

CHAPTER 3
(CORRECTED COPY)

AN ACT concerning the New Jersey Transportation Trust Fund Authority and amending and supplementing P.L.1984, c.73 and amending P.L.1987, c.460.

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

1. Section 9 of P.L.1984, c.73 (C.27:1B-9) is amended to read as follows:

C.27:1B-9 Issuance of bonds.

9. a. The authority shall have the power and is hereby authorized after November 15, 1984 and from time to time thereafter to issue its bonds, notes or other obligations in principal amounts as in the opinion of the authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or notes. No resolution or other action of the authority providing for the issuance of bonds, refunding bonds, notes, or other obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may provide the security and payment provisions for its bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the authority, and other moneys or funds as the authority shall determine. In addition, the authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the authority or appropriations, grants, reimbursements or other funds or revenues of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection h. of section 6 of P.L.1984, c.73 (C.27:1B-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the

P.L. 2006, CHAPTER 3

bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A.

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the authority and a corporate trustee within or without the State. All other obligations of the authority shall be authorized by resolution containing terms and conditions as the authority shall determine.

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine, either on a negotiated or on a competitive basis. Every bond, or refunding bond, issued on or after the effective date of P.L.2006, c.3 (C.27:1B-22.2 et al.) shall mature and be paid no later than 31 years from the date of the issuance of that bond or refunding bond.

f. Bonds or notes may be issued and other obligations incurred under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by the act.

g. Bonds, notes and other obligations of the authority issued or incurred under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in the act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the authority.

h. All expenses incurred in carrying out the provisions of the act shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of the act and nothing in the act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

i. The authority shall minimize debt incurrence by first relying on appropriations and other revenues available to the authority before incurring debt secured by State revenues to meet its statutory purposes. Commencing with the fiscal year beginning July 1, 1995 and ending within the fiscal year beginning July 1, 2005, the authority shall not incur debt in any fiscal year in excess of \$650,000,000, except that if that permitted amount of debt, or any portion thereof, is not incurred in a fiscal year it may be incurred in a subsequent fiscal year.

P.L. 2006, CHAPTER 3

Commencing with the fiscal year beginning July 1, 2006 and ending with the fiscal year beginning on July 1, 2010, the authority shall not incur debt for any fiscal year in excess of \$1,600,000,000, reduced in each of those fiscal years by the amount by which the appropriation of State funds to the Transportation Trust Fund Account for that fiscal year shall exceed \$895,000,000; provided, however, that if a portion of that permitted amount of debt, less any reduction as provided above, is not incurred in a fiscal year, an amount not greater than the unused portion may be incurred in a subsequent fiscal year in addition to the amount otherwise permitted subject to the approval of the Joint Budget Oversight Committee. Debt permitted for the fiscal year beginning July 1, 2006 may be incurred prior to July 1, 2006. Any increase in this limitation shall only occur if so provided for by law. In computing the foregoing limitation as to the amount of debt the authority may incur, the authority may exclude any bonds, notes or other obligations, including subordinated obligations of the authority, issued for refunding purposes.

j. Upon the decision by the authority to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the authority shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the authority relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the authority to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The committee shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The committee shall notify the authority in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this section.

m. Within 30 days after the sale of the refunding bonds, the authority shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the authority or to the Legislature, or both, as it deems appropriate.

o. No refunding bonds shall be issued unless the authority shall first determine that the present value of the aggregate principal of and interest on the refunding bonds is less than the present value of the aggregate principal of and interest on the outstanding bonds to be refinanced, except that, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the prices paid to the authority by the initial purchasers of those refunding bonds.

2. Section 21 of P.L.1984, c.73 (C.27:1B-21) is amended to read as follows:

C.27:1B-21 Special Transportation Fund.

21. a. There is hereby established a separate fund entitled "Special Transportation Fund."

