

CHAPTER 20B**NEW JERSEY TRANSPORTATION TRUST FUND
AUTHORITY ACT: MUNICIPAL AID****Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13, 27:7-13.1 et seq., 27:7-47 and the New Jersey Trust Fund Authority Act, N.J.S.A. 27:1B-1 et seq.

Source and Effective Date

R.2001 d.162, effective April 26, 2001.
See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 16:20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, expires on October 23, 2006. See: 38 N.J.R. 2395(a).

Chapter Historical Note

Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, was adopted as emergency new rules by R.1984 d.423, effective September 6, 1984, expired November 5, 1984. See: 16 N.J.R. 2456(a). The provisions of R.1984 d.423 were adopted as new rules by R.1984 d.552, effective December 17, 1984. See: 16 N.J.R. 3470(a).

Subchapter 5, Audit, was adopted as R.1987 d.266, effective July 6, 1987. See: 19 N.J.R. 623(a), 19 N.J.R. 1229(b).

Pursuant to Executive Order No. 66(1978), Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, expired on December 17, 1989.

Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Fund, was adopted as new rules by R.1990 d.130, effective February 20, 1990. See: 21 N.J.R. 3716(b), 22 N.J.R. 669(b).

Pursuant to Executive Order No. 66(1978), Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Fund, was readopted as R.1995 d.72, effective January 12, 1995. See: 26 N.J.R. 4486(a), 27 N.J.R. 504(c).

Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Fund, was repealed, and a new Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, was adopted as R.1996 d.305, effective July 1, 1996. See: 28 N.J.R. 1354(a), 28 N.J.R. 3315(a).

Pursuant to Executive Order No. 66(1978), Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, was readopted as R.2001 d.162, effective April 26, 2001. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS**16:20B-1.1 Appropriation of funds**

New Jersey Transportation Trust Fund Authority Act funds are appropriated by the Legislature as the State's share of the cost for transportation improvements under municipal jurisdiction.

16:20B-1.2 Funding allocation and agreement procedure

(a) Each municipality may submit fully executed resolution, application and agreement forms for New Jersey Transportation Trust Fund Authority Act funds to the Local Government Services and Economic Development District Office of the New Jersey Department of Transportation. Resolution, application and agreement forms are available to the municipalities at the District Offices.

(b) Procedures for municipal aid formula appropriations are as follows:

1. Subject to appropriation of funds, State Aid for municipal projects in each county will be allocated according to the formula set forth in the Transportation Trust Fund legislation which gives equal weight to percentage of State population within a county and percentage of total State municipal road mileage within a county. For the purpose of this formula, population figures will be obtained from the New Jersey Department of Labor and municipal road mileage will be determined by the New Jersey Department of Transportation.

2. The resolution, application and agreement form provides for an engineering description of the existing road or bridge and the description of the proposed improvement indicating the 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. The Local Government Services and Economic Development District Offices shall review the form for completeness, make a field investigation and evaluate all projects for which applications have been received.

3. Projects for which applications have been received will be reviewed by a Screening Committee composed of

municipal engineers, representing a cross section of New Jersey, and staff of the New Jersey Department of Transportation. Recommendations as to which projects should receive funding, will be presented to the Commissioner of Transportation for consideration and approval. In determining the recommendations, consideration is given to the volume of traffic, safety, service to the public, growth potential, readiness to construct and local taxing capacity.

4. Each municipality will be required to execute State/Municipal Agreements for each project on forms provided by the State. Each agreement shall specify a time frame for the award of contract. In the event the award is not made within the specified timeframes, the State may either grant a time extension or recoup the State funds for use on other eligible projects throughout the State.

(c) Separate from the Municipal Aid Formula allocation, the Commissioner shall allocate \$5,000,000 to municipalities qualifying for urban aid under P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) in the same proportion that they receive aid under P.L. 1978, c.14. The proportion is determined by the Department of Community Affairs.

(d) Separate from Municipal Aid Formula and Urban Aid appropriations, the Cities of Jersey City and Newark shall receive an annual State Aid allotment not less than the combined total of their 1984 apportionment of Federal Aid Urban System funds plus State match including their portion on non-attributable funds made available for Small Urban Areas. In any one year in which insufficient funds have been appropriated to meet the minimum allocations, or if no appropriation is provided, the Commissioner of Transportation shall determine on a prorated basis the amount of the deficiency for each municipality.

