

LEGISLATIVE FISCAL ESTIMATE:

No

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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No

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No

RWH/CL

P.L. 2019, CHAPTER 135, *approved June 26, 2019*
 Senate, No. 2863 (*Fourth Reprint*)

1 AN ACT concerning transportation projects funded through the local
 2 aid program, amending P.L.1995, c.108, and supplementing Title
 3 27 of the Revised Statutes.

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

7
 8 1. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to
 9 read as follows:

10 9. ¹a.¹ Aid to counties and municipalities administered by the
 11 department may, at the discretion of the commissioner, be disbursed
 12 to any individual county or municipality on a grant basis or on a
 13 cost reimbursement basis. ³²The department shall notify a county
 14 or municipality of the aid allotted to that county or municipality for
 15 the year and]

16 ⁴(1)⁴ Awards ⁴to each county for the Local County Aid Program⁴
 17 shall be made pursuant to the following schedule: ⁴[(1) the
 18 department shall distribute an aid application solicitation letter to
 19 each county and each municipality by April 1st of each year] (a)
 20 prior to July 31st of each year, each county shall be notified of the
 21 amount of local aid program funds allocated to the county for the
 22 current State fiscal year⁴; ⁴[(2)] (b)⁴ each county ⁴[and each
 23 municipality]⁴ shall submit an application for funding by ⁴[June
 24 30th] December 1st⁴ of each year; ⁴[(3) the department shall
 25 distribute an award letter to each county and each municipality by
 26 October 1st of each year;]⁴ and ⁴[(4)] (c)⁴ the department³ shall
 27 execute an agreement with ³[the] each³ county ⁴[³[or] and each³
 28 municipality]⁴ concerning the project ⁴or projects⁴ for which the
 29 aid is allotted to that county ⁴[or municipality]⁴ within 90 days
 30 from the date that the department ⁴[³[notifies] distributes the
 31 award letter to³ receives the application from⁴ the county ⁴[or
 32 municipality]⁴ ³[of that year's allotment] pursuant to ⁴[paragraph
 33 (3) of this subsection] subparagraph (b) of this paragraph⁴ or by
 34 ⁴[December 31st of each year] April 1st of the following year⁴,
 35 whichever is ⁴[earlier³ later⁴.²

36 ⁴(2) Awards to each municipality for the Municipal Aid program
 37 shall be made pursuant to the following schedule: (a) the

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:

¹Senate STR committee amendments adopted December 10, 2018.

²Senate SBA committee amendments adopted March 18, 2019.

³Senate floor amendments adopted March 25, 2019.

⁴Assembly floor amendments adopted June 20, 2019.

1 department shall distribute an aid application solicitation letter to
2 each municipality by April 30th of each year; (b) each municipality
3 shall submit an application for funding by July 1st of each year; (c)
4 the department shall distribute an award letter to each municipality
5 by November 30th of each year; (d) the department shall execute an
6 agreement with each municipality concerning the project for which
7 the aid is allotted to that municipality within 90 days from the date
8 the department distributes the award letter to the municipality
9 pursuant to subparagraph (c) of this paragraph or by March 1st of
10 the following year, or whichever is later.

11 b.⁴ Distribution of the portion of the grant provided initially to a
12 county or municipality may be contingent on its performance in
13 spending prior grants. Failure to award construction or other
14 approved contracts for 100 percent of a county's allotment within
15 three years of notification by the department of that year's allotment
16 ⁴[, or failure to award construction or other approved contracts for
17 any percentage of a county's allotment within one year ¹[of
18 notification by the department of that year's] ²[following the date
19 the county receives the first payment of the¹] of ³[notification by
20 the department of] the fully executed agreement for³ that year's²
21 allotment ³pursuant to paragraph (4) of this subsection³.]⁴ shall
22 result in the allotment being immediately rescinded or the funds
23 returned to the department, as applicable, or in the event such funds
24 are not immediately returned, deducted by the department from
25 future allocations of aid to such county ⁴[¹, except as provided in
26 subsection b. of this section¹]⁴. Any such funds may be reallocated
27 by the commissioner ⁴[on a grant basis or a cost reimbursement
28 basis to such other counties or municipalities] to other
29 transportation projects⁴ as the commissioner shall so
30 determine. Failure to award construction or other approved
31 contracts for 100 percent of a municipality's allotment within two
32 years of notification by the department of that year's allotment ⁴[,
33 or failure to award construction or other approved contracts for any
34 percentage of a municipality's allotment within one year ¹[of
35 notification by the department of that year's] ²[following the date
36 the municipality receives the first payment of the¹] of
37 ³[notification by the department of] the fully executed agreement
38 for³ that year's² allotment ³pursuant to paragraph (4) of this
39 subsection³.]⁴ shall result in that year's allocation being
40 immediately rescinded ¹, except as provided in subsection ⁴[b.] c.⁴
41 of this section¹. Any such funds may be reallocated by the
42 commissioner ⁴[on a grant basis or a cost reimbursement basis to
43 such other counties or municipalities] to other transportation
44 projects⁴ as the commissioner shall determine.