P.L. 2006, CHAPTER 3

This fund shall be maintained by the State Treasurer and may be held in depositories as may be selected by the treasurer and invested and reinvested as other funds in the custody of the treasurer, in the manner provided by law. The commissioner may from time to time (but not more frequently than monthly) certify to the authority an amount necessary to fund payments made, or anticipated to be made by or on behalf of the department, from appropriations established for or made to the department from revenues or other funds of the authority. The commissioner's certification shall be deemed conclusive for purposes of the act. The authority shall, within 15 days of receipt of the certificate, transfer from available funds of the authority to the treasurer for deposit in the Special Transportation Fund the amount certified by the commissioner, provided that all funds transferred shall only be expended by the department by project pursuant to appropriations made from time to time by the Legislature for the purposes of the act.

b. The department shall not expend any money except as appropriated by law. Commencing with appropriations for the fiscal years beginning on July 1, 1988, the department shall not expend any funds except as are appropriated by specific projects identified by a description of the projects, the county or counties within which they are located, and amounts to be expended on each project, in the annual appropriations act.

c. No funds appropriated, authorized or expended pursuant to this act shall be used to finance the resurfacing of highways by department personnel, where that resurfacing would require the use of more than 100,000 tons of bituminous concrete for that purpose in any calendar year, except that the commissioner may waive this provision when he determines the existence of emergency conditions requiring the use of department personnel for the resurfacing of highways, after the department has effectively reached the 100,000 ton limit.

d. In order to provide the department with flexibility in administering the specific appropriations by project identified in the annual appropriations act, the commissioner may transfer a part of any item to any other item subject to the approval of the Director of the Division of Budget and Accounting and of the Joint Budget Oversight Committee or its successor. Upon approval of the director and the committee, the transfer shall take effect.

e. Any federal funds which become available to the State for transportation projects which have not been appropriated to the department in the annual appropriations act, shall be deemed appropriated to the department and may, subject to approval by the Joint Budget Oversight Committee and the State Treasurer, be expended for any purpose for which such funds are qualified.

f. There shall be no appropriations from the revenues and other funds of the authority for regular and routine maintenance of public highways and components thereof, or operational activities of the department unrelated to the implementation of, and indirect costs associated with, the capital program. The commissioner shall include in his annual budget request sufficient funding to effectuate the purposes of P.L.2000, c.73 (C.27:1B-21.14 et al.).

g. To the extent that salaries or overhead of the department or the New Jersey Transit Corporation are charged to transportation projects, each agency shall keep adequate and truthful personnel records, and time charts to adequately justify each such charge and shall make those records available to the external auditor to the authority.

h. The commissioner shall annually, on or before January 1 of each fiscal year, report to the Governor and the Legislature how much money was expended in the previous fiscal year for salaries and overhead of the department and the New Jersey Transit Corporation. However, the amount expended from the revenues and other funds of the authority for salaries and overhead of the department and the New Jersey Transit Corporation for the fiscal year beginning July 1, 2006 and each fiscal year thereafter¹ shall not exceed 13 percent of the total funds appropriated from the revenues and other nonfederal funds of the authority for

P.L. 2006, CHAPTER 3

those fiscal years.

i. No revenues or other funds of the authority shall be expended for emergency response operations, the review of applications for access permits under the State highway access management code and membership fees or other fees connected with membership in TRANSCOM, the Transportation Operations Coordinating Committee.

3. Section 20 of P.L.1984, c.73 (C.27:1B-20) is amended to read as follows:

C.27:1B-20 Transportation Trust Fund Account.

20. There is hereby established in the General Fund an account entitled "Transportation Trust Fund Account." During the fiscal year beginning July 1, 1984 and during each succeeding fiscal year in which the authority has bonds, notes or other obligations outstanding, the treasurer shall credit to this account:

a. An amount equivalent to the revenue derived from \$0.105 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, as provided in Article VIII, Section II, paragraph 4 of the State Constitution, provided, however, such amount during any fiscal year shall not be less than \$483,000,000;

b. (Deleted by amendment, P.L.2000, c.73).

c. An amount equivalent to moneys received by the State in accordance with contracts entered into with toll road authorities or other State agencies, provided that effective with the fiscal year beginning July 1, 1988 the amount so credited shall not be less than \$24,500,000.00 in any fiscal year.

The treasurer shall also credit to this account, in accordance with a contract between the treasurer and the authority, an amount equivalent to the sum of the revenues due from the increase of fees for motor vehicle registrations collected pursuant to the amendment to R.S.39:3-20 made by this act and from the increase in the tax on diesel fuels imposed pursuant to the amendment to R.S.54:39-27 made by this act and by P.L.1987, c.460, provided that the total amount credited during the fiscal year beginning July 1, 1984 shall not be less than \$20,000,000.00 and that the total amount credited during the fiscal year beginning July 1, 1985 and during every fiscal year thereafter shall not be less than \$30,000,000.00.

