

27:1D-1 to 27:1D-9

LEGISLATIVE HISTORY CHECKLIST

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(Transportation Demonstration Projects)

NJSA: 27:1D-1 to 27:1D-9

LAWS OF: 1997 CHAPTER: 136

BILL NO: A2560

SPONSOR(S): DeCroze & others

DATE INTRODUCED: December 9, 1996

COMMITTEE: ASSEMBLY: Transportation; Appropriations

SENATE: Budget

AMENDED DURING PASSAGE: Yes Amendments during passage denoted  
Third reprint enacted by superscript numbers

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

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COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

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LEGISLATIVE HISTORY CHECKLIST  
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[Third Reprint]  
ASSEMBLY, No. 2560

STATE OF NEW JERSEY

INTRODUCED DECEMBER 9, 1996

By Assemblymen DeCROCE, GIBSON,  
Asselta, Bucco and Assemblywoman Heck

1 AN ACT concerning transportation projects, amending <sup>3</sup>P.L.1966,  
2 c.301, P.L.1986, c.56, P.L.1979, c.150 and P.L.1995, c.108<sup>3</sup> and  
3 supplementing Title 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. (New section) The Legislature finds and declares that:

9 a. A safe and efficient transportation system is essential to the  
10 economic and social well-being of the State and its people, and is a  
11 sound economic investment opportunity for both private and public  
12 resources.

13 b. The use of public-private transportation initiatives would  
14 enhance the ability of the State to provide a safe and efficient  
15 transportation system through use of alternate funding sources and  
16 private sector efficiencies; supplement the State's transportation  
17 resources in order to allow the State to use its limited resources for  
18 other needed projects; and encourage and promote business and  
19 employment opportunities for the citizens of New Jersey.

20  
21 2. (New section) As used in this act:

22 "Commissioner" means the Commissioner of Transportation.

23 "Corporation" means the New Jersey Transit Corporation.

24 "Department" means the Department of Transportation.

25 "Demonstration project" means a transportation project selected by  
26 the commissioner pursuant to section 3 of this act.

27 "Developer" means a public or private entity or consortia thereof  
28 selected by the public partner from among proposers to develop a  
29 demonstration project.

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ATC committee amendments adopted January 9, 1997.

<sup>2</sup> Assembly AAP committee amendments adopted March 3, 1997.

<sup>3</sup> Senate SBA committee amendments adopted May 8, 1997.

1 "Intelligent transportation systems" means the equipment, facilities,  
2 property, information management and communications resources  
3 which are necessary or desirable for the advancement, management, or  
4 operation of a multi-modal transportation network.

5 <sup>3</sup>"Project agreement" or "demonstration project agreement" means  
6 a contract or agreement entered into by the commissioner with a  
7 developer providing the terms and conditions under which the  
8 developer shall undertake a demonstration project.<sup>3</sup>

9 "Public highways" means public roads, streets, expressways,  
10 freeways, parkways, motorways and boulevards, including bridges,  
11 tunnels, overpasses, underpasses, interchanges, rest areas, express bus  
12 roadways, bus pullouts and turnarounds, park-ride facilities, traffic  
13 circles, grade separations, intelligent transportation systems, traffic  
14 control devices, the elimination or improvement of crossings of  
15 railroads and highways, whether at grade or not at grade, and any  
16 facilities, equipment, property, rights of way, easements and interests  
17 therein needed for the construction, improvement and maintenance of  
18 highways or intelligent transportation systems.

19 "Public partner" means the Department of Transportation or the  
20 New Jersey Transit Corporation, as the case may be.

21 "Public transportation project" means, in connection with public  
22 transportation service, passenger stations, shelters and terminals,  
23 automobile parking facilities, ramps, track connections, signal systems,  
24 power systems, information and communication systems, roadbeds,  
25 transit lanes or rights of way, equipment storage and servicing  
26 facilities, bridges, grade crossings, rail cars, locomotives, motorbuses  
27 and other motor vehicles, maintenance and garage facilities, revenue  
28 handling equipment and any other equipment, facility or property  
29 useful for or related to the provision of public transportation service.

30 "Transportation project" means, in addition to public highways and  
31 public transportation projects, any equipment, facility or property  
32 useful or related to the provision of any ground, waterborne or air  
33 transportation for the movement of people and goods.

34

35 3. (New section) a. Commencing with the fiscal year beginning  
36 after the effective date of this act and for the next four succeeding  
37 fiscal years, the commissioner is authorized to select up to seven  
38 transportation projects from the list of transportation projects <sup>2</sup>for  
39 which monies have been appropriated<sup>2</sup> in the annual appropriations  
40 acts for those five fiscal years to serve as demonstration projects. <sup>2</sup>No  
41 more than seven demonstration projects shall be selected by the  
42 commissioner pursuant to this act.<sup>2</sup>

43 b. Selection by the commissioner of demonstration projects  
44 pursuant to subsection a. of this section which are public  
45 transportation projects shall be made with the approval of the board  
46 of the corporation.

1 c. If a transportation project is not listed in the annual  
2 appropriations acts, the commissioner may submit that project as a  
3 demonstration project to the Legislature for approval. The  
4 commissioner shall make the submission to the Legislature to the  
5 President of the Senate and the Speaker of the General Assembly on  
6 a day when both houses are meeting. The President and the Speaker  
7 shall cause the date of submission to be entered upon the Senate  
8 Journal and the Minutes of the General Assembly, respectively. Unless  
9 the project as described in the submission is disapproved by adoption  
10 of a concurrent resolution to this effect by the affirmative vote of a  
11 majority of the authorized membership of both houses within the time  
12 period prescribed in this subsection, the project shall be deemed  
13 approved and the public partner shall be authorized to undertake the  
14 project. The time period shall commence on the day of submission and  
15 expire on the forty-fifth day after submission or for a house not  
16 meeting on the forty-fifth day, on the next meeting day of that house.

