

CHAPTER 21B**NEW JERSEY BRIDGE REHABILITATION AND IMPROVEMENT AND RAILROAD RIGHT-OF-WAY PRESERVATION BOND ACT OF 1989 FUNDING RULES****Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13, 27:7-47 and the New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Bond Act of 1989, P.L.1989, c.180.

Source and Effective Date

R.1995 d.657, effective November 21, 1995.
See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

Executive Order No. 66(1978) Expiration Date

Chapter 21B, New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Bond Act of 1989 Funding Rules, expires on November 21, 2000.

Chapter Historical Note

Chapter 21B, New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Bond Act of 1989 Funding Rules, was adopted as new rules by R.1990 d.589, effective December 3, 1990. See: 22 N.J.R. 2901(b), 22 N.J.R. 3630(b). Pursuant to Executive Order No. 66(1978), Chapter 21B was readopted as R.1995 d.657, effective November 21, 1995. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTERS 5 THROUGH 6. (RESERVED)**SUBCHAPTER 1. GENERAL PROVISIONS, BRIDGE FUNDING****16:21B-1.1 Bridge bond funds**

(a) This chapter implements bridge funding provisions of the New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Bond Act of 1989, P.L. 1989, c.180. The funds are for rehabilitation or improvements to bridges on State, county and municipal roads, including railroad overhead bridges (highway over rail), as appropriated by the Legislature. These funds shall be referred to in this chapter as "bridge bond funds".

(b) The Commissioner of Transportation, after consultation with local officials, shall make the final selection of projects to be funded with bridge bond funds.

(c) Bridge projects for which bridge bond funds have been appropriated shall be advanced and under contract within three years of the appropriation. In the event that a bridge project for which funds have been appropriated is not under contract after three years, the appropriated funds for that project shall be returned to the Commissioner, for reallocation as provided by law.

(d) A bridge, for the purposes of this chapter, is a structure with a minimum clear span of five feet.

Amended by R.1995 d.657, effective December 18, 1995.

See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

Amended by R.1996 d.367, effective August 5, 1996.

See: 28 N.J.R. 2796(a), 28 N.J.R. 3808(a).

Amended (c).

16:21B-1.2 Project shares

(a) Bridge bond funds shall defray 100 percent of the cost of those bridges which carry State highways and which are constructed, owned or maintained by the State and those railroad overhead bridges over and across a railroad or electric railway operated by the State.

(b) The maximum State share of the local projects shall equal 90 percent of the costs and the county or municipality share shall equal a minimum of 10 percent of the costs.

(c) Notwithstanding the provisions of chapter 12 of Title 48 (Railroads) of the Revised Statutes, the railway company whose tracks or right-of-way the bridge crosses, shall furnish, at its own expense, necessary track safety services and engineering reviews for railroad overhead bridges.

(d) The cost of a local project shall be determined after first reducing the total project cost by the amount of available Federal funds.

Amended by R.1995 d.657, effective December 18, 1995.
See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

16:21B-1.3 Standards

(a) Bridge projects shall conform to applicable design criteria of the American Association of State Highway and Transportation Officials (AASHTO) or applicable New Jersey Department of Transportation standards. Any exceptions to these design criteria must be justified by the engineer responsible for the project to be in the public interest.

(b) Construction and materials shall conform with the applicable New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction.

(c) Evaluations, ratings, and reports shall conform to the national bridge inspection standards as contained in the current AASHTO Manual for Maintenance Inspection of Bridges.

Amended by R.1995 d.657, effective December 18, 1995.
See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

16:21B-1.4 Audits

(a) Entities receiving bridge bond funds shall comply with audit requirements of the New Jersey Department of the Treasury and of the New Jersey Department of Transportation, and with any Federal audit requirements associated with Federal funding of projects.

(b) Local governments shall comply with the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget and the Single Audit Act of 1984 (Federal OMB Circular A-128).

(c) A single audit of a local government shall be performed annually by an independent auditor or public accountant who meets the independence standards in conformity with State audit policy.

(d) Department of Transportation agreements shall be subjected to audit compliance tests in accordance with requirements delineated in the Department of Treasury, OMB publication entitled "New Jersey Grants Management Information System Manual."

(e) Audit costs shall not be reimbursable by the Department.

Amended by R.1995, d.657, effective December 18, 1995.
See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

SUBCHAPTER 2. STATE AID TO LOCAL GOVERNMENTS FOR BRIDGE PROJECTS

16:21B-2.1 Applications for bridge bond funding

(a) Any county or municipality may submit project applications for bridge bond funds to the New Jersey Department of Transportation through the Local Aid District Office.