1. Annually, prior to September 30, Jersey City and Newark will be advised for budgetary purposes of the amount of funds they can anticipate for the following calendar year. The Transportation Improvement Program with a State Aid element or, at the discretion of Jersey City and Newark, an Annual Transportation Program shall be submitted for approval by the Department prior to February 1 of the next succeeding calendar year. Municipal Capital Transportation Programs shall be approved by the Mayor and Council and submitted to the Department of Transportation for final approval. Jersey City and Newark shall make reasonable progress in the attainment and maintenance of National Ambient Air Quality Standards consistent with the New Jersey State Implementation Plan.

2. The Annual Transportation Programs shall list each project by name and location with a brief description of how each project conforms with Jersey City's and Newark's Municipal Transportation Plan.

3. Each program shall list the approved phase (engineering, right-of-way, construction) of each project to be undertaken. A cost estimate shall be provided for each phase of eligible work. This cost estimate shall indicate the amount of anticipated State participation and the amount of Jersey City's and Newark's participation. The total cost of work in the program (in which State participation is requested) shall not exceed Jersey City's and Newark's annual share of their funds.

4. Jersey City and Newark will be required to execute State/Municipal Agreements for each project on forms provided by the State. The amount for any specific project can vary from the programmed amount as long as the total for all projects for the fiscal year does not exceed the total available for the year. Additions of projects or deletions of projects will require amended programs approved by the Mayor and Council and the Department of Transportation.

5. Escalation in a project's cost that exceed the approved amount in the State/Municipal Agreement shall be reviewed by the Department to determine eligibility for State participation. A request must be made for Department of Transportation's approval to modify the Annual Transportation Program to permit State participation in the additional work and revised agreements executed. Otherwise, all cost escalations will be totally borne by the municipality.

Amended by R.2001 d.162, effective May 21, 2001.

See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Rewrote the section.

16:20B-1.3 Discretionary funds

(a) Annually, subject to funds appropriated by the Legislature, a discretionary fund shall be established to address emergency and critical transportation projects. Any municipality may make application to the Department of Transportation at any time for these funds. All municipal aid formula rules, regulations and procedures in this chapter shall apply to discretionary funds except that due to the nature of the projects, applications will not be evaluated by a Municipal Engineers Screening Committee. Project approvals will be at the discretion of the Commissioner of Transportation.

(b) Applications should be made as described in N.J.A.C. 16:20B-1.2. Applications submitted for the formula portion, but not receiving funding approval, can be recycled for discretionary funding at the applicant's request. Department staff shall review requests as they are received and shall make recommendations to the Commissioner for approvals. Emergencies shall be reviewed immediately with recommendations for timely action.

SUBCHAPTER 2. PLANS AND SPECIFICATIONS**16:20B-2.1 Municipal government responsibility**

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

(b) The municipal government shall provide maps, reports, construction plans, and specification and contract documents as may be required by the State.

(c) The municipal government shall certify to the Department of Transportation that all allotted funds will only be spent on eligible costs for the approved project(s) as described in the application.

16:20B-2.2 Standards

(a) The proposed road and bridge improvements shall conform to the design criteria of the appropriate American Association of State Highway and Transportation Officials (AASHTO) publications listed in (a)1 through 3 below, in effect at the time of the improvement.

1. A Policy on Geometric Design of Highways and Streets;
2. Standard Specifications for Highway Bridges; and
3. Guide for the Development of New Bicycle Facilities.

(b) The Department shall be advised in writing about all deviations from the standards in (a) above. If there is deviation from those standards, the county shall accept any and all responsibility for any injury or damage by such deviation to any person or property and shall indemnify the State as outlined in the aid agreement.