17 <sup>3</sup>d. Notwithstanding the provisions of this section to the contrary,  
18 demonstration projects shall be subject to the approval of the Joint  
19 Budget Oversight Committee or its successor.<sup>3</sup>

20  
21 4. (New section) a. <sup>1</sup>A<sup>1</sup> public partner is authorized to solicit  
22 proposals in the five fiscal years after the effective date of this act, as  
23 provided in subsection a. of section 3 of this act, from developers to  
24 plan, design, construct, equip, operate, finance, improve and maintain,  
25 or any combination thereof, demonstration projects selected by the  
26 commissioner pursuant to section 3 of this act.

27 b. A public partner shall select proposals for negotiation of  
28 <sup>2</sup>[public-private]<sup>2</sup> demonstration project agreements based on the  
29 overall benefit to the State, the qualifications and financial strength of  
30 the proposer, the proposer's responsiveness to the public partner's  
31 requirements, the total project cost to be incurred by the public  
32 partner, the nature of project financing, the revenues to be generated  
33 by the project on behalf of and in support of the State, the impact of  
34 any direct or indirect user fees and any other evaluation criteria the  
35 public partner deems appropriate. The public partner shall negotiate  
36 with one or more proposers to reach <sup>2</sup>[an] a project<sup>2</sup> agreement in the  
37 best interests of the State <sup>3</sup>,except that in the event that a private  
38 developer, private entity or private consortia benefits from the use of  
39 public monies for the construction of a demonstration project pursuant  
40 to this act, the project agreement with the developer shall provide that  
41 any construction contract entered into by the developer, a private  
42 entity or private consortia, to effectuate the agreement shall conform  
43 to those requirements concerning advertisement, pre-qualification, bid  
44 and award provided for by law for construction contracts entered into  
45 by the department or corporation, as the case may be<sup>3</sup>.

46 c. Any power possessed by a public partner pursuant to this act or

1 any other act or any function performed by the department or the  
2 corporation, as the case may be, with respect to transportation  
3 projects may be used by that public partner to facilitate the  
4 <sup>2</sup>development planning, designing, <sup>2</sup> construction, equipment,  
5 financing, improvement,<sup>2</sup> maintenance and operation <sup>2</sup>, or any  
6 combination thereof,<sup>2</sup> of demonstration projects selected pursuant to  
7 this act. <sup>2</sup>Agreements Project agreements<sup>2</sup> entered into pursuant to  
8 this act may provide for full reimbursement to the State for services  
9 rendered by the public partner or other State entities or agencies or for  
10 the provision of revenues generated to the State. The public partner  
11 is authorized to enter into financing, funding, and credit agreements on  
12 such terms as the commissioner deems favorable to the State to  
13 promote the purposes of this act. <sup>2</sup>All credit agreements entered into  
14 by the public partner pursuant to this act shall be subject to  
15 concurrence by the State Treasurer.<sup>2</sup>

16 d. <sup>2</sup>An A project<sup>2</sup> agreement entered into pursuant to this act  
17 shall provide for a public involvement and information process to  
18 apply to each demonstration project. The purpose of the public  
19 involvement and information process shall be to disseminate and  
20 provide information about the demonstration project to the public,  
21 prospective project users, and the residents of communities affected  
22 by the project, and to establish a formal means by which interested  
23 persons may comment upon the project and make suggestions.

24 <sup>1</sup>e. Upon entering into a project agreement pursuant to this act, the  
25 public partner shall publish a notice in a newspaper circulating in the  
26 county in which the demonstration project will be located describing  
27 the project and the responsibilities of the developer and the public  
28 partner with respect to the project. If a demonstration project will be  
29 located in more than one county or have a regional impact, the notice  
30 shall also be published in a publication circulating in the region in  
31 which the demonstration project will be located.<sup>1</sup>

32  
33 5. (New section) a. The department's financial participation in any  
34 demonstration project undertaken pursuant to this act shall be subject  
35 to legislative appropriation. The corporation's financial participation  
36 in any demonstration project undertaken pursuant to this act shall be  
37 subject to the availability of funds. Participation by a public partner  
38 may take the form of loans or such other financial credit arrangements  
39 as may be appropriate to advance an approved project. Agreements  
40 entered into pursuant to this act <sup>2</sup>to facilitate such participation<sup>2</sup> shall  
41 provide <sup>2</sup>that<sup>2</sup> such loans or other credit arrangements made by the  
42 public partner shall yield a reasonable return and be amortized over the  
43 term of such agreement, or such lesser period as may be agreed to by  
44 the parties.

45 b. <sup>2</sup>Agreements A project agreement<sup>2</sup> entered into pursuant to  
46 this act shall provide for the allocation of ownership, leasehold, and

1 other property interests in demonstration projects.

2 c. The <sup>2</sup>project<sup>2</sup> agreement may authorize the developer to set and  
3 impose rents, fares or user fees for use of a facility constructed by it  
4 and may require that over the term of the agreement, the rent, fare or  
5 fee revenues received by the developer be applied to repayment of the  
6 developer's capital outlay costs, interest expense, costs associated with  
7 operations, fare or user fee collection, facility management,  
8 reimbursement of the State's project review and oversight costs,  
9 repayment of loans, revenues to the State, technical and law  
10 enforcement services, and a reasonable return on investment to the  
11 developer.

