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LAW/RWH 10/02/09

SENATE, No. 2828

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED MAY 18, 2009

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

SYNOPSIS

Authorizes borrowing by public school districts between June 8 and June 30 of the school budget year in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/22/2009)

1 AN ACT concerning borrowing by public school districts, amending
2 P.L.2003, c.97.

3

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

6

7 1. Section 1 of P.L.2003, c.97 (C.18A:22-44.2) is amended to
8 read as follows:

9 1. a. Notwithstanding any provision of law, rule, or regulation to
10 the contrary, in the event that a State school aid payment for the
11 current school budget year is not made until the following school
12 budget year, the payment shall be recorded as revenue for budget
13 purposes only in the current school budget year.

14 b. Notwithstanding the provisions of N.J.S.18A:22-25 and
15 section 1 of P.L.1968, c.384 (C.18A:22-44.1) or any other law, rule,
16 or regulation to the contrary, if a board of education of a school
17 district is notified by the Commissioner of Education that **[a] one**
18 **or more** June State school aid **[payment] payments** will not be
19 made until the following school budget year, and the district
20 demonstrates through a written application to the commissioner the
21 need to borrow and the commissioner approves that application, the
22 board may borrow on or before June 30 of the current school budget
23 year but not earlier than June **[22] 8** of the current school budget
24 year a sum not exceeding the amount of the delayed State school aid
25 **[payment] payments**, and may execute and deliver promissory
26 notes therefore through private sale or delivery thereof. The district
27 shall pay the amount so borrowed together with interest thereon and
28 costs thereof. The promissory notes shall mature on or prior to the
29 date of payment of the delayed June State school aid **[payment]**
30 **payments**, may be redeemable prior to maturity, shall have such
31 terms and conditions as shall be accepted by the board, and shall be
32 authorized by resolution adopted by the board, which resolution
33 may be adopted prior to application to the commissioner contingent
34 upon approval by the commissioner. The amount so borrowed shall
35 constitute a general obligation of the board and shall not constitute
36 gross debt for purposes of N.J.S.40A:2-43.

37 c. If a school district's application to the commissioner
38 contains a determination letter from a lending bank certifying to the
39 interest charges on the borrowing and if the district's application is
40 approved by the commissioner, the State shall pay on behalf of the
41 district the approved interest on the promissory notes in an amount
42 calculated from the date of borrowing through the date of payment
43 by the State of the delayed June State school aid **[payment]**
44 **payments** and other approved costs of issuance. Any obligations of
45 the State to make payments pursuant to this section shall not

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.

S2828 CODEY

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1 constitute a general obligation of the State or a debt or a liability
2 within the meaning of the State Constitution. Any payments
3 required to be made by the State pursuant to this section shall be
4 subject to appropriation.

5 d. Each school district which issues promissory notes pursuant
6 to this section shall certify to the State Treasurer the name and
7 address of the paying agent, the maturity schedule, interest rate, and
8 date of payment of debt service on the promissory notes within
9 three days after the date of issuance of the promissory notes.
10 Following receipt of the certification, the State Treasurer shall
11 withhold from the amount of State school aid payable to the district
12 an amount sufficient to pay the principal on the maturity date of the
13 promissory notes. In the event that there are interest or issuance
14 costs which are not approved by the commissioner pursuant to
15 subsection c. of this section, the State Treasurer shall also withhold
16 an amount sufficient to pay those unapproved costs. The State
17 Treasurer shall, on or before the maturity date, forward the withheld
18 amount to the paying agent for the purpose of paying the debt
19 service on the promissory notes. Notwithstanding any provision of
20 this section to the contrary, the State Treasurer's obligation to pay
21 the paying agent pursuant to this subsection, other than those
22 payments required to be made pursuant to subsection c. of this
23 section, shall not exceed the amount of State school aid payable to
24 the school district or the municipality.

25 e. Any negative unreserved, undesignated general fund balance
26 that may be recorded as a direct result of a State aid payment for the
27 current school budget year which is not made until the following
28 school budget year shall not be considered a violation of any law or
29 regulation and in need of corrective action.

30 f. The State Treasurer may, at his discretion, establish
31 procedures and forms necessary to implement the provisions of this
32 section. The State Treasurer may also adopt, pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.), rules and regulations necessary to implement the provisions
35 of this section.

