

18A:24-85 to 96

LEGISLATIVE HISTORY CHECKLIST

NJSA 18A:24-85 to 18A:24-96 (School Qualified Bond Act)

Laws of 1976 Chapter 39

Bill No. S1469

Sponsor(s) Greenberg, Dumont & Beadleston

Date Introduced May 13, 1976

Committee: Assembly -

Senate County & Municipal Government

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks.

Date of passage: Assembly June 21, 1976

Senate June 14, 1976

Date of approval June 28, 1976

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes ~~No~~

Veto message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings Yes ~~No~~

Checked card catalog:

NJ-Schools-Finance

-School bonds

-Municipal bonds

974.90 NJ Division of Local Government Services.
M966 New Jersey local government bonds: security through
1976 supervision. Trenton, 1976.
-no recommendations on above legislation

10/4/76

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SENATE, No. 1469

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1976

By Senators GREENBERG, DUMONT and BEADLESTON

Referred to Committee on County and Municipal Government

AN ACT concerning education and supplementing Title 18A of the
New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The Legislature finds and declares that:

2 a. Provision of adequately equipped, sanitary and secure physi-
3 cal facilities is an integral part of the maintenance of a thorough
4 and efficient system of free public education;

5 b. Maintenance of strong financial credit in New Jersey school
6 districts is essential in providing necessary physical facilities at
7 minimum cost, for the children of this State between the ages of
8 5 and 18 years;

9 c. While the credit status of New Jersey's school districts is
10 sound, it can be strengthened by a pledge of State school aid to
11 guarantee debt service payments on qualified bonds;

12 d. Such a pledge of State school aid should expand the market
13 for and lower the interest costs on qualified bonds issued pursuant
14 to the terms of this act, thus substantially reducing the costs of
15 participating school districts and making more efficient use of the
16 funds available for the provision of a thorough and efficient
17 education.

1 2. For the purposes of this act, unless the context clearly requires
2 a different meaning:

3 a. "Commissioner" means the Commissioner of Education of
4 the State of New Jersey;

5 b. "Debt service" means and includes payments of principal
6 and interest upon qualified bonds issued pursuant to the terms of
7 this act;

8-11 c. "Local finance board" means the Local Finance Board in the
12 Division of Local Government Services in the Department of

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

13 Community Affairs, established pursuant to P. L. 1974, c. 35
14 (C. 52:27D-18.1).

15 d. "Paying agent" means any bank, trust company or national
16 banking association having the power to accept and administer
17 trusts, named or designated in any qualified bond of a school
18 district ***or municipality*** as the agent for the payment of the
19 principal of and interest thereon;

20 e. "Qualified bonds" means those bonds of a school district ***or*
21 *municipality*** authorized and issued in conformity with the pro-
21A visions of this act;

22 f. "State board" means the State Board of Education of the
23 State of New Jersey;

24 g. "School district" means a Type I, Type II, regional, or con-
25 solidated school district as defined in Title 18A of the New Jersey
26 Statutes;

27 h. "State school aid" means the funds made available to local
28 school districts pursuant to N. J. S. 18A :58-3, 18A :58-4, 18A :58-5
29 and 18A :58-5.1 and section 18 of the Public School Education Act of
30 1975, P. L. 1975, c. 212 (C. 18A :7A-18) or pursuant to any other
31 law enacted providing for funds to school districts in lieu of or in
32 substitution for the funds presently provided pursuant to N. J. S.
33 18A :58-3, 18A :58-4, 18A :58-5 and 18A :58-5.1 and section 18 of
34 the Public School Education Act of 1975, P. L. 1975, c. 212
35 (C. 18A :7A-18).

1 3. a. Bonds issued by any school district or municipality pur-
2 suant to the provisions of this act shall be "qualified bonds" and
3 shall be entitled to the benefit of the provisions of this act.