1 ⁴['b.] c.⁴ An allotment provided to a ⁴[county or]⁴ municipality
2 shall be rescinded, returned, or deducted from future allocations as
3 a result of a ⁴[county's or]⁴ municipality's failure to award
4 construction or other approved contracts for ⁴[any amount of the]
5 100 percent of a municipality's⁴ allotment within ⁴[one year of
6 ²[receiving the first payment of the] ³[notification by the
7 department of] the fully executed agreement for³] two years of
8 notification by the department of⁴ that year's² allotment as provided
9 in ⁴paragraph (2) of⁴ subsection a. of this section, except that ⁴[this
10 one-year requirement shall be extended if a designated financial
11 officer for the county or municipality certifies to the department
12 that the project will not begin construction during the required time
13 frame due to one of the following exceptions:

14 (1) the allotment will be aggregated with future funds for the
15 purpose of completing a specific project;

16 (2) a permit needed for completion of the project has not been
17 issued due to a delay in the permitting process;

18 (3) the acquisition of an interest in State-owned land needed to
19 complete the project is delayed due to the divestment of a deed
20 restriction;

21 (4) the project requires a utility to be relocated; or

22 (5) a catastrophic event occurs and results in a declaration of a
23 state of emergency. The commissioner shall determine which
24 events are considered catastrophic for purposes of this paragraph.

25 c. A designated financial officer for a county or municipality
26 submitting a certification pursuant to subsection b. of this section
27 shall provide proof that the project meets one or more of the
28 exceptions provided in subsection b. of this section and shall certify
29 that a construction or other approved contract will be awarded
30 promptly upon resolution of the cause of the delay. The
31 commissioner shall determine the proof necessary to claim an
32 exception under subsection b. of this section; provided that:

33 (1) if a designated financial officer certifies that the allotment
34 will be aggregated with future funds for the purpose of completing a
35 specific project, the designated financial officer shall provide to the
36 department the specific project for which the allotment will be used
37 and an expected timeline for completion of the project. The
38 allotment shall not be aggregated until the department approves
39 such aggregation;

40 (2) if a designated financial officer certifies that a permit needed
41 for the completion of a project has not been issued due to a delay in
42 the permitting process, the designated financial officer shall provide
43 to the department the specific permit application number; or

44 (3) if a designated financial officer certifies that acquisition of
45 an interest in State-owned land is delaying the completion of a
46 project due to the divestment of a deed restriction, the designated
47 financial officer shall provide to the department the block and lot

1 designation of such land] the department, at its discretion, may
2 grant an extension of the two year requirement of not greater than
3 six months in duration for extraordinary circumstances, which shall
4 be limited to the following:

5 (1) Bidding problems. The project was advertised and bids were
6 received before the 24-month deadline, but because the bids
7 exceeded the estimate, the project will be re-advertised for bid
8 within three months or financing will be arranged to allow an award
9 within the next six months;

10 (2) Permits have not been approved. Environmental permit
11 applications were submitted and accepted by all permitting agencies
12 within 12 months of municipal local aid agreement execution and
13 permits have not been received. Municipalities shall provide details
14 of issues precluding the issuance of the permits;

15 (3) Utility relocation work precludes advertisement, bid, and
16 award during the 24-month deadline. The municipality has
17 demonstrated communication and coordination with all utility
18 service providers within 12 months of municipal local aid grant
19 agreement execution; however, the utility service providers have
20 indicated that relocation work is required to be performed prior to
21 the construction of the project. The municipality shall provide
22 details on the schedule of utility work precluding advancement of
23 the municipal local aid project;

24 (4) Right-of-way is not available for the project. The
25 municipality shall provide details on the schedule of right-of-way
26 acquisition and any issues precluding advancement of the project;
27 or

28 (5) Declaration of a state of emergency by the Governor of the
29 State of New Jersey or the President of the United States that
30 directly impacts the ability of the municipality to award the
31 contract. The municipality shall provide details on the project's
32 schedule and the details as to how the state of emergency precluded
33 the advancement of the municipal local aid project.