36 (cf: P.L.2003, c.97, s.1)

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38 2. This act shall take effect immediately.

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SPONSOR'S STATEMENT

43 This bill is a response to the unprecedented decline in State
44 revenue collections in the Spring of 2009 as New Jersey saw April
45 gross income tax collections plummet by \$1.2 billion. The
46 Governor announced his intention on May 15 to delay the June 8,
47 2009 State aid payment to school districts until the next school
48 budget year. The bill ensures that schools districts will not

S2828 CODEY

1 experience any adverse impact from this action. This bill
2 authorizes borrowing by public school districts between June 8 and
3 June 30 if necessary to cover the amount of delayed June State
4 school aid payments in the same manner allowed pursuant to
5 P.L.2003, c.97.

6 P.L.2003, c.97, which was approved in June 2003, provides that
7 if the Commissioner of Education notifies a school district that a
8 June State school aid payment will not be made until the following
9 school budget year, and the district demonstrates the need to borrow
10 through submission of a written application to the commissioner
11 and the commissioner approves the application, then the board of
12 education may borrow on or before June 30, but not earlier than
13 June 22, of the current school budget year, a sum not exceeding the
14 amount of the delayed June State school aid payment. The State
15 will then pay on behalf of the district the approved interest and
16 other approved costs of the borrowing.

17 This bill provides that if the Commissioner of Education notifies
18 a school district that one or more June State school aid payments
19 will be delayed until the following school budget year and the
20 district demonstrates the need to borrow, then the board of
21 education may borrow on or before June 30, but not earlier than
22 June 8, a sum not exceeding the amount of the delayed June State
23 school aid payments.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2828
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: MAY 28, 2009

SUMMARY

Synopsis: Authorizes borrowing by public school districts between June 8 and June 30 of the school budget year in certain circumstances.

Type of Impact: Expenditure Increase in the General Fund.

Agencies Affected: Department of Education

Office of Legislative Services Estimate

Fiscal Impact	FY 2010
State Cost	Approximately \$122,000 per \$50 million borrowed by school districts. The maximum possible cost is estimated to be \$932,000. See comments below.

- The total cost of Senate Bill No. 2828 of 2009 is contingent on two factors that are not known at this time: 1) the total amount that school districts will borrow as a result of the June 8 State school aid payment being delayed, and 2) the approved interest rate associated with the lending.
- Based on the assumption that school districts can obtain loans for an average annual percentage rate of 3.7 percent and that the State pays the outstanding principal in 24 days, the Office of Legislative Services estimates that every \$50 million of approved school district borrowing would cost the State approximately \$122,000 in interest costs.
- If all school districts were allowed to borrow the total amount of the delayed June 8 State aid payment, the total interest cost to the State would be approximately \$932,000, given the previously stated assumptions regarding the interest rate and length of the loans.

BILL DESCRIPTION

Senate Bill No. 2828 of 2009 authorizes school districts to borrow funds between June 8 and June 30 of any school budget year in which districts are informed that one or more of the June

State school aid payments will be delayed until the subsequent school budget year. In FY 2003, the last State school aid payment (June 22) was delayed until the subsequent fiscal year and P.L.2003, c.97 (C.18A:22-44.2) gave school districts the authority to borrow funds, in an amount not to exceed the total delayed payment, between June 22 and June 30. Districts were required to submit an application to the Commissioner of Education demonstrating that the delayed payment created the need to borrow, and the State paid all approved interest costs associated with the borrowing.

In light of the decision to delay both June State school aid payments (June 8 and June 22) until FY 2010, this bill amends P.L.2003, c.97 (C.18A:22-44.2) to allow school districts to borrow as early as June 8 to address any short-term spending needs. Districts are still required to submit an application demonstrating the need to borrow, and the State will pay the approved interest costs associated with such borrowing.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The total cost of Senate Bill No. 2828 is contingent on two factors that are not currently known. First, it will depend on the total amount that will be borrowed by school districts as a result of the delayed June 8 payment. Second, the approved interest rate at which school districts borrow money will impact the total State costs.