12 d. The <sup>2</sup>project<sup>2</sup> agreement shall specify the manner in which rents,  
13 fares or user fees are to be established or revised, the procedures for  
14 receiving public comment on the establishment or revision of fares or  
15 user fees, including the holding of a public hearing thereon, and the  
16 procedures by which the public partner shall oversee the establishment  
17 or revision of fares or user fees <sup>3</sup>provided, however, that no fares or  
18 user fees shall be subject to oversight unless the developer receives  
19 public monies for 10 percent or greater of its operating expenses<sup>3</sup>.

20

21 6. (New Section) <sup>2</sup>**[Demonstration projects constructed by and**  
22 **leased by a developer pursuant to this act shall, from the**  
23 **commencement of operation, be deemed to be a part of the State**  
24 **highway system for purposes of the enforcement of traffic and other**  
25 **applicable laws or a part of the State public transportation system for**  
26 **the purposes of enforcement of all applicable laws, as the case may**  
27 **be.] Traffic and other laws applicable on the State transportation**  
28 **system shall be enforceable, as appropriate, on demonstration projects**  
29 **constructed by and leased by a developer pursuant to this act.**<sup>2</sup>

30

31 7. (New Section) a. <sup>2</sup>**[Transportation] Demonstration**<sup>2</sup> projects  
32 selected pursuant to this act shall be designed, constructed, operated  
33 and maintained in accordance with all applicable environmental  
34 requirements and all other applicable State and federal laws and  
35 regulations necessary to the protection of the public health, safety and  
36 welfare.

37 b. Unless determined otherwise by the corporation, in its sole  
38 discretion, the plans and specifications for each demonstration project  
39 shall comply with the corporation's standards for public transportation  
40 projects.

41 c. Unless determined otherwise by the commissioner, in his sole  
42 discretion, the plans and specifications for each transportation project  
43 other than public transportation projects shall comply with the  
44 department's standards for <sup>2</sup>**[State]**<sup>2</sup> transportation projects.

45

46 8. (New Section) All absolute and qualified immunities and

1 defenses provided to public entities and public employees by the "New  
2 Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the "New Jersey  
3 Contractual Liability Act," N.J.S.59:13-1 et seq., and any other law  
4 shall apply to all interests held and activities performed by the  
5 department, the corporation and other State agencies in connection  
6 with the demonstration projects <sup>2</sup>~~authorized~~ selected<sup>2</sup> pursuant to  
7 this act.

8

9 9. (New Section) a. The public partner may agree to defend and  
10 indemnify any person, who, pursuant to a written agreement with the  
11 public partner entered into in accordance with this act, designs,  
12 constructs, operates, maintains, leases or otherwise holds an interest  
13 in a demonstration project, against claims, causes of action, demands,  
14 costs or judgements against that person arising as a direct result of the  
15 design, construction, interest, operation, or maintenance of that  
16 demonstration project. The public partner is authorized to reach  
17 agreements to defend and indemnify a person upon the terms and  
18 limitations the public partner deems reasonable and appropriate.

19 b. A determination by the public partner to defend and indemnify  
20 pursuant to this section does not bar, reduce, limit or affect any  
21 remedies which the public partner may have to enforce the agreement  
22 between the public partner and the developer to assert a claim for  
23 damages to which the public partner may be entitled arising out of the  
24 developer's failure to perform the agreement, or for the recovery of  
25 funds expended for the defense of the developer if the defense was  
26 undertaken in response to a claim or cause of action brought against  
27 the developer which is proven to have arisen from gross negligence,  
28 willful misconduct, fraud, intentional tort, bad faith or criminal  
29 conduct.

30 c. No one other than the person operating, maintaining, leasing or  
31 otherwise holding an interest in the demonstration project pursuant to  
32 an agreement with the public partner has the right to enforce any  
33 agreement for defense or indemnification between that person and the  
34 public partner.

35

36 10. Section 5 of P.L.1966, c.301 (C.27:1A-5) is amended to read  
37 as follows:

38 5. The commissioner, as head of the department, shall have all of  
39 the functions, powers and duties heretofore vested in the State  
40 Highway Commissioner and shall, in addition to the functions, powers  
41 and duties vested in him by this act or by any other law:

42 (a) Develop and maintain a comprehensive master plan for all  
43 modes of transportation development, with special emphasis on public  
44 transportation. Such plan shall be revised and updated at least every  
45 five years;

46 (b) Develop and promote programs to foster efficient and

1 economical transportation services in the State;

2 (c) Prepare plans for the preservation, improvement and expansion  
3 of the public transportation system, with special emphasis on the  
4 coordination of transit modes and the use of rail rights of way,  
5 highways and public streets for public transportation purposes;

6 (d) Enter into contracts with the New Jersey Transit Corporation  
7 for the provision and improvement of public transportation services;

8 (e) Coordinate the transportation activities of the department with  
9 those of other public agencies and authorities;

10 (f) Cooperate with interstate commissions and authorities, State  
11 departments, councils, commissions and other State agencies, with  
12 appropriate federal agencies, and with interested private individuals  
13 and organizations in the coordination of plans and policies for the  
14 development of air commerce and air facilities;

15 (g) Make an annual report to the Governor and the Legislature on  
16 the department's operations, and render such other reports as the  
17 Governor shall from time to time request or as may be required by law;

18 (h) Promulgate regulations providing for the charging of and  
19 setting the amount of fees for certain services performed by and  
20 permits issued by the department, including but not limited to the  
21 following:

22 (1) Providing copies of documents prepared by or in the custody  
23 of the department;

24 (2) Aeronautics permits;

25 (3) Right-of-way permits;

26 (4) Traffic signal control systems;

27 (i) Develop and promote programs for the preservation,  
28 improvement and expansion of freight railroads, with special emphasis  
29 on the use of rail rights of way for the purpose of providing rail freight  
30 service;

31 (j) Develop and promote a program to ensure the safety and  
32 continued operation of aviation facilities in New Jersey; **[and]**

33 Enter into agreements with a public or private entity or  
34 consortia thereof to provide for the development of demonstration  
35 projects through the use of public-private partnerships pursuant to  
36 sections 1 through 9 of P.L. 19 .c. (C. ) (now before the  
37 Legislature as this bill); and

38 (l) Do any and all things necessary, convenient or desirable to  
39 effectuate the purposes of P.L.1966, c.301 (C.27:1A-1 et seq.) and to  
40 exercise the powers given and granted in that act.