34 d. Award deadline extensions shall be requested in writing by
35 the municipality a minimum of 30 days prior to the 24 month
36 deadline, and shall include a resolution and justification for the
37 extension of time that demonstrates ability to award the contract
38 within the requested six month period.

39 e. Meeting the extraordinary circumstances described in
40 paragraph (1) of subsection c. of this section does not guarantee
41 approval of a six-month deadline extension. The department shall
42 consider factors such as likelihood of achieving the award within
43 the next six months and past performance of the municipality. A
44 six-month deadline extension shall require approval of the Director
45 of Local Aid and Economic Development with concurrence of the
46 Commissioner. At any time, but at a minimum of 30 days prior to
47 the extension of time deadline, a municipality may voluntarily

1 cancel the municipal local aid agreement and release the funds back
2 to the department⁴ .¹

3 (cf: P.L.2012, c.13, s.10)

4

5 2. (New section) ¹**[a.]**¹ All appropriations or authorizations
6 made by the Legislature and allocated by the commissioner, under
7 the local aid program, pursuant to section 25 of P.L1984, c.73
8 (C.27:1B-25), shall include the following limitations on grant
9 recipients:

10 ¹**[(1)] a.**¹ local government entity grant recipients shall be
11 prohibited from using local aid program funds to support the work
12 of any local government entity's employees on any ¹construction¹
13 projects funded, in whole or in part, out of funds from the local aid
14 program;

15 ¹**[(2)] b.**¹ the construction contracts for all projects funded, in
16 whole or in part, out of funds from the local aid program shall be
17 made and awarded in accordance with the "Local Public Contracts
18 Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

19 ¹**[(3)] c.**¹ for all projects funded, in whole or in part, out of
20 funds from the local aid program, each bidder on a construction
21 contract ¹valued at more than ⁴**[\$500,000]** ¹\$5,000,000⁴ shall be
22 prequalified by the New Jersey Department of Transportation; and,

23 ¹**[(4)] d.**¹ a grant recipient under the local aid program shall be
24 permitted to expend up to 10 percent of its aid allotment in the
25 fiscal year beginning July 1, 2018 for design purposes, and up to
26 five percent of its aid allotment in the fiscal year beginning July 1,
27 2019 and every fiscal year thereafter for such purposes.

28

29 3. This act shall take effect immediately

30

31

32

33

34 _____
35 Revises requirements for grant recipients of Transportation Trust
Fund Authority local aid program.

SENATE, No. 2863

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED AUGUST 27, 2018

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Senator Oroho

SYNOPSIS

Revises requirements for grant recipients of Transportation Trust Fund Authority local aid program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/25/2018)

1 AN ACT concerning transportation projects funded through the local
2 aid program, amending P.L.1995, c.108, and supplementing Title
3 27 of the Revised Statutes.

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

7
8 1. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to
9 read as follows:

10 9. Aid to counties and municipalities administered by the
11 department may, at the discretion of the commissioner, be disbursed
12 to any individual county or municipality on a grant basis or on a
13 cost reimbursement basis. Distribution of the portion of the grant
14 provided initially to a county or municipality may be contingent on
15 its performance in spending prior grants. Failure to award
16 construction or other approved contracts for 100 percent of a
17 county's allotment within three years of notification by the
18 department of that year's allotment, or failure to award construction
19 or other approved contracts for any percentage of a county's
20 allotment within one year of notification by the department of that
21 year's allotment, shall result in the allotment being immediately
22 rescinded or the funds returned to the department, as applicable, or
23 in the event such funds are not immediately returned, deducted by
24 the department from future allocations of aid to such county. Any
25 such funds may be reallocated by the commissioner on a grant basis
26 or a cost reimbursement basis to such other counties or
27 municipalities as the commissioner shall so determine. Failure to
28 award construction or other approved contracts for 100 percent of a
29 municipality's allotment within two years of notification by the
30 department of that year's allotment, or failure to award construction
31 or other approved contracts for any percentage of a municipality's
32 allotment within one year of notification by the department of that
33 year's allotment, shall result in that year's allocation being
34 immediately rescinded. Any such funds may be reallocated by the
35 commissioner on a grant basis or a cost reimbursement basis to such
36 other counties or municipalities as the commissioner shall
37 determine.

