

## CHAPTER 196

AN ACT concerning the administration of Transportation Trust Fund projects supplementing Title 27 of the Revised Statutes, and amending P.L.1984, c.73.

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

C.27:1B-21.33 Preparation of estimated project schedules.

1. a. For each capital project funded by the authority, including transportation projects and public transportation projects, the authority, in conjunction with the department and the New Jersey Transit Corporation, may contract with consulting engineers to prepare an estimated project schedule (1) for the acquisition of rights-of-way and (2) for the construction of each project. The consulting engineer shall also estimate the amounts which shall be required during each six-month period for estimated costs of construction of each project. Thereafter, at least once in each six-month period during the construction of a project, the authority may require the consulting engineers to prepare a progress report updating the project schedule for the acquisition of real property for each project and construction progress, which may include comparisons of the actual time elapsed, actual costs, estimated time to completion, and estimated total cost between the most recent six-month period and the same actual and estimated times and costs in prior progress reports. Copies of each progress report shall be maintained on the authority's website and shall be submitted to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

b. For funds provided by the authority to the department or the New Jersey Transit Corporation for non-project costs, the authority may contract with an outside consultant to prepare a report which tracks, according to State capital program line items in each annual appropriations act, an estimated schedule for the expenditure of appropriated funds, and a description of how funds are being expended, including, but not limited to, contracts to be paid from each capital program line item, the amount of staff or outside consultants to be paid from each capital program line item, and measurable policy outcomes relating to each capital program line item which shall be required during each six-month period until an appropriation has been fully expended. Once in each six-month period in which the State appropriations of non-project transportation capital funds in a given fiscal year have not been fully expended, including if that period extends beyond the fiscal year of the original appropriation, the authority may cause the outside consultant to prepare a progress report covering the expenditure of appropriated funds and any progress in accomplishing the purpose of given appropriations, which may include comparisons of the actual time elapsed since the initial appropriation, actual expenditures from the appropriation, estimated time to completely expend appropriated funds, and estimated measurable outcomes for the entire appropriation between the most recent six-month period and the same actual and estimated times and outcomes in prior progress reports. Copies of each progress report shall be maintained on the authority's website and shall be submitted to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

C.27:1B-21.34 Coordination of expedited project delivery.

2. a. In order to ensure the expeditious completion of public highway projects, the department shall coordinate with municipalities, the South Jersey Transportation Authority, and counties to expedite project delivery.

b. The department shall develop, in conjunction with county officials, an annual highway project priority list for each county. The department shall present to county officials in each county a candidate list of State highway pavement areas rated below acceptable

condition and structurally deficient State bridges located in the county. The county may select highway pavement areas and bridges from the candidate list that it deems to be priority repairs and submit the highway project priority list to the Commissioner of Transportation for the commissioner's consideration for inclusion in the department's capital program. Once a project from the highway project priority list has been added to the capital program, the department shall have three fiscal years to advance that project to the construction phase of work subject to the availability of funds.

c. If a project on the highway project priority list that has been placed on the capital program by the commissioner is not started within three years of that project's inclusion in the capital program, a county may notify the department that the county intends to take over the project.

d. Once the department has been notified of a county's intent to take over a project on the highway project priority list, the department and notifying county shall confer regarding whether the decision to allow the county or the South Jersey Transportation Authority to take over the project is cost-effective and will expedite completion of the project. The department shall have the discretion to determine whether to transfer the project to the county or the South Jersey Transportation Authority based on whether the transfer is cost-effective and will expedite completion of the project. If the department agrees to transfer the project, the department shall have 90 days from the date it agrees to the transfer to transfer all aspects of the project to the engineering department of the notifying county or the South Jersey Transportation Authority.