4 b. Whenever a local board of education or the governing body
5 of a municipality determines by resolution to issue bonds for the
6 construction, reconstruction, development, extension, improvement
7 or acquisition of physical facilities, it may file an application with
8 the commissioner to qualify the bonds pursuant to the provisions
9 of this act. Upon receipt of any such application, the commissioner
10 shall cause an investigation to be made, taking into consideration
11 such factors as the conditions in the school district, any applicable
12 educational goals, objectives and standards established by the
13 State or local board of education, the need for the facilities to be
14 financed from the proceeds of such proposed qualified bonds, the
15 ability of the school district or municipality to maintain a thorough
16 and efficient system of education after issuing qualified bonds, and
17 such other factors as the commissioner may deem necessary.

18 c. If such investigation shows to the satisfaction of the commis-
19 sioner that such school district **or municipality** should be entitled

20 to issue qualified bonds pursuant to the provisions of this act, he
 21 shall so recommend to the State board which may by resolution
 22 determine that such school district ***or municipality*** is entitled
 23 to issue qualified bonds.

24 d. At any time within 1 year after the adoption by the State
 25 board of the resolution referred to in subsection c. with respect to a
 26 particular ***[school district *or municipality*, said]*** ***issue of*
 27 *bonds, the*** school district or municipality may submit to the com-
 28 missioner a copy of a proposal or ordinance authorizing the issuance
 29 of qualified bonds entitled to the benefits of this act in accordance
 30 with said resolution. The commissioner shall be and is hereby autho-
 31 rized to endorse upon any copy of such proposal or ordinance a
 32 certification thereof as being the proposal or ordinance as to which
 33 a determination of the State board has been made as aforesaid.
 34 Such endorsement shall be made in such form or manner as the com-
 35 missioner shall determine. If no such proposal or ordinance is sub-
 36 mitted within 1 year of the adoption of the resolution, the resolution
 37 shall be of no further force and effect and the commissioner shall so
 38 notify said school district or municipality.

1 4. a. A copy of the resolution of the State board referred to in
 2 section 3 c. and a copy of the proposal or ordinance referred to in
 3 section 3 d. bearing the endorsement of the commissioner as afore-
 4 said, shall be submitted to the local finance board for its considera-
 5 tion. The local finance board, in considering any proposal or ordi-
 6 nance submitted to it and before endorsing its consent thereon, may
 7 require the board of education of any school district or the govern-
 8 ing body of any municipality in such school district to adopt resolu-
 9 tions restricting or limiting any future proceedings with respect
 10 to the authorization of bonds or other matters deemed by the local
 11 finance board to affect any estimate made or to be made by it in
 12 accordance with subsection b. hereof. Every resolution so adopted
 13 shall constitute a valid and binding obligation of such school district
 14 or municipality running to and enforceable by, and releasable by,
 15 the local finance board.

16 b. Within 60 days after the submission to it of the resolution
 17 and proposal or ordinance, the local finance board shall cause its
 18 consent to be endorsed upon the proposal or ordinance authorizing
 19 such qualified bonds, if it shall be satisfied, and shall record by
 20 resolution, that the amounts to be expended for the education
 21 facilities to be financed pursuant to such proposal or ordinance are
 22 not unreasonable or exorbitant, and that issuance of the qualified
 23 bonds, to be authorized by such proposal or ordinance, will not

24 materially impair the credit of any municipality comprised within
 25 the district or substantially reduce its ability, during the ensuing
 26 10 years, to pay punctually the principal and interest on its debts
 27 while at the same time supplying essential public improvements
 28 and services. If the local finance board is not so satisfied it shall
 29 cause its disapproval to be endorsed on such copy within said period
 30 of 60 days.