41 (cf: P.L.1986, c.56, s.1)

42

43 11. Section 2 of P.L.1986, c.56 (C.27:1A-5.1) is amended to read  
44 as follows:

45 2. The commissioner, pursuant to subsection (i) of section 5 of  
46 P.L.1966, c.301 (C.27:1A-5), may:



- 1 a. Plan, design, construct, equip, operate, improve and maintain,  
2 either directly or by contract with any public or private entity, a  
3 railroad, subway, street traction or electric railway, or connecting  
4 roadways and facilities for the purpose of carrying freight in this State  
5 or between in this State and points in other states;
- 6 b. Acquire by purchase, condemnation, lease, gift or otherwise, on  
7 terms and conditions and in the manner he deems proper, any land or  
8 property, real or personal, tangible or intangible, which he may  
9 determine is reasonably necessary for the purposes of this section;
- 10 c. Lease as lessor, sell or otherwise dispose of, on terms and  
11 conditions which he may prescribe as appropriate, real and personal  
12 property, including tangible or intangible property and consumable  
13 goods; or any interest therein, to any public or private entity in the  
14 exercise of his powers and the performance of his duties under this  
15 section, and may, in order to provide or encourage adequate and  
16 efficient rail freight service, lease or otherwise permit the use or  
17 occupancy of property without cost or at a nominal rental;
- 18 d. Upon declaration by him that there are no other prospects for  
19 competitive bidding, make, negotiate or award any purchase, contract  
20 or agreement pursuant to this section without advertisement.  
21 (cf: P.L.1986, c.56, c.2)

22

23 12. Section 5 of P.L.1979, c.150 (C.27:25-5) is amended to read  
24 as follows:

25 5. In addition to the powers and duties conferred upon it elsewhere  
26 in this act, the corporation may do all acts necessary and reasonably  
27 incident to carrying out the objectives of this act, including but not in  
28 limitation thereof the following:

- 29 a. Sue and be sued;
- 30 b. Have an official seal and alter the same at pleasure;
- 31 c. Make and alter bylaws for its organization and internal  
32 management and for the conduct of its affairs and business;
- 33 d. Maintain an office at such place or places within the State as it  
34 may determine;
- 35 e. Adopt, amend and repeal such rules and regulations as it may  
36 deem necessary to effectuate the purposes of this act, which shall have  
37 the force and effect of law; it shall publish the same and file them in  
38 accordance with the "Administrative Procedure Act," P.L.1968, c.410  
39 (C.52:14B-1 et seq.) with the Director of the Office of Administrative  
40 Law;
- 41 f. Call to its assistance and avail itself of the service of such  
42 employees of any federal, State, county or municipal department or  
43 agency as it may require and as may be available to it for said purpose;
- 44 g. Apply for, accept and expend money from any federal, State,  
45 county or municipal agency or instrumentality and from any private  
46 source; comply with federal statutes, rules and regulations, and qualify

- 1 for and receive all forms of financial assistance available under federal  
2 law to assure the continuance of, or for the support or improvement  
3 of public transportation and as may be necessary for that purpose to  
4 enter into agreements, including federally required labor protective  
5 agreements;
- 6 h. Plan, design, construct, equip, operate, improve and maintain,  
7 either directly or by contract with any public or private entity, public  
8 transportation services, capital equipment and facilities or any parts or  
9 functions thereof, and other transportation projects, or any parts or  
10 functions thereof, which may be funded under section 3 of the federal  
11 Urban Mass Transportation Act of 1964, P.L.88-365 (49 U.S.C.  
12 {1602), or any successor or additional federal act having substantially  
13 the same or similar purposes or functions; the operation of the  
14 facilities of the corporation, by the corporation or any public or private  
15 entity, may include appropriate and reasonable limitations on  
16 competition in order that maximum service may be provided most  
17 efficiently to the public;
- 18 i. Apply for and accept, from appropriate regulatory bodies,  
19 authority to operate public transportation services where necessary;
- 20 j. Purchase, lease as lessee, or otherwise acquire, own, hold,  
21 improve, use and otherwise deal in and with real or personal property,  
22 or any interest therein, from any public or private entity, wherever  
23 situated;
- 24 k. Lease as lessor, sell or otherwise dispose of on terms which the  
25 corporation may prescribe, real and personal property, including  
26 tangible or intangible property and consumable goods, or any interest  
27 therein, to any public or private entity, in the exercise of its powers  
28 and the performance of its duties under this act. In order to provide  
29 or encourage adequate and efficient public transportation service, the  
30 corporation may lease or otherwise permit the use or occupancy of  
31 property without cost or at a nominal rental;
- 32 l. Restrict the rights of persons to enter upon or construct any  
33 works in or upon any property owned or leased by the corporation,  
34 except under such terms as the corporation may prescribe; perform or  
35 contract for the performance of all acts necessary for the management,  
36 maintenance and repair of real or personal property leased or  
37 otherwise used or occupied pursuant to this act;
- 38 m. Establish one or more operating divisions as deemed necessary.  
39 Upon the establishment of an operating division, there shall be  
40 established a geographically coincident advisory committee to be  
41 appointed by the Governor with the advice and consent of the Senate.  
42 The committee shall consist of county and municipal government  
43 representatives and concerned citizens, in the number and for such  
44 terms as may be fixed by the corporation, and shall advise the  
45 corporation as to the public transportation service provided in the  
46 operating division. At least two members of each advisory committee