e. The costs of any project transferred to a county or to the South Jersey Transportation Authority pursuant to this section shall be fully funded by the department on a reimbursement basis until such costs exceed the most recent estimated cost for the project developed as part of the project schedule pursuant to subsection a. of section 1 of P.L.2019, c.196 (C.27:1B-21.33) or, if unavailable, the estimated cost developed with the initial project schedule. If the cost of the project exceeds already existing capital program appropriations for that project, the department shall deduct the necessary amounts from the amounts granted to that county from the formula established in subsection e. of section 25 of P.L.1984, c.73 (C.27:1B-25) through the Local County Aid Program for the fiscal year in which the costs arise or for one or more future fiscal years as determined by, and at the discretion of, the commissioner.

f. If the department and a county agree that a county or the South Jersey Transportation Authority is better suited to advance a project on the highway project priority list, the department may also enter into an agreement with the county or the South Jersey Transportation Authority to transfer a project to the county or the South Jersey Transportation Authority notwithstanding whether the project has been in the capital program for less than three years.

g. All transportation projects included in the highway project priority list and transferred by the department pursuant to subsection d. or subsection f. of this section shall comply with section 24 of P.L.1984, c.73 (C.27:1B-24), chapters 32 through 35 of Title 52 of the Revised Statutes, and any other provision of law concerning the State's public bidding requirements and business set-aside programs.

C.27:1B-21.35 Definitions relative to Transportation Trust Fund projects; program established; requirements.

3. a. As used in this section:

“Project bundle” means any group of transportation projects that are combined into a single design contract under the design bundling program.

“Transportation Project Design Bundling Program” or “design bundling program” means a department process where multiple transportation project design contracts, funded in whole or in part by the Transportation Trust Fund, are combined into a single transportation project design contract for the purposes of saving the department time or money. The “Transportation Project Design Bundling Program” or “design bundling program” shall not include any construction contracts among the transportation projects in the program.

b. The Transportation Project Design Bundling Program is hereby established within the department to save time and money on transportation projects by allowing multiple transportation projects to be combined into a single design contract.

c. All transportation projects, including but not limited to, transportation projects contained in the department’s bridge inspection, safety, and pavement asset management systems, and any transportation assets identified by the department as being in need of repair, may be included in the design bundling program if the projects meet all of the following criteria: (1) the transportation projects are similar in complexity, in the same capital investment strategy (CIS) asset category, or are in reasonable geographical proximity to one another; (2) the transportation projects are of similar size or design; (3) the transportation projects will not require a more stringent environmental permitting process or increase the environmental review time as a result of their inclusion in the design bundling program; and (4) the inclusion of transportation projects in the design bundling program will provide the department with cost and time savings.

d. The commissioner may develop a design bundling program. In the event that such a program is developed, the program shall include the following minimum requirements:

(1) The department shall annually develop a preliminary list of transportation projects that are intended to be included in project design bundles. The department shall identify project design bundles for different regions of the State for geographically combinable transportation projects and project design bundles on a Statewide basis for similar transportation project types and similar CIS asset categories. The preliminary list shall include all transportation projects meeting the eligibility requirements established in subsection c. of this section;

(2) The department shall notify any local government entity that is substantially impacted by the project design bundles recommended for inclusion in the design bundling program. The department shall also distribute the preliminary list to the North Jersey Transportation Planning Authority, the South Jersey Transportation Planning Organization, and the Delaware Valley Regional Planning Commission; and

(3) Once the department has obtained all of the necessary approvals for transportation projects in the design bundle from applicable governmental entities, the department shall annually, publicly issue a final list of transportation design projects to be included in the design bundling program, prior to issuing the respective contracts for project design bundles.

e. Notwithstanding any other law to the contrary, transportation design projects determined to be eligible and recommended for inclusion in the design bundling program by the department shall not require specific itemization in a capital budget, but any capital funds expended on the design bundling program shall be provided for in a single capital program line item for each project design bundle under the design bundling program.

f. Any transportation projects included in the design bundling program established pursuant to subsection b. of this section shall comply with section 24 of P.L.1984, c.73 (C.27:1B-24), chapters 32 through 35 of Title 52 of the Revised Statutes, and any other

provision of law concerning the State's public bidding requirements and business set-aside programs.

C.27:1B-21.36 New Jersey Transportation Research Center.

