds of the authority which it determines to deposit therein. Moneys at any time in the economic development fund may be used by the authority for any purpose of this act, including but not limited to payment of administrative expenses incurred by the authority in the performance of its duties, subject only to any agreements with the holders of particular bonds or notes.

b. The authority may, in any resolution authorizing the issuance of bonds or notes, create or authorize the creation within said economic development fund of special funds to be held in pledge or otherwise for payment or redemption of such bonds or notes, reserves or other purposes and to covenant as to use and disposition of the moneys held in such funds.

c. Moneys at any time in the economic development fund may be used to guarantee loans made to project applicants by persons, provided that the authority determines that there is a reasonable prospect for repayment of such loans.

d. Moneys at any time in the economic development fund may be invested in any direct obligations of, or obligations as to which the principal and interest thereof is guaranteed by, the United States of America or such other obligations as the authority may approve.

**HISTORY:** L. 1974, c. 80, 7, eff. Aug. 7, 1974. Amended by L. 1978, c. 20, 2, eff. May 9, 1978.

**NOTES:**

Cross References:

Fund for community development purposes, see *34:1B-7.2*.

Additional duties of authority, see *34:1B-7.8*.



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*N.J. Stat. § 34:1B-7.1 (2014)*

§ 34:1B-7.1. Legislative findings and declarations

The Legislature finds that there continue to exist in the State's urban communities high unemployment, low levels of new capital investment, depressed living and working conditions and deteriorating tax bases; that vigorous action to effectively utilize their positions as principal centers of communication and transportation and their concentration of productive and energy-efficient facilities can halt the decline in economic activity and the underemployment of economic resources in these communities, reverse the deterioration of the value of existing investment therein and the level of public revenue collection on that investment, and eliminate the disincentive to new investment; and that the improvement of these communities is vital to the safety, health and welfare of the residents thereof and of the State, and constitutes a major opportunity for enhancing the economic condition of the State, for augmenting the fiscal resources of government and for stimulating private and public efforts to enhance the attractiveness and desirability of the State as a place to live and work.

The Legislature determines that it is a public purpose of the New Jersey Economic Development Authority as articulated in P.L.1977, c. 460 to provide for the acquisition, clearance, construction, and redevelopment of industrial and commercial centers in urban areas within the State in order to induce private business to invest in employment generating facilities in such areas; that the authority, with the direction and assistance of the Legislature, has established a successful model program for the use of public funds to leverage private investment capital for the development of urban communities of the State; that under this program industrial park improvements to formerly vacant sites in several urban communities have resulted in modern and secure industrial facilities generating new tax ratables and employment opportunities by attracting substantial private investment; and that the availability of financial assistance by the State will be a necessary and critical element in the successful undertaking, financing and completion of projects under this program now and in the future.

The Legislature declares that it is in the public interest of this State to continue and strengthen the existing program of the authority to undertake industrial and commercial parks in urban communities as part of a general State effort to provide support for the revitalization and development of communities of this State; and that the authority's efforts in this regard provide a most reasonable and appropriate method of directing public funds available for community economic development efforts toward their proper ends and purposes.

**HISTORY:** L. 1981, c. 505, § 1.

**NOTES:**

Cross References:

Definitions, see *34:1B-3*.



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*N.J. Stat. § 34:1B-7.2 (2014)*

§ 34:1B-7.2. Fund for community development purposes

The economic development fund established in the New Jersey Economic Development Authority under section 7 of P.L.1974, c.80 (*C.34:1B-7*) shall be a fund for community development purposes within the meaning and intent of the "Community Development Bond Act of 1981," P.L.1981, c.486, and shall be eligible to receive appropriations from the "Community Development Bond Fund" established under that act. All moneys appropriated to, and deposited in, the economic development fund shall be subject to all terms and conditions of "The New Jersey Economic Development Authority Act," P.L.1974, c.80 (*C.34:1B-1 et seq.*), except as otherwise prescribed in this act.

**HISTORY:** L. 1981, c. 505, § 2.



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*N.J. Stat. § 34:1B-7.3 (2014)*

§ 34:1B-7.3. Appropriations to economic development fund; use

Amounts appropriated to the economic development fund from the "Community Development Bond Fund" shall be used for the purpose of paying or financing the costs of projects undertaken by the New Jersey Economic Development Authority, including the acquisition, preparation, clearance, and improvement of land, for the development of new industrial and commercial parks and the redevelopment of existing industrial facilities in municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c. 14 (*C. 52:27D-178 et seq.*). Projects so undertaken by the authority shall assist in the location, maintenance and expansion of employment-generating facilities in those municipalities.

**HISTORY:** L. 1981, c. 505, 3.



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*N.J. Stat. § 34:1B-7.4 (2014)*

§ 34:1B-7.4. Financing of projects; economic feasibility and recovery of costs

Financing of projects pursuant to this act shall be in such form, amount and on such terms as the authority shall believe necessary in order to assure the economic feasibility of a project and to assure, to the greatest degree compatible with that purpose, the full recovery of costs incurred by the authority in the undertaking of the project. The authority shall assure by the terms of the financing of projects that at least 75% of the moneys appropriated to the economic development fund from the "Community Development Bond Fund" shall be recovered and shall continue thereafter to be available for financing under this act.

**HISTORY:** L. 1981, c. 505, 4.



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*N.J. Stat. § 34:1B-7.5 (2014)*

§ 34:1B-7.5. Projects; factors for consideration for financial assistance

With respect to projects for which costs are to be financed by the authority pursuant to this act, the authority shall in determining those projects, and in the planning and undertaking of those projects, consider the following in addition to any factors required to be considered pursuant to P.L.1974, c. 80 (*C. 34:1B-1 et seq.*):

- a. The economic feasibility of the project;
- b. The extent of economic and related social distress in the municipality and adjacent area to be affected by the project;
- c. The degree to which the project will advance Statewide and regional strategies and objectives;
- d. The likelihood that a project shall, after its completion, be able to repay to the fund all or part of any financing costs incurred;
- e. The relationship of the project to a comprehensive local development strategy, including projects undertaken, or planned to be undertaken, within the municipality pursuant to the "New Jersey Local Development Financing Fund Act," P.L.1983, c. 190 (*C.34:1B-36 et seq.*); and
- f. The degree to which the project utilizes, enhances, protects and promotes public transportation systems.

**HISTORY:** L. 1981, c. 505, 5.



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*N.J. Stat. § 34:1B-7.6 (2014)*

§ 34:1B-7.6. Annual report

The authority shall annually report to the Governor and the Legislature concerning the financing of projects undertaken, and concerning projects planned to be undertaken, pursuant to this act. The report shall include a description of consideration given in each project to the factors set forth in section 5 of this act. The first report shall be made on or before July 1, 1983, and subsequent reports shall be made on July 1 of each year thereafter.

**HISTORY:** L. 1981, c. 505, 6.



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*N.J. Stat. § 34:1B-7.7 (2014)*

§ 34:1B-7.7. Repayment by Economic Development Authority

The New Jersey Economic Development Authority, as successor to the New Jersey State Area Redevelopment Authority through the Executive Reorganization Plan filed February 27, 1978, shall repay without interest to the State Treasurer all moneys realized from borrowers upon loans they obtained through the New Jersey State Area Redevelopment Authority, which loans were made from the sums transferred to the authority under section 10 of P.L. 1962, c. 204, section 1 of P.L. 1970, c. 253, and section 1 of P.L. 1973, c. 75 (*C. 2A:37-41.2*), from the special trust fund established by *N.J.S. 2A:37-41*, up to the amounts originally transferred. The repayment from moneys realized from borrowers shall be considered as cash received from payments of principal and interest from the borrowers and received from the liquidation of collateral securing such loans. Such repayments shall be net of all direct expenses incurred in servicing the loan or in protecting and collecting the collateral, or both.

**HISTORY:** L. 1986, c. 127, § 1, eff. Oct. 9, 1986.

**NOTES:**

Cross References:

Definitions, see *34:1B-3*.



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*N.J. Stat. § 34:1B-7.8 (2014)*

§ 34:1B-7.8. Funds transferred

All sums appropriated or transferred to the New Jersey Area Redevelopment Authority, except those referred to in section 1 of this act, or to the New Jersey Urban Loan Authority, from any source, are transferred to the New Jersey Economic Development Authority economic development fund to carry out the purposes of P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*).

**HISTORY:** L. 1986, c. 127, 2, eff. Oct. 9, 1986.



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*N.J. Stat. § 34:1B-7.9 (2014)*

§ 34:1B-7.9. Prepayment at discount

The New Jersey Economic Development Authority, as successor to the New Jersey State Area Redevelopment Authority, may, after negotiation and agreement with the State Treasurer, prepay all outstanding appropriations due in future years to the State Treasurer, discounted at an interest rate agreeable to the State Treasurer and the New Jersey Economic Development Authority.

**HISTORY:** L. 1986, c. 127, 3, eff. Oct. 9, 1986.



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*N.J. Stat. § 34:1B-7.10 (2014)*

§ 34:1B-7.10. Short title [Economic Recovery Fund Act]

Sections one through ten of this act shall be known and may be cited as the "Economic Recovery Fund Act."

**HISTORY:** L. 1992, c. 16, § 1.

**NOTES:**

Cross References:

Definitions, see *34:1B-3*.

Findings, declarations, see *34:1B-7.29*.

Findings, declarations relative to Rental Housing Incentive Guarantee Program, see *55:14K-65*.

Funding provided by New Jersey Economic Development Authority, see *55:14K-70*.



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*N.J. Stat. § 34:1B-7.11 (2014)*

§ 34:1B-7.11. Findings, determinations

The Legislature finds and determines that limitations on the availability of loan funds from financial institutions has seriously impeded the development and completion of many economic development projects, including the expansion of manufacturing operations and high technology business ventures, the development of infrastructure and transportation improvements to stimulate economic development, and cultural, recreational and tourism facilities or improvements; that it is in the public interest to establish an Economic Recovery Fund to enable the State to make direct investments in economic development projects, to establish new programs to assist small business, and to leverage moneys for economic recovery in the most effective and creative manner through such mechanisms as public-private partnerships, grants, guarantees and direct loans; and that the Economic Development Authority is the appropriate entity to implement the goals of a diverse economic recovery program.

**HISTORY:** L. 1992, c. 16, § 2.



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*N.J. Stat. § 34:1B-7.12 (2014)*

§ 34:1B-7.12. "Economic Recovery Fund" established

a. The New Jersey Economic Development Authority shall establish and maintain a special nonlapsing fund to be known as the "Economic Recovery Fund," hereinafter the "fund," into which shall be deposited such moneys: (1) as shall be paid to the fund by the State Treasurer pursuant to a contract between the State Treasurer and the authority authorized by this act; (2) as shall be otherwise appropriated by the State for the purpose of such fund; (3) if the authority so determines in any resolution authorizing any particular bonds, as shall be received by the authority from the sale of such bonds as provided by law; (4) as shall be received by the authority from the repayment of loans made from the fund; and (5) any other moneys or funds of the authority which it determines to deposit therein.

Moneys in the fund may be invested in such obligations as the authority may approve and interest or other earnings on such investments shall be credited to the fund.

b. In addition to any other powers which may be conferred on the authority by this act, the authority, by resolution, shall have the power to: (1) pay all or part of the cost of any project or projects; (2) make loans, guarantees, equity investments, and grants, or provide other forms of financing for any project; and (3) provide for the funding, or refunding, of any bonds; further, the authority shall have the power to incur indebtedness, borrow money and issue bonds secured wholly by the moneys in the fund for the purpose of providing funds for the powers conferred by this paragraph and any other power of the authority.

c. The authority may, in any resolution authorizing the issuance of bonds or notes, create or authorize the creation within the fund of special program accounts, to be held in pledge or otherwise for payment or redemption of such bonds or notes, revenues or other purposes and to covenant as to the use and disposition of the moneys held in such accounts.

**HISTORY:** L. 1992, c. 16, § 3.

**NOTES:**

Cross References:

"New Jersey Boat Industry Loan Guarantee Fund", see *34:1B-7.32*.

"New Jersey Emerging Technology and Biotechnology Financial Assistance Fund", see *34:1B-7.41*.

Investment of moneys in export financing company, see *34:1B-96*.

Use of moneys; sources, see *34:1B-168*.



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*N.J. Stat. § 34:1B-7.13 (2014)*

§ 34:1B-7.13. Use of moneys in fund

The authority may use the moneys in the fund to pay principal of, premium, if any, and interest on bonds or notes, which shall be entitled "Economic Recovery Fund Bonds or Notes," as appropriate, the proceeds, or net proceeds, of which shall be deposited into the fund, or used for purposes of the fund, and moneys in the fund, including money received from the sale of bonds shall, in such manner as is determined by the authority, and pursuant to subsections d., e., and f. of this section, be used for the financing of projects as set forth in section 3 of P.L.1974, c.80 (*C.34:1B-3*) and to establish:

a. an economic growth account for business programs, which will invest in small and medium-size businesses that have the greatest potential for creating jobs and stimulating economic growth through such elements as a Statewide lending pool for small business, a business composite bond guarantee, a fund to further supplement the export finance program of the authority to provide direct loans and working capital necessary for New Jersey businesses to compete in the global market, real estate partnerships, a Statewide composite bond pool to assist municipalities in acquiring needed financing for capital expenditures, community-based assistance to assist municipalities in establishing local development corporations to stimulate economic development, a venture capital fund for start-up costs for businesses developing new concepts and inventions, a fund to assist businesses with expansion in such areas as manufacturing retooling to improve quality, to reduce production costs and to train employees to apply the latest technology, and a "Main Street Business Assistance Program" to provide guarantees and loans to small and mid-size businesses and not-for-profit corporations to stimulate the economy. The authority may promulgate rules and regulations for the effective implementation of the "Main Street Business Assistance Program." Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.) to the contrary, the authority may adopt, immediately upon filing with the Office of Administrative Law, such regulations as are necessary to implement the provisions of this act, which shall be effective for a period not to exceed 12 months following enactment, and may thereafter be amended, adopted, or re-adopted by the authority in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1* et seq.);

b. an economic development infrastructure program account, which shall provide for the financing and development of infrastructure and transportation projects, including but not limited to ports, terminal and transit facilities, roads and airports, parking facilities used in connection with transit facilities, and related facilities, including public-private partnerships, that are integral to economic growth;

c. an account for a cultural, recreational, fine and performing arts, military and veterans memorial, historic preservation project and tourism facilities and improvements program, which shall provide for the financing and development of cultural, recreational, fine and performing arts, military and veterans memorial, historic preservation and tourism projects, including partnerships with public, private and nonprofit entities;

d. an account, into which shall be deposited an amount not less than \$ 45,000,000, out of the total amounts deposited or credited to the fund from the proceeds of the sale of Economic Recovery Fund Bonds or Notes, for the financing of capital facilities for primary and secondary schools in the State for the purpose of the renovation, repair or alteration of existing school buildings, the construction of new school buildings or the conversion of existing school buildings to other instructional purposes.

(1) Of the amount deposited in the account, not less than \$ 25,000,000 shall be deposited in the "Public School Facilities Code Compliance Loan Fund" established pursuant to section 4 of P.L.1993, c.102 (*C.34:1B-7.23*).

(2) Of the amount deposited in the account, not less than \$ 20,000,000 shall be deposited in the "Public School Facilities Loan Assistance Fund" established pursuant to section 5 of P.L.1993, c.102 (*C.34:1B-7.24*);

e. an environmental cleanup assistance account, into which shall be deposited an amount not less than \$ 10,000,000, out of the total amounts deposited or credited to the fund from the proceeds of the sale of Economic Recovery Fund Bonds or Notes, to provide financial assistance to the persons and other entities entitled to apply for financial assistance pursuant to P.L.1993, c.139 [*C.58:10B-1* et al.]; and

f. an account, into which shall be deposited an amount not less than \$ 15,000,000, out of the total amounts deposited or credited to the fund from the proceeds of the sale of Economic Recovery Fund Bonds or Notes, for the financing of shore restoration, maintenance, monitoring, protection and preservation projects pursuant to the shore protection master plan prepared by the Department of Environmental Protection pursuant to P.L.1978, c.157.

**HISTORY:** L. 1992, c. 16, § 4; amended 1993, c. 102, § 11; 1993, c. 286, § 1; 2008, c. 117, § 2, eff. Dec. 16, 2008; 2010, c. 28, § 2, eff. June 29, 2010.

**NOTES:**

Amendment Note:

2008 amendment, by Chapter 117, in a., in the first sentence, added "and a 'Main Street Business Assistance Program' to provide guarantees and loans to small and mid-size businesses and not-for-profit corporations on an expedited basis for a period not to exceed two years from the date of enactment of P.L.2008, c.117, to stimulate the economy", and added the second and third sentences.

2010 amendment, by Chapter 28, in a., deleted "on an expedited basis for a period not to exceed two years from the date of enactment of P.L.2008, c.117" preceding "to stimulate the economy" at the end of the first sentence.

OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected technical errors in L. 2008, c. 117, § 2.

Publisher's Note: The bracketed material was added by the Publisher to provide a reference.

Cross References:

Definitions, see *34:1B-3*.

"Global Export Network Assistance Fund", see *34:1B-66*.

Findings, declarations, see *34:1B-7.21*.

"Public School Facilities Code Compliance Loan Fund", see *34:1B-7.23*.

"Public School Facilities Loan Assistance Fund", see *34:1B-7.24*.

"New Jersey Micro-Business Assistance Fund", see *34:1B-74*.

Powers of authority relative to bonds, see *34:1B-139.1*.

Definitions relative to municipal rehabilitation and economic recovery, see *52:27BBB-3*.



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*N.J. Stat. § 34:1B-7.14 (2014)*

§ 34:1B-7.14. Determination of projects to be financed

With respect to projects to be financed by the authority pursuant to this act and undertaken with moneys from the Economic Recovery Fund, the authority shall in determining those projects, and in the planning and undertaking of those projects, consider the following factors:

- a. The economic feasibility of the project;
- b. The degree to which the project will advance Statewide and regional strategies and objectives;
- c. The degree to which the project maximizes the leveraging of other sources of funds; and
- d. The degree to which the project promotes economic development, the creation or retention of jobs, and the stimulation of private sector investment and expansion.

**HISTORY:** L. 1992, c. 16, § 5.



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*N.J. Stat. § 34:1B-7.15 (2014)*

§ 34:1B-7.15. Payments to Economic Recovery Fund

Commencing with fiscal year 1992, the State Treasurer shall in each fiscal year pay from the General Fund to the Economic Recovery Fund, in accordance with a contract between the treasurer and the authority, an amount equivalent to the amount due to be paid in that State fiscal year to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990 among the States of New York and New Jersey and the Port Authority of New York and New Jersey, provided that all such payments from the General Fund shall be subject to and dependent upon appropriations being made for such purposes by the Legislature.

**HISTORY:** L. 1992, c. 16, § 6.



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*N.J. Stat. § 34:1B-7.16 (2014)*

§ 34:1B-7.16. Contracts for implementation of payment arrangement

The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 6 of this act. The contract or contracts shall commence with the State fiscal year beginning July 1, 1991 and shall provide for payment by the State Treasurer of the amount provided for in section 6 of this act. The contract or contracts shall contain terms and conditions as determined by the parties and shall, where appropriate, contain terms and conditions necessary and desirable to secure any bonds, notes and other obligations of the authority issued or incurred pursuant to this act, provided, however, that the incurrence of any obligation by the State under the contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

**HISTORY:** L. 1992, c. 16, § 7.



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*N.J. Stat. § 34:1B-7.17 (2014)*

§ 34:1B-7.17. Report to Governor, Legislature

The authority shall report six months after the effective date of this section, and annually thereafter not later than September 15, to the Governor and the Legislature concerning the financing of projects currently under consideration and projects undertaken with moneys in the Economic Recovery Fund during the preceding fiscal year. The initial report and each annual report required under this section shall include a description of each project funded by such loans, guarantees, grants or other forms of financing as may be made available under section 4 of this act and a detailed analysis of the consideration given in each project to the factors set forth in section 5 of this act.

**HISTORY:** L. 1992, c. 16, § 8.



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*N.J. Stat. § 34:1B-7.18 (2014)*

§ 34:1B-7.18. Legislative approval of certain transactions

Notice of loans, guarantees, grants or other forms of financing for projects from such funds as may be made available under subsections a. and e. of section 4 of this act shall be submitted to the Legislature at least 30 days prior to the closing of any transaction but the transaction may proceed subsequent to that notice. Loans, guarantees, grants or other forms of financing for projects from such funds as may be made available under subsections b. and c. of section 4 of this act shall be submitted to the Legislature for approval at least 45 days prior to the closing of any transaction. If the Legislature takes no action within that period, the transaction shall be deemed to be approved.