For the purpose of generating a cost estimate, this analysis assumes that school districts will borrow at an average annual percentage rate of 3.7 percent. This figure represents the average interest rate paid on similar loans in FY 2009 for the one delayed June 2008 State school aid payment. Two limitations to this approach should be noted. First, interest rates actually obtained by school districts may differ from the Office of Legislative Services assumed rate of 3.7 percent. Second, only seven districts actually borrowed as a result of the delayed FY 2008 payment and may not be representative of the potentially larger number of districts that may have to borrow funds given that two payments are now going to be delayed. Information on the Department of Education's website suggests that it will repay the loans, on behalf of the school districts, no later than July 2, a span of 24 days relative to the date on which the districts would be allowed to borrow pursuant to this legislation (the July 2 payment date is taken from a department memo to school districts dated April 9. If the payment is made on a later date, interest costs will be higher). Based on these assumptions with respect to the interest rate at which school districts will borrow the funds and the length of these loans, every \$50 million borrowed by school districts will lead to a State cost of \$122,000. Given that districts cannot borrow more than the amount of the delayed payment (a Statewide total of \$383 million), the maximum State cost, given the previously stated assumptions, would be \$932,000.

While not a part of this legislation, it should be noted that delaying the June 8 payment until FY 2010 creates a savings in FY 2010 greater than the projected interest costs. To the extent that FY 2010 school aid is greater than FY 2009 school aid, delaying the June 8, 2009 payment until the subsequent fiscal year creates a "growth savings." This growth savings would be approximately equal to the difference between five percent of FY 2009 total school aid and five

percent of the FY 2010 total school aid. The original FY 2010 budget proposal projected a growth savings of \$8.96 million that is associated with the delay of the June 22 State aid payment. Delaying the June 8 payment would yield an additional \$8.96 million in growth savings. It should be noted, however, that the growth savings rest on the assumption that the FY 2010 June school aid payments are delayed until the subsequent fiscal year as well.

Section: Education

*Analyst: Allen T. Dupree
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

A3981 GREENWALD

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1 constitute a general obligation of the State or a debt or a liability
2 within the meaning of the State Constitution. Any payments
3 required to be made by the State pursuant to this section shall be
4 subject to appropriation.

5 d. Each school district which issues promissory notes pursuant
6 to this section shall certify to the State Treasurer the name and
7 address of the paying agent, the maturity schedule, interest rate, and
8 date of payment of debt service on the promissory notes within
9 three days after the date of issuance of the promissory notes.
10 Following receipt of the certification, the State Treasurer shall
11 withhold from the amount of State school aid payable to the district
12 an amount sufficient to pay the principal on the maturity date of the
13 promissory notes. In the event that there are interest or issuance
14 costs which are not approved by the commissioner pursuant to
15 subsection c. of this section, the State Treasurer shall also withhold
16 an amount sufficient to pay those unapproved costs. The State
17 Treasurer shall, on or before the maturity date, forward the withheld
18 amount to the paying agent for the purpose of paying the debt
19 service on the promissory notes. Notwithstanding any provision of
20 this section to the contrary, the State Treasurer's obligation to pay
21 the paying agent pursuant to this subsection, other than those
22 payments required to be made pursuant to subsection c. of this
23 section, shall not exceed the amount of State school aid payable to
24 the school district or the municipality.

25 e. Any negative unreserved, undesignated general fund balance
26 that may be recorded as a direct result of a State aid payment for the
27 current school budget year which is not made until the following
28 school budget year shall not be considered a violation of any law or
29 regulation and in need of corrective action.

30 f. The State Treasurer may, at his discretion, establish
31 procedures and forms necessary to implement the provisions of this
32 section. The State Treasurer may also adopt, pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.), rules and regulations necessary to implement the provisions
35 of this section.

36 (cf: P.L.2003, c.97, s.1)

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38 2. This act shall take effect immediately.

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SPONSOR'S STATEMENT

42

43 This bill is a response to the unprecedented decline in State
44 revenue collections in the Spring of 2009 as New Jersey saw April
45 gross income tax collections plummet by \$1.2 billion. The
46 Governor announced his intention on May 15 to delay the June 8,
47 2009 State aid payment to school districts until the next school
48 budget year. The bill ensures that schools districts will not

A3981 GREENWALD

1 experience any adverse impact from this action. This bill
2 authorizes borrowing by public school districts between June 8 and
3 June 30 if necessary to cover the amount of delayed June State
4 school aid payments in the same manner allowed pursuant to
5 P.L.2003, c.97.