1 shall be public transportation riders, including but not limited to urban  
2 transit users and suburban commuters as appropriate. One public  
3 member from the board of corporation shall serve as a liaison to each  
4 advisory committee;

5 n. Set and collect fares and determine levels of service for service  
6 provided by the corporation either directly or by contract including,  
7 but not limited to, such reduced fare programs as deemed appropriate  
8 by the corporation; revenues derived from such service may be  
9 collected by the corporation and shall be available to the corporation  
10 for use in furtherance of any of the purposes of this act;

11 o. Set and collect rentals, fees, charges or other payments from the  
12 lease, use, occupancy or disposition of properties owned or leased by  
13 the corporation; such revenues shall be available to the corporation for  
14 use in furtherance of any of the purposes of this act;

15 p. Deposit corporate revenues in interest bearing accounts or in the  
16 State of New Jersey Cash Management Fund established pursuant to  
17 section 1 of P.L.1977, c.28 (C.52:18A-90.4);

18 q. Delegate to subordinate officers of the corporation such powers  
19 and duties as the corporation shall deem necessary and proper to carry  
20 out the purposes of this act;

21 r. Procure and enter into contracts for any type of insurance and  
22 indemnify against loss or damage to property from any cause,  
23 including loss of use and occupancy, against death or injury of any  
24 person, against employees' liability, against any act of any member,  
25 officer, employee or servant of the corporation, whether part-time,  
26 full-time, compensated or noncompensated, in the performance of the  
27 duties of his office or employment or any other insurable risk. In  
28 addition, the corporation may carry its own liability insurance;

29 s. Promote the use of public transportation services, coordinate  
30 ticket sales and passenger information and sell, lease or otherwise  
31 contract for advertising in or on the equipment or facilities of the  
32 corporation;

33 t. Adopt and maintain employee benefit programs for employees of  
34 the corporation including, but not limited to, pension, deferred  
35 compensation, medical disability, and death benefits, and which  
36 programs may utilize insurance contracts, trust funds, and any other  
37 appropriate means of providing the stipulated benefits, and may  
38 involve new plans or the continuation of plans previously established  
39 by entities acquired by the corporation;

40 u. Own, vote, and exercise all other rights incidental to the  
41 ownership of shares of the capital stock of any incorporated entity  
42 acquired by the corporation pursuant to the powers granted by this  
43 act;

44 v. Enter into any and all agreements or contracts, execute any and  
45 all instruments, and do and perform any and all acts or things  
46 necessary, convenient or desirable for the purposes of the corporation,

1 or to carry out any power expressly or implicitly given in this act;  
2 **[and,]**

3 w. Notwithstanding the provisions of section 17 of P.L.1979, c.150  
4 (C.27:25-17) or any other law to the contrary, (1) issue operating  
5 grant anticipation notes which shall be secured and retired from  
6 operating assistance grants authorized under section 9 of the federal  
7 Urban Mass Transportation Act of 1964, P.L.88-365 (49 U.S.C.  
8 {1602), or any successor or additional federal act having substantially  
9 the same or similar purposes or functions and (2) issue capital grant  
10 anticipation notes which shall be secured and retired from capital  
11 assistance grants authorized under section 3 or section 9 of the federal  
12 Urban Mass Transportation Act of 1964, P.L.88-365 (49 U.S.C.  
13 {1602), or any successor or additional federal act having substantially  
14 the same or similar purposes or functions. As used in this subsection,  
15 "operating grant anticipation notes" or "capital grant anticipation  
16 notes" (hereafter referred to as "notes") means credit obligations  
17 issued in anticipation of these grants. The notes shall be authorized by  
18 a resolution or resolutions of the corporation, and may be issued in  
19 one or more series and shall bear the date, or dates, bear interest at the  
20 rate or rates of interest per annum, be in the denomination or  
21 denominations, be in the form, carry the conversion or registration  
22 privileges, have the rank or priority, be executed in such manner as the  
23 resolution or resolutions require. The notes may be sold at public or  
24 private sale at the price or prices and in the manner that the  
25 corporation determines. The notes of the corporation, the sale or  
26 transfer thereof, and the income derived therefrom by the purchasers  
27 of the notes, shall, at all times, be free from taxation for State or local  
28 purposes, under any law of the State or any political subdivision  
29 thereof. Notes may be issued under the provisions of P.L.1979, c.150  
30 (C.27:25-1 et seq.) without obtaining the consent of any department,  
31 division, commission, board, bureau or agency of the State, and  
32 without any other proceedings, conditions, or things which are  
33 specifically required by P.L.1979, c.150 (C.27:25-1 et seq.). The  
34 notes issued pursuant to P.L.1979, c.150 (C.27:25-1 et seq.) shall not  
35 in any way create or constitute any indebtedness, liability or obligation  
36 of the State or of any political subdivision thereof or of the  
37 corporation, except as provided herein.