**HISTORY:** L. 1992, c. 16, § 9.



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\*\*\* This section is current through New Jersey 216th Legislature \*\*\*

\*\*\* First Annual Session, L. 2014 c. 90 and J.R. 6 \*\*\*

\*\*\* N.J. Constitution current through November 2014 election \*\*\*

TITLE 34. LABOR AND WORKERS' COMPENSATION  
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*N.J. Stat. § 34:1B-7.19 (2014)*

§ 34:1B-7.19. Definitions; program authorized

a. The following words or terms as used in this section shall have the following meaning unless a different meaning clearly appears from the context:

"Small business enterprise" shall mean a business which has its principal place of business in this State, is independently owned and operated and meets all other qualifications as may be established in accordance with P.L.1987, c.55 (*C.52:27H-21.7 et seq.*).

"Special assistance small business enterprise" means (1) a small business enterprise having its principal place of business in a municipality in this State in which an urban enterprise zone has been established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (*C.52:27H-60 et seq.*), or (2) a small business enterprise having at least 50% of its employees who are economically disadvantaged individuals.

"Economically disadvantaged individual" means a person who (1) resides in a municipality in this State in which an urban enterprise zone has been established, or (2) has been unemployed or the recipient of public assistance benefits for a period of at least one year immediately prior to accepting employment with a special assistance small business enterprise.

b. The authority may, by resolution, establish a special assistance small business enterprise program for projects to be funded from the accounts established by section 4 of this act.

**HISTORY:** L. 1992, c. 16, § 10.



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\*\*\* This section is current through New Jersey 216th Legislature \*\*\*

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*N.J. Stat. § 34:1B-7.20 (2014)*

§ 34:1B-7.20. Short title [Public School Capital Finance Assistance Act]

Sections 1 through 10 of this 1993 amendatory and supplementary act shall be known and may be cited as the "Public School Capital Finance Assistance Act."

**HISTORY:** L. 1993, c. 102, § 1.

**NOTES:**

Cross References:

"Public School Facilities Code Compliance Loan Fund", see *34:1B-7.23*.

"Public School Facilities Loan Assistance Fund", see *34:1B-7.24*.



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*N.J. Stat. § 34:1B-7.21 (2014)*

§ 34:1B-7.21. Findings, declarations

The Legislature finds and declares that the northeastern region of the country and New Jersey, in particular, continues to be seriously affected by the national economic downturn; that public sector involvement to finance urgently needed projects through the Economic Recovery Fund, established pursuant to section 4 of P.L.1992, c.16 (*C.34:1B-7.13*), is necessary to stimulate growth and provide employment during this ongoing recessionary economy; that, as part of this program to boost economic growth in the State, it is essential to address the current estimated unmet need of two billion dollars for the renovation, repair, conversion, alteration and construction of school buildings in the State in order to provide safe and adequate public school buildings; that the limitations on the availability of funds from other sources has impaired the ability of school districts to go forward with financing necessary to complete repairs, renovations, alterations, conversions and construction of school buildings; that the lack of adequate buildings and facilities has seriously impeded the ability of school districts to provide a thorough and efficient system of education to all pupils as required by the State Constitution; and that the State cannot ignore its obligation to remedy conditions which jeopardize the health, safety and general welfare of our children.

**HISTORY:** L. 1993, c. 102, § 2.



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*N.J. Stat. § 34:1B-7.22 (2014)*

§ 34:1B-7.22. Definitions

As used in this act:

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4);

"Commissioner" means the Commissioner of the Department of Education;

"Cost or costs" means the expenses incurred in connection with: the renovation, repair, alteration, construction, or conversion of any school building or any other project authorized under this 1993 amendatory and supplementary act; the acquisition and development of any real or personal property for use in connection with any project authorized under this 1993 amendatory and supplementary act, including any rights or interests therein; the execution of any agreements and franchises deemed by the authority to be necessary or useful and convenient in connection with any project authorized under this 1993 amendatory and supplementary act; the procurement of engineering, inspection, planning, legal, financial or other professional services, including the services of a bond registrar or an authenticating agent; the cost of issuance of bonds, including any interest or discount thereon; the administrative, organizational, operating or other expenses incident to the financing, completion and placing into service of projects authorized under this 1993 amendatory and supplementary act; the establishment of a reserve fund or funds for working capital, operating, maintenance or replacement expenses and for the payment or security of principal or interest on bonds, as the authority may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for or in connection with any project authorized under this 1993 amendatory and supplementary act;

"Department" means the Department of Education;

"Project" means any work which is necessary for the construction, renovation, repair, alteration or conversion of a public school building by the school district;

"Public school" means a school, under collegiate grade, which is operated by a school district;

"School building" means any structure, building, or facility used wholly or in part for academic purposes by a school district; and

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes and any county special services or county vocational school districts established pursuant to chapter 46 or chapter 54 of Title 18A of the New Jersey Statutes.

**HISTORY:** L. 1993, c. 102, § 3.



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*N.J. Stat. § 34:1B-7.23 (2014)*

§ 34:1B-7.23. "Public School Facilities Code Compliance Loan Fund"

a. The authority shall establish and maintain a special nonlapsing revolving fund to be known as the "Public School Facilities Code Compliance Loan Fund," hereinafter the "compliance fund," which shall be credited with: (1) the \$ 25 million allocated from the Economic Recovery Fund pursuant to paragraph (1) of subsection d. of section 4 of P.L.1992, c.16 (*C.34:1B-7.13*); (2) any moneys that shall be received by the authority from the repayment of loans made from the compliance fund and interest thereon; and (3) any other moneys which the authority determines to deposit therein.

b. The authority may use the moneys in the compliance fund to finance not less than 25%, and not more than 50%, of the total cost of any project, in accordance with the criteria set forth in this section, for the purpose of providing low-interest loans to school districts, to finance the renovation, repair or other alteration of existing school buildings, the construction of new school buildings or the conversion of existing school buildings to other instructional purposes, if such renovation, repair, alteration, construction or conversion is required to bring buildings that, at the time of application, do not meet State health and safety code requirements, into compliance with those requirements.

c. Upon application by a school district for a low-interest loan, the commissioner is authorized and empowered to determine whether the renovations, repairs, alterations, conversion or construction are necessary to meet State health and safety code requirements. If the commissioner determines that such work is necessary, the commissioner shall certify that the school district is eligible for a low-interest loan pursuant to this section to finance the renovation, repair, alteration, conversion or construction described in the application.

d. (1) Upon certification, the commissioner shall waive the holding of a referendum or the requirement for approval by a board of school estimate pursuant to subsection (d) of *N.J.S.18A:20-4.2* or *N.J.S.18A:24-5* et seq., as the case may be, or the requirement for approval of the project by a capital projects control board pursuant to P.L.1991, c.139 (*C.18A:7A-46.1* et seq.), as appropriate, and the school district may, upon receiving the certification and waiver, apply to the authority for a loan pursuant to this section. The terms of the loan and the repayment schedule shall be established by the authority. The repayments to the authority by the school districts shall be treated as net debt service by the school districts for school aid purposes. 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 loan 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 such purposes.

(2) All repayments, and interest thereon, shall be deposited by the authority in the compliance fund, for use in the manner provided for in this section, except insofar as the authority may direct that such amounts be deposited in the small projects fund established pursuant to section 7 of P.L.1993, c.102 (*C.34:1B-7.25*).

(3) Notwithstanding any provision of this section to the contrary, on and after the effective date of P.L.1996, c.48 (*C.34:1B-7.23a* et al.), any loan repayments and interest thereon on deposit or deposited into the compliance fund shall

be paid by the authority to the State Treasurer for deposit into the General Fund of the State, provided that the payment does not violate any existing agreement of the authority with bondholders.

e. The authority, in consultation with the commissioner shall, in determining whether to grant approval of any loan application pursuant to this section, take into consideration the severity of the need for the particular project, the ability of the school district to begin and complete the project in an expeditious manner, the ability of the school district to proceed with the funding of the balance of the funds for the project, and the extent to which the approval of the project contributes to the equitable distribution of moneys in the compliance fund.

f. The balance of the moneys needed for a project for which an application for a loan is made pursuant to this section may be funded by the school district by: (1) the issuance of bonds, or other borrowing, excluding lease-purchase agreements, pursuant to the provisions of subsection (d) of *N.J.S.18A:20-4.2*, *N.J.S.18A:24-5* et seq., or P.L.1991, c.139 (*C.18A:7A-46.1* et seq.), as appropriate; except that the commissioner shall waive the holding of a referendum or the requirement for approval by a board of school estimate pursuant to subsection (d) of *N.J.S.18A:20-4.2*, or *N.J.S.18A:24-5* et seq., as the case may be, or the requirement for approval of the project by a capital projects control board pursuant to P.L.1991, c.139 (*C.18A:7A-46.1* et seq.), as appropriate; (2) borrowing from the "Public Schools Small Projects Loan Assistance Fund" established pursuant to section 7 of P.L.1993, c.102 (*C.34:1B-7.25*), if the total cost of the project does not exceed \$ 5,000,000, and in any such case the commissioner shall waive the holding of a referendum or the requirement for approval by a board of school estimate pursuant to subsection (d) of *N.J.S.18A:20-4.2* or *N.J.S.18A:24-5* et seq., as the case may be, or approval of the project by a capital projects control board pursuant to P.L.1991, c.139 (*C.18A:7A-46.1* et seq.), as appropriate; (3) moneys of the school district not necessary for the completion of any other specific projects; and (4) any other lawful source; except that no project funded or approved to be funded by school district bonds authorized, pursuant to law, prior to December 31, 1992 shall be funded pursuant to P.L.1993, c.102 (*C.34:1B-7.20* et al.).

g. Any school district shall be eligible to receive additional loans pursuant to this section even if the district has received a previous loan; provided that those additional loans are in conformity with the selection criteria established pursuant to this section.

h. Net earnings received from the investment or deposit of moneys in the compliance fund by the authority shall be redeposited in the fund for use for the purposes of this section.

**HISTORY:** L. 1993, c. 102, § 4; amended 1996, c. 48, § 1.

**NOTES:**

Cross References:

Use of moneys in fund, see *34:1B-7.13*.



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*N.J. Stat. § 34:1B-7.23a (2014)*

§ 34:1B-7.23a. Repealed by L. 1996, c. 138, § 85

**NOTES:**

Cross References:

"Public School Facilities Code Compliance Loan Fund", see *34:1B-7.23*.

"Public School Facilities Loan Assistance Fund", see *34:1B-7.24*.



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*N.J. Stat. § 34:1B-7.24 (2014)*

§ 34:1B-7.24. "Public School Facilities Loan Assistance Fund"

a. The authority shall establish and maintain a special nonlapsing revolving fund to be known as the "Public School Facilities Loan Assistance Fund," hereinafter the "facilities fund," which shall be credited with: (1) not less than \$ 105,000,000 from the amount of capital funding appropriated for school facilities pursuant to the annual appropriations act for the State fiscal year ending June 30, 1994, P.L.1993 c.155 ; (2) the \$ 20,000,000 allocated from the Economic Recovery Fund pursuant to paragraph (2) of subsection d. of section 4 of P.L.1992, c.16 (*C.34:1B-7.13*); (3) any moneys that shall be received by the authority from the repayment of loans made from the facilities fund and interest thereon; and (4) any other moneys which the authority determines to deposit therein.

b. The authority may use the moneys in the facilities fund to provide for low interest loans to finance not less than 25%, and not more than 50%, of the total cost of any project, in accordance with the criteria set forth in this section, for the purpose of renovation, repair or other alteration of existing school buildings, for construction of new school buildings or for the conversion of existing school buildings to other instructional purposes, whether or not that renovation, repair, alteration, construction or conversion is required to bring buildings that, at the time of application do not meet State health and safety code requirements, into compliance with those requirements.

c. Upon application by any school district to the authority for a loan to be made pursuant to subsection b. of this section, the authority shall, in consultation with the commissioner, determine whether to grant approval for the loan based upon the appropriate authorization for the loan pursuant to subsection (d) of *N.J.S.18A:20-4.2*, or the project pursuant to P.L.1991, c.139 (*C.18A:7A-46.1* et seq.), as the case may be, the relationship of the project to the enhancement of the school's academic programs, the ability of the school district to begin and complete the project in an expeditious manner, the ability of the school district to proceed with the funding of the balance of the moneys needed for the project, and the extent to which approval of the project would contribute to the equitable distribution of moneys in the facilities fund.

d. The balance of the moneys needed for a project for which an application for a loan is made pursuant to subsection b. of this section may be funded by the school district by: (1) the issuance of bonds, or other borrowing, excluding lease-purchase agreements, pursuant to the provisions of subsection (d) of *N.J.S.18A:20-4.2*, *N.J.S.18A:24-5* et seq., or P.L.1991, c.139 (*C.18A:7A-46.1* et seq.) as appropriate; (2) if the borrowing of money or the issuance of bonds is authorized pursuant to subsection (d) of *N.J.S.18A:20-4.2* or *N.J.S.18A:24-5* et seq., as the case may be, or if the project is approved pursuant to P.L.1991, c.139 (*C.18A:7A-46.1* et seq.), as appropriate, borrowing from the "Public Schools Small Projects Loan Assistance Fund" established pursuant to section 7 of P.L.1993, c.102 (*C. 34:1B-7.25*), if the total cost of the project does not exceed \$ 5,000,000; (3) moneys of the school district not necessary for the completion of any other specific projects; and (4) any other lawful source; except that no project funded or approved to be funded by school district bonds authorized, pursuant to law, prior to December 31, 1992 shall be funded pursuant to P.L.1993, c.102 (*C.34:1B-7.20* et al.).

## N.J. Stat. § 34:1B-7.24

e. (1) The authority shall establish the terms of the loan which shall include, but not be limited to, the rate of interest, a schedule for drawing down loan funds, and a repayment schedule. The repayments shall be treated by the school district as net debt service for school aid purposes. 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 loan 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 such purposes.

(2) All repayments, and interest thereon, shall be deposited by the authority in the facilities fund for use in the manner provided for in this section, except insofar as the authority may direct that such amounts be deposited in the small projects fund established pursuant to section 7 of P.L.1993, c.102 (*C.34:1B-7.25*).

(3) Notwithstanding any provision of this section to the contrary, on and after the effective date of P.L.1996, c.48 (*C.34:1B-7.23a* et al.), any loan repayments and interest thereon on deposit or deposited into the facilities fund shall be paid by the authority to the State Treasurer for deposit into the General Fund of the State, provided that the payment shall not violate any existing agreement of the authority with bondholders.

f. Net earnings received from the investment or deposit of moneys in the facilities fund by the authority shall be re-deposited in the fund for use for the purposes of this section.

**HISTORY:** L. 1993, c. 102, § 5; amended 1996, c. 48, § 2.

**NOTES:**

Cross References:

Use of moneys in fund, see *34:1B-7.13*.



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*N.J. Stat. § 34:1B-7.25 (2014)*

§ 34:1B-7.25. Issuance of bonds; "Public Schools Small Projects Loan Assistance Fund"

a. The New Jersey Economic Development Authority is authorized to issue bonds, in an aggregate amount not exceeding \$ 100,000,000, the proceeds from which shall be used to provide matching funds to assist in the financing of school district projects in accordance with the provisions of this section. The bonds so issued shall be secured by the repayment by school districts of loans made pursuant to this 1993 amendatory and supplementary act, or, in the case of default on any such loan repayment, by the school facilities financing bond reserve established pursuant to section 6 of this 1993 amendatory and supplementary act.

b. The authority shall establish and maintain a special nonlapsing revolving fund to be known as the "Public Schools Small Projects Loan Assistance Fund," hereinafter the "small projects fund," which shall be credited with: (1) the proceeds of the sale of bonds pursuant to subsection a. of this section; (2) any moneys that shall be received by the authority from the repayment of loans made from the small projects fund and interest thereon; and (3) any other moneys which the authority determines to deposit therein.

c. The authority shall use the monies in the small projects fund exclusively for: (1) matching funds to provide market rate loans to school districts to finance an amount up to the remaining balance of the cost of a project approved for funding from the compliance fund pursuant to section 4 of this 1993 amendatory and supplementary act or from the facilities fund pursuant to section 5 of this 1993 amendatory and supplementary act, whether or not the project is required to bring the buildings that, at the time of application do not meet State health and safety code requirements, into compliance with those requirements; provided that the total cost of the project, including moneys received from the compliance fund or the facilities fund, does not exceed \$ 5,000,000; and (2) payment of any principal, interest, premium and expenses incurred in connection with the bonds issued pursuant to subsection a. of this section.

d. (1) The authority shall establish the terms of the market rate loans which shall include, but not be limited to, the actual rate of interest, a schedule for drawing down loan funds, and the repayment schedule for the loans. The repayments shall be treated by the school district as net debt service for school aid purposes. 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 loan 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 such purposes.

(2) All repayments, and interest thereon, shall be deposited by the authority in the small projects fund for use in the manner provided for in this section.

e. Net earnings received from the investment or deposit of monies in the small projects fund by the authority shall be redeposited in the fund for use for the purposes of this section.

**HISTORY:** L. 1993, c. 102, § 7.

**NOTES:**

Cross References:

"Public School Facilities Code Compliance Loan Fund", see *34:1B-7.23*.

"Public School Facilities Loan Assistance Fund", see *34:1B-7.24*.



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*N.J. Stat. § 34:1B-7.26 (2014)*

§ 34:1B-7.26. Preliminary approval of loan application

In the case of a school district that has applied for any loan pursuant to this 1993 amendatory and supplementary act, and that is required to seek authorization for the issuance of bonds, or for other borrowing, or for a project involving the issuance of bonds or other borrowing pursuant to the provisions of subsection (d) of *N.J.S. 18A:20-4.2*, *N.J.S. 18A:24-5* et seq., or P.L.1991, c.139 (*C.18A:7A-46.1* et seq.), as the case may be, or a waiver of any such requirement, as appropriate, the authority may grant preliminary approval of that application, provided that final approval of the application shall be conditioned upon the granting of the appropriate approval to the school district, or the waiver thereof, within a time period to be determined by the authority and stated, in writing, as part of the preliminary approval. No monies shall be disbursed for any project under this 1993 amendatory and supplementary act until final approval of the pertinent application is granted.

**HISTORY:** L. 1993, c. 102, § 8.



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*N.J. Stat. § 34:1B-7.27 (2014)*

§ 34:1B-7.27. Adoption of rules, taking administrative action

The authority is hereby empowered and directed to adopt summarily any rule, and to take any administrative action whatsoever, necessary to effectuate the purposes of this 1993 amendatory and supplementary act without being subject to the provisions or requirements of the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1 et seq.*), except that any rules and regulations so adopted shall be filed with the Secretary of State and shall provide for the prompt publication of the rules and regulations after the filing of same.

**HISTORY:** L. 1993, c. 102, § 10.



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*N.J. Stat. § 34:1B-7.28 (2014)*

§ 34:1B-7.28. Short title [N.J. Boat Industry Loan Guarantee Fund Act]

This act shall be known and may be cited as the "New Jersey Boat Industry Loan Guarantee Fund Act."

**HISTORY:** L. 1993, c. 358, § 1.



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*N.J. Stat. § 34:1B-7.29 (2014)*

§ 34:1B-7.29. Findings, declarations

The Legislature finds and declares that the regional and national economic downturn which began in late 1989 continues to negatively affect the State, resulting in an alarming number of layoffs in all sectors of the economy; that during this period, one of the hardest hit sectors of the New Jersey economy has been its boat building industry, especially that portion of the industry involved in the construction and distribution of luxury boats; that the reason for this slide in the luxury boat building industry, in addition to the slumping regional economy, has been the drastic fiscal impact of the 10% federal excise tax on the sale of new boats costing over \$ 100,000, imposed in January 1991; that this federal excise tax has further exacerbated these negative economic effects, resulting in a 75% reduction in new boat sales and a similar reduction in the boat building labor force; that while the repeal of the federal excise tax on luxury boats is expected to provide New Jersey's boat building industry with a necessary spark, the industry will still need additional financial assistance to fully recover, having been drained over the past three years of the liquidity necessary to meet payrolls and purchase materials needed to substantially increase production and respond to a three year pent-up demand; that it is in the public interest to establish a program administered by the New Jersey Economic Development Authority designed to provide loan guarantees to manufacturers, assemblers and distributors of luxury boats in New Jersey; and that such a program should be developed through the use of moneys made available for such purposes pursuant to the "Economic Recovery Fund Act," P.L.1992, c.16 (*C.34:1B-7.10* et seq.), and any other moneys made available to the authority.