In addition to the amounts credited to the account by this section, commencing with the fiscal year beginning July 1, 1995 and every fiscal year thereafter, there shall be appropriated from the General Fund such additional amounts as are necessary to carry out the provisions of this act and beginning July 1, 2000 the fees collected pursuant to subsection a. of section 68 of P.L.1990, c.8 (C.17:33B-63) shall be credited to the account for the purposes of this act, provided, however, the amount credited from such fees during any fiscal year shall not be less than \$60,000,000.

d. In addition to the amount credited in subsection a. of this section, beginning January 1 following approval by the voters an amount equivalent to the revenue derived from the tax imposed on the sale of petroleum products pursuant to P.L.1990, c.42 (C.54:15B-1 et seq.), provided, however, such amount shall not be less than \$100,000,000 in the period January 1 through June 30 following approval by the voters and shall not be less than \$200,000,000 in any fiscal year thereafter and for the fiscal year commencing July 1, 2001 and for each fiscal year thereafter an amount equivalent to the revenue derived from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on the sale of new motor vehicles, provided, however, that such amount shall not be less than \$200,000,000 for the fiscal year commencing July 1, 2003 and for each fiscal year thereafter, as provided in Article VIII, Section II, paragraph 4 of the State Constitution.

P.L. 2006, CHAPTER 3

No later than the fifth business day of the month following the month in which a credit has been made, the treasurer shall pay to the authority, for its purposes as provided herein, the amounts then credited to the Transportation Trust Fund Account, provided that the payments 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 the act.

4. Section 8 of P.L.1987, c.460 (C.27:1B-21.1) is amended to read as follows:

C.27:1B-21.1 Annual funding maximums.

8. a. Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 2006 and on each succeeding March 1 thereafter through March 1, 2010, the annual amount so reported by the commissioner for proposed projects shall not exceed \$1,600,000,000 exclusive of federal funds.

b. For the fiscal year beginning on July 1, 2006 and for each fiscal year thereafter through the fiscal year beginning on July 1, 2010, the total annual amount authorized to be appropriated from the revenues and other nonfederal funds of the New Jersey Transportation Trust Fund Authority for the projects listed in the appropriations act pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21) shall not exceed \$1,600,000,000, all amounts exclusive of federal funds.

c. (Deleted by amendment, P.L.1991, c.40.)

d. (Deleted by amendment, P.L.1992, c.10).

e. The State Auditor shall provide for a unified annual audit of expenditures from the Special Transportation Fund, established by section 21 of P.L.1984, c.73 (C.27:1B-21), in order to determine that these funds are expended for costs eligible for funding from the authority and in a manner consistent with appropriations made by the Legislature. The findings of such audits shall be transmitted to the presiding officer of each House of the Legislature, and to the Chair of the Senate Budget and Appropriations Committee, the Senate Transportation Committee, the Assembly Appropriations Committee, and the Assembly Transportation and Communications Committee or their successors.

f. The State Auditor shall review bond issuances of the authority and report to the Joint Budget Oversight Committee and to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, on the status of the bonds of the authority and projects financed from the proceeds of the bonds. The report shall include the investment status of all unexpended bond proceeds and provide a description of any bond issues expected during a fiscal year, including type of issue, estimated amount of bonds to be issued and the expected month of sale.

5. Section 22 of P.L.1984, c.73 (C.27:1B-22) is amended to read as follows:

C.27:1B-22 Preparation, submission of reports.

22. The commissioner shall prepare and submit the following reports to the Governor, the Legislature, and the Financial Policy Review Committee, established pursuant to section 6 of P.L.2006, c.3 (C.27:1B-22.2) under the terms set forth below: a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, a Transportation Trust Fund Authority Financial Plan, and a Five-Year Capital Plan.

a. To the end that the transportation system of the State shall be planned in an orderly and efficient manner and that the Legislature shall be advised of the nature and extent of public highways, public transportation projects and other transportation projects

P.L. 2006, CHAPTER 3

contemplated to be financed under this act, the department shall submit a master plan, as provided in subsection (a) of section 5 of P.L.1966, c.301 (C.27:1A-5). Notwithstanding the provisions of that act, the plan shall be for a period of five years and shall be submitted to the Commission on Capital Budgeting and Planning, the Chairman of the Senate Transportation Committee and the Chairman of the Assembly Transportation and Communications Committee, or their successors, and the Legislative Budget and Finance Officer, and the metropolitan planning organizations, on or before March 1, 2001, and at five-year intervals thereafter. The master plan shall set the direction for the department's overall Capital Investment Strategy and subsequent annual Transportation Capital Programs submitted to the Legislature for approval pursuant to this section. This master plan shall, to the extent practicable, conform to all federal requirements for Statewide transportation planning.