38 The notes shall be payable solely from (1) note proceeds, to the  
39 extent not disbursed to the corporation, (2) grant payments if, as, and  
40 when received from the federal government, and (3) investment  
41 earnings on note proceeds, to the extent not disbursed to the  
42 corporation. Each note shall contain on its face a statement to the  
43 effect that the corporation is obligated to pay the principal thereof or  
44 the interest thereon only from these grants to the corporation and from  
45 the proceeds of the notes and investment earnings on the proceeds of  
46 the notes, to the extent not disbursed to the corporation, and that

1 neither the faith and credit nor the taxing power of the State or of any  
2 political subdivision thereof or of the corporation is pledged to the  
3 payment of the principal and interest on these notes. Neither the  
4 members of the corporation's board nor any person executing the  
5 transactions are personally liable on those notes nor are they otherwise  
6 liable for their actions; and.

7 x. Enter into agreements with a public or private entity or consortia  
8 thereof to provide for the development of demonstration projects  
9 through the use of public-private partnerships pursuant to sections 1  
10 through 9 of P.L. 19 .c. (C. ) (now before the Legislature as this  
11 bill).

12 (cf: P.L.1989, c.130, s.1)

13  
14 13. Section 12 of P.L.1995, c.108 (C.27:1B-21.5) is amended to  
15 read as follows:

16 12. a. Notwithstanding the provisions of any other law to the  
17 contrary, the commissioner is authorized to enter into agreements with  
18 public or private entities or consortia thereof for the loan of federal  
19 funds appropriated to the department for the purpose of financing all,  
20 or a portion of, the costs incurred for the planning, acquisition,  
21 engineering, construction, reconstruction, repair and rehabilitation of  
22 a transportation project by that public or private entity or consortia  
23 thereof.

24 b. The commissioner, with the approval of the State Treasurer,  
25 shall establish rules and regulations governing the qualifications of the  
26 applicants, the application procedures, the criteria for awarding loans,  
27 and the standards for establishing the amount, terms and conditions of  
28 each loan. The rules and regulations shall provide that the term of the  
29 loan agreement shall be **no longer than five years and that the loan**  
30 **shall be secured by appropriate collateral or guarantees** consistent  
31 with terms and conditions as provided by applicable federal law.

32 c. Loans granted pursuant to this section shall be considered an  
33 investment or reinvestment of Special Transportation Fund funds  
34 within the meaning of subsection a. of section 21 of P.L.1984, c.73  
35 (C.27:1B-21). Payments of interest and principal on loans granted  
36 pursuant to this section shall be credited to a special subaccount of the  
37 Special Transportation Fund and may be used for financing authorized  
38 projects. Monies appropriated from the special subaccount pursuant  
39 to this section shall be in addition to the total State amount authorized  
40 to be appropriated in a fiscal year pursuant to section 8 of P.L.1987,  
41 c.460 (C.27:1B-21.1).

42 d. Each loan made pursuant to this section shall require the specific  
43 approval of the Joint Budget Oversight Committee , except for those  
44 loans agreed to by the commissioner as part of an agreement for a  
45 demonstration project approved pursuant to P.L. 19 , c. (C. ) (now  
46 before the Legislature as this bill) . The Chairman of the Joint Budget

1 Oversight Committee may request periodic reports from the  
2 commissioner on the status of any or all loans. The commissioner shall  
3 provide reports so requested on a timely basis.

4 e. Transportation projects which are the subject of a loan  
5 agreement entered into pursuant to this section shall be included in the  
6 annual report of proposed projects prepared pursuant to section 22 of  
7 P.L.1984, c.73 (C.27:1B-22) for the fiscal year in which the loan  
8 amount for those projects is to be appropriated.

9 (cf: P.L.1995, c.108, s.12)

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11 14. This act shall take effect immediately.

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16 Authorizes development of seven public-private transportation  
17 demonstration projects over next five fiscal years.

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1 approval of the Joint Budget Oversight Committee , except for those  
2 loans agreed to by the commissioner as part of an agreement for a  
3 demonstration project approved pursuant to P.L. 19 , c. (C. )(now  
4 before the Legislature as this bill) . The Chairman of the Joint Budget  
5 Oversight Committee may request periodic reports from the  
6 commissioner on the status of any or all loans. The commissioner shall  
7 provide reports so requested on a timely basis.

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11 P.L.1984, c.73 (C.27:1B-22) for the fiscal year in which the loan  
12 amount for those projects is to be appropriated.

13 (cf: P.L.1995, c.108, s.12)

14

15 14. This act shall take effect immediately.

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#### STATEMENT

19

20 This bill would authorize the Commissioner of Transportation (the  
21 commissioner) to select seven transportation projects to be developed  
22 as demonstration projects using public-private partnership agreements.

23 The commissioner would select seven projects from the list of  
24 transportation projects in the annual appropriations acts for the next  
25 five fiscal years. However, if a project is not contained in the  
26 appropriations acts, the bill requires legislative approval before that  
27 project is developed as a demonstration project.

28 The bill authorizes a public partner, namely, the Department of  
29 Transportation (the department) or the New Jersey Transit  
30 Corporation (the corporation), to solicit proposals from private or  
31 public entities or consortia thereof to plan, design, construct, equip  
32 operate, finance, improve and maintain demonstration projects. The  
33 public partner would negotiate with one or more proposers to reach  
34 an agreement in the best interests of the State.

35 Any power possessed or function performed by a public partner  
36 may be used by the public partner to facilitate the development,  
37 construction, maintenance and operation of demonstration projects.

38 An agreement entered into would include the requirement that a  
39 developer include public involvement in the development of a  
40 demonstration project and to periodically provide a forum for users  
41 and residents of the affected project area throughout the development  
42 and implementation of a demonstration project.