**HISTORY:** L. 1993, c. 358, § 2.



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*N.J. Stat. § 34:1B-7.30 (2014)*

§ 34:1B-7.30. Definitions

As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (*C.34:1B-4*).

"Boat" means a vessel or watercraft, other than a personal watercraft or sea plane on the water, used or capable of being used as a means of transportation on water, which may be temporarily or permanently equipped with machinery for propulsion.

"Boat manufacturer or distributor" means an independently owned and operated business which: (1) manufactures, assembles or distributes boats in this State the retail value of which is at least \$ 100,000 each, or manufactures or provides marine products in this State for such boats and (2) prior to January 1, 1991, manufactured, assembled or distributed boats in this State the retail value of which was at least \$ 100,000 each, or manufactured or provided marine products in this State for such boats.

"Cost" means the expenses incurred in connection with the operation of a boat manufacturer or distributor, which can be reasonably expected to be recovered through the financing of the operation, and which shall include, but need not be limited to, the costs of planning, fixed assets, materials, working capital, floor plan funding and any other costs determined by the authority to be necessary to carry out the purposes of this act.

"Fixed assets" means any real property, interests in real property, plant, equipment, and other assets commonly accepted as fixed assets.

"Marine products" means those parts and materials utilized in the design, construction and maintenance of boats, which shall include, but need not be limited to, parts and materials used in boat engines, generators, transmissions, exhaust systems and electrical, plumbing, heating and cooling systems, except that marine products shall not include any oil or oil-based products or materials.

"Participating bank" means a State- or federally-chartered bank, savings bank or savings and loan association, or a bank organized under the laws of a foreign government, deemed eligible by the authority for participation in the program.

"Program" means the "New Jersey Boat Industry Loan Guarantee Program" established by the authority pursuant to section 4 of this act.

"Working capital" means those liquid capital assets other than fixed assets.

**HISTORY:** L. 1993, c. 358, § 3.



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*N.J. Stat. § 34:1B-7.31 (2014)*

§ 34:1B-7.31. "New Jersey Boat Industry Loan Guarantee Program" established

The New Jersey Economic Development Authority shall establish a "New Jersey Boat Industry Loan Guarantee Program" to provide loan guarantees for boat manufacturers or distributors in the State.

**HISTORY:** L. 1993, c. 358, § 4.



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*N.J. Stat. § 34:1B-7.32 (2014)*

§ 34:1B-7.32. "New Jersey Boat Industry Loan Guarantee Fund"

a. To implement the program, the authority shall establish and maintain a special revolving fund to be known as the "New Jersey Boat Industry Loan Guarantee Fund," hereinafter the "guarantee fund," which shall be credited with: (1) an amount from the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (*C.34:1B-7.12*) which the authority determines is necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund; (2) any moneys that shall be received by the authority from the repayment of the moneys in the guarantee fund used to provide loan guarantees pursuant to this act and interest thereon; and (3) other moneys of the authority, including but not limited to, any moneys available from other business assistance programs administered by the authority which it is authorized and determines to deposit therein.

b. The authority shall use the moneys in the guarantee fund to: (1) enter, within six years of the effective date of this act, into loan guarantee agreements with participating banks and boat manufacturers or distributors qualified pursuant to subsection d. of this section, to guarantee up to 90 percent of the loans or lines of credit provided by participating banks, in accordance with section 7 of this act; and (2) defray the administrative expenses of the authority in carrying out the purposes and provisions of this act.

c. Applications for loan guarantees under this act shall be submitted by boat manufacturers or distributors in a form and manner determined by the authority. Upon application by a boat manufacturer or distributor for a loan guarantee pursuant to this section, the authority, in consultation with the Office of Labor Statistics in the Division of Planning and Research of the Department of Labor, shall determine whether the loan for which the application for a loan guarantee has been submitted is expected to result in a net increase in the number of jobs provided to New Jersey residents in the State, which may include the re-employment of personnel temporarily discharged by the boat manufacturer or distributor during the years 1990 through 1993, inclusive. If it is determined by the authority that the loan is likely to meet this goal, the authority shall certify that the boat manufacturer or distributor is eligible to receive a loan guarantee pursuant to this section.

d. In evaluating a loan guarantee application submitted by a boat manufacturer or distributor and certified as eligible by the authority pursuant to subsection c. of this section, the authority shall place primary emphasis on the applicant's record of profitability and financial stability prior to January 1, 1991, and on projections by the applicant, including the data and assumptions forming the basis thereof, of recovered profitability and financial stability over the term of the loan guarantee. The portion of the direct loans or lines of credit provided by participating banks may be guaranteed by the authority pursuant to section 7 of this act only if an eligible boat manufacturer or distributor has been qualified therefor by demonstrating to the satisfaction of the authority that the eligible boat manufacturer or distributor has the ability, reputation and credit-worthiness necessary to reach a market and generate sales.

e. No loan guarantee entered into pursuant to this section shall be for a period of more than five years. Upon expiration of the period of all loan guarantees entered into pursuant to this act, all repayments, and interest thereon, and all

moneys remaining in the guarantee fund shall be credited to and deposited in the "Economic Recovery Fund," established pursuant to section 3 of P.L.1992, c.16 (*C.34:1B-7.12*) for any of the purposes thereof.

f. Moneys in the guarantee fund may be invested in such obligations as the authority may approve and, except as otherwise provided in subsection e. of this section, net earnings received from the investment or deposit of moneys in the guarantee fund by the authority shall be redeposited in the guarantee fund for use for the purposes of this act.

**HISTORY:** L. 1993, c. 358, § 5.



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*N.J. Stat. § 34:1B-7.33 (2014)*

§ 34:1B-7.33. Establishment of reserves

The authority shall establish sufficient reserves and liquid reserves to provide a sufficient and actuarially sound basis for its pledges contained in any loan guarantee agreement entered into pursuant to this act.

**HISTORY:** L. 1993, c. 358, § 6.



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*N.J. Stat. § 34:1B-7.34 (2014)*

§ 34:1B-7.34. Agreements

The authority shall enter into agreements with participating banks and boat manufacturers or distributors qualified pursuant to subsection d. of section 5 of this act to use the moneys from the guarantee fund to guarantee direct loans or revolving lines of credit provided by participating banks to finance the costs of such qualified boat manufacturers or distributors. The agreements shall provide that the loans or lines of credit for financing the costs of eligible boat manufacturers or distributors shall come from participating banks. The agreements shall also provide for any other terms or conditions which the authority and the participating banks stipulate to as being necessary or desirable to make loans, establish and extend lines of credit, guarantee loans and otherwise effectuate the purpose of the program.

**HISTORY:** L. 1993, c. 358, § 7.



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*N.J. Stat. § 34:1B-7.35 (2014)*

§ 34:1B-7.35. Report to Governor, Legislature

Within fifteen months following the effective date of this act, and on or before February 15 of each succeeding year in which a loan guarantee agreement entered into under this act is in effect, the authority shall prepare a report on the program. The report may be issued separately, or in combination with the reports required by law on financial assistance to boat manufacturers or distributors in this State, and shall include, but need not be limited to, a description of the demand for the program from eligible and qualified boat manufacturers and distributors and participating banks, the efforts made by the authority to promote the program, the total amount of loan guarantees approved by the authority pursuant to the program and an assessment of the effectiveness of the program in meeting the goals of this act. The authority shall submit its report to the Governor and the Legislature, including therein any recommendations for legislation to improve the effectiveness of the program.

**HISTORY:** L. 1993, c. 358, § 8.



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*N.J. Stat. § 34:1B-7.36 (2014)*

§ 34:1B-7.36. Rules, regulations

The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1 et seq.*), any rules and regulations necessary to effectuate the purposes of this act. In developing procedures and forms to be used in connection with the application for and approval of loan guarantees pursuant to this act, the authority shall consider the special needs and problems of boat manufacturers and distributors in the State.

**HISTORY:** L. 1993, c. 358, § 9.



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*N.J. Stat. § 34:1B-7.37 (2014)*

§ 34:1B-7.37. Short title [N.J. Emerging Technology and Biotechnology Financial Assistance Act]

This act shall be known and may be cited as the "New Jersey Emerging Technology and Biotechnology Financial Assistance Act."

**HISTORY:** L. 1995, c. 137, § 1.

**NOTES:**

Cross References:

Corporation business tax benefit certificate transfer program, see *34:1B-7.42a*.



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*N.J. Stat. § 34:1B-7.38 (2014)*

§ 34:1B-7.38. Findings, declarations

The Legislature finds and declares that:

a. Biotechnology is an emerging technology that holds great promise for designing living organisms that can be used for the treatment of diseases, and improvements to plants and animals, and to otherwise provide for exceptional advances for the betterment of living things;

b. The development and support of biotechnology is especially important in light of the long-established pharmaceutical industry in the State, the many related university research programs on biotechnology, and the sizable investment, to date, of State funds in academic "centers of excellence," and is also vital to the fulfillment of certain responsibilities of the New Jersey Commission on Science and Technology;

c. In order for society to appreciate the anticipated potential rewards from emerging technology and biotechnology research, private industry must have access to sufficient financial resources to conduct research and transfer research discoveries into viable, commercial products;

d. As an emerging technology, biotechnology, the biotechnology industry, and the industry's required concomitant facilities face significant obstacles in obtaining financial assistance because of the perceived risk of investing in such new ventures;

e. Because of the substantial employment opportunities that could be created by successful emerging technology and biotechnology industries and the resulting importance of such industries to the State's economic base, the State can best stimulate and encourage private investment in emerging technology and biotechnology by directing the New Jersey Economic Development Authority to provide financial assistance to emerging technology and biotechnology companies located in the State;

f. In considering how to best allocate its resources pursuant to this act, the authority should give due consideration to further supporting emerging technology or biotechnology joint ventures by providing economic development funds and assistance to help stimulate growth in disadvantaged urban areas of the State, where public-private partnerships have already been formed, or will be formed, to promote emerging technology and biotechnology research and product development initiatives.

**HISTORY:** L. 1995, c. 137, § 2.



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*N.J. Stat. § 34:1B-7.39 (2014)*

§ 34:1B-7.39. Definitions relative to emerging technology, biotechnology

As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (*C.34:1B-4*);

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge;

"Biotechnology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes, or a person, whose headquarters or base of operations is located in New Jersey, engaged in providing services or products necessary for such research, development, production, or provision;

"Cost" means the expenses incurred in connection with the operation of an emerging technology or biotechnology company in the State and shall include, but need not be limited to, the expenses of fixed assets, such as the construction, acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, and any other expenses determined by the authority to be necessary to carry out the purposes of this act;

"Emerging technology company" means a person, whose headquarters or base of operations is located in New Jersey, and who employs some combination of the following: highly educated or trained managers and workers, or both, employed in New Jersey who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service;

"Financial institution" means an individual or organization deemed eligible by the authority for participation in the program and shall include, but need not be limited to, State-chartered or federally-chartered banks, savings banks or savings and loan associations, banks organized under the laws of a foreign government, private individuals, insurance companies, landlords, finance companies and venture capitalists;

"Fixed assets" means any real property, interests in real property, plant, equipment, and any other assets commonly accepted as fixed assets;

"Program" means the "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" established by the authority pursuant to section 4 of this act; and

"Working capital" means those liquid capital assets other than fixed assets.

**HISTORY:** L. 1995, c. 137, § 3.



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*N.J. Stat. § 34:1B-7.40 (2014)*

§ 34:1B-7.40. "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" established

The authority shall establish a "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" to stimulate increased financing to help fund the costs incurred by new or expanding emerging technology and biotechnology companies in the State.

**HISTORY:** L. 1995, c. 137, § 4.



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*N.J. Stat. § 34:1B-7.41 (2014)*

§ 34:1B-7.41. "New Jersey Emerging Technology and Biotechnology Financial Assistance Fund"

a. To implement the program, the authority shall establish and maintain a special account to be known as the "New Jersey Emerging Technology and Biotechnology Financial Assistance Fund," hereinafter the "assistance fund," which shall be credited with: (1) an amount from the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (*C.34:1B-7.12*) which the authority determines is necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund; (2) any moneys that shall be received by the authority from the repayment of the moneys in the assistance fund used to provide financial assistance pursuant to this act and interest thereon; (3) other moneys of the authority, including but not limited to, any moneys available from other business assistance programs administered by the authority which it determines to deposit therein; and (4) any appropriation made by the Legislature to effectuate the purposes of this act.

b. The authority shall use the moneys in the assistance fund to: (1) provide or participate in the provision of financial assistance to emerging technology or biotechnology companies deemed approved pursuant to section 6 of this act, which assistance may include, but need not be limited to, loan guarantees and assistance in establishing lines of credit, real estate development assistance, and technical advice on locating private and public sources of funding; and (2) defray the administrative expenses of the authority in carrying out the purposes and provisions of this act.

c. The maximum amount and term of a loan, line of credit or other form of financial assistance made pursuant to this act shall be determined by the authority.

d. Moneys in the assistance fund may be invested in such obligations as the authority may approve and net earnings received from the investment or deposit of moneys in the assistance fund by the authority shall be redeposited in the assistance fund for use for the purposes of this act.

e. The authority shall establish sufficient reserves and liquid reserves to provide a sufficient and actuarially sound basis for its pledges contained in any financial assistance agreement entered into pursuant to this act.

f. The authority is authorized to disburse moneys in the assistance fund for purposes unrelated to this act if, for a period of at least three years, no moneys are disbursed from the assistance fund for the purposes set forth pursuant to this act.

**HISTORY:** L. 1995, c. 137, § 5.



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*N.J. Stat. § 34:1B-7.42 (2014)*

§ 34:1B-7.42. Applications for money from fund; criteria; agreements

a. Applications for money from the assistance fund established under this act shall be submitted by emerging technology or biotechnology companies in a form and manner determined by the authority. The authority shall approve or disapprove applications pursuant to the criteria developed pursuant to subsection c. of this section, and may employ any institution of higher education in this State in the approval process.

b. The authority shall enter into written agreements with emerging technology or biotechnology companies approved for financial assistance pursuant to this act, and, as appropriate, with financial institutions concerning the type, amount and terms of the financial assistance provided.

c. The authority shall, in consultation with the Department of Commerce and Economic Developments, the New Jersey Commission on Science and Technology and pay institution of higher education in New Jersey, develop criteria for the approval or disapproval of applications submitted pursuant to subsection a. of this section. Such criteria shall include, but need not be limited to, an evaluation of the emerging technology or biotechnology company's actual or potential scientific and technological viability, a determination that the emerging technology or biotechnology company's principal products or services are sufficiently innovative to provide a competitive advantage, a determination that the proposed financial assistance will result in significant growth in permanent, full-time employment in the State, a determination that the emerging technology or biotechnology company has been unable to secure financial assistance on affordable terms from conventional sources, a determination that the financial assistance provided pursuant to this act demonstrates the prospect of a high rate of return on investment, and the extent to which the applicant's proposed or expanded activities will enhance or diversify the State's capacity and competitiveness in the field of emerging technology or biotechnology.

d. The Department of Commerce and Economic Development and the authority may promote economic development in disadvantaged urban areas of the State, where emerging technology or biotechnology joint ventures have been or will be established.

**HISTORY:** L. 1995, c. 137, § 6.



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*N.J. Stat. § 34:1B-7.42a (2014)*

§ 34:1B-7.42a. Corporation business tax benefit certificate transfer program

a. The New Jersey Economic Development Authority shall establish within the New Jersey Emerging Technology and Biotechnology Financial Assistance Program established pursuant to P.L.1995, c.137 (*C.34:1B-7.37 et seq.*), a corporation business tax benefit certificate transfer program to allow new or expanding emerging technology and biotechnology companies in this State with unused amounts of research and development tax credits otherwise allowable which cannot be applied for the credit's tax year due to the limitations of subsection b. of section 1 of P.L.1993, c.175 (*C.54:10A-5.24*) and unused net operating loss carryover pursuant to subparagraph (B) of paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162 (*C.54:10A-4*), to surrender those tax benefits for use by other corporation business taxpayers in this State, provided that the taxpayer receiving the surrendered tax benefits is not affiliated with a corporation that is surrendering its tax benefits under the program established under P.L.1997, c.334. For the purposes of this section, the test of affiliation is whether the same entity directly or indirectly owns or controls 5% or more of the voting rights or 5% or more of the value of all classes of stock of both the taxpayer receiving the benefits and a corporation that is surrendering the benefits. The tax benefits may be used on the corporation business tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate to assist in the funding of costs incurred by the new or expanding emerging technology and biotechnology company.

b. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by new or expanding emerging technology and biotechnology companies in this State with unused but otherwise allowable carryover of research and development tax credits pursuant to section 1 of P.L.1993, c.175 (*C.54:10A-5.24*), and unused but otherwise allowable net operating loss carryover pursuant to paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162 (*C.54:10A-4*), to surrender those tax benefits in exchange for private financial assistance to be made by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate in an amount equal to at least 80% of the amount of the surrendered tax benefit. Provided that the amount of the surrendered tax benefit for a surrendered research and development tax credit carryover is the amount of the credit, and provided that the amount of the surrendered tax benefit for a surrendered net operating loss carryover is the amount of the loss multiplied by the new or expanding emerging technology or biotechnology company's anticipated allocation factor, as determined pursuant to section 6 of P.L.1945, c.162 (*C.54:10A-6*) for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate provided pursuant to subsection (c) of section 5 of P.L.1945, c.162 (*C.54:10A-5*). The authority shall be authorized to approve the transfer of no more than \$ 60,000,000 of tax benefits in a State fiscal year. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds \$ 60,000,000 for a State fiscal year, the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall not be authorized to approve the transfer of more than \$ 60,000,000 for that State fiscal year and shall allocate the transfer of tax benefits by approved companies using the following method:

(1) an eligible applicant with \$ 250,000 or less of transferable tax benefits shall be authorized to surrender the entire amount of its transferable tax benefits;

(2) an eligible applicant with more than \$ 250,000 of transferable tax benefits shall be authorized to surrender a minimum of \$ 250,000 of its transferable tax benefits;

(3) (Deleted by amendment, P.L.2009, c.90.)

(4) an eligible applicant with more than \$ 250,000 shall also be authorized to surrender additional transferable tax benefits determined by multiplying the applicant's transferable tax benefits less the minimum transferable tax benefits that company is authorized to surrender under paragraph (2) of this subsection by a fraction, the numerator of which is the total amount of transferable tax benefits that the authority is authorized to approve less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection and the denominator of which is the total amount of transferable tax benefits requested to be surrendered by all eligible applicants less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection;

(5) The authority shall establish the boundaries for three innovation zones to be geographically distributed in the northern, central, and southern portions of this State. Of the \$ 60,000,000 of transferable tax benefits authorized for each State fiscal year, \$ 10,000,000 shall be allocated for the surrender of transferable tax benefits exclusively by new and expanding emerging technology and biotechnology companies that operate within the boundaries of the innovation zones, except that any portion of the \$ 10,000,000 that is not so approved shall be available for that State fiscal year for the surrender of transferable tax benefits by new and expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone.

If the total amount of transferable tax benefits that would be authorized using the above method exceeds \$ 60,000,000 for a State fiscal year, then the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall limit the total amount of tax benefits authorized to be transferred to \$ 60,000,000 by applying the above method on an apportioned basis.

For purposes of this section transferable tax benefits include an eligible applicant's unused but otherwise allowable carryover of net operating losses multiplied by the applicant's anticipated allocation factor as determined pursuant to section 6 of P.L.1945, c.162 (*C.54:10A-6*) for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate as provided in subsection (c) of section 5 of P.L.1945, c.162 (*C.54:10A-5*) plus the total amount of the applicant's unused but otherwise allowable carryover of research and development tax credits. An eligible applicant's transferable tax benefits shall be limited to net operating losses and research and development tax credits that the applicant requests to surrender in its application to the authority and shall not, in total, exceed the maximum amount of tax benefits that the applicant is eligible to surrender.

No application for a corporation business tax benefit transfer certificate shall be approved in which the new or expanding emerging technology or biotechnology company (1) has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board; or (2) is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its combined financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board.