38 (cf: P.L.2012, c.13, s.10)

39

40 2. (New section) a. All appropriations or authorizations made
41 by the Legislature and allocated by the commissioner, under the
42 local aid program, pursuant to section 25 of P.L.1984, c.73
43 (C.27:1B-25), shall include the following limitations on grant
44 recipients:

45 (1) local government entity grant recipients shall be prohibited
46 from using local aid program funds to support the work of any local
47 government entity's employees on any projects funded, in whole or
48 in part, out of funds from the local aid program;

1 (2) the construction contracts for all projects funded, in whole or
2 in part, out of funds from the local aid program shall be made and
3 awarded in accordance with the "Local Public Contracts Law,"
4 P.L.1971, c.198 (C.40A:11-1 et seq.);

5 (3) for all projects funded, in whole or in part, out of funds from
6 the local aid program, each bidder on a construction contract shall
7 be prequalified by the New Jersey Department of Transportation;
8 and,

9 (4) a grant recipient under the local aid program shall be
10 permitted to expend up to 10 percent of its aid allotment in the
11 fiscal year beginning July 1, 2018 for design purposes, and up to
12 five percent of its aid allotment in the fiscal year beginning July 1,
13 2019 and every fiscal year thereafter for such purposes.

14

15 3. This act shall take effect immediately

16

17

18

STATEMENT

19

20 This bill revises requirements imposed upon the use of grant
21 funds received by counties and municipalities through the
22 transportation local aid program. These revisions include:

23 (1) requiring counties and municipalities to begin expending aid
24 allotments within one year from the time they are provided notice of
25 their award amount;

26 (2) prohibiting a local government entity from using local aid
27 program funds to support the work of a local government entity's
28 employees from being on local aid projects funded from local aid
29 funds;

30 (3) requiring local aid projects to be bid in accordance with
31 local public contracts law;

32 (4) requiring all bidders on local aid program funded contracts
33 to be prequalified by the New Jersey Department of Transportation;
34 and,

35 (5) permitting local aid program grant recipients to use 10
36 percent of their awards on design costs in fiscal year 2019, and five
37 percent of their awards on design costs in fiscal years 2020 and
38 beyond.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 2863

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2018

The Senate Transportation Committee reports favorably and with committee amendments Senate Bill No. 2863.

As amended and reported, this bill revises requirements imposed upon the use of grant funds received by counties and municipalities through the transportation local aid program.

The bill requires counties and municipalities to begin expending aid allotments within one year from the date the county or municipality receives the first payment of the allotment. The bill provides that an allotment is to be rescinded, returned, or deducted from future allotments as a result of a county's or municipality's failure to award construction or other approved contracts for any amount of the allotment within this time frame, except that the one year requirement is to be extended if a designated financial officer of the county or municipality certifies to the New Jersey Department of Transportation (department) that the project will not begin construction because: (1) the allotment will be aggregated with future funds, as permitted by the department, for the purpose of completing a specific project; (2) a permit needed for completion of the project has not been issued due to a delay in the permitting process; (3) the acquisition of an interest in State-owned land needed to complete the project is delayed due to the divestment of a deed restriction; (4) the project requires a utility to be relocated; or (5) a catastrophic event occurs and results in the declaration of a state of emergency. A designated financial officer is required to provide proof that the project meets one or more of these exceptions and is to certify that a construction or other approved contract will be awarded promptly upon resolution of the cause of the delay.

The bill also: (1) prohibits a local government entity from using local aid program funds to support the work of a local government entity's employees on local aid construction projects funded from local aid funds;

(2) requires construction contracts for projects funded out of funds from the local aid program to be bid in accordance with local public contracts law;

(3) requires all bidders on local aid program funded construction contracts valued at more than \$500,000 to be prequalified by the department; and

(4) permits local aid program grant recipients to use 10 percent of their awards on design costs in fiscal year 2019, and five percent of their awards on design costs in fiscal years 2020 and beyond.

The committee amended the bill to require counties and municipalities to begin expending aid allotments within one year from the date the county or municipality receives the first payment of the allotment, rather than from the time the county or municipality is provided notice of the award amount.

The committee amended the bill to provide that the one year requirement is extended if a designated financial officer for the county or municipality certifies that the project will not begin construction during the required time frame because: (1) the allotment will be aggregated with future funds, as permitted by the department, for the purpose of completing a specific project; (2) a permit needed for completion of the project has not been issued due to a delay in the permitting process; (3) the acquisition of an interest in State-owned land needed to complete the project is delayed due to the divestment of a deed restriction; (4) the project requires a utility to be relocated; or (5) a catastrophic event occurs that results in the declaration of a state of emergency. A designated financial officer for the county or municipality is required to provide certain proof that the project meets one or more of these exceptions as required in the bill and is to certify that a construction or other approved contract will be awarded promptly upon resolution of the cause of the delay.