(b) Applications shall contain executed agreements and resolutions. Forms are available at the Local Aid District Office.

(c) Applications shall provide an engineering description of the existing road and bridge and a description of the proposed improvement indicating the length of span, proposed load limit, right-of-way width, paved and graded widths, shoulder widths, type and depth of proposed pavement, and an estimate of the cost of the proposed work for both the bridge and approach roadways.

(d) Applications will be reviewed and evaluated by the Local Aid District Office. Recommendations for approval will be presented to the Commissioner of Transportation or designee for execution.

(e) All approved applications shall be implemented by contract in accordance with the provisions of this chapter, unless otherwise approved by the State.

Amended by R.1995, d.657, effective December 18, 1995.
See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

16:21B-2.2 Local government responsibility

(a) The local government shall be responsible for engaging a professional engineer registered in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and material testing as required for the project.

(b) The local government shall provide such maps, reports, construction plans and specifications, contract documents, bridge ratings, or other information as may be required by the State.

(c) The local government shall be responsible for obtaining all necessary permits, right-of-way, easements, and slope rights required.

(d) The local government shall be responsible for engaging a qualified consulting engineering firm to inspect, rate and prepare bridge evaluation reports.

(e) The local government shall submit two copies of any consultant proposal to the Local Aid District Office for review and approval prior to executing an agreement with a consulting firm.

Recodified from 16:21B-2.3 and amended by R.1995 d.657, effective December 18, 1995.

See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

Former 16:21B-2.2, "Procedure", incorporated into 16:21B-2.1.

16:21B-2.3 Award of contract

(a) The local government shall advertise and award the contract, subject to the approval of the State, in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) The local government shall submit the following to the Local Aid District Office 15 calendar days prior to the time of advertisement for construction bids:

1. Two copies of contract plans and specifications;
2. Two copies of the engineer's estimate of costs; and
3. Two copies of the responsible engineer's justification for any exceptions to the applicable design standards, or certification that none is involved.

(c) The local government shall submit the following to the Local Aid District Office within 30 calendar days of receipt of construction bids:

1. Two copies of the summary of construction bids; and
2. A resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department.

(d) The local government shall be advised of the approval of the award of the contract when all information relative to the bidding has been approved by the State.

Recodified from 16:21B-2.4 by R.1995 d.657, effective December 18, 1995.

See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

Former 16:21B-2.3, "Local government responsibility", recodified to 16:21B-2.2.

16:21B-2.4 Contract completion and payment

(a) The State may disburse funds after acceptance of completed work by the local government unit and the Department. Progress payments may be made on a monthly basis when authorized by the Department and when the requested progress payment exceeds \$10,000.

(b) The local government will prepare and submit the following to the Local Aid District Office, when all work has been completed satisfactorily:

1. A statement by the local government engineer certifying that the work performed is accepted and approved upon completion of the work;
2. A certification by the local government chief financial officer that all expenditures are supported by valid documentation and conform with the terms of the State's

agreement, and a statement that the project is contained in the annual audit;

3. A request for reimbursement by the State, on vouchers to be supplied by the State; and

4. For bridge evaluations, the following information is also required:

- i. An inventory listing of the structures inspected, including the structure identification number, the intersecting feature, the route number, and the municipality for each structure; and
- ii. A notification of the filing location of the final study reports and any instructions for arrangements to review them.

(c) Action shall be taken to reimburse the local government after a final inspection of the completed work is done by the State.

(d) The local government shall maintain complete documentation of the project for a period of three years after receiving reimbursement by the State. An evaluation of the acceptability of the work by the Department and a determination of the extent of State participation in the cost thereof will be based on an inspection of the completed project and a review of documentation maintained by the local government.

Recodified from 16:21B-2.5 and amended by R.1995 d.657, effective December 18, 1995.

See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

Former 16:21B-2.4, "Award of contract", recodified to 16:21B-2.3.

16:21B-2.5 Cost of construction

(a) State participation in the eligible cost of the completed rehabilitation and improvement work shall be as provided in P.L. 1989, c.180, any applicable legislative appropriation acts, and this chapter, in accordance with the availability of funds, concerning those bridges which carry county or municipal roads which are constructed, owned, or maintained by a county or municipality.

(b) Actual construction costs including construction supervision and material testing costs shall be eligible for reimbursement. The State shall participate in construction supervision and material testing costs in accordance with the current practices of the Department. The maximum State participation shall be limited to the lesser of:

1. Ninety percent of the total participating project cost including construction, design engineering and right of way acquisition costs;
2. One hundred percent of the participating construction cost including construction supervision and materials testing; or
3. The allotment amount as approved in the executed agreement or subsequent approved revisions or supplements.