The maximum lifetime value of surrendered tax benefits that a corporation shall be permitted to surrender pursuant to the program is \$ 15,000,000. Applications must be received on or before June 30 of each State fiscal year.

The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the amount of a grant of a corporation business tax benefit certificate from the new or expanding emerging technology and biotechnology company having surrendered tax benefits pursuant to this section in the event the taxpayer fails to use the private financial assistance received for the surrender of tax benefits as required by this section or fails to maintain a headquarters or a base of operation in this State during the five years following receipt of the private financial assistance; except if the failure to maintain a headquarters or a base of operation in this State is due to the liquidation of the new or expanding emerging technology and biotechnology company.

c. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by taxpayers under the Corporation Business Tax Act (1945), P.L.1945, c.162 (*C.54:10A-1 et seq.*), to acquire surrendered tax benefits approved pursuant to subsection b. of this section which shall be issued in the form of corporation business tax benefit transfer certificates, in exchange for private financial assistance to be made by the taxpayer in an amount equal to at least 80% of the amount of the surrendered tax benefit of an emerging technology or biotechnology company in the State. A corporation business tax benefit transfer certificate shall not be issued unless the applicant certifies that as of the date of the exchange of the corporation business tax benefit certificate it is operating as a new or expanding emerging technology or biotechnology company and has no current intention to cease operating as a new or expanding emerging technology or biotechnology company.

The private financial assistance shall assist in funding expenses incurred in connection with the operation of the new or expanding emerging technology or biotechnology company in the State, including but not limited to the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the authority to be necessary to carry out the purposes of the New Jersey Emerging Technology and Biotechnology Financial Assistance Program.

The authority shall require a corporation business taxpayer that acquires a corporation business tax benefit certificate to enter into a written agreement with the new or expanding emerging technology or biotechnology company concerning the terms and conditions of the private financial assistance made in exchange for the certificate. The written agreement may contain terms concerning the maintenance by the new or expanding emerging technology or biotechnology company of a headquarters or a base of operation in this State.

d. (Deleted by amendment, P.L.2009, c.90.)

**HISTORY:** L. 1997, c. 334, § 1, eff. Jan. 12, 1998; amended 1999, c. 140, § 2, eff. June 28, 1999; 2004, c. 65, § 18, eff. June 30, 2004; 2009, c. 90, § 29, eff. July 28, 2009.

**NOTES:**

Amendment Note:

2009 amendment, by Chapter 90, in the opening paragraph of b., substituted "80%" for "70%" in the first sentence, and rewrote the third and fourth sentences; deleted b.(3); in b.(4), substituted "paragraph (2)" for "paragraph (2) or (3)" and twice substituted "paragraphs (1), (2), and (5)" for "paragraphs (1), (2), (3) and (5)"; rewrote the second sentence of b.(5) and rewrote the following paragraph; inserted the paragraph of b. that begins "No application for a corporation business tax benefit transfer certificate shall be approved" (the subject matter of which was partially covered in former d.); in the next to last paragraph of b., substituted "\$15,000,000" for "\$10,000,000" in the first sentence, and rewrote the second sentence to delete reference to State fiscal year 2000; deleted the former last paragraph of b., which was identical to the second paragraph of c. except that it began "The private financial assistance shall be used to fund"; added the present last paragraph of b., pertaining to recapture; in the first sentence of c., substituted "80%" for "70%"; transferred the last paragraph of former d. to become the third paragraph of c., pertaining to a written agreement; and deleted the remainder of d., which pertained in part to criteria for approval of applications.

OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected technical errors in L. 2009, c. 90, § 29.

Editor's Note:

Findings, declarations relative to L. 2009, c. 90, the "New Jersey Economic Stimulus Act of 2009," which amended this section, see *52:27D-489b*.

Effective Dates:

Section 4 of L. 1997, c. 334 provides: "This act shall take effect immediately and sections 1 through 3 shall apply to tax years beginning on or after January 1 next following enactment." Chapter 334, L. 1997, was approved on Jan. 12, 1998.

## N.J. Stat. § 34:1B-7.42a

Section 5 of L. 1999, c. 140 provides: "This act shall take effect immediately and apply to tax years beginning on and after January 1, 1999." Chapter 140, L. 1999, was approved on June 28, 1999.

Section 27 of L. 2004, c. 65 provides: "This act shall take effect immediately; sections 1 through 17 shall apply to State fiscal years beginning July 1, 2004 and thereafter; and section 25 shall apply to qualified equipment placed in service during privilege periods beginning on or after July 1, 2004." Chapter 65, L. 2004, was approved on June 30, 2004.

Cross References:

Definitions relative to certain corporation tax benefit program, see *34:1B-7.42b*.

Authorization to approve certain transfers of tax benefits, see *34:1B-7.42c*.

Definitions, see *54:10A-4*.

Attachment of certificate to return for net operating loss carryover, see *54:10A-4.2*.

Attachment of certificate to return for research and development tax credit carryover, see *54:10A-5.24a*.



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*N.J. Stat. § 34:1B-7.42b (2014)*

§ 34:1B-7.42b. Definitions relative to certain corporation tax benefit program

As used in P.L.1997, c.334 (*C.34:1B-7.42a* et al.):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (*C.34:1B-4*).

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

"Biotechnology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes.

"Full-time employee" means a person employed by a new or expanding emerging technology or biotechnology company for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," *N.J.S.54A:1-1* et seq., or who is a partner of a new or expanding emerging technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," *N.J.S.54A:1-1* et seq. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (*C.17B:27-54*), a health benefits plan as defined under section 1 of P.L.1992, c.162 (*C.17B:27A-17*), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 [*N.J.S.17B:27-26* et seq.] of chapter 27 of Title 17B of the New Jersey Statutes. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology company.

"New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (*C.34:1B-7.42a* et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than

three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition.

"Technology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service.

**HISTORY:** L. 1999, c. 140, § 1, eff. June 28, 1999; amended 2009, c. 90, § 30, eff. July 28, 2009; 2010, c. 10, § 2, eff. May 5, 2010.

**NOTES:**

Amendment Note:

2009 amendment, by Chapter 90, added the definition of "Full-time employee"; in the definitions of "Biotechnology company" and "Technology company", inserted "that owns, has filed for, or has a valid license to use protected, proprietary intellectual property"; rewrote the definition of "New or expanding", which formerly read: "'New or expanding' means a technology or biotechnology company that has fewer than 225 employees, of whom 75% are New Jersey-based employees filling a position or job in this State"; and made stylistic changes.

2010 amendment, by Chapter 10, in the definition of "Biotechnology company", deleted "or a person whose headquarters or base of operations is located in this State, engaged in providing services or products necessary for such research, development, production, or provision" following "environmental purposes"; and rewrote the definition of "New or expanding", which formerly read: "'New or expanding' means a technology or biotechnology company that at the end of the calendar year prior to the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (*C.34:1B-7.42a* et al.), on the date on which the application is submitted, and on the date on which the company receives the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; but that has at least one full-time employee working in this State if the company has been incorporated for less than three years, that has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and that has at least 10 full-time employees working in this State if the company has been incorporated for more than five years."

Publisher's Note: The bracketed material was added by the Publisher to provide a reference.

Editor's Note:

Section 4 of L. 1999, c. 140 provides: "Notwithstanding any provision of P.L.1968, c.410 (*C.52:14B-1* et seq.) to the contrary, the New Jersey Economic Development Authority and the Division of Taxation in the Department of the Treasury may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the authority or division respectively deems necessary for it to implement the provisions of P.L.1999, c.140 (*C.34:1B-7.42b* et al.), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Such regulations may thereafter be amended, adopted or readopted by the authority or the division as the authority or division deems necessary in accordance with the requirements of P.L.1968, c.410."

Effective Dates:

Section 5 of L. 1999, c. 140 provides: "This act shall take effect immediately and apply to tax years beginning on and after January 1, 1999." Chapter 140, L. 1999, was approved on June 28, 1999.

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.



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*N.J. Stat. § 34:1B-7.42c (2014)*

§ 34:1B-7.42c. Authorization to approve certain transfers of tax benefits

Notwithstanding the provisions of subsection b. of section 1 of P.L.1997, c.334 (*C.34:1B-7.42a*) or the provisions of any other law, rule, or regulation to the contrary, the authority shall be authorized to approve the transfer of no more than \$ 30,000,000 of tax benefits in State Fiscal Year 2011; provided however, that of the \$ 30,000,000 of transferable tax benefits authorized for State Fiscal Year 2011, \$ 5,000,000 shall be allocated by the authority for the surrender of transferable tax benefits exclusively by new or expanding emerging technology and biotechnology companies that operate within the boundaries of an innovation zone; provided further, that any portion of the \$ 5,000,000 that is not so approved by the authority shall be available in State Fiscal Year 2011 for the surrender of transferable tax benefits by new or expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone.

**HISTORY:** L. 2010, c. 20, § 1, eff. June 29, 2010.



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*N.J. Stat. § 34:1B-7.43 (2014)*

§ 34:1B-7.43. Report

Not later than one year following the effective date of this act, and for each succeeding year in which a financial assistance agreement entered into under this act is in effect, the authority shall prepare a report on the program. The report shall include, but need not be limited to, a description of the demand for the program from emerging technology and biotechnology companies and financial institutions, the efforts made by the authority to promote the program, the total amount of financial assistance approved by the authority pursuant to the program and an assessment of the effectiveness of the program in meeting the goals of this act. The authority shall submit its report to the Governor and the Legislature, including therein any recommendations for legislation to improve the effectiveness of the program.

**HISTORY:** L. 1995, c. 137, § 7.



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*N.J. Stat. § 34:1B-7.44 (2014)*

§ 34:1B-7.44. Rules, regulations

The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (*C.52:14B-1 et seq.*), any rules and regulations necessary to effectuate the purposes of this act. In developing procedures and forms to be used in connection with the application for and approval of financial assistance pursuant to this act, the authority shall consider the special needs and problems of emerging technology and biotechnology companies in the State.

**HISTORY:** L. 1995, c. 137, § 8.



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*N.J. Stat. § 34:1B-7.45 (2014)*

§ 34:1B-7.45. Short title [Pension Bond Financing Act of 1997]

This act shall be known and may be cited as the "Pension Bond Financing Act of 1997."

**HISTORY:** L. 1997, c. 114, § 1.

**NOTES:**

Cross References:

Contingent reserve fund., see *18A:66-18*.

Computation of contributions; valuation of assets; contingent reserve fund, see *43:6A-33*.

Contingent reserve fund, see *43:15A-24*.

Contributions, expenses of administration., see *43:16A-15*.

Contingent reserve fund, see *53:5A-34*.



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*N.J. Stat. § 34:1B-7.46 (2014)*

§ 34:1B-7.46. Findings, declarations relative to issuance of bonds, notes, other obligations to fund accrued pension liability

The Legislature finds and declares that:

a. The State currently makes contributions on an annual basis to fund the State's obligations under its various pension funds and retirement systems, consisting, in part, of the "unfunded accrued liability contribution" representing pension benefits earned in prior years which, pursuant to standard actuarial practices, are not yet fully funded.

b. The State's current unfunded accrued liability is approximately \$ 3.2 billion for the following State pension funds and retirement systems: the Teachers' Pension and Annuity Fund; the Public Employees' Retirement System -- State portion only; the Police and Firemen's Retirement System -- State portion only; the State Police Retirement System; the Judicial Retirement System; the Prison Officers' Pension Fund; and the Consolidated Police and Firemen's Pension Fund; and the primary reason for this unfunded accrued liability is the required inclusion of funding for pension adjustment or cost-of-living-adjustment benefits within these funds or systems.

c. It is in the public interest to fund this unfunded accrued liability, in full or in part, through the issuance of bonds, notes or other obligations by the New Jersey Economic Development Authority which shall be retired through annual payments to be made by the State, subject to appropriation by the State Legislature.

d. By issuing bonds, notes or other obligations to fund, in full or in part, this unfunded accrued liability, the State will achieve significant savings and will eliminate the need for pension contributions on an annual basis to fund this unfunded accrued liability.

e. It is intended that the proceeds from sale or sales of bonds, notes or other obligations for the purposes of funding the unfunded accrued pension liability shall not be less than approximately \$ 2.7 billion; provided, however, that notwithstanding the foregoing, any series of bonds, notes or other obligations issued under this act, whether or not yielding proceeds of \$ 2.7 billion or less, shall be authorized and valid if issued in accordance with section 4 of this act.

f. It is anticipated that the bonds, notes or other obligations to be issued will be amortized over a shorter period of time than the actuarial amortization of the unfunded liability; and the difference between the payment of principal and interest on the bonds, notes or other obligations and the estimated contributions by the State under the actuarial amortization will provide significant savings to the State.

**HISTORY:** L. 1997, c. 114, § 2.



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*N.J. Stat. § 34:1B-7.47 (2014)*

§ 34:1B-7.47. Definitions relative to issuance of bonds, notes, other obligations to fund accrued pension liability

As used in this act:

- a. "Bonds" means bonds, notes or other obligations issued by the authority pursuant to this act.
- b. "New Jersey Economic Development Authority" or "authority" means the New Jersey Economic Development Authority created pursuant to section 4 of P.L.1974, c.80 (*C.34:1B-4*).
- c. "Refunding bonds" means bonds, notes or other obligations issued to refinance bonds, notes or other obligations previously issued by the authority pursuant to section 4 of this act.
- d. "Unfunded accrued pension liability" means the unfunded accrued liability of the State under: the Teachers' Pension and Annuity Fund, determined as of March 31, 1996 under *N.J.S.18A:66-18*; the Judicial Retirement System, determined as of June 30, 1996 under section 33 of P.L.1973, c.140 (*C.43:6A-33*); the Prison Officers' Pension Fund, determined as of June 30, 1996 under P.L.1941, c.220 (*C.42:7-7 et seq.*); the Public Employees' Retirement System, determined as of March 31, 1996 under section 24 of P.L.1954, c.84 (*C.43:15A-24*); the Consolidated Police and Firemen's Pension Fund, determined as of June 30, 1996 under *R.S.43:16-5*; the Police and Firemen's Retirement System, determined as of June 30, 1995 under section 15 of P.L.1944, c.255 (*C.43:16A-15*); and the State Police Retirement System, determined as of June 30, 1996 under section 34 of P.L.1965, c.89 (*C.53:5A-34*), and certified by the State Treasurer and reported to the authority pursuant to section 4 of this act.

**HISTORY:** L. 1997, c. 114, § 3.



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*N.J. Stat. § 34:1B-7.48 (2014)*

§ 34:1B-7.48. Powers of authority concerning bonds

Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to the provisions of this act and P.L.1974, c.80 (*C.34:1B-1 et seq.*), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 5 and 6 of this act, for the purpose of providing funds for the payment, in full or in part, of the unfunded accrued pension liability, as such unfunded accrued pension liability is certified by the State Treasurer and reported to the authority, and any costs related to the issuance thereof. The authority may establish reserve or other funds to further secure bonds and refunding bonds. The bonds shall be in the amount to yield proceeds of \$ 2.75 billion to fund, all or in part, the unfunded accrued pension liability, plus additional bonds to pay for the costs of issuance.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds, pledge the contract with the State Treasurer, provided for in section 6 of this act, or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 5 and 6 of this act, which costs may include, but are not limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the authority attributable to the payment of the unfunded accrued pension liability, and costs attributable to the agreements described in subsection c. of this section. The bonds or refunding bonds shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 38 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 5 and 6 of this act. The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued pursuant to this act, the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (*C.34:1B-4*), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of financial advisors and experts, placement agents, underwriters, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this act, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, and the State Police Retirement System to be applied to the payment, in full or in part, of the unfunded accrued pension liability of the State under these funds and systems as directed by the State Treasurer, or in such other manner as the State Treasurer and the authority may determine.

h. All bonds or refunding bonds issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment on bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer, inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

i. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of section 4 of this act except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

j. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

**HISTORY:** L. 1997, c. 114, § 4.



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*N.J. Stat. § 34:1B-7.49 (2014)*

§ 34:1B-7.49. Payments of debt service to authority; schedule

a. The State Treasurer shall, in each State fiscal year, pay from the General Fund to the authority, in accordance with a contract or contracts between the State Treasurer and the authority, authorized pursuant to section 6 of this act, an amount equivalent to the amount due to be paid in such State fiscal year to pay the debt service incurred for such State fiscal year on the bonds or refunding bonds of the authority issued pursuant to this act and any additional costs authorized by section 4 of this act.

b. In addition to such terms and conditions as are agreed upon pursuant to section 6 of this act, the contract or contracts shall provide that all such payments from the General Fund shall be subject to, and dependent upon, appropriations being made from time to time by the Legislature for such purposes and shall further provide for a payment schedule and requirements as follows:

(1) For State fiscal year 1998, an amount not less than the amount that would be required to be applied in that State fiscal year to the amortization schedule of the unfunded accrued pension liability, as that liability is defined in subsection d. of section 3 of this act and actuarially determined as of the dates specified therein (hereinafter "unfunded accrued pension liability payment");

(2) For each of the State fiscal years from 1999 through 2004, inclusive, an amount not less than the sum of the respective unfunded accrued pension liability payment plus \$ 25 million;

(3) For each of the State fiscal years from 2005 through 2020, inclusive, an amount not less than the respective unfunded accrued pension liability payment;

(4) For each of the State fiscal years from 2021 through 2035, or such State fiscal year after 2021 and prior to 2035 in which the last of the bonds issued under this act are retired, as appropriate, an amount not less than the unfunded accrued pension liability payment for State fiscal year 2020 and not more than the unfunded accrued pension liability payment for State fiscal year 2021;

(5) No payments under the contract or contracts shall be required for bonds that are defeased or bonds for which a deposit sufficient to provide for all payments on the bonds has been made; and

(6) Notwithstanding any other provision of this section to the contrary, under all payment provisions set forth in this section, annual amounts to be paid shall be sufficient to pay the debt service on the bonds and any refunding bonds, and any additional costs authorized by section 4 of this act for the appropriate years.

**HISTORY:** L. 1997, c. 114, § 5.



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*N.J. Stat. § 34:1B-7.50 (2014)*

§ 34:1B-7.50. State, authority contracts authorized; terms, conditions

The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 5 of this act. The contract or contracts shall provide for payment by the State Treasurer of the amounts required to be paid pursuant to section 5 of this act and shall set forth the procedure for the transfer of moneys for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions as are determined by the parties, and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds of the authority issued pursuant to this act; provided, however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such funds as shall be determined by the contract or contracts and further provided that the incurrence of any obligation of the State under the contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

**HISTORY:** L. 1997, c. 114, § 6.



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*N.J. Stat. § 34:1B-7.51 (2014)*

§ 34:1B-7.51. Annual report, contents

The State Treasurer shall, on or before April 1 of each year, issue a report on the financing provided for in this act to the Governor, the Senate President, the Speaker of the General Assembly, and the chairs of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee or the respective successor committees. The report shall include, but not be limited to: the outstanding debt and the payments provided for in section 5 of this act for the current State fiscal year; the cumulative amount of debt incurred, debt retired and payments and, as appropriate, debt outstanding from prior State fiscal years for which bonds or refunding bonds have been issued pursuant to this act; and estimates of same for the remainder of time in which any debt incurred pursuant to this act is outstanding.

**HISTORY:** L. 1997, c. 114, § 7.



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*N.J. Stat. § 34:1B-7.52 (2014)*

§ 34:1B-7.52. Supersedure by act

It is the intent of the Legislature that in the event of any conflict or inconsistency between the provisions of this act and any other law pertaining to the purposes of this act, to the extent of the conflict or inconsistency, the provisions of this act shall be enforced and the provisions of the other law shall be of no effect.

**HISTORY:** L. 1997, c. 114, § 8.



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*N.J. Stat. § 34:1B-7.53 (2014)*

§ 34:1B-7.53. Severability of act

If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

**HISTORY:** L. 1997, c. 114, § 9.



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*N.J. Stat. § 34:1B-8 (2014)*

§ 34:1B-8. Public utility facilities; definition; powers

The authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances herein called "public utility facilities" of any public utility, as defined in *R.S. 48:2-13*, in, on, along, over or under any project.

