

18A:20-4.2

LEGISLATIVE HISTORY CHECKLIST  
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(School lease purchase agreements)

NJSA: 18A:20-4.2

LAWS OF: 1991 CHAPTER: 477

BILL NO: S3361

SPONSOR(S): Lynch

DATE INTRODUCED: March 14, 1991

COMMITTEE: ASSEMBLY: Education  
SENATE: Education

AMENDED DURING PASSAGE: Yes Amendments during passage denoted  
by asterisks

DATE OF PASSAGE: ASSEMBLY: January 13, 1992  
SENATE: July 29, 1991

DATE OF APPROVAL: January 18, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG/pp

P.L.1991, CHAPTER 477, approved January 18, 1992

1991 Senate No. 3361 (First Reprint)

1 AN ACT concerning the approval of certain board of education  
2 lease purchase agreements and amending N.J.S.18A:20-4.2.

3

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

6 1. N.J.S.18A:20-4.2 is amended to read as follows:

7 18A:20-4.2. The board of education of any school district may,  
8 for school purposes:

9 (a) Purchase, take and condemn lands within the district and  
10 lands not exceeding 50 acres in extent without the district but  
11 situate in a municipality or municipalities adjoining the district,  
12 but no more than 25 acres may be so acquired in any one such  
13 municipality, without the district, except with the consent, by  
14 ordinance, of such municipality;

15 (b) Grade, drain and landscape lands owned or to be acquired  
16 by it and improve the same in like manner;

17 (c) Erect, lease for a term not exceeding 50 years, enlarge,  
18 improve, repair or furnish buildings;

19 (d) Borrow money therefor, with or without mortgage; in the  
20 case of a type II district without a board of school estimate, when  
21 authorized so to do at any annual or special school election; and  
22 in the case of a type II district having a board of school estimate,  
23 when the amount necessary to be provided therefor shall have  
24 been fixed, determined and certified by the board of school  
25 estimate; and in the case of a type I district, when an ordinance  
26 authorizing expenditures for such purpose is finally adopted by  
27 the governing body of a municipality comprised within the  
28 district; provided, however, that no such election shall be held  
29 nor shall any such resolution of a school estimate board or  
30 ordinance of a municipal governing body be introduced to  
31 authorize any lease of any building for a term exceeding one  
32 year, until the proposed terms of such lease have been reviewed  
33 and approved by the Commissioner of Education and the Local  
34 Finance Board in the Department of Community Affairs;

35 (e) Construct, purchase, lease or otherwise acquire a building  
36 with the federal government, the State, a political subdivision  
37 thereof or any other individual or entity properly authorized to do  
38 business in the State; provided that: (1) the noneducational uses

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
Assembly AED committee amendments adopted November 25, 1991.

1 of the building are compatible with the establishment and  
2 operation of a school, as determined by the Commissioner of  
3 Education; (2) the portion of the building to be used as a school  
4 meets regulations of the Department of Education; (3) the board  
5 of education has complied with the provisions of law and  
6 regulations relating to the selection and approval of sites; and (4)  
7 in the case of a lease, that any lease in excess of five years shall  
8 be approved by the Commissioner of Education and the Local  
9 Finance Board in the Department of Community Affairs;

10 (f) Acquire by lease purchase agreement a site and school  
11 building; provided that the site and building meet guidelines and  
12 regulations of the Department of Education and that any lease  
13 purchase agreement in excess of five years shall be approved by  
14 the Commissioner of Education as in the best interest of the  
15 school district after determining that the relationship of the  
16 proposed lease purchase project to the district's goals and  
17 objectives established pursuant to P.L.1975, c.212 (C.18A:7A-1 et  
18 seq.) has clearly been established; and provided that for any lease  
19 purchase agreement in excess of five years the Local Finance  
20 Board in the Department of Community Affairs shall determine  
21 within 30 days that the cost and the financial terms and  
22 conditions of the agreement are reasonable. As used herein, a  
23 "lease purchase agreement" refers to any agreement which gives  
24 the board of education as lessee the option of purchasing the  
25 leased premises during or upon termination of the lease, with  
26 credit toward the purchase price of all or part of rental payments  
27 which have been made by the board of education in accordance  
28 with the lease. As part of such a transaction approved by the  
29 Commissioner of Education, the board of education may transfer  
30 or lease land or rights in land, including any building thereon,  
31 after publicly advertising for proposals for the transfer for  
32 nominal or fair market value, to the party selected by the board  
33 of education, by negotiation or otherwise, after determining that  
34 the proposal is in the best interest of the taxpayers of the  
35 district, to construct or to improve and to lease or to own or to  
36 have ownership interests in the site and the school building to be  
37 leased pursuant to such lease purchase agreement,  
38 notwithstanding the provisions of any other law to the contrary.  
39 The land and any building thereon which is described in a lease  
40 purchase agreement entered into pursuant to this amendatory  
41 act, shall be deemed to be and treated as property of the school  
42 district, used for school purposes pursuant to R.S.54:4-3.3, and  
43 shall not be considered or treated as property leased to another  
44 whose property is not exempt, and shall not be assessed as real  
45 estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any  
46 lease purchase agreement authorized by this section shall contain  
47 a provision making payments thereunder subject to the annual  
48 appropriation of funds sufficient to meet the required payments