The amendments specify that local government grant recipients are to be prohibited from using local aid program funds to support the work of a local government entity's employees on local aid construction projects funded out of funds from the local aid program and require bidders on local aid program funded contracts to be prequalified by the department only when the contract is valued at more than \$500,000. The amendments also correct the subdivision designations in section 2 of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2863

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2863 (1R), with committee amendments.

As amended, this bill revises requirements imposed upon the use of grant funds received by counties and municipalities through the transportation local aid program.

The bill requires that the New Jersey Department of Transportation (department) notify a county or municipality of the aid allotted to that county or municipality for the year and requires the department to execute an agreement with the county or municipality concerning the project for which the aid is allotted to that county or municipality within 90 days from the date that the department notifies the county or municipality of that year's allotment.

The bill requires counties and municipalities to begin expending aid allotments within one year from the date that the county or municipality receives notification from the department of that year's allotment. The bill provides that an allotment is to be rescinded, returned, or deducted from future allotments as a result of a county's or municipality's failure to award construction or other approved contracts for any amount of the allotment within this time frame, except that the one-year requirement is to be extended if a designated financial officer of the county or municipality certifies to the department that the project will not begin construction because: (1) the allotment will be aggregated with future funds, as permitted by the department, for the purpose of completing a specific project; (2) a permit needed for completion of the project has not been issued due to a delay in the permitting process; (3) the acquisition of an interest in State-owned land needed to complete the project is delayed due to the divestment of a deed restriction; (4) the project requires a utility to be relocated; or (5) a catastrophic event occurs and results in the declaration of a state of emergency. A designated financial officer is required to provide proof that the project meets one or more of these exceptions and is to certify that a construction or other approved contract will be awarded promptly upon resolution of the cause of the delay.

The bill also: (1) prohibits a local government entity from using local aid program funds to support the work of a local government entity's employees on local aid construction projects funded from local aid funds;

(2) requires construction contracts for projects funded out of funds from the local aid program to be bid in accordance with local public contracts law;

(3) requires all bidders on local aid program funded construction contracts valued at more than \$500,000 to be prequalified by the department; and

(4) permits local aid program grant recipients to use 10 percent of their awards on design costs in fiscal year 2019, and five percent of their awards on design costs in fiscal years 2020 and beyond.

COMMITTEE AMENDMENTS:

The amendments require counties and municipalities to begin expending aid allotments within one year from the time the county or municipality is provided notice of the award amount, rather than from the date the county or municipality receives the first payment of the allotment. The amendments also require that the department notify a county or municipality of the aid allotted to that county or municipality for the year and requires the department to execute an agreement with the county or municipality concerning the project for which the aid is allotted to that county or municipality within 90 days from the date that the department notifies the county or municipality of that year's allotment.

FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

STATEMENT TO
[Second Reprint]
SENATE, No. 2863

with Assembly Floor Amendments
(Proposed by Senator SARLO)

ADOPTED: MARCH 25, 2019

These Senate floor amendments provide a schedule for awarding local aid to counties and municipalities. Specifically, the amendments require: (1) the Department of Transportation (department) to distribute an aid application solicitation letter to each county and each municipality by April 1st of each year; (2) each county and each municipality to submit an application for funding by June 30th of each year; and (3) the department to distribute an award letter to each county and each municipality by October 1st of each year. The amendments also clarify that the department is to execute an agreement with each county and each municipality concerning the project for which the aid is allotted to that county or municipality within 90 days from the date the department distributes the award letter or by December 31st of each year, whichever is earlier.

The floor amendments also require counties and municipalities to begin expending aid allotments within one year from the date of the fully executed agreement for that year's allotment, rather than from the time the county or municipality is provided notice of the award amount.

STATEMENT TO
[Third Reprint]
SENATE, No. 2863

with Assembly Floor Amendments
(Proposed by Assemblyman BENSON)

ADOPTED: JUNE 20, 2019

These Assembly floor amendments revise the process by which counties and municipalities apply for grant awards under the local aid program to require the New Jersey Department of Transportation (department) to execute agreements with a county receiving local aid funds 90 days from the date that the county applies for funding or by April 1st of the following year, whichever is later, and with a municipality receiving local aid funds 90 days from the date the department distributes the award letter to the municipality or by March 1st of the following year, or whichever is later .

The amendments require counties to begin expending aid allotments within three years from the date that the county receives notification from the department of that year's allotment and municipalities to begin expending aid allotments within two years from the date that the municipality receives notification from the department of that year's allotment, instead of one year for both counties and municipalities.