Whenever the authority shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be, located in, on, along, over or under any project, should be relocated, or should be removed from such project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the authority; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights of the public utility paid to the public utility in connection with the relocation or removal of such property, shall be ascertained and paid by the authority as a part of the cost of such project. In case of any such relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

**HISTORY:** L. 1974, c. 80, 8, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-9 (2014)*

§ 34:1B-9. Power to authorize issuance of bonds

For the purpose of providing funds (a) to pay all or any part of the cost of any project or projects, (b) to make loans in accordance with the provisions of P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*), and (c) for the funding or refunding any bonds pursuant to P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*) or section 6 of P.L. 2001, c. 401 (*C. 34:1B-4.1*), the authority shall have power to authorize or provide for the issuance of bonds pursuant to P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*).

**HISTORY:** L. 1974, c. 80, § 9; amended 2001, c. 401, § 4, eff. Jan. 8, 2002.

**NOTES:**

Cross References:

Powers of authority by resolution, see *34:1B-10*.



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*N.J. Stat. § 34:1B-10 (2014)*

§ 34:1B-10. Powers of authority by resolution

By resolution, the authority shall have power to incur indebtedness, borrow money and issue its bonds for the purposes stated in section 9 of P.L. 1974, c. 80 (*C. 34:1B-9*). Except as may otherwise be expressly provided by the authority, or by the provisions of section 6 of P.L. 2001, c. 401 (*C. 34:1B-4.1*), every issue of its bonds shall be general obligations of the authority payable from any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Such bonds shall be authorized by resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as such resolution may provide. Bonds of the authority may be sold by the authority at public or private sale at such price or prices as the authority shall determine.

**HISTORY:** L. 1974, c. 80, § 10; amended 2001, c. 401, § 5, eff. Jan. 8, 2002.



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*N.J. Stat. § 34:1B-11 (2014)*

§ 34:1B-11. Bonds; negotiability

Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of Title 12A, Commercial Transactions, of the New Jersey Statutes, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said Title 12A.

**HISTORY:** L. 1974, c. 80, 11, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-12 (2014)*

§ 34:1B-12. Covenants with bondholders

In order to secure the payment of such bonds and in addition to its other powers, the authority shall have power by resolution to covenant and agree with the several holders of such bonds, as to:

- a. The custody, security, use, expenditure or application of the proceeds of the bonds;
- b. The use, regulation, operation, maintenance, insurance or disposition of all or any part of any project or projects;
- c. Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;
- d. The use and disposition of any moneys of the authority, including all revenues or other moneys derived or to be derived from any project or projects;
- e. Pledging, setting aside, depositing or trusteeing all or any part of the revenues or other moneys of the authority to secure the payment of the principal of or interest on the bonds or any other obligations and the powers and duties of any trustee with regard thereto;
- f. The setting aside out of the revenues or other moneys of the authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;
- g. The rents, fees or other charges for the use of any project or projects, including any parts thereof theretofore constructed or acquired and any parts, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same;
- h. Limitation on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the authority;
- i. Vesting in a trustee or trustees, fiscal or escrow agent or agents within or without the State such property, rights, powers and duties in trust as the authority may determine and limiting the rights, duties and powers of such trustee or agent;
- j. Payment of costs or expenses incident to the enforcement of the bonds or of the provisions of the resolution or of any covenant or contract with the holders of the bonds;
- k. The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

1. Any other matter or course of conduct which, by recital in the resolution, is declared to further secure the payment of the principal of or interest on the bonds.

All such provisions of the resolution and all such covenants and agreements shall constitute valid and legally-binding contracts between the authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action, suit or proceeding in any court of competent jurisdiction, or by proceeding in lieu of prerogative writ.

**HISTORY:** L. 1974, c. 80, 12, eff. Aug. 7, 1974. Amended by L. 1975, c. 253, 4, eff. Nov. 25, 1975.



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*N.J. Stat. § 34:1B-13 (2014)*

§ 34:1B-13. Pledge of revenues; lien

Any pledge of revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the authority.

**HISTORY:** L. 1974, c. 80, 13, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-14 (2014)*

§ 34:1B-14. Nonliability of members of authority, or of state or political subdivision

Neither the members of the authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued by the authority pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision, either legal, moral or otherwise, and nothing in this act contained shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision, and all such bonds shall contain on the face thereof a statement to that effect.

**HISTORY:** L. 1974, c. 80, 14, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-15 (2014)*

§ 34:1B-15. Powers constitute essential government function; tax exempt status

The exercise of the powers granted by this act, P.L.2000, c.72 (*C.18A:7G-1* et al.), and P.L.2007, c.137 (*C.52:18A-235* et al.) shall constitute the performance of an essential governmental function and the authority shall not be required to pay any taxes or assessments upon or in respect of a project or school facilities project, or any property or moneys of the authority, and the authority, its projects and school facilities projects, property and moneys and any bonds and notes issued under the provisions of this act, P.L.2000, c.72 (*C.18A:7G-1* et al.), and P.L.2007, c.137 (*C.52:18A-235* et al.), their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance and estate taxes and by any political subdivision of the State; provided, that any person occupying a project whether as lessee, vendee or otherwise shall, as long as title thereto shall remain in the authority, pay to the political subdivision in which such project is located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made and neither the authority nor its projects, properties, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. If and to the extent the proceedings under which the bonds authorized to be issued under the provisions of this act so provide, the authority may agree to cooperate with such person occupying a project, in connection with any administrative or judicial proceedings for determining the validity or amount of such payments and may agree to appoint or designate and reserve the right in and for such person to take all action which the authority may lawfully take in respect of such payments and all matters relating thereto, provided such person shall bear and pay all costs and expenses of the authority thereby incurred at the request of such person or by reason of any such action taken by such person in behalf of the authority. If such person occupying a project has paid the amounts in lieu of taxes required by this section to be paid such person shall not be required to pay any such taxes as to which a payment in lieu thereof has been made to the State or to any political subdivision, any other statute to the contrary notwithstanding.

**HISTORY:** L. 1974, c. 80, § 15; amended 2000, c. 72, § 49, eff. July 18, 2000; 2007, c. 137, § 58, eff. Aug. 6, 2007.

**NOTES:**

Amendment Note:

2007 amendment, by Chapter 137, inserted "and P.L.2007, c.137 (*C.52:18A-235* et al.)" two times in the first sentence, and made related changes.

Cross References:

State, county college may enter into certain contracts with a private entity, see *18A:64-85*.

Authority's activities, tax exempt; in lieu of taxes on commercial activities, see *34:1B-162*.

LexisNexis (R) Notes:

OPINIONS OF ATTORNEY GENERAL

1. FORMAL OPINION No. 7 -- 1977, *1977 N.J. AG LEXIS 19*.



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*N.J. Stat. § 34:1B-15.1 (2014)*

§ 34:1B-15.1. Contiguous municipalities with project; agreements to share revenues; reciprocal ordinances

The governing bodies of any two contiguous municipalities within which is located or is to be located a New Jersey Economic Development Authority project situated in part within each municipality, may by reciprocal ordinances enter into agreements with each other to share all tax revenues, payments in lieu of taxes or other revenues as shall be derived from the entire project, and to which they are by law entitled, in such proportion as they deem proper.

**HISTORY:** L. 1977, c. 463, 1, eff. March 2, 1978.



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*N.J. Stat. § 34:1B-15.2 (2014)*

§ 34:1B-15.2. Agreement; apportionment of costs of services and services to be supplied

Any agreement entered into pursuant to section 1 of this act for the sharing of payments and revenues derived from a project shall also set forth the manner in which the costs of municipal services to such project are to be apportioned and specify the services to be supplied by each municipality in sufficient detail so as to permit the owners, occupants and users of property within the project to determine the responsibilities of each participating municipality.

**HISTORY:** L. 1977, c. 463, 2, eff. March 2, 1978.



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*N.J. Stat. § 34:1B-16 (2014)*

§ 34:1B-16. Legal investments

Notwithstanding any restriction contained in any other law, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control in any bonds or notes issued by the authority under the provisions of this act; and said bonds and notes are hereby made securities which may properly and legally be deposited with and received by any State or municipal officers or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

**HISTORY:** L. 1974, c. 80, 16, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-17 (2014)*

§ 34:1B-17. Sureties or collateral for deposits of authority

All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are hereby authorized to give to the authority a good and sufficient undertaking with such sureties as shall be approved by the authority to the effect that such bank or banking institution as hereinbefore described shall faithfully keep and pay over to the order of or upon the warrant of the authority or its authorized agent all such funds as may be deposited with it by the authority and agreed interest thereon, at such times or upon such demands as may be agreed with the authority or in lieu of such sureties, deposit with the authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the authority may approve. The deposits of the authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the authority and such bank or banking institution.

**HISTORY:** L. 1974, c. 80, 17, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-18 (2014)*

§ 34:1B-18. Inapplicability of other laws

The foregoing sections of this act shall be deemed to provide a complete method for the doing of things authorized thereby and shall be regarded as not in conflict with, or as restrictive of, powers conferred by any other laws, and the provisions of this act shall be complete authority for the issuance of bonds by the authority and the provisions of any other laws shall not apply to the issuance of such bonds.

**HISTORY:** L. 1974, c. 80, 18, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-19 (2014)*

§ 34:1B-19. Severability

If any section, part, phrase, or provision of this act of the application thereof to any person, project or circumstances, be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons, projects or circumstances.

**HISTORY:** L. 1974, c. 80, 19, eff. Aug. 7, 1974.



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*N.J. Stat. § 34:1B-20 (2014)*

§ 34:1B-20. Counties; contracts with authority; resolution; powers for financial aid

a. Any county, by resolution of its governing body, shall have power to enter into contracts with the authority relating to any project or projects situated within the county; provided, however, that any such resolution shall be introduced in writing at a meeting of the governing body and shall be passed upon first reading which may be by title, and thereafter, the resolution shall be published with notice of the introduction thereof and of the date, time and place of further consideration for final passage, and on the date and at the time and place so advertised, all persons interested shall be given the opportunity to be heard and after such hearing, the governing body may proceed to reject or finally adopt the resolution by the recorded affirmative votes of at least two-thirds of the full membership of the governing body; and provided, further, that such resolution shall contain findings and determinations of the governing body (1) that the project will maintain employment opportunities in such county or provide new employment opportunities in such county and (2) that the contract with the authority is a necessary inducement to the undertaking of such project in that it makes the financing thereof feasible. Such contract or contracts may provide for the payment to the authority by such county annually or otherwise of such sum or sums of money, computed at fixed amounts or by any formula, or in any other manner as may be fixed in or pursuant thereto. Any such contract may be made and entered into for a term beginning currently or at some future or contingent date and with or without consideration and for a specified or unlimited time and on any terms and conditions which may be approved by such county and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds, and shall be valid and binding on such county whether or not an appropriation is made thereby prior to authorization or execution of such contract. Every such county is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform any such contract entered into by it and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such county.

b. For the purpose of aiding the authority and cooperating in the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of any project situate in any county, any such county, by ordinance of its governing body, shall have power from time to time and for such period and upon such terms, with or without consideration, as may be provided by such ordinance and accepted by the authority (1) to appropriate moneys for the purposes of the authority with respect to such project, and to loan or donate such money to the authority in such installments and upon such terms as may be agreed upon with the authority, (2) upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize or perform and after appropriation of the moneys, if any, necessary for such performance, to covenant and agree with the authority to do and perform such act or thing and as to the time, manner and other details of its doing and performance, and (3) to appropriate money for all or any part of the cost of the acquisition or construction of such project, and, in accordance with the limitations and exceptions thereto and in the manner or mode of procedure prescribed by the local bond law to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of such project and appropriation, and to pay the proceeds of such bonds to the authority.

c. Any contract, and any instrument making or evidencing the same, may be pledged or assigned by the authority, with the consent of the county executing such contract, to secure its bonds and thereafter may not be modified except as provided by the terms of such instrument or by the terms of such pledge or assignment.

**HISTORY:** L. 1975, c. 253, 5, eff. Nov. 25, 1975.



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*N.J. Stat. § 34:1B-21 (2014)*

§ 34:1B-21. Property of authority; exemption from execution or other judicial process

All property of an authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the authority on or with respect to any project or any revenues or other moneys.

**HISTORY:** L. 1975, c. 253, 6, eff. Nov. 25, 1975.



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*N.J. Stat. § 34:1B-21.1 (2014)*

§ 34:1B-21.1. Short title [Good Driver Protection Act of 1994]

This act shall be known and may be cited as the "Good Driver Protection Act of 1994."

**HISTORY:** L. 1994, c. 57, § 1.

**NOTES:**

Cross References:

Market Transition Facility, see *17:33B-11*.

Issuance of Market Transition Facility, Motor Vehicle Commission bonds, notes, see *34:1B-21.4*.

Payment of redemption of bonds, notes, see *34:1B-21.6*.

Use of monies, agreements, exemption from taxation, see *34:1B-21.8*.

Bonds, notes as special, limited obligations, see *34:1B-21.9*.

LexisNexis (R) Notes:

**CASE NOTES**

1. Plaintiff property and casualty insurance companies challenge to the Good Driver Protection Act of 1994, *N.J. Stat. Ann. § 34:1B-21.1*, on equal protection grounds was rejected because the fact that some members of the burdened class did not directly benefit from the Joint Underwriting Association (JUA) system was not sufficient to render the classification arbitrary or unreasonable. *Affiliated FM Ins. Co. v. State*, 338 N.J. Super. 540, 770 A.2d 741, 2001 N.J. Super. LEXIS 152 (App.Div. 2001).

2. Plaintiff property and casualty insurance companies challenge to the Good Driver Protection Act of 1994, *N.J. Stat. Ann. § 34:1B-21.1*, on equal protection grounds was rejected because the fact that some members of the burdened class did not directly benefit from the Joint Underwriting Association (JUA) system was not sufficient to render the classification arbitrary or unreasonable. *Affiliated FM Ins. Co. v. State*, 338 N.J. Super. 540, 770 A.2d 741, 2001 N.J. Super. LEXIS 152 (App.Div. 2001).



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*N.J. Stat. § 34:1B-21.2 (2014)*

§ 34:1B-21.2. Findings, declarations

The Legislature hereby finds and declares:

a. The Market Transition Facility, created pursuant to section 88 of P.L.1990, c. 8 (*C. 17:33B-11*) to serve as an interim residual market mechanism and successor to the New Jersey Automobile Full Insurance Underwriting Association created pursuant to P.L.1983, c. 65 (*C. 17:30E-1* et seq.), ceased issuing and renewing private passenger automobile insurance policies on September 30, 1992. It is expected to have an operating deficit which the facility has projected to be approximately \$ 1.3 billion.

b. The "Fair Automobile Insurance Reform Act of 1990," P.L.1990, c. 8 (*C. 17:33B-1* et al.), provided that any losses sustained in the operation of the facility be apportioned to the member insurers of the facility. Subsequently, certain of these member insurers filed suit against the Commissioner of Insurance, challenging an order of the commissioner which apportioned these losses among the member insurers. Pending a resolution of the court challenge, the Superior Court has enjoined the use by the facility of the amounts paid by the member insurers in accordance with the commissioner's order; as a result, those persons with claims against the facility have not been paid.

c. In its present financial condition, it is likely that the facility would be declared financially impaired or insolvent under the provisions of P.L.1975, c. 113 (*C. 17:30C-1* et seq.). Because of the interim nature of the facility, however, initiating proceedings under that law is not in the best interests of the facility's policyholders and other claimants under the policies written by it. Because of this, and given the cost of pursuing protracted litigation with member insurers over this issue, it is deemed to be in the public interest to find a means of providing the necessary money to pay the claims now pending against the facility in the most expeditious manner possible.

d. Moreover, to safeguard the interests of the policyholders and the public, it is deemed to be in the public interest for the Commissioner of Insurance to take immediate possession of the property and assets of the facility, in accordance with the provisions of this act, and for the commissioner to evaluate and monitor the performance of those entities charged with paying claims on the facility's behalf and to make such adjustments to any executory contracts of the facility as he believes are in the best interest of the policyholders and the public, including the modification or termination of such contracts or consolidation of servicing operations.

**HISTORY:** L. 1994, c. 57, § 2.



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*N.J. Stat. § 34:1B-21.3 (2014)*

§ 34:1B-21.3. Definitions

For the purposes of sections 1 through 15 of this act:

"Commissioner" means the Commissioner of Insurance.

"Division of Motor Vehicles Surcharge Fund" or "DMV Surcharge Fund" means the fund created pursuant to section 12 of this act.

"Market Transition Facility" or "facility" means the Market Transition Facility created pursuant to section 88 of P.L.1990, c. 8 (*C. 17:33B-11*).

"Market Transition Facility Revenue Fund" or "Facility Revenue Fund" means the fund created pursuant to section 7 of this act.

"New Jersey Economic Development Authority" or "authority" means the New Jersey Economic Development Authority created pursuant to section 4 of P.L.1974, c. 80 (*C. 34:1B-4*).

**HISTORY:** L. 1994, c. 57, § 3.



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*N.J. Stat. § 34:1B-21.4 (2014)*

§ 34:1B-21.4. Issuance of Market Transition Facility, Motor Vehicle Commission bonds, notes

a. The authority shall have the power to issue Market Transition Facility bonds or notes in an amount not to exceed \$ 750 million, pursuant to the provisions of this act, under the powers given to it by and pursuant to P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*), for the purpose of providing funds for the payment of the current and anticipated liabilities and expenses of the facility, as such liabilities and expenses are certified by the commissioner. Bonds issued for the purpose of refinancing previously issued bonds or notes shall not be included in the calculation of the dollar amount limitation and bonds issued for the purpose of refinancing previously issued bonds or notes shall be approved by the Joint Budget Oversight Committee prior to the refinancing. The bonds or notes shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from funds in the Facility Revenue Fund. All Market Transition Facility bonds shall have a final maturity of not later than July 1, 2011.

b. The authority shall also have the power to issue New Jersey Motor Vehicle Commission bonds, notes or other obligations, pursuant to P.L. 1994, c. 57 (*C. 34:1B-21.1 et seq.*) and to the powers given to it by and pursuant to P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*), for the purpose of providing funds for the payment of any and all capital costs of New Jersey Motor Vehicle Commission facilities, including, but not limited to, the acquisition, demolition, construction or maintenance of all or any part of a New Jersey Motor Vehicle Commission facility; any other personal property necessary for, or ancillary to, any New Jersey Motor Vehicle Commission facility, including fixtures, furnishings and equipment, including computer equipment and computer software; site acquisition, site development, acquisition of land or other real property interests necessary in the development of a New Jersey Motor Vehicle Commission facility; the services of design professionals, such as engineers and architects; construction management, legal services, financing and administrative costs and expenses incurred in connection with any such project; provided, however, that bonds, notes or other obligations shall not be issued in an amount exceeding \$ 160 million in the aggregate without the prior approval of the Joint Budget Oversight Committee. Bonds issued for the purpose of refinancing previously issued bonds, notes or other obligations shall not be included in the calculation of the dollar amount limitation. The bonds, notes or other obligations shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to the section and the costs thereof are discharged and no longer outstanding. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from monies in the Market Transition Facility Revenue Fund.

c. Of the aggregate amount of New Jersey Motor Vehicle Commission bonds, notes or other obligations authorized to be issued in subsection b. of this section, \$ 10,000,000 of the proceeds of those bonds, notes or other obligations shall be transferred by the New Jersey Motor Vehicle Commission to the Administrative Office of the Courts for improvements to the Automated Traffic System, which improvements shall be deemed included in the purpose of providing for the payment of the costs of any and all capital costs of the commission facilities.

**HISTORY:** L. 1994, c. 57, § 4; amended 2003, c. 13, § 111; 2004, c. 83, § 1, eff. July 2, 2004.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.

Cross References:

Motor Vehicle Violations Surcharge System, see *17:29A-35*.

Powers of authority, see *34:1B-21.5*.

Payment of redemption of bonds, notes, see *34:1B-21.6*.

Use of monies, agreements, exemption from taxation, see *34:1B-21.8*.

Bonds, notes as special, limited obligations, see *34:1B-21.9*.

Division of Motor Vehicles Surcharge Fund, see *34:1B-21.12*.

Definitions relative to motor vehicle surcharges securitization bonds, see *34:1B-21.24*.

Applicability of P.L. 2004, c. 83 to prior bond proceeds, see *34:1B-21.5a*.