Recodified from 16:21B-2.6 and amended by R.1995 d.657, effective December 18, 1995.
 See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).
 Former 16:21B-2.5, "Contract completion and payment", recodified to 16:21B-2.4.

16:21B-2.6 Cost of engineering, right-of-way, and bridge evaluation

(a) Design engineering and right-of-way costs are not eligible for reimbursement by the State; however, they may be included in the total project costs for purposes of calculating the maximum State share.

(b) Consultant services for the evaluation of bridges with clear spans less than 20 feet will be eligible for reimbursement. Costs incurred by the local government for negotiation and administration of the consultant agreement shall not be eligible for reimbursement and shall not be included in the total project cost for calculation of the maximum State share. The maximum State participation shall be limited to the lesser of:

1. Ninety percent of the participating consultant agreement costs; or
2. The allotment amount as approved in the executed agreement or subsequent approved revisions or supplements.

Recodified from 16:21B-2.7 and amended by R.1995 d.657, effective December 18, 1995.
 See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).
 Former 16:21B-2.6, "Cost of construction", recodified to 16:21B-2.5.

16:21B-2.7 Emergency bridge projects

The New Jersey Department of Transportation will evaluate applications received from municipalities and counties throughout the State for projects of an emergency nature. Rapid construction, reconstruction, or rehabilitation of projects of this type will reduce undue hardships to the traveling public or correct unsafe conditions in a timely fashion. The requirements of this chapter shall pertain to emergency projects.

Recodified from 16:21B-2.8 by R.1995 d.657, effective December 18, 1995.
 See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).
 Former 16:21B-2.7, "Cost of engineering, right-of-way, and bridge evaluation", recodified to 16:21B-2.6.

SUBCHAPTER 3. STATE ADMINISTERED BRIDGE BOND PROJECTS

16:21B-3.1 State projects

Projects involving State owned bridges or where the Department of Transportation is the lead agency will be governed by the Department's policy and procedures for State projects.

SUBCHAPTER 4. RAILROAD OVERHEAD BRIDGE PROJECTS INVOLVING JURISDICTIONAL ASSIGNMENTS

16:21B-4.1 General provisions

(a) The Department of Transportation shall be the lead agency, when a railroad overhead bridge project involves a jurisdictional assignment. Such projects shall be funded with 90 percent State funds and 10 percent local match; however, the 10 percent local match requirement shall only apply to the direct design, right-of-way, construction, and inspection costs of the project.

(b) Responsibilities and jurisdictional assignments for railroad overhead bridges shall be governed by P.L. 1988, c.171 (N.J.S.A. 27:5G-5 et seq.), the Railroad Overhead Bridge Act of 1988, and by N.J.A.C. 16:53B.

(c) The Department may accept or assign full or partial permanent jurisdictions or responsibilities to either the Department or to a county or municipality as provided in accordance with P.L. 1988, c.171 (N.J.S.A. 27:5G-5 et seq.) for those railroad overhead bridges whose ownership is not determined or is in doubt. The Department may assign responsibility for routine roadway maintenance to the governmental entity with jurisdiction for the approaching roadways. Jurisdiction or responsibility for other than roadway maintenance shall be accepted by the Department except in those cases where the Department determines by a preponderance of the evidence that a county or municipality already owns or has jurisdiction for a bridge.

(d) The provisions of (c) above shall not restrict interested parties from entering into voluntary jurisdictional agreements or allocations of responsibilities.

(e) The Department of Transportation shall administer and direct all phases of the real property or right-of-way acquisition when a project requires the purchase of additional property. Unless determined otherwise by the Commissioner, real property or right of way shall be acquired in the name of the entity with approach road jurisdiction.

Amended by R.1995 d.657, effective December 18, 1995.
 See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

16:21B-4.2 Procedure

(a) The applicable local government shall execute a cost sharing and jurisdictional agreement(s) with the Department of Transportation prior to work commencing on a project. The agreement(s) shall conform to the requirements of N.J.A.C. 16:53B.

(b) The agreement(s) shall provide an engineering description of the existing road and bridge, a description of the proposed improvement, and an estimate of the cost of the proposed work for both the bridge and approach roadways.

Amended by R.1995 d.657, effective December 18, 1995.
See: 27 N.J.R. 3764(a), 27 N.J.R. 5033(b).

hardships to the traveling public or correct unsafe conditions in a timely fashion.

16:21B-4.3 Emergency bridge projects

SUBCHAPTERS 5 THROUGH 6. (RESERVED)

The New Jersey Department of Transportation shall evaluate situations throughout the State for projects of an emergency nature. Rapid construction, reconstruction, or rehabilitation of projects of this type will reduce undue