b. The Department of Transportation, in conjunction with the New Jersey Transit Corporation, the New Jersey Turnpike Authority, and the South Jersey Transportation Authority, shall prepare a "Statewide Capital Investment Strategy" for at least a five-year period which shall contain, at a minimum, a statement of the goals of the department, the corporation, and the toll road authorities in major selected policy areas and the means by which the goals are to be attained during that period, using quantitative measures where appropriate. The Statewide Capital Investment Strategy may be updated and submitted no later than March 1 of each year. The Statewide Capital Investment Strategy shall provide for a multi-modal, intermodal, seamless, technologically advanced, and secure transportation system. It shall recommend investment for major program categories, set overall goals for investment in the State's infrastructure, and develop program targets and performance measures. It may rely on infrastructure management systems as developed by the department to assess bridge conditions, pavement conditions, bridge, traffic and pedestrian safety, traffic congestion and public transit facilities. With respect to pavement conditions, the department shall set as a priority the utilization of efficient cost-effective materials and treatments as stated in section 9 of P.L.2000, c.73 (C.27:1B-21.22). In the event that there exist appropriate circumstances for the use of micro-surfacing and cold-in-place recycling, the department shall establish as a special priority the use of these materials and surface treatments. The goals of the Capital Investment Strategy shall include, but not be limited to, reduction of vehicular and pedestrian accidents, reduction in the backlog of projects, including one-half of the structurally deficient bridge repair projects and pavement deficiencies, and an increase in lane miles of bicycle paths, with a goal of constructing an additional 1,000 lane miles of bicycle paths in five years to reduce traffic congestion and for recreational uses. The construction of bicycle and pedestrian lanes, paths and facilities shall be subject to no stricter environmental requirements than are provided pursuant to federal law and regulations for such lanes, paths and facilities, notwithstanding the provisions to the contrary of State law and regulations, including State Executive Order No. 215 of 1989. With respect to the New Jersey Transit Corporation, the Statewide Capital Investment Strategy shall deal with the corporation's overall goal to keep the public transportation system in a state of good repair and, more specifically, in the area of bus transportation, present a strategy and a preliminary timetable for the replacement of the current diesel bus fleet with a fleet of buses which have reduced emission of air pollutants. The corporation shall consider the feasibility of buses with improved pollution controls and that reduce particulate emissions and buses powered by fuel other than conventional diesel fuel, such as compressed natural gas vehicles, hybrid vehicles, fuel cell vehicles, biodiesel vehicles, vehicles operated on ultra low sulfur fuel, vehicles operated on any other bus fuel approved by the United States Environmental Protection Agency, and the like. The corporation may consider as part of its strategy, cooperative efforts with bus manufacturers, and the

P.L. 2006, CHAPTER 3

solicitation of federal support, in developing a "clean bus" with air pollution controls superior to currently available technology. For the fiscal year beginning July 1, 2007 and each fiscal year thereafter, all buses purchased by the New Jersey Transit Corporation shall be buses with improved pollution controls and that reduce particulate emissions or buses powered by fuel other than conventional diesel fuel, such as compressed natural gas vehicles, hybrid vehicles, fuel cell vehicles, biodiesel vehicles, vehicles operated on ultra low sulfur fuel, vehicles operated on any other bus fuel approved by the United States Environmental Protection Agency, and the like. In the event that the corporation is not able to meet the bus purchase requirements set forth in this section with respect to any fiscal year, prior to the commencement of the fiscal year the board of the corporation shall by resolution submit a report to the Legislature detailing its inability to meet the requirements and the reasons therefor and shall submit the report to the Senate and General Assembly when both houses are in session, including therein a request to be exempted from the bus purchase requirements of this section with regard to the fiscal year in question. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly. If a joint resolution approving the exemption is passed by the Legislature and signed by the Governor prior to the commencement of the fiscal year in question, the corporation shall be exempt from the requirements for that fiscal year.

In the fiscal year beginning on July 1, 2007 and in each fiscal year thereafter, in the year prior to the year in which final engineering is anticipated to start on any project which extends the reach of the New Jersey Transit rail or light rail system, the New Jersey Transit Corporation shall be required to identify and include in the annual Statewide Capital Investment Strategy the required State financial assistance to support operation of the incremental service for the first three years and the projected fare box recovery ratio at the commencement of the fourth year of operation of each project.