(c) In addition to the standards in (a) above, all design shall also conform to the "Manual On Uniform Traffic Control Devices" (MUTCD), Millennium Edition, incorporated herein by reference, as amended and supplemented, published by the U.S. Department of Transportation, Federal Highway Administration. Copies of the Millennium Edition of the MUTCD can be downloaded at no charge directly from the internet website of the Federal Highway Administration at: <http://mutcd.fhwa.dot.gov> and following the instructions. Copies of the Millennium Edition of the MUTCD will also be available in the spring of 2001, from the Government Printing Office, Superintendent of Documents, Post Office Box 371954, Pittsburgh, PA, 15250-7950.

(d) Construction and materials shall conform with the New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction as amended for State Aid, in effect at the time of the improvement.

(e) Standards for transportation projects other than roads and bridges shall be pre-approved by the Department of Transportation.

Amended by R.2001 d.162, effective May 21, 2001.

See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Rewrote the section.

SUBCHAPTER 3. CONTRACTS**16:20B-3.1 Award of contract**

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

(b) Fifteen calendar days prior to the time of advertisement, the municipal government shall submit the following to the Local Government Services and Economic Development District Office:

1. One copy of the contract plans and specifications;
2. One copy of the engineer's estimate of costs; and
3. A certification from the municipal engineer or consulting engineer for the project concerning conformance to AASHTO design criteria and any required design exception justification.

(c) Within 30 calendar days following the receipt of construction bids, the municipal government shall submit the following to the Local Government Services and Economic Development District Office:

1. One copy of the summary of construction bids showing all unit prices and extensions;
2. A resolution awarding the contract to the lowest responsible bidder, subject to the concurrence of the Department; and
3. An invoice for a percentage of the award amount, or a percentage of the allotment, whichever is less. The percentage to be applied will be based on estimates of the amount of funding that typically remained on projects with balances and will be specified in the letter to the governing body announcing approval of the allotments.

(d) When all information relative to the bidding has been approved by the State, the municipal government shall be advised of the concurrence of the award of contract in writing. Any construction completed prior to the award of the contract shall be subject to nonparticipation.

1. No third party shall be entitled to challenge a decision of the Department to approve or disapprove the award of any contract under this chapter.

(e) Contracts may also be performed by the Force Account method which is work done by municipal forces, for example, not bid contract. All Force Account work must be approved prior to the start of construction by municipal work forces.

Amended by R.2001 d.162, effective May 21, 2001.
See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).
Rewrote the section.

16:20B-3.2 Contract completion and payment

(a) For municipal aid formula and discretionary fund projects, the State will pay a percentage of the low bid or a percentage of the allotment, whichever is less, after concurrence of the award of contract by the Department of Transportation. The balance will be paid after final acceptance.

(b) The State will make a final payment on a reimbursement basis after acceptance by the municipality and statement of the work completed. Vouchers submitted for project payment shall include a statement of the acceptability of the work performed certified by the municipal engineer or consulting engineer for the project. Progress payments may be made on a monthly basis when requested by the municipal government when the total amount of reimbursement requested is not less than \$50,000.

(c) When all work has been completed satisfactorily, the municipal government shall prepare and submit to the Local Government Services and Economic Development District Office the following:

1. A statement of the work performed, certified by the municipal engineer or consulting engineer for the project, for acceptance and approval of the completed work;
2. A certification by the municipal chief financial officer that all expenditures are supported by valid documentation and conform with the State agreement;
3. Material certifications and test results to ensure conformance with the construction specifications as may be required; and
4. A request for final reimbursement by the State, on vouchers (Form PV) to be supplied by the State.

(d) After a final inspection of the completed work by the State, action shall be taken to reimburse the municipality.

(e) The municipality shall maintain complete documentation of the project for a period of three years after project acceptance or final 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 shall be based on an inspection of the completed project and a review of the documentation maintained by the municipality.

(f) In the event that a request for final reimbursement is not received within one year after acceptance of the project by the State, action may be taken to cancel any remaining funds allocated to the project.

(g) Any funds remaining after final payment are to be reallocated by the Department at the Commissioner's discretion except for those funds programmed by Jersey City and Newark and any Urban Aid funding. Any balances remaining from those projects will be held by the State for reallocation to the recipient.

Amended by R.2001 d.162, effective May 21, 2001.
See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

In (c), substituted "Government Services and Economic Development" for "Highway Design"; and in (f), substituted "one year" for "six months".