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*N.J. Stat. § 34:1B-21.5 (2014)*

§ 34:1B-21.5. Powers of authority

a. For the purpose of providing funds for payment of current and anticipated liabilities and expenses of the facility, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund. The bonds or notes shall be payable from the monies in the Facility Revenue Fund. The bonds or notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

b. For the purpose of providing funds for payment of any and all capital costs of New Jersey Motor Vehicle Commission facilities, including, but not limited to the acquisition, demolition, construction or maintenance of all or any part of a New Jersey Motor Vehicle Commission facility; any other personal property necessary for, or ancillary to, any New Jersey Motor Vehicle Commission facility, including fixtures, furnishings and equipment, including computer equipment and computer software; site acquisition, site development, acquisition of land or other real property interests necessary in the development of a New Jersey Motor Vehicle Commission facility; the services of design professionals, such as engineers and architects; construction management, legal services, financing and administrative costs and expenses incurred in connection with any such project, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L. 1994, c. 57 (*C. 34:1B-21.4*) and the costs thereof are discharged and no longer outstanding. The bonds or notes shall be payable solely from the monies in the Facility Revenue Fund. The bonds and notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

**HISTORY:** L. 1994, c. 57, § 5; amended 2003, c. 13, § 112; 2004, c. 83, § 2, eff. July 2, 2004.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on

the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.

Cross References:

Applicability of P.L. 2004, c. 83 to prior bond proceeds, see *34:1B-21.5a*.



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*N.J. Stat. § 34:1B-21.5a (2014)*

§ 34:1B-21.5a. Applicability of P.L. 2004, c. 83 to prior bond proceeds

Notwithstanding any other provisions of law to the contrary, the provisions of section 4 of P.L. 1994, c. 57 (*C. 34:1B-21.4*) and section 5 of P.L. 1994, c. 57 (*C. 34:1B-21.5*), as amended by this act, shall also apply to the use of the proceeds of bonds issued prior to the effective date of this act.

**HISTORY:** L. 2004, c. 83, § 3, eff. July 2, 2004.



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*N.J. Stat. § 34:1B-21.6 (2014)*

§ 34:1B-21.6. Payment of redemption of bonds, notes

The authority may, in any resolution authorizing the issuance of the bonds or notes, pledge the Facility Revenue Fund or a portion thereof for payment of the redemption of the Market Transition Facility bonds or notes and, from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L. 1994, c. 57 (C. 34:1B-21.4) and the costs thereof are discharged and no longer outstanding, New Jersey Motor Vehicle Commission bonds or notes, and covenant as to the use and disposition of monies in the Facility Revenue Fund. All costs associated with the issuance of the bonds or notes by the authority for the purposes set forth in P.L. 1994, c. 57 (C. 34:1B-21.1 et seq.) may be paid by the authority from the Facility Revenue Fund, which costs may include, but shall not be limited to, any costs related to the issuance of the bonds or notes, operating expenses of the authority attributable to the payment of facility current and anticipated liabilities and expenses, and costs of, and any payment due under, any agreement entered into pursuant to the provisions of subsection b. of section 8 of P.L. 1994, c. 57 (C. 34:1B-21.8). Monies in the Facility Revenue Fund shall not be used for any other project of the authority.

**HISTORY:** L. 1994, c. 57, § 6; amended 2003, c. 13, § 113.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.



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*N.J. Stat. § 34:1B-21.7 (2014)*

§ 34:1B-21.7. "Market Transition Facility Revenue Fund"

There is created within the authority a special nonlapsing fund, to be known as the "Market Transition Facility Revenue Fund." The Facility Revenue Fund shall consist of:

a. Such moneys as may be transferred to the Facility Revenue Fund by the State Treasurer, upon appropriation by the Legislature, pursuant to section 14 of P.L. 1994, c. 57 (*C. 34:1B-21.14*);

b. Such moneys as may be appropriated to the Facility Revenue Fund by the Legislature from surcharges levied pursuant to the provisions of subsection b. of section 6 of P.L. 1983, c. 65 (*C. 17:29A-35*), except that any such moneys in excess of the amounts required to be used by the authority pursuant to any bond resolutions authorizing the issuance of Market Transition Facility bonds and notes, the authority's agreement with the State Treasurer authorized by section 13 of P.L. 1994, c. 57 (*C. 34:1B-21.13*) and any bond resolutions authorizing the issuance of Motor Vehicle Commission bonds and notes shall be at least annually remitted

(1) in each fiscal year commencing prior to July 1, 2006, to the General Fund provided that the first \$ 7,500,000 of such moneys so transferred in each such fiscal year shall be remitted to the "Alcohol Treatment Programs Fund" created in section 2 of P.L. 2001, c. 48 (*C. 26:2B-9.2*); and

(2) in each fiscal year commencing on or after July 1, 2006, to the Motor Vehicle Surcharges Revenue Fund established pursuant to section 6 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L. 2004, c. 70 (*C. 34:1B-21.28*), to be applied as set forth therein, until such time as all bonds, notes and other obligations issued or entered into pursuant to section 4 of P.L.2004, c.70 (*C.34:1B-21.26*) and the costs thereof are discharged and no longer outstanding;

c. Interest or other income derived from the investment of moneys in the Facility Revenue Fund; and

d. Any other moneys as may be deposited from time to time, except that such moneys shall not be appropriated from the General Fund.

Moneys in the Facility Revenue Fund shall be managed and invested by the Division of Investment in the Department of the Treasury.

**HISTORY:** L. 1994, c. 57, § 7; amended 2003, c. 13, § 114; 2004, c. 70, § 8, eff. June 30, 2004.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a ma-

jority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.

Cross References:

Definitions relative to motor vehicle surcharges securitization bonds, see *34:1B-21.24*.

Powers of authority, see *34:1B-21.26*.

LexisNexis (R) Notes:

CASE NOTES

1. Surcharges owed to the New Jersey division of motor vehicles were not payable to and for the benefit of a governmental unit and thus, the bankruptcy court's judgment discharging the debtor's debt for the surcharges under *11 U.S.C.S. § 523(a)(7)* was affirmed; under N.J. Stat. Ann. §§ 34:1B-21.7b, 17:29A-35b(2), the surcharged funds were used to repay investors, whether private or public, before any surplus reached the general fund of the state treasury and the main function of the New Jersey Automobile Full Insurance Underwriting Association and Market Transition Facility Revenue Fund was as underwriters, issuers of insurance policies, functions that were non-governmental in nature under the definition of governmental unit of *11 U.S.C.S. § 101(27)*. *Legreide v. Pulley (In re Pulley)*, 303 B.R. 81, 2003 U.S. Dist. LEXIS 23501, 51 Collier Bankr. Cas. 2d (MB) 757 (D.N.J. 2003).



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*N.J. Stat. § 34:1B-21.8 (2014)*

§ 34:1B-21.8. Use of monies, agreements, exemption from taxation

a. The authority may use the monies in the Market Transition Facility Revenue Fund to pay the principal and interest and premium, if any, on the Market Transition Facility bonds or notes issued by it pursuant to section 4 of P.L.1994, c.57 (*C.34:1B-21.4*) and, from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (*C.34:1B-21.4*) and the costs thereof are discharged and no longer outstanding, New Jersey Motor Vehicle Commission bonds or notes issued by it pursuant to section 4 of P.L.1994, c.57. The authority may create any other fund or funds by resolution of the authority which it deems necessary to further secure the Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes or otherwise effectuate the purposes of this act, including a fund for the deposit of the proceeds from Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes provided for in section 4 of P.L. 1994, c. 57.

b. The authority may, in connection with its duties and responsibilities under P.L. 1994, c. 57 (*C. 34:1B-21.1 et seq.*), or in connection with any duties and responsibilities provided for in P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*), enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, insurance contract, surety bond, commitment to purchase bonds, purchase or sale agreement, or commitments or other contracts or agreements in connection with the authorization, issuance, sale or payment of bonds.

c. All Market Transition Facility bonds or notes and New Jersey Motor Vehicle Commission bonds or notes issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other monies received or to be received by the authority and pledged and available to pay or secure the payment on Market Transition Facility bonds or notes and the New Jersey Motor Vehicle Commission bonds or notes or pledged or available to pay or secure payment on such bonds or notes or interest thereon shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

**HISTORY:** L. 1994, c. 57, § 8; amended 2003, c. 13, § 115.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions

have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.

Cross References:

Payment of redemption of bonds, notes, see *34:1B-21.6*.



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*N.J. Stat. § 34:1B-21.9 (2014)*

§ 34:1B-21.9. Bonds, notes as special, limited obligations

Market Transition Facility bonds and notes issued by the authority shall be special and limited obligations which are payable only from monies on deposit in the Facility Revenue Fund. New Jersey Motor Vehicle Commission bonds and notes issued by the authority shall be special and limited obligations which are payable only from monies on deposit in the Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L. 1994, c. 57 (*C. 34:1B-21.4*) and the costs thereof are discharged and no longer outstanding. Neither the members of the authority nor any other person executing the Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes provided for in section 4 of P.L. 1994, c. 57, shall be liable personally with respect to payment of interest and principal on these bonds or notes or obligations of the facility. Market Transition Facility bonds, notes, New Jersey Motor Vehicle Commission bonds or notes, or any other obligations issued pursuant to the provisions of P.L. 1994, c. 57 (*C. 34:1B-21.1 et seq.*), shall not be a debt or liability of the State or any agency or instrumentality thereof, either legal, moral, or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision, and all debt instruments issued by the authority shall contain a statement to that effect on their face.

**HISTORY:** L. 1994, c. 57, § 9; amended 2003, c. 13, § 116.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.



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*N.J. Stat. § 34:1B-21.10 (2014)*

§ 34:1B-21.10. State pledge regarding bonds, notes, other obligations

The State hereby pledges and covenants with the holders of any Market Transition Facility bonds, notes or other obligations and New Jersey Motor Vehicle Commission bonds, notes or other obligations issued pursuant to the provisions of P.L. 1994, c. 57, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds, notes, or other obligations. The State also pledges and covenants with the holders of any such bonds, notes, or obligations, that it will not act to prevent the authority from obtaining any of the revenues provided for in this act, which shall be sufficient to meet all costs and expenses in connection with the issuance of such obligations, until the bonds, notes, or other obligations, together with interest thereon, are fully met and discharged or payment thereof is fully provided for, except that the failure of the State to appropriate monies for any purpose of this act shall not be deemed a violation of this section.

**HISTORY:** L. 1994, c. 57, § 10; amended 2003, c. 13, § 117.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.



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*N.J. Stat. § 34:1B-21.11 (2014)*

§ 34:1B-21.11. Statement from Department of the Treasury, authority

No later than four months following the issuance of any Market Transition Facility bonds or notes, the Department of the Treasury, in conjunction with the authority, shall provide a statement providing:

a. All final costs on an item by item basis associated with the issuance of the Market Transition Facility bonds or notes. This statement shall be distributed to the President of the Senate and the Speaker of the General Assembly. The statement shall list, as applicable, costs for:

- (1) Bond counsel;
- (2) Financial advisors;
- (3) Paying agents and registrars;
- (4) Rating agencies;
- (5) Official statement printing;
- (6) Bond printing;
- (7) Trustees;
- (8) Credit enhancement;
- (9) Liquidity facility; and
- (10) Miscellaneous issuance costs;

b. The final breakdown of the principal amount of bonds allocated to each senior manager, co-senior manager and manager participating in the bond issuance, and each underwriter's spread, broken down into the following components where applicable, and accompanied by a list of underwriter spreads from recent comparable bond issues:

- (1) Management fees;
- (2) Underwriting fees;
- (3) Selling concessions;
- (4) Underwriter's counsel; and
- (5) Other costs.

**HISTORY:** L. 1994, c. 57, § 11.



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*N.J. Stat. § 34:1B-21.12 (2014)*

§ 34:1B-21.12. Division of Motor Vehicles Surcharge Fund

There is created within the Department of the Treasury a special nonlapsing fund to be known as the "Division of Motor Vehicles Surcharge Fund," which, beginning September 1, 1996 or earlier as provided pursuant to this section, shall be comprised of moneys transferred to the DMV Surcharge Fund from the Market Transition Facility which, notwithstanding the provisions of this section to the contrary, may be appropriated, immediately upon receipt from the Market Transition Facility, by the Legislature to the Facility Revenue Fund and all moneys collected pursuant to subsection b. of section 6 of P.L. 1983, c. 65 (C. 17:29A-35) and any interest or other income earned thereon. Moneys in the DMV Surcharge Fund shall be managed and invested by the Division of Investment in the Department of the Treasury. Commencing September 1, 1996, or at such earlier time as may be certified by the commissioner that moneys on deposit in the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L. 1990, c. 8 (C. 17:33B-5) are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, the moneys in the DMV Surcharge Fund shall be disbursed from time to time by the State Treasurer, upon appropriation by the Legislature, to the Market Transition Facility Revenue Fund, for payment of principal, interest and premium on the Market Transition Facility bonds or notes and New Jersey Motor Vehicle Commission bonds or notes issued by the authority pursuant to section 4 of P.L. 1994, c. 57 (C. 34:1B-21.4). From and after such time as all Market Transition Facility bonds, notes and obligations and all New Jersey Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L. 1994, c. 57 (C. 34:1B-21.4) and the costs thereof are discharged and no longer outstanding, all amounts on deposit in the DMV Surcharge Fund shall be disbursed from time to time by the State Treasurer, upon appropriation by the Legislature, to the Motor Vehicle Surcharges Revenue Fund established pursuant to section 6 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L. 2004, c. 70 (C. 34:1B-21.28) to be applied as set forth in section 6 of P.L. 2004, c. 70 (C. 34:1B-21.28) until such time as all bonds (including refunding bonds), notes and other obligations issued or entered into pursuant to section 4 of P.L. 2004, c. 70 (C. 34:1B-21.26) and the costs thereof are discharged and no longer outstanding.

**HISTORY:** L. 1994, c. 57, § 12; amended 2001, c. 48, § 1, eff. July 1, 2001; 2003, c. 13, § 118; 2004, c. 70, § 9, eff. June 30, 2004.

**NOTES:**

Effective Dates:

Section 4 of L. 2001, c. 48 provides: "This act shall take effect on the first day of the third month after enactment, except that section 3 shall take effect immediately." Chapter 48, L. 2001, was approved on April 4, 2001.

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a ma-

majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.

Cross References:

Motor Vehicle Violations Surcharge System, see *17:29A-35*.

Market Transition Facility, see *17:33B-11*.

Alcohol Treatment Programs Fund, see *26:2B-9.2*.

Definitions relative to motor vehicle surcharges securitization bonds, see *34:1B-21.24*.

Powers of authority, see *34:1B-21.26*.



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*N.J. Stat. § 34:1B-21.13 (2014)*

§ 34:1B-21.13. Agreements between EDA and State; EDA and Motor Vehicle Commission

a. The State Treasurer and the authority may enter into any agreements as may be necessary to effectuate the provisions of this act, which may include, but not be limited to, procedures for the transfer of monies from the DMV Surcharge Fund to the Market Transition Facility Revenue Fund as provided for in section 12 of this act, commencing with the fiscal year beginning July 1, 1994, with respect to the terms and conditions relative to the securing of Market Transition Facility bonds, notes, and other obligations of the authority and New Jersey Motor Vehicle Commission bonds, notes and other obligations of the authority, the pledge and assignment of any agreement or agreements authorized herein, or any payments to the trustees of these bondholders. Notwithstanding any provision of P.L.1974, c. 80 (*C. 34:1B-1 et seq.*), this act or any regulation of the authority to the contrary, the authority shall be paid only such fees as shall be determined by the agreement.

b. The commissioner and the authority shall also enter into an agreement relative to a procedure for the transfer of monies for the purpose of paying the current and anticipated liabilities and expenses of the facility, including private passenger automobile claims and other claims against the facility. The agreement shall contain a provision that the commissioner shall certify from time to time, but not more frequently than monthly, an amount necessary to fund payments made, or anticipated to be made by or on behalf of the Market Transition Facility. The commissioner's certification shall be deemed conclusive. The authority shall cause the transfer to be made to the designated transferee within 15 days of the receipt of the commissioner's certification.

c. The authority is authorized to enter into an agreement with the New Jersey Motor Vehicle Commission relative to the provision by the authority to the commission of the proceeds from the sale of the New Jersey Motor Vehicle Commission bonds for the purpose of providing funds for the payment of the costs of any and all capital improvements to or for New Jersey Motor Vehicle Commission facilities, including, but not limited to, building improvements and the acquisition and installation of furniture, fixtures, machinery, computers and electronic equipment.

**HISTORY:** L. 1994, c. 57, § 13; amended 2003, c. 13, § 119.

**NOTES:**

Effective Dates:

Section 127 of L. 2003, c. 13 provides: "Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the 'date of certification') that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue

shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act." Chapter 13, L. 2003, was approved on January 28, 2003.

Cross References:

"Market Transition Facility Revenue Fund", see *34:1B-21.7*.



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*N.J. Stat. § 34:1B-21.14 (2014)*

§ 34:1B-21.14. Transfer of monies to Facility Revenue Fund

The State Treasurer shall, as soon as practicable after the effective date of this act, and upon appropriation by the Legislature, transfer to the Market Transition Facility Revenue Fund \$ 100 million of the monies transferred to the DMV Surcharge Fund by the Market Transition Facility.

**HISTORY:** L. 1994, c. 57, § 14.

**NOTES:**

Cross References:

"Market Transition Facility Revenue Fund", see *34:1B-21.7*.



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*N.J. Stat. § 34:1B-21.15 (2014)*

§ 34:1B-21.15. Semi-annual reports

a. The commissioner shall prepare a semi-annual report for the Governor, the President of the Senate and the Speaker of the General Assembly on the financial condition of the New Jersey Automobile Full Insurance Underwriting Association, the Market Transition Facility and the New Jersey Automobile Insurance Guaranty Fund.

b. The authority shall prepare a semi-annual report for the Governor, the President of the Senate and the Speaker of the General Assembly on the receipts and disbursements of the Market Transition Facility Revenue Fund.

c. The State Treasurer shall prepare a semi-annual report for the Governor, the President of the Senate and the Speaker of the General Assembly on the receipts and disbursements of the DMV Surcharge Fund.

**HISTORY:** L. 1994, c. 57, § 15.



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*N.J. Stat. § 34:1B-21.16 (2014)*

§ 34:1B-21.16. Short title

This act shall be known and may be cited as the "Cigarette Tax Securitization Act of 2004."

**HISTORY:** L. 2004, c. 68, § 1, eff. June 30, 2004.

**NOTES:**

Cross References:

"Dedicated Cigarette Tax Revenue Fund.", see *34:1B-21.20*.



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*N.J. Stat. § 34:1B-21.17 (2014)*

§ 34:1B-21.17. Definitions relative to issuance of cigarette tax securitization bonds

The following words or terms as used in this act shall have the following meanings unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L. 1974, c. 80 (C. 34:1B-1 et seq.);

"Bonds" means any bonds, notes or other obligations issued or entered into by the authority pursuant to this act;

"Cigarette Tax" means the tax imposed by the State pursuant to the "Cigarette Tax Act," P.L. 1948, c. 65 (C. 54:40A-1 et seq.), as amended and supplemented, on the sale, use or possession for sale or use within the State of each cigarette;

"Cigarette Tax Securitization Fund" means the fund by that name created and established pursuant to section 7 of this act;

"Cigarette Tax Securitization Proceeds Fund" means the fund by that name created and established pursuant to section 3 of this act;

"Dedicated Cigarette Tax Revenue Fund" means the fund by that name created and established pursuant to section 5 of this act;

"Dedicated Cigarette Tax Revenues" means an amount equal to the revenue collected by the State during each State fiscal year beginning on and after July 1, 2006 from \$ 0.0325 of the cigarette tax; and

"Refunding Bonds" means any bonds, notes or other obligations issued by the authority to refinance bonds, notes or other obligations previously issued or entered into by the authority pursuant to this act.

**HISTORY:** L. 2004, c. 68, § 2, eff. June 30, 2004.



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*N.J. Stat. § 34:1B-21.18 (2014)*

§ 34:1B-21.18. "Cigarette Tax Securitization Proceeds Fund"

a. The authority shall establish and maintain a special nonlapsing fund to be known as the "Cigarette Tax Securitization Proceeds Fund" into which shall be deposited the following moneys:

(1) the proceeds from the sale of all bonds (other than refunding bonds) issued by the authority pursuant to this act which are remaining after any required deposit to any reserve or other fund established for such bonds or any refunding bonds in accordance with subsection a. of section 4 of this act and after the payment of all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or any refunding bonds;

(2) any amounts which shall be appropriated by the Legislature for the purposes of such fund; and

(3) any other amounts or funds which the authority shall determine to deposit into such fund.

