

**Notice of Proposal Regarding Proposed New Rules at N.J.A.C. 6A:26B, School Facility  
Bond Issuance Without Voter Approval Rules**

The following is an accessible version of the notice of proposal regarding the proposed new rules at N.J.A.C. 6A:26B. The notice contains two sections: the [summary of the proposed new rules](#) and the [rule text](#).

## **Education**

### **Commissioner of Education**

#### **School Facility Bond Issuance Without Voter Approval Rules**

#### **Proposed New Rules: N.J.A.C. 6A:26B**

Authorized By: Kevin Dehmer, Commissioner, Department of Education.

Authority: P.L. 2023, c. 311 and P.L. 2024, c. 79.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-078.

Submit written comments by September 5, 2025, to:

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The agency proposal follows:

#### **Summary**

The Department of Education (Department) proposes new N.J.A.C. 6A:26B, School Facility Bond Issuance Without Voter Approval, to provide a process to govern the agreements between municipalities and district boards of education pursuant to P.L. 2023, c. 311 and P.L. 2024, c. 79 (N.J.S.A. 18A:7G-15.1a).

The laws allow district boards of education to issue bonds without voter approval, as long as the district board of education has entered into a contract with a municipality to support the bond payments through the receipt of a portion of a municipality's payments in lieu of taxes (PILOTs) specified for this purpose. In certain circumstances, a municipality has the authority to

enter into an agreement with a developer under which, for a specified period of time, the developer will remit PILOT payments to the municipality instead of paying property taxes. Pursuant to the current law, the municipality is required to remit five percent of such payments to the county government, but is not required to remit any to a district board of education.

The following summarizes the proposed new rules.

### **Subchapter 1. Purpose, Scope, and Definitions**

#### **N.J.A.C. 6A:26B-1.1 Purpose and Scope**

This section describes the purpose and scope of the proposed new rules.

#### **N.J.A.C. 6A:26B-1.2 Definitions**

This section defines the chapter's essential terms.

### **Subchapter 2. General Eligibility Requirements**

#### **N.J.A.C. 6A:26B-2.1 Eligibility Requirements**

This section provides the requirements for school facilities projects and contracts to be eligible for approval of the bond issuance pursuant to this chapter.

The school facilities projects will be required to have prior approval from the Local Finance Board and the Commissioner of the Department of Education (Commissioner), and the cost of the project may not exceed the amount of the bond issuance. The contract between the district board of education and the municipality will need prior approval from the Local Finance Board, and the contract will need to ensure that the portion of the PILOT pledged by the municipality is sufficient to fully fund the school district's bond payment obligation, exclusive of the portion of the PILOT that is required to be remitted to the county pursuant to N.J.S.A. 40A:20-12. The rules make the distinction that the contract is required to include a pledge that the payments collected by the municipality will be sufficient to repay the entire amount of debt service on the school facilities project bond, while the municipality is required to remit only the portion of payments sufficient to satisfy the principal and interest payments due after application

of any State debt service aid pursuant to N.J.S.A. 18A:7G-9. While the authorizing statute requires a municipality to remit only the portion of the payment that is not satisfied by debt service aid, the contractual pledge for the full amount is necessary because the amount of debt service aid to be paid will be unknown at the time of the contract. In addition, since the requirement is consistent with the Local Finance Board application requirements, including the distinction that the rules will increase transparency for district boards of education and municipalities considering an application.

### **Subchapter 3. Application Process**

#### **N.J.A.C. 6A:26B-3.1 Application Process and Requirements**

This section establishes the process for district boards of education to apply to the Commissioner for approval to issue a bond pursuant to this chapter.

A district board of education that elects to issue bonds pursuant to this chapter will be required to submit an application to the Commissioner using Commissioner-prescribed forms and include the information itemized in the authorizing statute, as well as documentation that the school facilities project has been approved by the Commissioner and that the contract has been approved by the Local Finance Board.

#### **N.J.A.C. 6A:26B-3.2 Application Review**

This section establishes the process for the Commissioner's review of the application, and any subsequent appeal.