1 or shall contain an annual cancellation clause and shall require all  
2 construction contracts let by public school districts or let by  
3 developers or owners of property used for school purposes to be  
4 competitively bid, pursuant to P.L.1977, c.114 (C.18A:18A-1 et  
5 seq.);

6 (g) Establish with an individual or entity authorized to do  
7 business in the State a tenancy in common, condominium,  
8 horizontal property regime or other joint ownership arrangement  
9 on a site contributed by the school district; provided the  
10 following conditions are met:

11 (1) The individual or entity agrees to construct on the site, or  
12 provide for the construction thereon, a building or buildings for  
13 use of the board of education separately or jointly with the  
14 individual or entity, which shall be subject to the joint ownership  
15 arrangement;

16 (2) The provision of the building shall be at no cost or at a  
17 reduced cost to the board of education;

18 (3) The school district shall not make any payment for use of  
19 the building other than its pro rata share of costs of maintenance  
20 and improvements;

21 (4) The noneducational uses of the building are compatible  
22 with the establishment and operation of a school, as determined  
23 by the Commissioner of Education;

24 (5) The portion of the building to be used as a school, and the  
25 site, meet regulations of the Department of Education; and

26 (6) Any such agreement shall be approved by the Commissioner  
27 of Education and the Local Finance Board in the Department of  
28 Community Affairs.

29 (cf: P.L.1986, c.183, s.1)

30 2. This act shall take effect <sup>1</sup>[immediately] on the 60th day  
31 following the date of enactment<sup>1</sup>.

## 32 33 34 EDUCATION

35  
36 Establishes additional requirements for the approval of certain  
37 board of education lease purchase agreements.

STATE OF NEW JERSEY

INTRODUCED MARCH 14, 1991

By Senator LYNCH

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25 site, meet regulations of the Department of Education; and

26 (6) Any such agreement shall be approved by the Commissioner  
27 of Education and the Local Finance Board in the Department of  
28 Community Affairs.

29 (cf: P.L.1986, c.183, s.1)

30 2. This act shall take effect immediately.

31  
32  
33 STATEMENT

34  
35 This bill provides that a lease purchase agreement may only  
36 proceed if the Commissioner of Education determines that there  
37 is a clear relationship between the proposed project and the  
38 district's "thorough and efficient education" goals and  
39 objectives. In addition, the bill requires that all construction  
40 contracts let by boards of education or let by developers or  
41 owners of property used for school purposes be competitively bid.

42  
43  
44 EDUCATION

45  
46 Establishes additional requirements for the approval of certain  
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SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 3361

STATE OF NEW JERSEY

DATED: JULY 8, 1991

The Senate Education Committee favorably reports this bill without committee amendments.

This bill provides that a lease purchase agreement may only proceed if the Commissioner of Education determines that there is a clear relationship between the proposed project and the district's "thorough and efficient education" goals and objectives. In addition, the bill requires that all construction contracts let by boards of education or let by developers or owners of property used for school purposes be competitively bid.



ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

**SENATE, No. 3361**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 30, 1991

The Assembly Education Committee favorably reports Senate, No. 3361 as amended.

As amended, this bill provides that a lease purchase agreement may only proceed if the Commissioner of Education determines that there is a clear relationship between the proposed project and the district's "thorough and efficient education" goals and objectives. In addition, the bill requires that for lease-purchase agreements all construction contracts entered into by boards of education or by developers or owners of property used for school purposes be competitively bid.

The committee amendments provided for the bill to become effective 60 days following the date of enactment.

Representatives of the New Jersey Department of Education and New Jersey Building Contractors Association testified in favor of the bill. A representative of the Association of School Business Officials testified in opposition to the bill.

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SR 0067  
TR 0900

ASSEMBLY EDUCATION COMMITTEE

AMENDMENTS

NOV 25 1991

to

Senate, No. 3361  
(Sponsored by Senator Lynch)

REPLACE SECTION 2 TO READ:

2. This act shall take effect <sup>1</sup>[immediately] on the 60th day following the date of enactment<sup>1</sup>.