1 5. **[a.]** If the board of education of a school district or gov-
 2 erning body of a municipality shall determine by resolution that a
 3 maturity schedule for its qualified bonds, other than the maturity
 4 schedule approved by the **[commission]** **[*commissioner*** and
 5 State board] **[*local finance board*** pursuant to section **[3]**
 6 **[*4*** is in the best interest of said school district, it may make
 7 application to the **[*commissioner]** **[*local finance board***
 8 setting forth such belief and the grounds therefor and requesting
 9 approval of a schedule of maturities for such qualified bonds set
 10 forth in the application. **[If the commissioner shall find that the**
 11 **schedule of maturities set forth in the application is in the best**
 12 **interest of the school district and the State, he shall so recommend**
 13 **to the State board which may cause its approval to be endorsed**
 14 **thereon and shall forward said application to the local finance board**
 15 **for its consideration.]**

16 **[b.]** Within 60 days after submission to the local finance
 17 board of an application **[in accordance with subsection a.**
 18 **hereof]**, the local finance board shall cause its approval to be
 19 endorsed thereon if it shall be satisfied, and shall record by resolu-
 20 tion **[,]** its findings, that the belief set forth in such applica-
 21 tion is well founded and that issuance of the bonds pursuant to the
 22 revised maturity **[scheduled]** **[*schedule*** in such application
 23 would not materially impair the credit of any municipality com-
 24 prised within the school district or substantially reduce its ability,
 25 during the ensuing 10 years, to pay punctually the principal and
 26 interest of its debts and supply essential public improvements and
 27 services. If the local finance board is not so satisfied, it shall cause
 28 its disapproval to be endorsed on such copy within said period of
 29 60 days.

1 6. a. All qualified bonds when issued shall contain a recital to the
 2 effect that they are issued pursuant to Title 18A of the New Jersey
 3 Statutes and are entitled to the benefits of the provisions of this act.
 4 Except as otherwise provided in this act, all qualified bonds shall
 5 be authorized and issued in the manner provided for in Title 18A.
 6 N. J. S. **[18A:24-20]** **[*18A:24-19*** through 18A:24-27 shall

7 not be applicable with respect to authorization or issuance of any
 8 bonds pursuant to the provisions of this act. Qualified bonds shall
 9 mature not later than 30 years from their date of issuance without
 10 regard to any limitations as to maturities or amounts of annual in-
 11 stallments for bonds as provided in Title 18A.

12 b. The proceedings of the school district or municipality autho-
 13 rizing the issuance of qualified bonds may contain such covenants
 14 and provisions for protecting and enforcing the rights and remedies
 15 of the bond holders as may be reasonable and proper and not in
 16 violation of law, including covenants restricting the issuance of
 17 additional qualified bonds.

1 7. Any school district or municipality which has authorized qual-
 2 ified bonds may issue temporary notes or loan bonds (hereinafter
 3 “notes”) in anticipation of the issuance of permanent qualified
 4 bonds to the extent permitted by the provisions of Title 18A or
 5 any other applicable laws, subject to such additional terms or con-
 6 ditions with respect to such notes as may be fixed or required by
 7 the commissioner to insure that funds are borrowed only as needed
 8 to meet required payments for construction, reconstruction, devel-
 9 opment, extension, improvement, or acquisition of the educational
 10 facilities to be financed by the issuance of permanent qualified
 11 bonds.

1 8. a. Each school district or municipality, as the case may be,
 2 which issues qualified bonds shall certify to the State Treasurer the
 3 name and address of the paying agent, and the maturity schedule,
 4 interest rate and dates of payment of debt service on such qualified
 5 bonds within 10 days after the date of issuance of such qualified
 6 bonds. After receipt of such certificate the State Treasurer shall**[,
 7 commencing with the month next following the month in which such
 8 certification is received and in each month thereafter up to and in-
 9 cluding the month in which the last installment of debt service is
 10 payable on such qualified bonds,]** withhold from the amount of
 11 State school aid payable to such school district or municipality
 12 **[during such month,]** an amount of such State school aid
 13 **[for schools]** which**[, when added to the other amounts with-
 14 held or to be withheld in each month,]** will be sufficient to pay
 15 the debt service on such qualified bonds as the same shall mature
 16 and become due. The State Treasurer shall, on or before each
 17 principal and interest payment date, forward such withheld
 18 amounts to the paying agent for such qualified bonds for deposit
 19 to the account established with such paying agent for the purpose
 20 of paying the debt service on such qualified bonds. **[All]**