43 Agreements may authorize the developer to set and impose rents,  
44 fares or user fees for use of a facility constructed by the developer and  
45 may provide that the revenues received by the developer be applied to  
46 the repayment of the developer's capital outlay costs, interest expense,

1 costs associated with operations, fare or user fee collection, facility  
2 management, reimbursement of State project review and oversight  
3 costs, repayment of loans, technical and law enforcement services, and  
4 a reasonable return on investment to the developer.

5 Demonstration projects constructed by and leased by a developer  
6 would, from the commencement of operation, be deemed to be a part  
7 of the State highway system for purposes of the enforcement of traffic  
8 and other applicable laws or a part of the State public transportation  
9 system for the purposes of enforcement of all applicable laws, as the  
10 case may be.

11 Demonstration projects would be subject to all applicable  
12 environmental requirements and all other applicable State and federal  
13 laws and regulations necessary to the protection of the public health,  
14 safety and welfare. The demonstration projects are to comply with  
15 departmental or corporation standards for transportation projects,  
16 unless determined otherwise. The bill provides that all absolute and  
17 qualified immunities and defenses provided to the State and State  
18 employees shall apply to all interests held and activities performed by  
19 the department, the corporation and other State agencies in connection  
20 with demonstration projects. The bill also authorizes the public  
21 partner to enter into indemnification agreements in connection with the  
22 demonstration project.

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27 Authorizes development of seven public-private transportation  
28 demonstration projects over next five fiscal years.



ASSEMBLY TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2560**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 9, 1997

The Assembly Transportation and Communications Committee reports favorably Assembly Bill No. 2560 with committee amendments.

As amended by the committee, this bill would authorize the Commissioner of Transportation (the commissioner) to select seven transportation projects to be developed as demonstration projects using public-private partnership agreements.

Over the next five fiscal years, the commissioner could select up to a total of seven projects from the list of transportation projects in the annual appropriations acts. However, if a project is not contained in the appropriations acts, the bill requires legislative approval before that project is developed as a demonstration project.

The bill authorizes a public partner, namely, the Department of Transportation (the department) or the New Jersey Transit Corporation (the corporation), to solicit proposals from private or public entities or consortia thereof to plan, design, construct, equip operate, finance, improve and maintain demonstration projects. The public partner would negotiate with one or more proposers to reach an agreement in the best interests of the State.

Upon entering an agreement, the public partner would publish a notice in a newspaper circulating in the county in which the demonstration project will be located describing the project and the responsibilities of the developer and the public partner with respect to the project. If a demonstration project will be located in more than one county or have a regional impact, the notice shall also be published in a publication circulating in the region in which the demonstration project will be located.

Any power possessed or function performed by a public partner may be used by the public partner to facilitate the development, construction, maintenance and operation of demonstration projects.

An agreement entered into would include the requirement that a developer include public involvement in the development of a demonstration project and to periodically provide a forum for users

and residents of the affected project area throughout the development and implementation of a demonstration project.

Agreements may authorize the developer to set and impose rents, fares or user fees for use of a facility constructed by the developer and may provide that the revenues received by the developer be applied to the repayment of the developer's capital outlay costs, interest expense, costs associated with operations, fare or user fee collection, facility management, reimbursement of State project review and oversight costs, repayment of loans, technical and law enforcement services, and a reasonable return on investment to the developer.

Demonstration projects constructed by and leased by a developer would, from the commencement of operation, be deemed to be a part of the State highway system for purposes of the enforcement of traffic and other applicable laws or a part of the State public transportation system for the purposes of enforcement of all applicable laws, as the case may be.

Demonstration projects would be subject to all applicable environmental requirements and all other applicable State and federal laws and regulations necessary to the protection of the public health, safety and welfare. The demonstration projects are to comply with departmental or corporation standards for transportation projects, unless determined otherwise. The bill provides that all absolute and qualified immunities and defenses provided to the State and State employees shall apply to all interests held and activities performed by the department, the corporation and other State agencies in connection with demonstration projects. The bill also authorizes the public partner to enter into indemnification agreements in connection with the demonstration project.

The committee amended the bill to provide that upon entering an agreement the public partner shall publish a notice in a newspaper circulating in the county in which the demonstration project will be located describing the project and the responsibilities of the developer and the public partner with respect to the project. The amendments further provide that if a demonstration project will be located in more than one county or have a regional impact, the notice shall also be published in a publication circulating in the region in which the demonstration project will be located.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 2560**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 3, 1997

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2560 1R, with committee amendments.

Assembly Bill No. 2560 1R, as amended, authorizes the Commissioner of Transportation to select seven transportation projects to be developed as demonstration projects using public-private partnership agreements.

Over the next five fiscal years, the commissioner could select up to a total of seven projects. A project could be selected from the list of transportation projects for which monies had been appropriated in the annual appropriations acts or, if a project is not contained in the appropriations acts, with the approval of the Legislature.

The bill authorizes a public partner, either the Department of Transportation (DOT) or the New Jersey Transit Corporation (NJTC), to solicit proposals from private or public entities or consortia thereof to be a "developer" to plan, design, construct, equip, operate, finance, improve or maintain demonstration projects. The public partner would negotiate with one or more proposers to reach an agreement in the best interests of the State based on the qualifications and financial strength of the proposer, the proposer's responsiveness to the public partner's requirements, the total project cost to be incurred by the public partner, the nature of project financing, the revenues to be generated by the project on behalf of and in support of the State, the impact of any direct or indirect user fees and other appropriate criteria.

Agreements may provide for full reimbursement to the State for services rendered by the public partner or other State entities or agencies or for the provision of revenues generated to the State. The public partner may enter into financing, funding, and credit agreements on such terms as the commissioner deems favorable to the State to promote the purposes of this act. Credit agreements would be subject to concurrence by the State Treasurer and financial participation, in the form of loans or other credit arrangements would be subject to legislative appropriation and the availability of funds.