The Statewide Capital Investment Strategy shall also detail the planned investment of capital funds for public transportation projects of companies other than the New Jersey Transit Corporation engaged in the business of providing motor bus transportation. The Statewide Capital Investment Strategy shall demonstrate that such investment adequately addresses the finding in section 2 of P.L.1979, c.150 (C.27:25-2) that in the provision of public transportation services it is desirable to encourage to the maximum extent feasible the participation of private enterprise.

c. On or before March 1 of each year, the commissioner shall submit a report of general project categories and proposed projects thereunder to be financed in the ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State and local projects, and the amount estimated to be expended on each project. This report shall be known as the "Annual Transportation Capital Program" for the upcoming fiscal year. It shall include proposed projects of both the Department of Transportation and the New Jersey Transit Corporation. The program shall be consistent with, and reflective of, the goals and priorities of the Capital Investment Strategy and the program shall include an explanation which demonstrates how it is consistent with, and reflective of, the goals and priorities.

d. On or before March 1 of each year, the commissioner shall also submit a "Transportation Trust Fund Authority Financial Plan" designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor. The financial plan shall set forth a complete operating and financial statement covering the authority's proposed operations during the ensuing fiscal

P.L. 2006, CHAPTER 3

year, including amounts of income from all sources, including but not limited to the proceeds of bonds, notes or other obligations to be issued, as well as interest earned. In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the department anticipates to obligate during the ensuing fiscal year for any future expenditures.

e. The Statewide Capital Investment Strategy, the Annual Transportation Capital Program, and the Transportation Trust Fund Authority Financial Plan shall be submitted to the Senate and General Assembly. Within 45 days of the receipt thereof, the Senate or the General Assembly may object in writing to the commissioner in regard to any project or projects in the Annual Transportation Capital Program it disapproves or which it is of the opinion should be modified or added to or any additional or alternative projects considered or in regard to any element of the financial plan. The commissioner shall consider the objections and recommendations and resubmit the report within 10 days, containing therein any modifications based upon the commissioner's consideration of the objections or recommendations.

f. In order that the Legislature shall be advised of the nature and extent of public highways, public transportation projects, and other transportation projects contemplated to be financed under this act, the commissioner shall submit annually, together with the Annual Transportation Capital Program, a Five-Year Capital Plan, which shall set forth projects and programs anticipated to be funded over the five-year period. The Five-Year Capital Plan shall, to the extent practicable, conform to all federal requirements for Statewide transportation capital programming.

C.27:1B-22.2 Financial Policy Review Board.

6. There is hereby created in the Executive Branch of the State Government, a body corporate and politic, with corporate succession, to be known as the Financial Policy Review Board. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is hereby allocated within the Department of Transportation, but, notwithstanding that allocation, the board shall be independent of any supervision or control by the department or by any body or officer thereof. The board is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

The board shall be comprised of five public members with experience in transportation finance and policy. The Governor shall appoint three of the members with the advice and consent of the Senate. The remaining members shall be appointed by the Governor as follows: one upon the joint recommendation of the President of the Senate and the Minority Leader of the Senate, and one upon the joint recommendation of the Speaker of the General Assembly and the Minority leader of the General Assembly. Each member shall serve for a four-year term and shall serve until the member's successor is appointed and qualified; provided, however, that in order to achieve non-concurrent terms, of the members first appointed pursuant to this section, two members appointed by the Governor shall serve for four years; while the two members appointed upon the joint recommendation of the President of the Senate and the Minority Leader of the Senate and upon the joint recommendation of the Speaker of the General Assembly and the Minority Leader of the General Assembly shall serve for three years each, and the remaining member appointed by the Governor shall serve for two years. The Financial Policy Review Board shall be deemed to be constituted immediately upon appointment and qualification in the manner provided in this section of at least three members.

P.L. 2006, CHAPTER 3

The purpose of the board is to assure fiscal discipline through evaluating the financing of transportation and preparing an annual State of Condition of Transportation Financing certification. The certification shall ensure that the financing and expenditures of the New Jersey Transportation Trust Fund Authority (the "authority") adhere to certain standards. The standards are: a. The bonding limitation as provided in subsection i. of section 9 of P.L.1984, c.73 (C.27:1B-9). b. For the fiscal year commencing July 1, 2007, the amount expended from the revenues and other funds of the authority for permitted maintenance shall not exceed the amount expended for permitted maintenance in the fiscal year commencing July 1, 2006. c. The total amount authorized to be appropriated from the revenues and other funds of the authority for project costs shall not exceed \$1,600,000,000 annually.