21 ***From the time withheld by the State Treasurer all*** State
 22 school aid ****[forwarded]**** ***so withheld and paid or to be paid***
 23 to and held by the paying agent shall be exempt from being levied
 24 upon, taken, sequestered or applied toward paying the debts of
 25 such school district or municipality other than for payment of debt
 26 service on such qualified bonds. ****[Such]**** ***From the time with-*
 27 *held by the State Treasurer, such*** State school aid so ****[held**
 28 **by]**** ***withheld and paid or to be paid to*** said paying agent
 29 shall be deemed to be held in trust for the sole purpose of paying
 30 the debt service on such qualified bonds.

31 b. The State of New Jersey hereby covenants with the purchasers,
 32 holders and owners, from time to time, of qualified bonds that it
 33 will not repeal, revoke, rescind, modify or amend the provisions
 34 of subsection a. of this section so as to create any lien or charge
 35 on or pledge, assignment, diversion, withholding payment or other
 36 use of or deduction from any State school aid to be apportioned and
 37 paid to any paying agent of qualified bonds which is prior in time
 38 or superior in right to the payment required by subsection a. of
 39 this section; provided, however, that nothing herein contained shall
 40 be deemed or construed to require the State of New Jersey to con-
 41 tinue to make payments of State school aid or to limit or prohibit
 42 the State from repealing or amending any law heretofore or here-
 43 inafter enacted for the payment or apportionment of State school
 44 aid or the manner, time, or amount thereof.

45 c. The certification to the State Treasurer as to amount payable
 46 in any year for debt service on such qualified bonds shall be fully
 47 conclusive as to such qualified bonds from and after the time of
 48 issuance of such qualified bonds notwithstanding an irregularity,
 49 omission or failure as to compliance with any of the provisions of
 50 this act with respect to such qualified bonds provided that such
 51 qualified bonds contain a recital to the effect that they are entitled
 52 to the benefits of the provisions of this act. All persons shall be
 53 forever estopped from denying that such qualified bonds are en-
 54 titled to the benefits of the provisions of this act.

1 9. Nothing contained in this act shall be construed to relieve any
 2 school district or municipality of the obligation imposed on it by
 3 law to include in its annual budget amounts necessary to pay, in
 4 each year, the principal and interest maturing and becoming due
 5 on any qualified bonds issued by such school district or munici-
 6 pality; provided, however, that to the extent of the amounts with-
 7 held from State school aid payable to such school district or
 8 municipality and forwarded to the paying agent for such qualified

9 bonds pursuant to section 8, such budgeted amounts, to the extent
10 not needed to pay debt service on such qualified bonds, shall be
11 applied to the payment of the operating expenses of such school
12 district ****[for 1]**** ***or municipality for such*** year; and pro-
13 vided, further, that in any year in which State school aid is not
14 appropriated, such budgeted amounts shall be used to pay the debt
15 service maturing and becoming due in such year on such qualified
16 bonds of the school district or municipality.

1 10. The provisions of this act shall not be construed to prohibit
2 any school district or municipality from applying for authorization
3 to issue qualified bonds pursuant to the terms of this act in con-
4 nection with the construction, reconstruction, development, exten-
5 sion, improvement or acquisition of any educational facility not-
6 withstanding that the construction, reconstruction, development,
7 extension, improvement or acquisition of such facility with autho-
8 rized, approved or commenced prior to the effective date of this act.