The proposed new rules will require the Commissioner to review the application and contract and provide a response within 30 days of receiving the application or the application will be deemed approved, pursuant to N.J.S.A. 18A:7G-15.1a.c(2). If the Commissioner provides conditional approval with the required revisions, the district board of education will have 90 days to provide a contract revised only to include the Commissioner's required revisions or the application will be deemed rejected.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed new rules may yield a positive social impact to the extent that they could promote the construction of school facilities projects that otherwise would be inhibited by the need for voter approval. The potential impact will vary by community, depending on access to potential PILOT agreements that could be used to finance the projects.

### **Economic Impact**

The proposed new rules may have a positive economic impact on public schools. The proposed new rules provide a process for issuing bonds for school facilities projects that are not dependent upon voter approval. As the new process requires an agreement between only the municipality and the district board of education, the process for obtaining the funding may be easier.

The proposed new rules may have a positive impact on local taxpayers by outsourcing the costs of the bond payments and, thereby, reducing the financial burden associated with a school facilities project. Municipalities would cover the payment of the bonds issued pursuant to this chapter through PILOTs from developers, rather than local property taxes. The proposed new rules also allow a district board of education to outsource the costs by entering into a contract with an unrelated, separate municipality. Prior to the enactment of N.J.S.A. 18A:7G-15.1a, school facilities projects were typically financed by the issuance of bonds, the principal and interest costs of which would be paid by the school district through a debt service tax levy. The debt service levy is not subject to the State's limitation on tax levy growth and is in addition to a school district's general fund tax levy used to support operational expenses.

### **Federal Standards Statement**

The proposed new rules will not be inconsistent with, or exceed, Federal requirements or standards as there are no Federal standards or requirements applicable to the proposed new rules.

### **Jobs Impact**

The proposed new rules may impact job creation in the State. The proposed new rules establish a process for district boards of education to approve school facilities projects without voter approval. If the rules increase the ease of issuing bonds, the number of school facilities projects in the State could increase. Therefore, additional jobs may be generated for the construction involved in school facilities projects.

### **Agriculture Industry Impact**

The proposed new rules will have no impact on the agriculture industry in New Jersey.

### **Regulatory Flexibility Statement**

As the proposed new rules impact solely upon the process by which district boards of education and municipalities enter into a contract for the cost of school facilities projects, the rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses.

### **Housing Affordability Impact Analysis**

The proposed new rules are unlikely to have an impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the proposed new rules will evoke a change in the average costs associated with housing because the proposed new rules pertain only to contractual agreements between municipalities and school districts for school facilities projects. The proposed new rules do not impact circumstances through which a municipality may enter into a PILOT agreement with a developer, nor do they change a municipality's incentive to do so.

### **Smart Growth Development Impact Analysis**

There is an extreme unlikelihood the proposed new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed new rules pertain only to contractual agreements between municipalities and school districts for school facilities projects. The proposed new rules would not have any effect on the incentives to develop in any

particular area or for a municipality to enter into a PILOT agreement. The proposed new rules impact only how receipts from a PILOT agreement might be used based on an agreement between a municipality and a district board of education.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

There is an extreme unlikelihood the proposed new rules would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the proposed new rules pertain only to contractual agreements between municipalities and school districts for school facilities projects.

**Full text** of the proposed new rules follows:

## Chapter 26B

### School Facility Bond Issuance Without Voter Approval Rules

#### Subchapter 1. Purpose, Scope, and Definitions

##### 6A:26B-1.1 Purpose and scope

This chapter implements N.J.S.A. 18A:7G-15.1a (P.L. 2023, c. 311, § 7 and P.L. 2024, c. 79), which authorizes school districts to issue bonds to fund school facilities projects without obtaining voter approval in limited circumstances. The rules specify eligibility criteria, application process, and requirements for the review and approval of bond issuance pursuant to this chapter. The rules apply to all school districts, as defined at N.J.S.A. 18A:7G-3. The rules do not apply to charter schools or renaissance school projects.

##### 6A:26B-1.2 Definitions

The following words and terms shall have the following meanings when used in this chapter, unless the context clearly indicates otherwise.

“Commissioner” means the Commissioner of the Department of Education.

“Contract” means the written contract between a district board of education and municipality through which the municipality pledges to remit a portion of payments in lieu of taxes from one or more designated properties to the school district for the purpose of repayment of bonds issued pursuant to N.J.S.A. 18A:7G-15.1a.