SUBCHAPTER 4. STATE PARTICIPATION IN COST

16:20B-4.1 General requirements

(a) State participation shall not exceed the lesser of either 100 percent of the cost of the completed construction work including construction supervision, inspection and material testing or the project allotment. The cost of design engineering and right-of-way acquisition shall be borne totally by the municipality.

(b) Municipalities qualified by the Department of Community Affairs for Urban Aid funding under P.L. 1978, c.14, as amended by P.L. 1983, c.384 or for Depressed Rural Centers Aid or any municipality demonstrating hardship and approved by the Department, may, at the discretion of the Commissioner of Transportation, be reimbursed for design engineering and right-of-way acquisition in addition to the construction, providing that the amount does not exceed the total amount allotted for the project. Justifications are supplied by the municipality usually involving their inability to proceed either due to lack of funds or expertise. Department staff shall recommend acceptance or rejection of the justification to the Commissioner for his or her final decision. These hardship cases will be determined by need on a case-by-case basis.

16:20B-4.2 Cost of engineering, inspection and construction supervision

(a) In the case of qualified municipalities, the State may participate in the cost of engineering accomplished by either a consultant engaged by the municipality or by their full time engineering staff. Prior approval of the State's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

(b) A qualified municipal government desiring State participation in the cost of design engineering shall submit the scope of services to be performed by the engineer to the Department.

(c) The State shall also participate in the cost of inspection and construction supervision including the necessary material testing. The Department shall allow a maximum of 10 percent of the final construction cost of the project as the cost of inspection and construction supervision, less any State not sharing items for construction inspection services including material testing. Bituminous concrete adjustments are not included in this calculation.

16:20B-4.3 Cost of right-of-way acquisition

(a) In the case of qualified municipalities, the State may participate on a reimbursement basis in the cost of lands and/or easement rights acquired for right-of-way. Other costs incurred incidental to the right-of-way acquisition shall not be reimbursed. All property shall be purchased in accordance with the provisions of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Cost is the actual purchase price amount paid for each parcel of land or easement rights acquired for the project as a result of a negotiated purchase agreement or, where negotiations have failed, the just compensation amount awarded by the courts for a particular parcel as a result of a subsequent condemnation action.

(c) Municipal governments requesting State participation in the cost of right-of-way acquisition shall in advance of any right-of-way acquisition activity for the project make a request to the Local Government Services and Economic Development District Office and provide right-of-way maps depicting the lands and/or easements rights necessary to be acquired.

(d) Right-of-way acquisition activities by municipalities shall be conducted in accordance with all requirements and conditions set forth within the State of New Jersey Uniform Eminent Domain Law of 1971, N.J.S.A. 20:3-1 et seq.

(e) Where owner or tenant occupants of any property being acquired for the project will be displaced, the municipality shall provide a relocation plan and accomplish reloca-

tion assistance in accordance with the State Department of Community Affairs Relocation Assistance Act, N.J.S.A. 20:4-1 et seq., and with all published procedures, conditions and requirements of the State Department of Community Affairs pertaining to this statute.

(f) Where properties have been acquired with State participation and are later declared by the municipality as excess to the project and are in turn sold, the participation amount shall be returned to the State.

Amended by R.2001 d.162, effective May 21, 2001.

See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

In (c), substituted "Government Services and Economic Development" for "Highway Design".

SUBCHAPTER 5. AUDIT

16:20B-5.1 General provisions

(a) The municipality shall comply with the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget (OMB Circular 98-03 or as superseded) and the Single Audit Act of 1984 as amended (Federal OMB Circular A133).

(b) A Single Audit of the municipality shall be performed annually by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with the State Audit Policy.

(c) The Department of Transportation agreements governed by N.J.A.C. 16:20B shall be subjected to audit compliance tests in accordance with requirements delineated in the Department of Treasury, Office of Management and Budget publication entitled "New Jersey Grants Management Information System Manual."

(d) Audit costs incurred by the municipality to comply with the subchapter shall not be reimbursable.

Amended by R.2001 d.162, effective May 21, 2001.

See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Rewrote (a).