The amendments allow the commissioner to reallocate rescinded local aid awards to non-local aid projects, instead of keeping the funding within the local program for use on other local aid projects.

The amendments change the circumstances under which a municipality may request an extension and create a finite period for the extension period at six months. The amendments also make counties ineligible for extensions. Lastly, the amendments change the contract value for construction contracts funded by appropriations to the local aid program, and in which the bidder needs to be prequalified by the department, from \$500,000 to \$5,000,000.

ASSEMBLY, No. 5380

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 16, 2019

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman PATRICIA EGAN JONES

District 5 (Camden and Gloucester)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Co-Sponsored by:

**Assemblyman Karabinchak, Assemblywoman Reynolds-Jackson and
Assemblyman A.M.Bucco**

SYNOPSIS

Revises requirements for grant recipients of Transportation Trust Fund Authority local aid program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/7/2019)

1 AN ACT concerning transportation projects funded through the local
2 aid program, amending P.L.1995, c.108, and supplementing Title
3 27 of the Revised Statutes.

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

7
8 1. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to
9 read as follows:

10 9. a. Aid to counties and municipalities administered by the
11 department may, at the discretion of the commissioner, be disbursed to
12 any individual county or municipality on a grant basis or on a cost
13 reimbursement basis. Awards shall be made pursuant to the following
14 schedule: (1) the department shall distribute an aid application
15 solicitation letter to each county and each municipality by April 1st of
16 each year; (2) each county and each municipality shall submit an
17 application for funding by June 30th of each year; (3) the department
18 shall distribute an award letter to each county and each municipality
19 by October 1st of each year; and (4) the department shall execute an
20 agreement with each county and each municipality concerning the
21 project for which the aid is allotted to that county or municipality
22 within 90 days from the date that the department distributes the award
23 letter to the county or municipality pursuant to paragraph (3) of this
24 subsection or by December 31st of each year, whichever is earlier.

25 Distribution of the portion of the grant provided initially to a
26 county or municipality may be contingent on its performance in
27 spending prior grants. Failure to award construction or other approved
28 contracts for 100 percent of a county's allotment within three years of
29 notification by the department of that year's allotment, or failure to
30 award construction or other approved contracts for any percentage of a
31 county's allotment within one year of the fully executed agreement for
32 that year's allotment pursuant to paragraph (4) of this subsection, shall
33 result in the allotment being immediately rescinded or the funds
34 returned to the department, as applicable, or in the event such funds
35 are not immediately returned, deducted by the department from future
36 allocations of aid to such county, except as provided in subsection b.
37 of this section. Any such funds may be reallocated by the
38 commissioner on a grant basis or a cost reimbursement basis to such
39 other counties or municipalities as the commissioner shall so
40 determine. Failure to award construction or other approved contracts
41 for 100 percent of a municipality's allotment within two years of
42 notification by the department of that year's allotment, or failure to
43 award construction or other approved contracts for any percentage of a
44 municipality's allotment within one year of the fully executed
45 agreement for that year's allotment pursuant to paragraph (4) of this

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.

1 subsection, shall result in that year's allocation being immediately
2 rescinded , except as provided in subsection b. of this section. Any
3 such funds may be reallocated by the commissioner on a grant basis or
4 a cost reimbursement basis to such other counties or municipalities as
5 the commissioner shall determine.

6 b. An allotment provided to a county or municipality shall be
7 rescinded, returned, or deducted from future allocations as a result of a
8 county's or municipality's failure to award construction or other
9 approved contracts for any amount of the allotment within one year of
10 the fully executed agreement for that year's allotment as provided in
11 subsection a. of this section, except that this one-year requirement
12 shall be extended if a designated financial officer for the county or
13 municipality certifies to the department that the project will not begin
14 construction during the required time frame due to one of the
15 following exceptions:

16 (1) the allotment will be aggregated with future funds for the
17 purpose of completing a specific project;

18 (2) a permit needed for completion of the project has not been
19 issued due to a delay in the permitting process;

20 (3) the acquisition of an interest in State-owned land needed to
21 complete the project is delayed due to the divestment of a deed
22 restriction;

23 (4) the project requires a utility to be relocated; or

24 (5) a catastrophic event occurs and results in a declaration of a
25 state of emergency. The commissioner shall determine which events
26 are considered catastrophic for purposes of this paragraph.