Agreements may authorize the developer to set and impose rents, fares or user fees for use of a facility constructed by the developer and may provide that the revenues received by the developer be applied to the repayment of the developer's capital outlay costs, interest expense, costs associated with operations, fare or user fee collection, facility management, reimbursement of State project review and oversight costs, repayment of loans, technical and law enforcement services, and a reasonable return on investment to the developer.

An agreement entered into would include the requirement that a developer include public involvement in the development of a demonstration project and to periodically provide a forum for users and residents of the affected project area throughout the development and implementation of a demonstration project. Upon entering an agreement, the public partner would publish a notice in a newspaper circulating in the county in which the demonstration project will be located describing the project and the project responsibilities of the developer and the public partner, or in a paper circulating in the region if a demonstration project will be located in more than one county or have a regional impact.

Demonstration projects constructed by and leased by a developer would be subject to traffic and other laws applicable on the State transportation system. Demonstration projects would be subject to all applicable environmental requirements and all other applicable State and federal laws and regulations necessary to the protection of the public health, safety and welfare. The demonstration projects are to comply with DOT or NJTC standards for transportation projects, unless determined otherwise.

Any power possessed or function performed by a public partner may be used by the public partner to facilitate the development, construction, maintenance and operation of demonstration projects.

The bill provides that all absolute and qualified immunities and defenses provided to the State and State employees shall apply to all interests held and activities performed by the DOT, the NJTC and other State agencies in connection with demonstration projects. The bill also authorizes the public partner to enter into indemnification agreements in connection with the demonstration project.

**FISCAL IMPACT:**

The fiscal impact of the bill cannot be determined at this time. The impact will depend on the projects selected, their total direct costs and revenues and their incidental revenue impacts on long term State economic development.

**COMMITTEE AMENDMENTS:**

The amendments require that all credit agreements entered into by the public partner be subject to concurrence by the State Treasurer. The committee amendments also clarify that a maximum of seven projects may be selected under the bill; clarify that traffic and other

laws applicable on the State transportation system shall be enforceable, as appropriate, on demonstration projects constructed by and leased by a developer pursuant to this bill; and make technical changes to the bill.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

### **ASSEMBLY, No. 2560**

with Senate committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 8, 1997

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2560 (2R) of 1996 with committee amendments.

Assembly Bill No. 2560 (2R), as amended, authorizes the Commissioner of Transportation to select seven transportation projects over the next five fiscal years to be developed as demonstration projects using public-private partnership agreements. The seven projects would be selected from the list of transportation projects for which monies had been appropriated in the annual appropriations act for the fiscal year. If a project is not contained in an annual appropriations act, the bill requires the submission of the project to the Legislature before it is developed as a demonstration project. If the project is not disapproved by the Legislature within the time period specified in the bill, the project is deemed approved. The bill requires all seven projects, however, to be submitted to the Joint Budget Oversight Committee for approval. The bill authorizes a public partner, either the Department of Transportation (DOT) or the New Jersey Transit Corporation (NJTC), to solicit proposals from private or public entities, or consortia of these entities, to plan, design, construct, equip, operate, finance, improve or maintain demonstration projects.

Agreements may provide for full reimbursement to the State for services rendered by the public partner or other State entities or agencies or for the provision of revenues generated to the State. The public partner may enter into financing, funding, and credit agreements on such terms as the commissioner deems favorable to the State to promote the purposes of this bill. Credit agreements would be subject to concurrence by the State Treasurer and financial participation, in the form of loans or other credit arrangements, would be subject to legislative appropriation and the availability of funds.

Agreements may authorize the developer to set and impose rents, fares or user fees for use of a facility constructed by the developer and may provide that the revenues received by the developer be applied to

the repayment of the developer's capital outlay costs, interest expense, costs associated with operations, fare or user fee collection, facility management, reimbursement of State project review and oversight costs, repayment of loans, technical and law enforcement services, and a reasonable return on investment to the developer.

An agreement entered into would require that a developer include public involvement in the development of a demonstration project and periodically provide a forum for users and residents of the affected project area throughout the development and implementation of a demonstration project. Upon entering an agreement, the public partner would publish a notice in a newspaper circulating in the county in which the demonstration project will be located describing the project and the project responsibilities of the developer and the public partner, or in a paper circulating in the region if a demonstration project will be located in more than one county or will have a regional impact.

Demonstration projects constructed by and leased by a developer would be subject to traffic and other laws applicable to the State transportation system. Demonstration projects would be subject to all applicable environmental requirements and all other applicable State and federal laws and regulations necessary for the protection of the public health, safety and welfare.

The bill provides that all absolute and qualified immunities and defenses provided to the State and State employees will apply to all interests held and activities performed by the DOT, the NJTC and other State agencies in connection with demonstration projects. The bill also authorizes the public partner to enter into indemnification agreements in connection with the demonstration project.

As amended and reported, this bill is identical to Senate Bill No. 1746 (1R) of 1997 (Ciesla/ Cardinale) as amended and reported by this committee on May 8, 1997.

#### COMMITTEE AMENDMENTS

The committee amended the bill to correct the title of the bill; define "project agreement" and "demonstration project agreement"; require the approval of the Joint Budget Oversight Committee for each project; limit oversight of fares and users fees by the public partner only when public monies are provided to a developer for 10% or more of operating expenses; and require adherence to contract advertising, pre-qualification, bidding and awarding regulations in certain cases.

#### FISCAL IMPACT

The fiscal impact of the bill cannot be determined at this time. The impact will depend on the projects selected, their total direct costs and revenues and their incidental revenue impacts on long term State economic development.