1 11. If any clause, sentence, paragraph, section or part of this
2 act shall be adjudged by any court of competent jurisdiction to be
3 invalid, such judgment shall not affect, impair or invalidate the
4 remainder thereof, but shall be confined in its operation to the
5 clause, sentence, paragraph, section or part thereof directly in-
6 volved in the controversy in which such judgment shall have been
7 rendered.

1 12. This act shall be known and may be cited as “The School
2 Qualified Bond Act.”

1 13. This act shall take effect immediately.

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2 any school district or municipality from applying for authorization
3 to issue qualified bonds pursuant to the terms of this act in con-
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STATEMENT

This legislation would strengthen the security of New Jersey school bonds by pledging State school aid to guarantee the principal and interest on qualified bonds. It is designed to enhance the market appeal of local school bonds and to bring down the borrowing costs for participating school districts.

Any school district may apply to the State Board of Education for authorization to issue qualified bonds. After approval by the State Board of Education and the Local Finance Board, the school district may issue "qualified bonds." On notification of the debt service payment schedule for such bonds, the State Treasurer withholds from State aid allocated to the issuing school district, the amount necessary to make each payment and pays over this amount directly to the paying agent. The participating school district continues to raise the amount necessary to meet its bond obligations—but transfers it to school current expenses to replace the State aid applied to debt service.

Without additional risk to the State or participating school districts, this legislation will enlarge the security behind and reduce the interest charges on qualified school bonds.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1469

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 3, 1976

Senate Bill No. 1469, "The School Qualified Bond Act," provides debt service guarantees and payments by the State under certain circumstances on qualified bonds issued by any school district (Type I, Type II, regional or consolidated) or municipality pursuant to Title 18A of the New Jersey Statutes for school purposes. According to the sponsor's statement on the bill, the purpose of Senate Bill No. 1469 is to improve the marketability of New Jersey school bonds by providing additional security for and reducing interest charges on qualified school bonds.

The procedure for qualifying school bonds is as follows. Whenever any local board of education or the governing body of any municipality determines, by resolution, to issue bonds for the construction, improvement or acquisition of physical facilities, it may file an application to qualify the bonds to be issued therefor with the State Commissioner of Education (hereinafter, the commissioner). The commissioner shall evaluate such applications in terms of such factors as:

- (1) the conditions in the school district;
- (2) any applicable educational goals, objectives and standards;
- (3) the need for the facilities to be financed by the proposed qualified bonds;
- (4) the ability of the school district to maintain a thorough and efficient system of education after issuing the qualified bonds; and
- (5) such other factors as the commissioner may deem necessary.

If the proposed bonds are deemed by the commissioner to be satisfactory, the commissioner shall recommend the issuance of qualified bonds to the State Board of Education, and the State board may by resolution, approve such issuance. Within 1 year after adoption by the State board of a resolution of approval, the school district or municipi-

pality receiving such authorization may submit to the commissioner, a copy of a proposal or ordinance authorizing the issuance of the qualified bonds. The commissioner shall endorse and certify the proposal or ordinance as being in conformity with the proposal or ordinance approved by the State board, and such endorsement shall be made in such form and manner as the commissioner shall determine.

A copy of the resolution of the State board and a copy of the proposal or ordinance bearing the endorsement of the commissioner shall be submitted to the local finance board for a determination as to whether or not the bond proposal or ordinance is unreasonable or exorbitant, or will impair the credit of any municipality within the school district or reduce its ability to make debt service payments within the next 10 years while supplying essential public improvements and services. The local finance board shall approve or disapprove the bond proposal or ordinance within 60 days of its submission, and may impose on the school district or municipality as part of its approval, such conditions and limitations on any future proceedings concerning the authorization of bonds or other related matters as it deems may affect any estimates of the local finance board.

