



NJSBA Statement

A-4496 (Coughlin / Lampitt)

Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority.

Assembly Education Committee

October 17, 2022

The New Jersey School Boards Association, a federation of all the state's local boards of education, appreciates the opportunity to provide feedback on A-4496. Thank you for discussing this bill and providing a forum for NJSBA and our colleagues across the P-12 education community to testify on one of New Jersey's defining education policy questions: how to ensure that all students have access to safe, modern school facilities equipped to deliver programs and services that meet our students' diverse needs.

It is a fitting time to examine our school facilities funding system. In this year's budget, the Legislature and the Murphy Administration made the largest investment in school construction in well over a decade, empowering the NJ Schools Development Authority (SDA) and NJ Department of Education (NJDOE) to administer nearly \$2 billion for school facilities projects, emergent needs, and capital maintenance. This year has also seen record costs to taxpayers to support local school facility needs; earlier this month, voters in Cherry Hill approved a \$363 million bond referendum, New Jersey's largest in at least a decade. As the State and local communities ramp up their investments in school facility needs, the NJSBA welcomes this opportunity to consider whether the current statutes governing school construction could be improved to better ensure equitable and efficient distribution of resources.

This work should build on the progress the SDA has already achieved delivering new or renovated school facilities to aid student learning in some of our neediest districts. We appreciate, for example, that despite the Authority being at its lowest staffing level in almost 20 years, and through the height of the COVID-19 pandemic, since 2019 it has opened 9 new schools and completed 3 major additions, resulting in 1.6 million square feet of new construction impacting more than 10,000 students. And just last month, the SDA's Board of Directors approved 16 additional projects that will reduce overcrowding and other facility deficiencies in 13 SDA districts. We thank the Legislature, the Governor, the SDA, and the NJDOE for their efforts that made this progress addressing critical school facility needs possible.

While we appreciate the Committee's discussion of A-4496 to advance that progress, we believe that, in its current form, the bill raises several questions and concerns that should be addressed if the bill continues to move through the legislative process. We have also raised these matters with Speaker Coughlin's office; we thank the Speaker and his staff for their openness and look forward to continuing these important conversations.

Our concerns are as follows:

- The bill would require a school facility project to be authorized by the Legislature before a school district submits the application to the NJDOE and before the SDA begins construction. This raises at least two concerns. First, subjecting school facility projects to legislative approval requirements risks politicizing and further delaying the project approval process. Given recent increases in inflation and interest rates, any unnecessary delays risk significantly increasing the cost of the project. Second, the sequence of events for project development and approval envisioned by the bill is unclear. It is not clear, for example, whether a school district would be required to submit a project application to the Legislature in order to receive the authorization required to then submit to the NJDOE, and if so, what that project application would look like.
- The bill would require SDA, in consultation with NJDOE, to develop three model school designs per grade band. SDA district facilities would be required, and Regular Operating District facilities would be incentivized, to conform to one of those model designs with some exceptions. Three model school designs per grade band may not accommodate the considerable variety of community circumstances and district needs that may influence school design. NJDOE regulations already impose specific planning and construction standards for school facilities, see e.g. *N.J.A.C. 6A:26-6*, such as ceiling heights for classrooms and hallways, minimum widths for entrance and exits, requirements that preschool classrooms be no higher than the second floor and have a minimum square footage of usable space, and requirements for incorporating environmental sustainability standards. NJDOE regulations also allow exceptions from these standards upon finding that compliance would result in “practical difficulty to the school district” and that the exception would not “jeopardize the health, safety, and welfare” of the school community. These current requirements are sufficient to ensure the safe and prudent use of school facilities, while building in adequate flexibility to accommodate unique district needs.
- The bill would require all school facility projects in Regular Operating Districts to be overseen by a construction management service provider. While the NJSBA recognizes the value of the oversight, coordination, and expertise that these entities can provide districts for relatively large and complicated projects, to require their oversight of all projects – even small projects well within a district’s capacity and expertise to oversee – is overly restrictive, and may unnecessarily subject districts to burdensome and time-consuming contracting processes.
- The bill would prohibit SDA from paying for remediation of a brownfield site. At this time, it is not clear whether existing funding sources can sufficiently supplant SDA’s role providing for site remediation, raising concern that this provision could further limit facility site options for already land-strapped districts.

- The bill would allow school districts to issue bonds to finance school facilities projects without voter approval if the district secures an agreement with a municipality to use at least 60% of PILOT revenues from one or more designated properties to repay the bonds. The NJDOE would have to approve the arrangement. While the NJSBA generally supports additional flexibilities around how districts can finance the local share of school facility projects, the bill does not ensure that the PILOT revenues received will cover a meaningful portion of the debt service, leaving it possible for districts to bypass approval by voters while still saddling them with significant costs. The considerable variety across the state in percentage of property taxes that goes to schools may also make the 60% target more palatable in some communities than others. For example, according to the New Jersey Department of Community Affairs' 2021 property tax [data](#), the average municipality's school levy represented about 53% of its total levy. For 85 municipalities, the figure was less than 40%; for 103 municipalities, it was greater than 65%.
- The bill's provisions for public financing of facility projects for charter schools in SDA districts appear to create a separate process for reviewing and ranking charter facility project applications compared to traditional district applications. For example, the bill states that SDA would establish educational priority rankings for charter school projects based on criteria and methodology determined by the SDA. Under current law, for traditional districts, the NJDOE is responsible for such ranking in consultation with SDA. We appreciate the bill's provisions designed to address the numerous complexities that would be associated with publicly funding charter school facility projects, such as the uncertainties created by the prospect of revocation or nonrenewal of a charter, but further review is necessary to determine whether those provisions are sufficient. Setting aside the complexities, if charter school facility projects do become eligible for funding, the application process should mirror that for traditional districts to the greatest extent practical.
- The bill would make various changes to how SDA is funded and run. While the NJSBA cannot claim expertise on the inner workings and financing of the SDA, these shifts raise concern that any friction during the transition period could impede SDA's core functions to the detriment of the districts and students they serve.
- The bill would require each district to submit school-level capital improvement plans, for each school in the district, that contain the same enrollment projections, building capacity, health and safety condition information, and school facility needs as is currently required for district-level long-range facility plans. Given that the current LRFP revision process can be highly time- and labor-intensive, to add significantly more data to these plans without additional time or supports for district could be unduly burdensome.
- The bill would enumerate specific types of projects that must be prioritized in the SDA's next statewide strategic plan, such as projects replacing school facilities that are 50 or more years old. It is not clear that the priority project categories created by this bill are

more urgent than the projects that receive priority under the current ranking system, which considers a greater variety of local conditions and circumstances, such as overcrowding in different grade levels, spaces necessary to provide in-district programs and services for students with disabilities, and health and safety projects.

Thank you for your time and discussion of these important topics. We look forward to continuing to work with Speaker Coughlin, Assemblywoman Lampitt, and other stakeholders to help ensure that any major revisions to the school construction statutes center the education facility needs of all students and districts around the State, and further empower the State to swiftly and efficiently deliver high quality schools. If you have any questions or concerns, please feel free to contact Jesse Young, NJSBA Legislative Advocate, at jyoung@njsba.org or 609-940-1691.