27 c. A designated financial officer for a county or municipality
28 submitting a certification pursuant to subsection b. of this section shall
29 provide proof that the project meets one or more of the exceptions
30 provided in subsection b. of this section and shall certify that a
31 construction or other approved contract will be awarded promptly
32 upon resolution of the cause of the delay. The commissioner shall
33 determine the proof necessary to claim an exception under subsection
34 b. of this section; provided that:

35 (1) if a designated financial officer certifies that the allotment will
36 be aggregated with future funds for the purpose of completing a
37 specific project, the designated financial officer shall provide to the
38 department the specific project for which the allotment will be used
39 and an expected timeline for completion of the project. The allotment
40 shall not be aggregated until the department approves such
41 aggregation;

42 (2) if a designated financial officer certifies that a permit needed
43 for the completion of a project has not been issued due to a delay in
44 the permitting process, the designated financial officer shall provide to
45 the department the specific permit application number; or

46 (3) if a designated financial officer certifies that acquisition of an
47 interest in State-owned land is delaying the completion of a project
48 due to the divestment of a deed restriction, the designated financial

1 officer shall provide to the department the block and lot designation of
2 such land.

3 (cf: P.L.2012, c.13, s.10)

4

5 2. (New section) All appropriations or authorizations made by
6 the Legislature and allocated by the commissioner, under the local
7 aid program, pursuant to section 25 of P.L1984, c.73 (C.27:1B-25),
8 shall include the following limitations on grant recipients:

9 a. local government entity grant recipients shall be prohibited
10 from using local aid program funds to support the work of any local
11 government entity's employees on any construction projects funded,
12 in whole or in part, out of funds from the local aid program;

13 b. the construction contracts for all projects funded, in whole or
14 in part, out of funds from the local aid program shall be made and
15 awarded in accordance with the "Local Public Contracts Law,"
16 P.L.1971, c.198 (C.40A:11-1 et seq.);

17 c. for all projects funded, in whole or in part, out of funds from
18 the local aid program, each bidder on a construction contract valued
19 at more than \$500,000 shall be prequalified by the New Jersey
20 Department of Transportation; and,

21 d. a grant recipient under the local aid program shall be
22 permitted to expend up to 10 percent of its aid allotment in the
23 fiscal year beginning July 1, 2018 for design purposes, and up to
24 five percent of its aid allotment in the fiscal year beginning July 1,
25 2019 and every fiscal year thereafter for such purposes.

26

27 3. This act shall take effect immediately.

28

29

30 STATEMENT

31

32 This bill revises requirements imposed upon the use of grant funds
33 received by counties and municipalities through the transportation
34 local aid program.

35 The bill provides a schedule for awarding transportation local aid
36 to counties and municipalities. Specifically, the bill requires: (1) the
37 New Jersey Department of Transportation (department) to distribute an
38 aid application solicitation letter to each county and each municipality
39 by April 1st of each year; (2) each county and each municipality to
40 submit an application for funding by June 30th of each year; (3) the
41 department to distribute an award letter to each county and each
42 municipality by October 1st of each year; and (4) the department to
43 execute an agreement with each county and each municipality
44 concerning the project for which the aid is allotted to that county or
45 municipality within 90 days from the date the department distributes
46 the award letter or by December 31st of each year, whichever is
47 earlier.

1 The bill requires counties and municipalities to begin expending
2 aid allotments within one year from the date of the fully executed
3 agreement for that year's allotment. The bill provides that an allotment
4 is to be rescinded, returned, or deducted from future allotments as a
5 result of a county's or municipality's failure to award construction or
6 other approved contracts for any amount of the allotment within this
7 time frame, except that the one-year requirement is to be extended if a
8 designated financial officer of the county or municipality certifies to
9 the department that the project will not begin construction because: (1)
10 the allotment will be aggregated with future funds, as permitted by the
11 department, for the purpose of completing a specific project; (2) a
12 permit needed for completion of the project has not been issued due to
13 a delay in the permitting process; (3) the acquisition of an interest in
14 State-owned land needed to complete the project is delayed due to the
15 divestment of a deed restriction; (4) the project requires a utility to be
16 relocated; or (5) a catastrophic event occurs and results in the
17 declaration of a state of emergency. A designated financial officer is
18 required to provide proof that the project meets one or more of these
19 exceptions and is to certify that a construction or other approved
20 contract will be awarded promptly upon resolution of the cause of the
21 delay.

22 The bill also: (1) prohibits a local government entity from using
23 local aid program funds to support the work of a local government
24 entity's employees on local aid construction projects funded from local
25 aid funds;

26 (2) requires construction contracts for projects funded out of funds
27 from the local aid program to be bid in accordance with local public
28 contracts law;

29 (3) requires all bidders on local aid program funded construction
30 contracts valued at more than \$500,000 to be prequalified by the
31 department; and

32 (4) permits local aid program grant recipients to use 10 percent of
33 their awards on design costs in fiscal year 2019, and five percent of
34 their awards on design costs in fiscal years 2020 and beyond.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5380

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5380, with committee amendments.