Moneys on deposit in the Cigarette Tax Securitization Proceeds Fund shall be invested in such obligations as the authority may determine or as shall otherwise be provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act, and interest or other earnings on any such investments shall be credited to such fund.

b. Amounts on deposit in the Cigarette Tax Securitization Proceeds Fund shall be withdrawn by the authority from time to time, upon written request of the State Treasurer or as otherwise provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act, and paid to the State Treasurer for deposit into either the General Fund of the State or the Cigarette Tax Securitization Fund, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Cigarette Tax Securitization Proceeds Fund and deposited into the General Fund of the State as provided in this subsection shall represent financial resources and revenues of the State from that fund as certified by the Governor pursuant to *Article VIII, Section II, paragraph 2* of the State Constitution for the State annual appropriation act for such State fiscal year, and as may be applicable for such annual appropriation act as may be amended and supplemented from time to time. Notwithstanding any provision of this subsection to the contrary, the State Treasurer shall not request the authority to pay, and the authority shall not pay, to the State Treasurer during any State fiscal year amounts on deposit in the Cigarette Tax Securitization Proceeds Fund which are in excess of the amounts anticipated as revenues from such fund.

**HISTORY:** L. 2004, c. 68, § 3, eff. June 30, 2004.



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*N.J. Stat. § 34:1B-21.19 (2014)*

§ 34:1B-21.19. Powers of authority

Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to and in accordance with the provisions of this act and P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to this act for the purpose of providing funds

(1) for deposit into the Cigarette Tax Securitization Proceeds Fund;

(2) in the case of refunding bonds, to apply to the refunding, purchase or payment of any bonds issued pursuant to this act;

(3) to fund any capitalized interest on such bonds or refunding bonds;

(4) to fund any reserve or other fund as may be established by the authority for such bonds or refunding bonds and to further secure such bonds and refunding bonds as may be determined by the authority; and

(5) to pay all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or refunding bonds.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued by the authority pursuant to this act, pledge any contract entered into with the State Treasurer pursuant to section 6 of this act, or any part thereof, to secure the payment, purchase or redemption of bonds or refunding bonds or any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of this section 4, and covenant as to the use and disposition of money available to the authority for the payment, purchase or redemption of bonds and refunding bonds and the payment of any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of this section 4. All costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of bonds or refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 5 and 6 of this act, which costs, fees and other expenses may include, but are not limited to, any initial or annual administrative costs and fees of the authority attributable to any bonds or refunding bonds issued pursuant to this act, all legal, accounting, trustee or other professional fees, costs and expenses, and all other costs, fees, expenses, liabilities or obligations attributable to any agreement, contract or other commitment described in subsection c. of this section and any required rebate or other payment to the United States of America. The bonds or refunding bonds shall be authorized by resolution adopted by the authority, which shall stipulate the manner of execution and form of the bonds, whether the bonds or refunding bonds are to be issued in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 40 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the

sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 5 and 6 of this act. The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued or to be issued pursuant to this act, the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements (and in connection therewith, agreements establishing a line of credit, letter of credit, insurance or relating to the collateralization of the obligations thereunder), float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements as shall be determined and approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (*C.34:1B-4*), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, other than a special and limited obligation of the authority, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof other than the authority, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of bond counsel, financial advisors and experts, placement agents, underwriters, trustees, verification agents, remarketing agents, auction agents, broker-dealers, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. All bonds or refunding bonds issued by the authority pursuant to this act are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment of bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

h. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of this section, except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

i. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of the State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in

bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

**HISTORY:** L. 2004, c. 68, § 4, eff. June 30, 2004.

**NOTES:**

Cross References:

"Dedicated Cigarette Tax Revenue Fund.", see *34:1B-21.20*.



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*N.J. Stat. § 34:1B-21.20 (2014)*

§ 34:1B-21.20. "Dedicated Cigarette Tax Revenue Fund"

a. There is hereby created and established in the Department of the Treasury a separate nonlapsing fund to be known as the "Dedicated Cigarette Tax Revenue Fund." During the State fiscal year beginning July 1, 2006 and during each succeeding State fiscal year in which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act [C.34:1B-21.16 et al.] or is obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 [C.34:1B-21.19] of this act, the State Treasurer shall credit to such Fund, on a monthly basis, an amount equivalent to the dedicated cigarette tax revenues received by the State during each calendar month of such fiscal year. Provided however, that:

(1) no credits of dedicated cigarette tax revenues shall be made to the Dedicated Cigarette Tax Revenue Fund in any State fiscal year until the deposits of \$ 150,000,000 of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund have been fully made in such fiscal year,

(2) in each month of a State fiscal year beginning after the month in which the final deposits of \$ 150,000,000 of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund have been fully made for such fiscal year, the State Treasurer shall credit to the Dedicated Cigarette Tax Revenue Fund an amount equivalent to all revenue collected by the State from the cigarette tax during such calendar month until the amount credited to the Dedicated Cigarette Tax Revenue Fund from the beginning of such fiscal year equals the amount that would have been credited to such Fund since the beginning of such fiscal year in accordance with the preceding sentence if the deposits of \$ 150,000,000 of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund were not required to have been made, and

(3) thereafter, in each month of a State fiscal year, the State Treasurer shall credit (a) to the Dedicated Cigarette Tax Revenue Fund an amount equivalent to the dedicated cigarette tax revenues and (b) to the Health Care Subsidy Fund an amount equivalent to all remaining revenue collected by the State from the cigarette tax during such calendar month; provided, however, that the amount so credited to the Health Care Subsidy Fund shall not exceed \$ 215,000,000 in the aggregate for all such months in the State fiscal year, and shall not exceed \$ 241,500,000 in the aggregate for all such months in State fiscal years commencing on or after July 1, 2009.

b. In each State fiscal year during which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act or is obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 [C.34:1B-21.19] of this act, the State Treasurer shall pay to the authority solely from the Dedicated Cigarette Tax Revenue Fund in accordance with the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 [C.34:1B-21.21] of this act, an amount equal to the debt service payable on the authority's then outstanding bonds or refunding bonds issued pursuant to this act during such fiscal year and any amounts required to be paid by the authority during such fiscal year under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act and such other addi-

tional amounts as shall be authorized by this act and required to be paid to the authority pursuant to any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act; provided, however, that the payment of all such amounts to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of this act. Notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act and the incurrence of any obligation of the State under any such contract, including any payments to be made thereunder from the Dedicated Cigarette Tax Revenue Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

c. If the authority no longer has outstanding bonds or refunding bonds which have been issued pursuant to this act and is no longer obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act or to pay any other costs, fees, expenses, liabilities and other obligations incurred by the authority and the State pursuant to this act, then all monies on deposit in the Dedicated Cigarette Tax Revenue Fund shall be transferred to the General Fund.

**HISTORY:** L. 2004, c. 68, § 5, eff. June 30, 2004; amended 2006, c. 98, § 2, eff. Dec. 11, 2006; 2009, c. 70, § 4, eff. July 1, 2009.

**NOTES:**

Amendment Note:

2006 amendment, by Chapter 98, in a., inserted "\$150,000,000 of" in (1) and two times in (2), and added (3) and made related changes.

2009 amendment, by Chapter 70, in a.(3), added "and shall not exceed \$241,500,000 in the aggregate for all such months in State fiscal years commencing on or after July 1, 2009."

Publisher's Note: The bracketed material was added by the Publisher to provide a reference.

Effective Dates:

Section 5 of L. 2009, c. 70 provides: "This act shall take effect July 1, 2009." Chapter 70, L. 2009, was approved on June 29, 2009.

Cross References:

Disposition of revenue collected from cigarette tax, see *26:2H-18.58g*.



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*N.J. Stat. § 34:1B-21.21 (2014)*

§ 34:1B-21.21. Contracts to implement payment arrangement

The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 5 of this act. The contract or contracts shall provide for payment by the State Treasurer of the amounts required to be paid from the Dedicated Cigarette Tax Revenue Fund pursuant to section 5 of this act and shall set forth the procedure for the transfer of moneys for the purpose of paying such amounts. The contract or contracts shall contain such terms and conditions as are determined by the authority and the State Treasurer, and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds of the authority issued pursuant to this act or any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act; provided however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract or contracts, and the incurrence of any obligation of the State under any such contract or contracts, including any payments to be made thereunder from the Dedicated Cigarette Tax Revenue Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

**HISTORY:** L. 2004, c. 68, § 6, eff. June 30, 2004.

**NOTES:**

Cross References:

"Dedicated Cigarette Tax Revenue Fund.", see *34:1B-21.20*.



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*N.J. Stat. § 34:1B-21.22 (2014)*

§ 34:1B-21.22. "Cigarette Tax Securitization Fund"

There is hereby created and established in the Department of the Treasury a separate non-lapsing fund to be known as the "Cigarette Tax Securitization Fund." Revenue derived from the proceeds of bonds issued by the authority pursuant to this act may be deposited into the Cigarette Tax Securitization Fund and balances therein may be transferred to the General Fund.

**HISTORY:** L. 2004, c. 68, § 7, eff. June 30, 2004.



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*N.J. Stat. § 34:1B-21.23 (2014)*

§ 34:1B-21.23. Short title

This act shall be known and may be cited as the "Motor Vehicle Surcharges Securitization Act of 2004."

**HISTORY:** L. 2004, c. 70, § 1, eff. June 30, 2004.

**NOTES:**

Cross References:

Definitions relative to motor vehicle surcharges securitization bonds, see *34:1B-21.24*.

Motor Vehicle Surcharges Securitization Proceeds Fund, see *34:1B-21.25*.

Motor Vehicle Surcharges Securitization Fund, see *34:1B-21.30*.

Findings, declarations relative to special needs housing; trust fund, established; use, see *34:1B-21.25a*.



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*N.J. Stat. § 34:1B-21.24 (2014)*

§ 34:1B-21.24. Definitions relative to motor vehicle surcharges securitization bonds

The following words or terms as used in this act shall have the following meanings unless a different meaning clearly appears from the context:

"Agency" means the New Jersey Housing and Mortgage Finance Agency created pursuant to P.L. 1983, c. 530 (*C. 55:14K-1* et seq.);

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L. 1974, c. 80 (*C. 34:1B-1* et seq.);

"Bonds" means any bonds, notes or other obligations issued or entered into by the authority, bearing either a fixed rate or a variable rate of interest, issued by the authority pursuant to the "Motor Vehicle Surcharges Securitization Act of 2004," P.L. 2004, c. 70 (*C. 34:1B-21.23* et al.), the proceeds of which shall be applied in accordance with that act and P.L. 2005, c. 163 (*C. 34:1B-21.25a* et al.);

"Community residences" means group homes, supervised apartments, and other types of shared living environments that provide housing and treatment or specialized services needed to assist individuals with special needs to live in community settings;

"Cost of special needs housing project" means any and all expenses reasonably incurred by a project sponsor in connection with the acquisition, construction, improvement, or rehabilitation of property which is or shall be used for a special needs housing project, including, but not limited to, the costs and expenses of engineering, inspection, planning, legal, financial, or other professional services; the funding of appropriate reserves to address the anticipated future capital needs of a special needs housing project; and the administrative, organizational, or other expenses incident to the financing, completing, and placing into service of any special needs housing project authorized by P.L. 2005, c. 163 (*C. 34:1B-21.25a* et al.);

"Dedicated Motor Vehicle Surcharge Revenues" means:

a. on and after July 1, 2006, moneys required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the Facility Revenue Fund pursuant to subsection b. of section 7 of P.L. 1994, c. 57 (*C. 34:1B-21.7*),

b. on and after July 1, 2006, all Unsafe Driving Surcharges required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the Unsafe Driving Surcharges Fund pursuant to section 5 of this act, and

c. after such time as all Market Transition Facility bonds, notes and obligations and all New Jersey Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L. 1994, c. 57 (*C. 34:1B-21.4*), and the costs thereof are discharged and no longer outstanding, all other plan surcharges collected by the commission pursuant to subsection b. of section 6 of P.L. 1983, c. 65 (*C. 17:29A-35*) and required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the DMV Surcharge Fund pursuant to section 12 of P.L. 1994, c. 57 (*C. 34:1B-21.12*);

"Division of Motor Vehicles Surcharge Fund" or "DMV Surcharge Fund" means the fund created pursuant to section 12 of P.L. 1994, c. 57 (*C. 34:1B-21.12*);

"Individuals with mental illness" means individuals with a psychiatric disability or individuals with a mental illness eligible for housing or services funded by the Division of Mental Health Services in the Department of Human Services;

"Individuals with special needs" means individuals with mental illness, individuals with physical or developmental disabilities and individuals in other emerging special needs groups identified by State agencies;

"Market Transition Facility Revenue Fund" or "Facility Revenue Fund" means the fund created pursuant to section 7 of P.L. 1994, c. 57 (*C. 34:1B-21.7*);

"Motor Vehicle Surcharges Revenue Fund" means the fund within the authority created and established pursuant to section 6 of this act;

"Motor Vehicle Surcharges Securitization Proceeds Fund" means the fund created and established pursuant to section 3 of this act;

"Permanent supportive housing" means a range of permanent housing options such as apartments, condominiums, townhouses, single and multi-family homes, single room occupancy housing, shared living and supportive living arrangements that provide access to on-site or off-site supportive services for individuals and families who can benefit from housing with services;

"Project sponsor" means any person, partnership, corporation, limited liability company, association, whether organized as for profit or not for profit, or any governmental entity to which the agency has made or proposes to make a loan or a grant, or otherwise to provide assistance, to finance a special needs housing project;

"Refunding Bonds" means any bonds, notes or other obligations issued by the authority to refinance bonds, notes or other obligations previously issued by the authority pursuant to this act;

"Special needs housing project" means a housing development, or such portion of a housing development, that is permanent supportive housing or a community residence that is primarily for occupancy by individuals with special needs who shall occupy such housing as their usual and permanent residence, together with any structures or facilities, appurtenant or ancillary thereto, and shall include the planning, development, acquisition, construction and rehabilitation of structures, and residences undertaken by a project sponsor for such purposes, including the cost of land and structures, construction, rehabilitation or any interest therein;

"Unsafe Driving Surcharges Fund" means the fund within the Department of the Treasury created and established pursuant to section 5 of this act; and

"Unsafe Driving Surcharges" means the revenues received by the State resulting from the plan surcharges established as such pursuant to subparagraph (a) of paragraph (2) of subsection b. of section 6 of P.L. 1983, c. 65 (*C. 17:29A-35*) and assessed and collected pursuant to subsection f. of section 1 of P.L. 2000, c. 75 (*C. 39:4-97.2*) for convictions for unsafe driving pursuant to that section.

**HISTORY:** L. 2004, c. 70, § 2, eff. June 30, 2004; amended 2005, c. 163, § 4, eff. Aug. 3, 2005.



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*N.J. Stat. § 34:1B-21.25 (2014)*

§ 34:1B-21.25. Motor Vehicle Surcharges Securitization Proceeds Fund

a. The authority shall establish and maintain a special nonlapsing fund to be known as the "Motor Vehicle Surcharges Securitization Proceeds Fund" into which shall be deposited the following moneys:

(1) the proceeds from the sale of all bonds (other than refunding bonds) issued by the authority pursuant to this act which are remaining after any required deposit to any reserve or other fund established for such bonds or refunding bonds in accordance with subsection a. of section 4 of this act and after the payment of all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or refunding bonds;

(2) any amounts which shall be appropriated by the State Legislature for the purposes of such fund; and

(3) any other amounts or funds which the authority shall determine to deposit into such fund. Moneys on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund shall be invested in such obligations as the authority may determine or as shall otherwise be provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, and interest or other earnings on any such investments shall be credited to such fund.

b. Amounts on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund shall be withdrawn by the authority from time to time, and applied as set forth in paragraphs (1) and (2) of this subsection.

(1) Upon written request of the State Treasurer or as otherwise provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, and paid to the State Treasurer for deposit either into the General Fund of the State or into the Motor Vehicle Surcharges Securitization Fund, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Motor Vehicle Surcharges Securitization Proceeds Fund and deposited into the General Fund of the State as provided in this paragraph shall represent financial resources and revenues of the State upon deposit into the General Fund. Notwithstanding any provision of this paragraph to the contrary, the State Treasurer shall not request the authority to pay, and the authority shall not pay, to the State Treasurer during State fiscal year 2005 for deposit into the General Fund of the State, amounts on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund which are in excess of the amounts anticipated as revenues from that fund as certified by the Governor pursuant to *Article VIII, Section II, paragraph 2* of the State Constitution for the State annual appropriation act for State fiscal year 2005.

(2) Upon written request of the agency or as otherwise provided in any contract between the authority and the agency authorized and entered into pursuant to P.L. 2005, c. 163 (*C. 34:1B-21.25a* et al.), an amount not to exceed \$ 200,000,000 in the aggregate from the proceeds of bonds authorized under the "Motor Vehicle Surcharges Securitization Act of 2004," P.L. 2004, c. 70 (*C. 34:1B-21.23* et al.), shall be paid to the agency for deposit into the Special Needs

N.J. Stat. § 34:1B-21.25

Housing Trust Fund to fund the costs of special needs housing projects authorized pursuant to P.L. 2005, c. 163 (*C. 34:1B-21.25a* et al.).

**HISTORY:** L. 2004, c. 70, § 3, eff. June 30, 2004; amended 2005, c. 163, § 5, eff. Aug. 3, 2005.



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*N.J. Stat. § 34:1B-21.25a (2014)*

§ 34:1B-21.25a. Findings, declarations relative to special needs housing; trust fund, established; use

a. The Legislature finds and declares that:

(1) The State of New Jersey has the responsibility of providing for and assuring the continued operation of safe and humane residences for individuals who require supportive housing or extended care in a community residence;

(2) The State of New Jersey requires additional funding to continue efforts to create permanent supportive housing and community residences as alternatives to institutionalization or homelessness for those who would benefit from these programs;

(3) The State of New Jersey requires immediate programs: (i) to create additional units of permanent supportive housing and community residences through new construction or substantial rehabilitation; and (ii) to support community grants and loans to develop and ensure the long-term viability of such housing and residential opportunities for individuals with special needs with priority given to individuals with mental illness;

(4) Implementation of these programs will be a substantial step toward meeting the immediate and critical need of the people of New Jersey, will substantially further the public interest, and can most economically be financed through a bond issue;

(5) The establishment of the Special Needs Housing Trust Fund under the auspices of the New Jersey Housing and Mortgage Finance Agency, funded through the issuance of bonds by the New Jersey Economic Development Authority under the already authorized "Motor Vehicle Surcharges Securitization Act of 2004," P.L. 2004, c. 70 (*C. 34:1B-21.23* et al.), is the most desirable means to provide funding and to implement the programs.

b. There is established in the agency a special nonlapsing, revolving fund to be known as the Special Needs Housing Trust Fund. The proceeds from the sale of bonds issued by the authority pursuant to the "Motor Vehicle Surcharges Securitization Act of 2004," P.L. 2004, c. 70 (*C. 34:1B-21.23* et al.), to finance special needs housing projects pursuant to P.L. 2005, c. 163 (*C. 34:1B-21.25a* et al.) and deposited into the Motor Vehicle Surcharges Securitization Proceeds Fund shall be paid by the authority to the agency for deposit into the Special Needs Housing Trust Fund based upon executed agreements between the authority and the State Treasurer. For the purpose of obtaining moneys from the authority to be deposited into the Special Needs Housing Trust Fund, the agency may enter into agreements with the authority to receive moneys from the authority for any purposes authorized by P.L. 2005, c. 163 (*C. 34:1B-21.25a* et al.) and specified in the agreements between the agency and the authority. The proceeds of this fund shall be deposited in those depositories as may be selected by the agency to the credit of the fund.

c. Funds deposited into the Special Needs Housing Trust Fund shall be used by the agency to make loans, grants or other investments to finance or otherwise pay the costs of special needs housing projects, upon such terms as the agency shall determine. In making any of the foregoing loans, grants or other investments, the agency shall not be limited by any of the restrictions imposed by P.L. 1983, c. 530 (*C. 55:14K-1* et seq.) on eligible loans, funding or financial assis-

tance for housing projects, or other financing vehicles, and shall give priority to special needs housing projects benefiting persons with mental illness. Special needs housing projects funded from the Special Needs Housing Trust Fund shall be eligible for exemption from real property taxation pursuant to subsection b. of section 37 of P.L. 1983, c. 530 (*C. 55:14K-37*).

d. Pending their application to the purposes provided in P.L. 2005, c. 163 (*C. 34:1B-21.25a et al.*), the moneys in the Special Needs Housing Trust Fund may be invested and reinvested as are other trust funds in the custody of the agency, in the manner provided by law. Net earnings received from the investment or deposit of moneys in the Special Needs Housing Trust Fund shall remain in such fund and be applied to the purposes set forth in P.L. 2005, c. 163 (*C. 34:1B-21.25a et al.*).

e. The agency is authorized to promulgate the rules and regulations, policies and procedures necessary to effectuate the provisions and purposes of P.L. 2005, c. 163 (*C. 34:1B-21.25a et al.*) in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (*C. 52:14B-1 et seq.*).