The board of education of a school district or governing body of a municipality may by resolution petition for a change in the maturity schedule approved by the commissioner and State board. If the commissioner is satisfied that the proposed change in maturity schedules is in the best interest of the school district and State, he shall so recommend to the State board which may endorse such schedule for consideration by the local finance board. The local finance board shall evaluate the proposed change in the same manner as any bond proposal or ordinance and approve or disapprove the proposed change within 60 days of its submission (section 5).

All qualified school bonds shall contain a recital that they are issued in accordance with Title 18A and are entitled to the benefits of The School Qualified Bond Act, except that qualified bonds shall not be issued for the purpose of exceeding the limitations in N. J. S. 18A:24-19 (subsection 6a) in the instances set forth in N. J. S. 18A:24-20, which recital shall bar any challenge to entitlement under Senate Bill No. 1469 for failure to comply with any provisions thereunder (subsection 8c).

Each school district or municipality issuing qualified bonds shall certify to the State Treasurer the information required in subsection 8a within 10 days of issuance. Beginning with the next month following receipt of such certification and each month thereafter until payment of the final installment on debt service payments, the State Treasurer shall withhold in State school aid (as defined in subsection 2h) an

amount sufficient to make debt service payments on the qualified bonds when due and payable. The State Treasurer shall pay such amounts to the paying agent and all such moneys shall be used solely for the purpose of making debt service payments on the qualified bonds (subsection 8a). The State hereby covenants not to do anything which would “create any lien or charge on or pledge, assignment, diversion, withholding payment or other use of or deduction from any State school aid to be apportioned and paid” on qualified bonds that is superior in rights to payments on previously issued qualified bonds. The State retains, however, the right to alter payments of State school aid or to amend or repeal any law authorizing such payments (subsection 8b).

Moneys shall be provided in the annual budget of the school district or municipality in an amount sufficient to make debt service payments on any qualified bonds when due and payable. Moneys so budgeted shall be used to make up any deficiencies in State school aid, provided that if such budgeted amounts are not so needed they may be used to cover annual operating expenses of the school district for 1 year (section 9).

Qualified bonds shall mature not later than 30 years from the date of issuance, notwithstanding any provisions of law in Title 18A of the New Jersey Statutes to the contrary (subsection 6a). Temporary notes (bond anticipation notes) may be issued in accordance with applicable law, but shall be subject to such conditions as may be fixed by the commissioner in order to assure that funds are borrowed only as needed to meet required payments (section 7). A municipality or school district issuing qualified bonds may covenant with the bondholders to restrict the issuance of additional qualified bonds in order to secure the rights of the bondholders (subsection 6b).

Section 10 allows any school district or municipality to apply for authorization for the issuance of qualified bonds for any eligible project approved or commenced prior to the effective date of Senate Bill No. 1468.

The Senate committee amendments to sections 3 and 5 are purely technical in nature.

FROM THE OFFICE OF THE GOVERNOR

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E61

JUNE 28, 1976

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne today signed into law two bills designed to significantly reduce interest costs for municipalities and local Boards of Education.

One bill, S-1468, sponsored by Senator Martin L. Greenberg, D-Essex, pledges state aid payments to the principal and interest on municipal bonds.

A companion measure, S-1469, also sponsored by Senator Greenberg, provides the same guarantee for bonds issued by local school boards.

Byrne said the legislation, which is believed to be the first of its kind in the country, will provide substantially more protection for municipal and school board bonds, and could result in savings of millions of dollars.

"This gives us the strongest package of security behind any local bonds in the country," said State Treasurer Richard C. Leone.

The legislation provides for the state to make direct payment on municipal and school board bonds from funds withheld from state aid.

The municipality would continue to raise the money needed to make the bond payments, but would use it for current expenses to replace the state aid.

The new program is optional on the part of municipalities and school boards.

The Governor also signed into law the following bills:

S-1205, sponsored by Senator Anne C. Martindell, D-Mercer, which permits the State Health Benefits Commission to purchase various health care benefits that a public employer has determined to provide employees not included in collective negotiations units.

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