As amended and reported, this bill revises requirements imposed upon the use of grant funds received by counties and municipalities through the transportation local aid program.

The bill requires that the New Jersey Department of Transportation (department) notify a county of the aid allotted to that county for the year and to execute an agreement with the county concerning the project for which the aid is allotted to that county within 90 days from the date that the county applies for funding or by April 1st of the following year, whichever is later. The bill requires the department to distribute an aid application solicitation letter to each municipality and execute an agreement with each municipality concerning the project for which the aid is allotted to that municipality within 90 days from the date the department distributes the award letter to the municipality or by March 1st of the following year, or whichever is later.

The bill requires counties to begin expending aid allotments within three years from the date that the county receives notification from the department of that year's allotment. Municipalities are required to begin expending aid allotments within two years from the date that the municipality receives notification from the department of that year's allotment.

The bill provides that an allotment is to be rescinded, returned, or deducted from future allotments as a result of a county's or municipality's failure to award construction or other approved contracts for 100 percent of the allotment within this time frame, except that the time frame for a municipality is to be extended for a period of not longer than six months if extraordinary circumstances exists, which are limited under the bill to the following: (1) bidding problems; (2) permits have not been approved; (3) utility relocation work precludes advertisement, bid, and award during the 24-month deadline; (4) right-of-way is not available for the project; or (5) declaration of a state of emergency by the Governor of the State of New Jersey or the President of the United States that directly impacts the ability of the municipality to award the contract. Award deadline extensions are to be requested in writing by the municipality a

minimum of 30 days prior to the 24 month deadline but does not guarantee approval of a six-month deadline extension.

The bill also: (1) prohibits a local government entity from using local aid program funds to support the work of a local government entity's employees on local aid construction projects funded from local aid funds; (2) requires construction contracts for projects funded out of funds from the local aid program to be bid in accordance with local public contracts law; (3) requires all bidders on local aid program funded construction contracts valued at more than \$5,000,000 to be prequalified by the department; and (4) permits local aid program grant recipients to use 10 percent of their awards on design costs in fiscal year 2019, and five percent of their awards on design costs in fiscal years 2020 and beyond.

COMMITTEE AMENDMENTS:

The amendments revise the process by which counties and municipalities apply for grant awards under the local aid program to require the department to execute agreements with a county receiving local aid funds 90 days from the date that the county applies for funding or by April 1st of the following year, whichever is later, and with a municipality receiving local aid funds 90 days from the date the department distributes the award letter to the municipality or by March 1st of the following year, or whichever is later.

The amendments require counties to begin expending aid allotments within three years from the date that the county receives notification from the department of that year's allotment and municipalities to begin expending aid allotments within two years from the date that the municipality receives notification from the department of that year's allotment, instead of one year for both counties and municipalities.

The amendments allow the commissioner to reallocate rescinded local aid awards to non-local aid projects, instead of keeping the funding within the local program for use on other local aid projects.

The amendments change the circumstances under which a municipality may request an extension and create a finite period for the extension period at six months. The amendments also make counties ineligible for extensions. Lastly, the amendments change the contract value for contracts funded by appropriations to the local program from \$500,000 to \$5,000,000.

FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.



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Newark, N.J.

Governor Murphy Takes Action on Legislation

06/26/2019

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

A5381 (Reynolds-Jackson, Verrelli/Turner) – Authorizes State Treasurer to sell surplus real property located in City of Trenton, Mercer County.

S2863 (Sarlo, Sweeney/Benson, Jones, Calabrese) – Revises requirements for grant recipients of Transportation Trust Fund Authority local aid program.

S2920 (Smith, Bateman, Greenstein/McKeon, Pinkin, Zwicker) – Establishes funding allocations for constitutionally dedicated CBT revenues for Fiscal Year 2020 and thereafter and revises law for State's open space, farmland, and historic preservation programs; appropriates \$500,000.

S3164 (Greenstein, Diegnan/Benson, Lopez, Murphy) – "New Jersey Transit Corporation Employee Protection Act"; prohibits NJT from asserting sovereign immunity in certain situations and subjects NJT to certain federal statutes and regulations.

S3587 (Turner/Reynolds-Jackson, Verrelli) – Establishes Trenton Capital City Aid Program; appropriates \$10 million.

S3651 (Pou, Singleton/Conaway, Mukherji) – Revises law concerning Medicare supplement insurance coverage.

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