**HISTORY:** L. 2005, c. 163, § 1, eff. Aug. 3, 2005.

**NOTES:**

Cross References:

Definitions relative to motor vehicle surcharges securitization bonds, see *34:1B-21.24*.

Motor Vehicle Surcharges Securitization Proceeds Fund, see *34:1B-21.25*.

Powers of agency as condition of loan, grant, investment for special needs housing projects, see *55:14K-7.2*.



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*N.J. Stat. § 34:1B-21.26 (2014)*

§ 34:1B-21.26. Powers of authority

Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to and in accordance with the provisions of this act and P.L. 1974, c. 80 (*C. 34:1B-1 et seq.*), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to this act for the purpose of providing funds:

- (1) for deposit into the Motor Vehicle Surcharges Securitization Proceeds Fund;
- (2) in the case of refunding bonds, to apply to the refunding, purchase or payment of any bonds issued pursuant to this act;
- (3) to fund any capitalized interest on such bonds or refunding bonds;
- (4) to fund any reserve or other fund as may be established by the authority for such bonds or refunding bonds and to further secure such bonds and refunding bonds as may be determined by the authority; and
- (5) to pay all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or refunding bonds.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued by the authority pursuant to this act, or the execution and delivery of any agreement authorized pursuant to subsection c. of this section, pledge the amounts from time to time on deposit in the Motor Vehicle Surcharges Revenue Fund and any contract entered into with the State Treasurer pursuant to section 7 of this act, or any part thereof, to secure the payment, purchase or redemption of the bonds or refunding bonds issued pursuant to this act or any obligations of the authority under any agreement entered into pursuant to subsection c. of this section, and covenant as to the use and disposition of money on deposit in the Motor Vehicle Surcharges Revenue Fund for payments of bonds and refunding bonds. All costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of bonds or refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 5 and 7 of this act, section 7 of P.L. 1994, c. 57 (*C. 34:1B-21.7*) and section 12 of P.L. 1994, c. 57 (*C. 34:1B-21.12*), which costs, fees and other expenses may include, but are not limited to, any initial or annual administrative costs and fees of the authority attributable to any bonds or refunding bonds issued pursuant to this act, all legal, accounting, trustee or other professional fees, costs and expenses, all other costs, fees and expenses (including, but not limited to, termination payments) attributable to any agreement, contract or other commitment described in subsection c. of this section and any required rebate or other payment to the United States of America. The bonds or refunding bonds shall be authorized by resolution adopted by the authority, which shall stipulate the manner of execution and form of the bonds, whether the bonds or refunding bonds are to be issued in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 40 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and

which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 5 and 6 of this act. The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued or to be issued pursuant to this act, the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L. 1974, c. 80 (*C. 34:1B-4*), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, other than a special and limited obligation of the authority, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, other than the authority, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of bond counsel, financial advisors and experts, placement agents, underwriters, trustees, verification agents, remarketing agents, auction agents, broker-dealers, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. All bonds or refunding bonds issued by the authority pursuant to this act are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment of bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

h. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of this section, except that the failure of the State Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

i. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, in-

cluding capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

**HISTORY:** L. 2004, c. 70, § 4, eff. June 30, 2004.

**NOTES:**

Cross References:

Motor Vehicle Violations Surcharge System, see *17:29A-35*.

"Market Transition Facility Revenue Fund", see *34:1B-21.7*.

Division of Motor Vehicles Surcharge Fund, see *34:1B-21.12*.



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*N.J. Stat. § 34:1B-21.27 (2014)*

§ 34:1B-21.27. "Unsafe Driving Surcharges Fund"

There is hereby established in the Department of the Treasury a special nonlapsing fund to be known as the "Unsafe Driving Surcharges Fund" which, beginning July 1, 2006, shall be comprised of all unsafe driving surcharges and any interest or other income earned thereon. Moneys in the Unsafe Driving Surcharges Fund shall be managed and invested by the Division of Investment in the Department of the Treasury. All moneys in the Unsafe Driving Surcharges Fund shall be disbursed not less frequently than monthly by the State Treasurer, upon appropriation, to the Motor Vehicle Surcharges Revenue Fund until all bonds and refunding bonds issued or entered into pursuant to section 4 of this act and the costs thereof have been paid in full.

**HISTORY:** L. 2004, c. 70, § 5, eff. June 30, 2004.

**NOTES:**

Cross References:

Motor Vehicle Violations Surcharge System, see 17:29A-35.



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*N.J. Stat. § 34:1B-21.28 (2014)*

§ 34:1B-21.28. "Motor Vehicle Surcharges Revenue Fund"

a. There is created within the authority a special nonlapsing fund, to be known as the "Motor Vehicle Surcharges Revenue Fund." The Motor Vehicle Surcharges Revenue Fund shall consist of:

(1) such moneys as may be appropriated to the Motor Vehicle Surcharges Revenue Fund by the Legislature and paid to the authority by the State Treasurer from Dedicated Motor Vehicle Surcharges Revenues;

(2) interest or other income derived from the investment of moneys in the Motor Vehicle Surcharges Revenue Fund; and

(3) any other moneys as may be deposited from time to time, except that such moneys shall not be appropriated from the General Fund.

b. In each State fiscal year during which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act, moneys in the Motor Vehicle Surcharges Revenue Fund may be used by the authority, in accordance with the provisions of any bond resolutions authorizing the issuance of bonds or refunding bonds pursuant to this act and any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, to pay debt service payable on the authority's then outstanding bonds or refunding bonds issued pursuant to this act and any amounts due in connection with any agreements entered into pursuant to subsection c. of section 4 of this act due in such fiscal year, to replenish any reserve or other fund established for such bonds or refunding bonds issued in accordance with subsection a. of section 4 of this act, and to pay any and all other additional amounts as shall be authorized by this act and required to be paid by the authority during such fiscal year, provided however, that the payment of all such amounts to the authority by the State Treasurer shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of this act. Notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act and the incurrence of any obligation of the State under any such contract, including any payments to be made thereunder, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

c. In each fiscal year beginning on or after July 1, 2006, all amounts on deposit in the Motor Vehicle Surcharges Revenue Fund in excess of the amount necessary to pay any amounts required to be paid by the authority pursuant to any bond resolutions authorizing the issuance of bonds or refunding bonds pursuant to this act or pursuant to any contract between the authority and the State Treasurer authorized or entered into pursuant to section 7 of this act and payable during such fiscal year shall be transferred to the General Fund, provided that the first \$ 7,500,000 of such moneys so transferred in each fiscal year shall be remitted to the "Alcohol Treatment Programs Fund" created in section 2 of P.L. 2001, c. 48 (C. 26:2B-9.2).

**HISTORY:** L. 2004, c. 70, § 6, eff. June 30, 2004.

**NOTES:**

Cross References:

Motor Vehicle Violations Surcharge System, see *17:29A-35*.

"Market Transition Facility Revenue Fund", see *34:1B-21.7*.

Division of Motor Vehicles Surcharge Fund, see *34:1B-21.12*.

Promotional payment incentives, see *39:2A-42*.



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*N.J. Stat. § 34:1B-21.29 (2014)*

§ 34:1B-21.29. Contracts to implement payment arrangement

The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 5 of this act. The contract or contracts shall provide for payment by the State Treasurer of the dedicated motor vehicle surcharge revenues and shall set forth the procedure for the transfer of moneys for the purpose of paying such amounts. The contract or contracts shall contain such terms and conditions as are determined by the authority and the State Treasurer, and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds of the authority issued under and pursuant to this act and the obligations of the authority under any agreement entered into pursuant to subsection c. of section 4 of this act; provided however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract or contracts, and the incurrence of any obligation of the State under any such contract or contracts, including any payments to be made thereunder from the dedicated motor vehicle surcharge revenues, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

**HISTORY:** L. 2004, c. 70, § 7, eff. June 30, 2004.



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*N.J. Stat. § 34:1B-21.30 (2014)*

§ 34:1B-21.30. Motor Vehicle Surcharges Securitization Fund

There is hereby created in the Department of the Treasury a separate nonlapsing fund to be known as the Motor Vehicle Surcharges Securitization Fund. Revenue derived from bonds issued under the "Motor Vehicle Surcharges Securitization Act of 2004," P.L. 2004, c. 70 (*C. 34:1B-21.23 et al.*) may be deposited into the Motor Vehicle Surcharges Securitization Fund and balances therein may be transferred to the General Fund.

**HISTORY:** L. 2004, c. 70, § 11, eff. June 30, 2004.



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*N.J. Stat. § 34:1B-21.31 (2014)*

§ 34:1B-21.31. Definitions relative to financing of certain stem cell, life sciences, and biomedical research facilities

As used in this act [C.34:1B-21.31 through C.34:1B-21.36], the following words or terms shall have the following meanings unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Biomedical research facilities" means one or more facilities owned by Rutgers, the State University, located in Camden, New Jersey, and operated by a consortium of Rutgers, The State University, The Coriell Institute for Medical Research, the Robert Wood Johnson Medical School at Camden, and the Cancer Institute of New Jersey, South Jersey, which will be utilized for biomedical research and related activities, including all facilities ancillary thereto;

"Blood collection facilities" means one or more facilities located in the State that will be utilized by the Elie Katz Umbilical Cord Blood Program at Community Blood Services located in Allendale, New Jersey, for cord blood collection to support stem cell research and related activities, including all facilities ancillary thereto;

"Bonds" means any bonds, notes or other obligations issued or entered into by the authority pursuant to this act;

"Cancer research facilities" means one or more facilities located in Belleville, New Jersey, that will be utilized by the Garden State Cancer Center for cancer research and related activities, including all facilities ancillary thereto;

"Capital cost" means the expenses incurred in connection with: the planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipping of State capital construction projects authorized by this act; the acquisition by purchase, lease, or otherwise, and the development of any real or personal property, and the acquisition and construction of new structures and equipment for use in connection with a State capital construction project authorized by this act, including any rights or interests therein, the execution of any agreements and franchises deemed to be necessary or useful and convenient in connection with any State capital construction project authorized by this act; the procurement of engineering, inspection, planning, legal, financial, or other professional services; the administrative, organizational, operating or other expenses incident to the financing, completing, and placing into service of any State capital construction project authorized by this act;

"Refunding bonds" means any bonds, notes or other obligations issued by the authority to refinance bonds, notes or other obligations previously issued or entered into by the authority pursuant to this act;

"State capital construction project" means a project that includes the acquisition of land, and the acquisition and construction of new structures and equipment for capital facilities by grant of the authority for State use and use by other units of government, which use shall include the occupancy by the State and other units of government, and the leasing and licensing of facilities to other entities by the State or other units of government, including stem cell research facilities - New Brunswick and stem cell research facilities - Newark, biomedical research facilities, blood collection

facilities and cancer research facilities, whose estimated cost of land, planning, acquisition, construction, furnishing and equipping is estimated to be \$ 50,000 or more;

"Stem cell research facilities - New Brunswick" means facilities located in New Brunswick, New Jersey, which shall be only utilized for stem cell research, including all facilities ancillary thereto; and

"Stem cell research facilities - Newark" means facilities operated by the New Jersey Institute of Technology and located in Newark, New Jersey, which shall be only utilized for stem cell research, including all facilities ancillary thereto.

**HISTORY:** L. 2006, c. 102, § 1, eff. Dec. 20, 2006.

**NOTES:**

OLS Corrections:

Pursuant to *R.S.1:3-1*, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, inserted "the" preceding "Elie Katz Umbilical Cord Blood Program" in the definition of "Blood collection facilities" in L. 2006, c. 102, § 1.

Publisher's Note: The bracketed material was added by the Publisher to provide a reference.



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*N.J. Stat. § 34:1B-21.32 (2014)*

§ 34:1B-21.32. Findings, declarations relative to certain stem cell, life sciences, and biomedical research

The Legislature finds and declares that:

Millions of people suffer from currently incurable diseases and injuries, and recent medical science, including the use of new regenerative medical therapies such as the use of a special type of human cells called "stem cells," provides indications that cures and treatments for certain of these diseases and injuries can be developed;

The development of such cures and treatments will improve New Jersey's health care system, can reduce long-term health care costs, and can benefit the New Jersey economy by creating projects, jobs and therapies;

The State of New Jersey is home to many of the leading life sciences, biotechnology and pharmaceutical companies and the State seeks to preserve its leading role, attract investment, attract scientists, enhance research and, toward that end, seeks to finance facilities for entities involved in stem cell research, life sciences and biomedical research;

Financing stem cell research facilities and life sciences and biomedical research facilities will substantially further the public interest and can most economically be financed through a bond issue; and

The State of New Jersey has determined that bonds issued by the New Jersey Economic Development Authority are the most desirable means to provide funding for such facilities and projects.

**HISTORY:** L. 2006, c. 102, § 2, eff. Dec. 20, 2006.



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*N.J. Stat. § 34:1B-21.33 (2014)*

§ 34:1B-21.33. Powers of authority

Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to the provisions of this act and P.L.1974, c.80 (*C.34:1B-1 et seq.*), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to this act for the purpose of providing funds for State capital construction projects and any costs related to the issuance of such bonds. The authority may establish reserve or other funds to further secure bonds and refunding bonds. The bonds shall be in the amount to yield proceeds to fund, all or in part, the payment of State capital construction projects plus additional bonds to pay for the costs of issuance.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds, pledge the contract with the State Treasurer, provided for in section 4 of P.L.2006, c.102 (*C.34:1B-21.34*), or any part thereof, to secure the payment, purchase or redemption of the bonds or refunding bonds or any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of this section, and covenant as to the use and disposition of money available to the authority for the payment, purchase or redemption of bonds and refunding bonds and the payment of any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of this section. All costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of bonds and refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to section 4 of P.L.2006, c.102 (*C.34:1B-21.34*), which costs, fees and other expenses may include, but are not limited to, any initial or annual administrative costs and fees of the authority attributable to any bonds or refunding bonds issued pursuant to this act, all legal, accounting, trustee or other professional fees, costs or expenses, any costs and fees relating to the issuance of the bonds or refunding bonds, the fees and costs of bond counsel and any other professional fees and costs attributable to the agreements described in subsection c. of this section. The bonds or refunding bonds shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 20 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to section 4 of P.L.2006, c.102 (*C.34:1B-21.34*). The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued pursuant to this act, the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest

rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer and the Joint Budget Oversight Committee. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (*C.34:1B-4*), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of bond counsel, financial advisors and experts, placement agents, underwriters, trustees, verification agents, remarketing agents, broker-dealers, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this act, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to be applied to the payment, in full or in part, for the purposes set forth in subsection a. of this section as directed by the State Treasurer.

h. All bonds or refunding bonds issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment on bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

i. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of this section except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

j. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

**HISTORY:** L. 2006, c. 102, § 3, eff. Dec. 20, 2006.

**NOTES:**

Cross References:

Appropriations for payment of obligations incurred, see *34:1B-21.34*.

Amounts provided by authority; projects, amounts, certain, see *34:1B-21.36*.



LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 216th Legislature \*\*\*

\*\*\* First Annual Session, L. 2014 c. 90 and J.R. 6 \*\*\*

\*\*\* N.J. Constitution current through November 2014 election \*\*\*

TITLE 34. LABOR AND WORKERS' COMPENSATION  
CHAPTER 1B. BUSINESS AND INDUSTRY PROMOTION  
PART I. NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ACT

**GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY**

*N.J. Stat. § 34:1B-21.34 (2014)*

§ 34:1B-21.34. Appropriations for payment of obligations incurred

In each State fiscal year during which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act, or is obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 3 of P.L.2006, c.102 (*C.34:1B-21.33*), the State Treasurer shall pay from the General Fund to the authority, in accordance with a contract or contracts between the State Treasurer and the authority, authorized pursuant to section 5 of P.L.2006, c.102 (*C.34:1B-21.35*), an amount equivalent to the debt service payable on the authority's then outstanding bonds or refunding bonds issued pursuant to this act during such fiscal year and any amounts required to be paid by the authority during such fiscal year under any contract or agreement entered into by the authority pursuant to subsection c. of section 3 of P.L.2006, c.102 (*C.34:1B-21.33*). Notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such funds as shall be required by the provisions of any contract between the State Treasurer authorized and entered into pursuant to section 5 of P.L.2006, c.102 (*C.34:1B-21.35*) and further provided that the incurrence of any obligation of the State under any such contract, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

**HISTORY:** L. 2006, c. 102, § 4, eff. Dec. 20, 2006.

**NOTES:**

Cross References:

Powers of authority, see *34:1B-21.33*.

Contracts to implement payment arrangement, see *34:1B-21.35*.



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TITLE 34. LABOR AND WORKERS' COMPENSATION  
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*N.J. Stat. § 34:1B-21.35 (2014)*

§ 34:1B-21.35. Contracts to implement payment arrangement

The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 4 of P.L.2006, c.102 (*C.34:1B-21.34*). The contract or contracts shall provide for payment by the State Treasurer of the amounts required to be paid pursuant to section 4 of P.L.2006, c.102 (*C.34:1B-21.34*) and shall set forth the procedure for the transfer of moneys for the purpose of paying such amounts. The contract or contracts shall contain such terms and conditions as are determined by the authority and the State Treasurer, and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds of the authority issued pursuant to this act or any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of P.L.2006, c.102 (*C.34:1B-21.34*); provided however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract or contracts and further provided that the incurrence of any obligation of the State under any such contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

**HISTORY:** L. 2006, c. 102, § 5, eff. Dec. 20, 2006.

**NOTES:**

Cross References:

Appropriations for payment of obligations incurred, see *34:1B-21.34*.



LexisNexis (TM) New Jersey Annotated Statutes

\*\*\* This section is current through New Jersey 216th Legislature \*\*\*  
\*\*\* First Annual Session, L. 2014 c. 90 and J.R. 6 \*\*\*  
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TITLE 34. LABOR AND WORKERS' COMPENSATION  
CHAPTER 1B. BUSINESS AND INDUSTRY PROMOTION  
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*N.J. Stat. § 34:1B-21.36 (2014)*

§ 34:1B-21.36. Amounts provided by authority; projects, amounts, certain

From the proceeds of the bonds issued pursuant to section 3 of P.L.2006, c.102 (*C.34:1B-21.33*) for State capital construction projects, the following amounts shall be provided by the authority from time to time, and applied as set forth in this section upon written request of the State Treasurer pursuant to an agreement between the authority and the State Treasurer authorized and entered into pursuant to this section:

a. From \$ 270,000,000 in the aggregate from the proceeds of bonds issued after enactment of this act:

(1) an amount not to exceed \$ 150,000,000 shall be utilized by the authority, pursuant to an agreement between the State Treasurer and the authority, to fund the capital costs of stem cell research facilities -- New Brunswick;

(2) an amount not to exceed \$ 50,000,000 shall be utilized by the authority, pursuant to an agreement between the State Treasurer and the authority, to fund the capital costs of biomedical research facilities;

(3) an amount not to exceed \$ 50,000,000 shall be utilized by the authority, pursuant to an agreement between the State Treasurer and the authority, to fund the capital costs of stem cell research facilities -- Newark;

(4) an amount not to exceed \$ 10,000,000 shall be utilized by the authority, pursuant to an agreement between the State Treasurer and the authority, to fund the capital costs of blood collection facilities; and

(5) an amount not to exceed \$ 10,000,000 shall be utilized by the authority, pursuant to an agreement between the State Treasurer and the authority, to fund the capital costs of cancer research facilities.

b. Any agreement entered into pursuant to this section shall specify the scope of the State capital construction project, the use of the proceeds of the bonds, the acquisition plan for the State capital construction project site, the proposed occupants and permitted uses of the State capital construction project, the proposed operational plan and operating budget for the project including any rental income from the project, and such other matters as the State Treasurer shall determine.

**HISTORY:** L. 2006, c. 102, § 6, eff. Dec. 20, 2006.

**NOTES:**

Cross References:

Definitions relative to financing of certain stem cell, life sciences, and biomedical research facilities, see *34:1B-21.31*.