Commencing with the fiscal year beginning July 1, 2007, the board shall submit to the Governor, the Legislature, and the commissioner on an annual basis the State of Condition of Transportation Financing certification as to the requirements of subsection a. of this section referencing therein a certification with regard to subsections b. and c. of this section to the extent feasible, given the other provisions of this section. The certifications shall be based on the board's review of the State's fiscal year final expenditures from the preceding fiscal year, including bonding and expenditures from the annual independent audit of the authority, and the amount of authority funds programmed for permitted maintenance. If the capital program and its financing are found to be in compliance, the first annual certification required by this paragraph shall be submitted by February 1, 2008, after the certification is concurred with by the members of the authority, and by February 1 of each year thereafter. The board shall advise the commissioner and the authority on February 1, 2008 and on each succeeding February 1, if the board finds that the authority is not in compliance with the bonding requirements as provided in subsection a. of the section, and that a corrective action plan is needed. The authority shall submit a corrective action plan that would reduce its future bond sales to offset the amount of excess bonding or to reduce future debt service payments, or both, as the case may be. Upon approval of the corrective action plan by the board, the certification shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program. The board shall advise the commissioner on February 1, 2008 and on each succeeding February 1, if the board finds that the Department of Transportation has exceeded the limitation for the amount of authority funds spent on permitted maintenance pursuant to subsection b. of this section, or for the amount authorized to be appropriated for project costs pursuant to subsection c. of this section and that a corrective action plan is needed. The department shall submit a corrective action plan that would offset the excess amount spent, or the excess amount appropriated, in the prior year with less funding for permitted maintenance or for projects, as the case may be, in the proposed capital budget request. Upon approval of the corrective action plan by the board, a certification as to these matters shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program.

7. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to read as follows:

P.L. 2006, CHAPTER 3

C.27:1B-25 County, municipal projects.

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.), the commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined in 23 U.S.C. s.103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate at his discretion State aid to counties and municipalities for transportation projects, except that the amount to be appropriated for this program shall be 10% of the total amount appropriated for the total county and municipal aid programs. This State aid shall be set aside prior to any formula allocations provided for in subsections c., d., and e. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsections b. and d. of this section, allocate State aid to municipalities for public highways under their jurisdiction. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{Pc}{Ps} + \frac{Cm}{Sm}$$

where, DF equals the distribution factor

Pc equals county population

Ps equals State population

Cm equals municipal road mileage within the county

Sm equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner

P.L. 2006, CHAPTER 3

shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity. In addition to the above criteria used in determining priority of funding of municipal projects in each county, the commissioner shall consider whether a project is intended to remedy hazardous conditions as identified for the purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils or to improve pedestrian safety.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor and Workforce Development; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least \$175,000,000 for the fiscal year commencing July 1, 2006 and for each fiscal year thereafter, for the purposes provided herein and in subsections b., c. and e. of this section. (1) Of that appropriation, the commissioner shall allocate \$5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of subsection c. of this section.

e. The commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate additional funding to the Local County Aid Program for public highway projects, in accordance with a formula similar to that provided for in subsection c. of this section, except that Cm equals road mileage under county jurisdiction and Sm equals total county road mileage within the State.

8. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to read as follows:

C.27:1B-25.1 Aid to counties, municipalities, basis.

9. Aid to counties and municipalities administered by the department may, at the discretion of the commissioner, be disbursed to any individual county or municipality on a grant basis or on a cost reimbursement basis. Distribution of the portion of the grant provided initially to a county or municipality may be contingent on its performance in spending prior grants.

C.27:1B-22.3 Report to Governor, Legislature.

9. The Department of Transportation shall report to the Governor and the Legislature on September 1, 2008 and on September 1, 2010 on the amount of revenues and other funds of the authority which have been expended on permitted maintenance and on salaries and overhead of the department and the corporation in the previous two fiscal years respectively. In the reports the department shall provide reasons as to why the reported expenditure levels are appropriate and in the public interest. In addition, the department shall detail steps that have been undertaken to reduce expenditures for these purposes after June 30, 2006.

Repealer.

10. Section 27 of P.L.2000, c.73 (C.27:1B-21.31) is repealed.

11. This act shall take effect immediately.

Approved March 23, 2006