6 P.L.2003, c.97, which was approved in June 2003, provides that
7 if the Commissioner of Education notifies a school district that a
8 June State school aid payment will not be made until the following
9 school budget year, and the district demonstrates the need to borrow
10 through submission of a written application to the commissioner
11 and the commissioner approves the application, then the board of
12 education may borrow on or before June 30, but not earlier than
13 June 22, of the current school budget year, a sum not exceeding the
14 amount of the delayed June State school aid payment. The State
15 will then pay on behalf of the district the approved interest and
16 other approved costs of the borrowing.

17 This bill provides that if the Commissioner of Education notifies
18 a school district that one or more June State school aid payments
19 will be delayed until the following school budget year and the
20 district demonstrates the need to borrow, then the board of
21 education may borrow on or before June 30, but not earlier than
22 June 8, a sum not exceeding the amount of the delayed June State
23 school aid payments.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3981

STATE OF NEW JERSEY

DATED: MAY 19, 2009

The Assembly Budget Committee reports favorably Assembly Bill No. 3981.

The bill authorizes borrowing by public school districts between June 8 and June 30 if necessary to cover the amount of delayed June State school aid payments in the same manner allowed pursuant to P.L.2003, c.97.

This bill is a response to the unprecedented decline in State revenue collections in the Spring of 2009 as New Jersey saw April gross income tax collections plummet by \$1.2 billion. The Governor announced his intention on May 15 to delay the June 8, 2009 State aid payment to school districts until the next school budget year. The bill ensures that schools districts will not experience any adverse impact from this action.

P.L.2003, c.97, which was approved in June 2003, provides that if the Commissioner of Education notifies a school district that a June State school aid payment will not be made until the following school budget year, and the district demonstrates the need to borrow through submission of a written application to the commissioner and the commissioner approves the application, then the board of education may borrow on or before June 30, but not earlier than June 22, of the current school budget year, a sum not exceeding the amount of the delayed June State school aid payment. The State will then pay on behalf of the district the approved interest and other approved costs of the borrowing.

This bill provides that if the Commissioner of Education notifies a school district that one or more June State school aid payments will be delayed until the following school budget year and the district demonstrates the need to borrow, then the board of education may borrow on or before June 30, but not earlier than June 8, a sum not exceeding the amount of the delayed June State school aid payments.

FISCAL IMPACT:

Assembly Bill No. 3981 facilitates the Governor's proposal to reduce FY 2009 State aid disbursements to school districts without causing an adverse effect on school district budgets. It is projected that the Governor's proposal would reduce FY 2009 State aid expenditures by \$383 million.

The bill would lead to an increased cost to the State by allowing school districts to borrow from their bank of choice as early as June 8 with the State paying the interest costs associated with the loans. The total interest cost to be paid by the State is contingent on the total amount that districts borrow and the interest rate at which the borrowing occurs. If one assumes that school districts borrow at a 3.7 percent annual percentage rate (the average rate at which districts borrowed when the final FY 2008 State school aid payment was delayed) and the State repays the loans after 24 days, then every \$50 million borrowed by school districts would yield a cost to the State of approximately \$122,000. Since school districts cannot borrow more than the amount of the delayed State school aid payment, the maximum potential interest cost to the State (based on the same assumptions regarding the interest rate and length of the loans) would be \$932,000.

The cost to the State associated with this bill would be offset by the savings generated in FY 2010 by delaying the June 8, 2009 payment. To the extent that FY 2010 school aid is greater than FY 2009 school aid, then delaying the June 8, 2009 payment until the next fiscal year creates a "growth savings." This growth savings would be equal to the difference between five percent of FY 2009 total school aid and five percent of FY 2010 total school aid. The FY 2010 budget already projects a growth savings of \$8.96 million that is associated with the delay of the June 22 State aid payment. Delaying the June 8 payment would yield an additional \$8.96 million in growth savings. It should be noted, however, that the growth savings rests on the assumption that the FY 2010 June school aid payments are delayed into the subsequent fiscal year.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3981
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: MAY 28, 2009

SUMMARY

Synopsis: Authorizes borrowing by public school districts between June 8 and June 30 of the school budget year in certain circumstances.