4. a. There is hereby established within the Department of Transportation, the New Jersey Transportation Research Center, hereinafter referred to as the center.

b. The center shall be located within the Department of Transportation, and the center shall award research contracts to New Jersey public research institutions of higher education to conduct the research activities of the center. The award of those research contracts shall be subject to all relevant existing State and federally established public bidding regulations and processes.

c. The center shall identify specific areas of transportation expertise for New Jersey public research institutions of higher education, where all research undertaken by the center in that area of expertise is to occur, and shall be subject to all relevant existing State and federally established public bidding regulations and processes.

d. The Commissioner of Transportation shall appoint a director for the center. The duties of the director shall include but not be limited to:

- (1) Administering and operating the center;
- (2) Overseeing research undertaken by the center;
- (3) Establishing and maintaining relationships with New Jersey public research institutions of higher education;
- (4) Supporting New Jersey public research institutions of higher education in obtaining and maintaining University Transportation Center status under the United States Department of Transportation Federal Highway Administration's University Transportation Center Program; and
- (5) Authorizing competitive bidding for research contracts to include entities in addition to New Jersey public research institutions of higher education, notwithstanding the provisions of subsections b. and c. of this section to the contrary, after making a written determination that the department stands to benefit from additional competition in terms of quality of work product, timeliness of work product delivery, or availability of expertise in one or more specific transportation areas.

e. For purposes of this section, "entities" means an entity that is organized as a non-profit organization. "Entities" shall not include a municipal planning organization or a municipal planning organization-related entity, regardless of whether it is organized as a non-profit organization.

5. 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." 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, other than for permitted maintenance, 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. Funds expended for permitted maintenance may be appropriated as one item of appropriation and subject to allocation at the commissioner's discretion.

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 the commissioner 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 through the fiscal year beginning July 1, 2015 shall not exceed 13 percent of the total funds appropriated from the revenues and other nonfederal funds of the authority for those fiscal years, and shall not exceed \$208,000,000 for the fiscal year beginning July 1, 2016 and each fiscal year thereafter.

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.

j. Every project in which revenues or other funds of the authority are expended shall be included on a website created by the authority whose exclusive purpose shall be reporting on the status of State and federal projects and serving as a singular location for State and federal public documentation concerning those projects. The website shall document the status of each project, presented in tabular form outlining the budgeted amount, the amount spent and committed, and the amount necessary to complete each project. The website shall include a chart which compares the planned and actual quarterly and cumulative expenditures for each project. The website shall chronicle actions which have a bearing on the progress of projects, including, but not limited to, awards for legal, insurance, and engineering services, environmental review, public involvement and outreach, property acquisitions, and construction contracts. The website shall also include a description of any action by an external regulatory agency such as the Department of Environmental Protection, or any other party, which occurred during the reporting period that affected the cost or timely completion of any project in any manner. Information concerning each project shall be included and updated, at minimum, once per month.

k. There shall be a minimum appropriation from the revenues and other funds of the authority of \$25,000,000 each fiscal year, commencing with the fiscal year beginning July 1, 2016 for the design, construction, reconstruction, rehabilitation, land acquisition, and environmental mitigation of freight rail projects that include the following factors: are significant to port commerce connectivity; eliminate rail freight missing links to port facilities; upgrade freight rail trackage to a 286,000 pound load carrying capacity; or support a safe, efficient, and effective rail freight system consistent with the commissioner's rail freight authority pursuant to section 2 of P.L.1986, c.56 (C.27:1A-5.1). The amount appropriated pursuant to this subsection shall be inclusive of all amounts annually appropriated for the New Jersey Rail Freight Assistance Program.

C.27:1B-21.37 Regulations.

6. The Department of Transportation shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of P.L.2019, c.196 (C.27:1B-21.33 et al.).

7. The department shall accept new applications for projects that support a safe, efficient, and effective rail freight system consistent with the commissioner's rail freight authority pursuant to section 2 of P.L.1986, c.56 (C.27:1A-5.1), for 60 days following the enactment of P.L.2019, c.196.

8. This act shall take effect immediately.

Approved July 23, 2019.