“Debt service” means the same as set forth at N.J.S.A. 18A:7G-3.

“Designated property” means the property identified in the contract for the purpose of securing the municipality’s obligation to remit sufficient funds to the school district for the repayment of any bond issued pursuant to N.J.S.A. 18A:7G-15.1a.

“Local Finance Board” means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

“Municipality” means a municipality that has entered into a contract with a district board of education in accordance with N.J.S.A. 18A:7G-15.1a.

“School facilities project” means the same as defined at N.J.S.A. 18A:7G-3.

## Subchapter 2. General Eligibility Requirements

### 6A:26B-2.1 Eligibility requirements

(a) For the bond issuance to be eligible for Commissioner approval pursuant to this chapter, school facilities projects shall meet the following criteria:

1. The school facilities project has been approved by the Commissioner pursuant to N.J.S.A. 18A:7G-5;

2. The school facilities project is not being financed, in whole or in part, pursuant to N.J.S.A. 18A:7G-15; and
  3. The amount of bond issuance is sufficient to fully fund the school facilities project.
- (b) For the bond issuance to be eligible for Commissioner approval pursuant to this chapter, contracts shall meet the following criteria:
1. The contract requires, at a minimum, the municipality to:
    - i. Pledge, to the district board of education, a portion of the payments in lieu of taxes received by the municipality from the designated property(ies).  
The pledged portion shall be sufficient for the repayment of the entire amount of debt service on the school facilities project bond; and
    - ii. Remit, to the district board of education, a portion of payments in lieu of taxes received by the municipality from the designated property(ies). The remitted portion shall be sufficient to satisfy the principal and interest payments due on the bonds that have been issued after application of any State debt service aid paid pursuant to N.J.S.A. 18A:7G-9;
  2. The debt service payment amounts included in the contract do not include the portion of the payment in lieu of taxes that is obligated to the county pursuant to N.J.S.A. 40A:20-12; and
  3. The contract and bond issuance have been approved by the Local Finance Board.

### Subchapter 3. Application Process

#### 6A:26B-3.1 Application process and requirements

- (a) A district board of education that elects to issue bonds pursuant to this chapter shall apply to the Commissioner for approval of the bond issuance using Commissioner-prescribed forms.
- (b) The district board of education application shall include, at a minimum:

1. A description of the school facilities project;
2. Documentation that the school facilities project has been approved by the Commissioner pursuant to N.J.S.A. 18A:7G-5;
3. A certification of the amount to be raised by the bonds;
4. A description of the anticipated annual debt service costs, including the amounts to be supported by municipal remittances in accordance with N.J.A.C. 6A:26B-2.1(b)1ii;
5. A copy of the contract, approved by the Local Finance Board, between the school district and municipality(ies) pursuant to N.J.A.C. 6A:26B-2.1(b)3; and
6. A certification that the district board of education shall transfer to the Commissioner, upon demand, an amount sufficient to provide for all reasonable professional and other fees and expenses incurred for the review, analysis, and determination with respect thereto.

#### 6A:26B-3.2 Application review

- (a) Upon receipt, the Commissioner, or the Commissioner's designee, will review the district board of education application and contract for compliance with N.J.A.C. 6A:26B-2.1 and 3.1.
- (b) Within 30 days of receiving the application, the Commissioner shall approve, conditionally approve, or reject the application, pursuant to N.J.S.A. 18A:7G-15.1a.c(2).
  1. If the Commissioner does not approve, conditionally approve, or reject the application within 30 days of the date of receipt, the application shall be deemed approved, pursuant to N.J.S.A. 18A:7G-15.1a.c(2).
- (c) If the application is conditionally approved, the Commissioner shall state, in writing, the revisions that shall be made to the application for it to be approved.
- (d) Within 90 days of receiving the conditional approval, the district board of education shall submit, to the Commissioner, a written contract revised only to include the Commissioner's revisions required pursuant to (c) above.

1. Upon the Commissioner's receipt of the revised written contract, the application will be deemed approved.
  2. If no revised contract is received, or the district board of education notifies the Commissioner that it does not intend to submit a revised written contract, the application will be deemed rejected.
- (e) The Commissioner's decision may be appealed to the Appellate Division of the Superior Court in accordance with N.J.S.A. 18A:6-9.1.