Type of Impact: Expenditure Increase in the General Fund.

Agencies Affected: Department of Education

Office of Legislative Services Estimate

Fiscal Impact	FY 2010
State Cost	Approximately \$122,000 per \$50 million borrowed by school districts. The maximum possible cost is estimated to be \$932,000. See comments below.

- The total cost of Assembly Bill No. 3981 of 2009 is contingent on two factors that are not known at this time: 1) the total amount that school districts will borrow as a result of the June 8 State school aid payment being delayed, and 2) the approved interest rate associated with the lending.
- Based on the assumption that school districts can obtain loans for an average annual percentage rate of 3.7 percent and that the State pays the outstanding principal in 24 days, the Office of Legislative Services estimates that every \$50 million of approved school district borrowing would cost the State approximately \$122,000 in interest costs.
- If all school districts were allowed to borrow the total amount of the delayed June 8 State aid payment, the total interest cost to the State would be approximately \$932,000, given the previously stated assumptions regarding the interest rate and length of the loans.

BILL DESCRIPTION

Assembly Bill No. 3981 of 2009 authorizes school districts to borrow funds between June 8

and June 30 of any school budget year in which districts are informed that one or more of the June State school aid payments will be delayed until the subsequent school budget year. In FY 2003, the last State school aid payment (June 22) was delayed until the subsequent fiscal year and P.L.2003, c.97 (C.18A:22-44.2) gave school districts the authority to borrow funds, in an amount not to exceed the total delayed payment, between June 22 and June 30. Districts were required to submit an application to the Commissioner of Education demonstrating that the delayed payment created the need to borrow, and the State paid all approved interest costs associated with the borrowing.

In light of the decision to delay both June State school aid payments (June 8 and June 22) until FY 2010, this bill amends P.L.2003, c.97 (C.18A:22-44.2) to allow school districts to borrow as early as June 8 to address any short-term spending needs. Districts are still required to submit an application demonstrating the need to borrow, and the State will pay the approved interest costs associated with such borrowing.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The total cost of Assembly Bill No. 3981 is contingent on two factors that are not currently known. First, it will depend on the total amount that will be borrowed by school districts as a result of the delayed June 8 payment. Second, the approved interest rate at which school districts borrow money will impact the total State costs.

For the purpose of generating a cost estimate, this analysis assumes that school districts will borrow at an average annual percentage rate of 3.7 percent. This figure represents the average interest rate paid on similar loans in FY 2009 for the one delayed June 2008 State school aid payment. Two limitations to this approach should be noted. First, interest rates actually obtained by school districts may differ from the Office of Legislative Services assumed rate of 3.7 percent. Second, only seven districts actually borrowed as a result of the delayed FY 2008 payment and may not be representative of the potentially larger number of districts that may have to borrow funds given that two payments are now going to be delayed. Information on the Department of Education's website suggests that it will repay the loans, on behalf of the school districts, no later than July 2, a span of 24 days relative to the date on which the districts would be allowed to borrow pursuant to this legislation (the July 2 payment date is taken from a department memo to school districts dated April 9. If the payment is made on a later date, interest costs will be higher). Based on these assumptions with respect to the interest rate at which school districts will borrow the funds and the length of these loans, every \$50 million borrowed by school districts will lead to a State cost of \$122,000. Given that districts cannot borrow more than the amount of the delayed payment (a Statewide total of \$383 million), the maximum State cost, given the previously stated assumptions, would be \$932,000.

While not a part of this legislation, it should be noted that delaying the June 8 payment until FY 2010 creates a savings in FY 2010 greater than the projected interest costs. To the extent that FY 2010 school aid is greater than FY 2009 school aid, delaying the June 8, 2009 payment until the subsequent fiscal year creates a "growth savings." This growth savings would be approximately equal to the difference between five percent of FY 2009 total school aid and five

percent of the FY 2010 total school aid. The original FY 2010 budget proposal projected a growth savings of \$8.96 million that is associated with the delay of the June 22 State aid payment. Delaying the June 8 payment would yield an additional \$8.96 million in growth savings. It should be noted, however, that the growth savings rest on the assumption that the FY 2010 June school aid payments are delayed until the subsequent fiscal year as well.

Section: Education

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*Approved: David J. Rosen
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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).