

Appendix B

***BY-LAWS OF THE NEW JERSEY COMMISSION
ON CAPITAL
BUDGETING AND PLANNING***

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By-laws of the New Jersey Commission on Capital Budgeting and Planning

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THE NEW JERSEY COMMISSION ON CAPITAL
BUDGETING AND PLANNING

Adopted on September 10, 1999

PREAMBLE

The By-laws are being adopted pursuant to P.L. 1975, Chapter 208, Section 6 (the "Act") by the New Jersey Commission on Capital Budgeting and Planning (the "Commission").

ARTICLE I
GENERAL PROVISIONS

Section 1. - **SCOPE OF PROVISIONS OF BY-LAWS**

These By-laws are intended to supplement and interpret the provisions creating and governing the New Jersey Commission on Capital Budgeting and Planning (P.L. 1975, c. 208).

Section 2. - **NAME OF THE COMMISSION**

The name of the Commission shall be the "New Jersey Commission on Capital Budgeting and Planning".

Section 3. - **PRINCIPAL OFFICE**

The principal office of the Commission shall be the Department of the Treasury, Office of Management and Budget, Sixth Floor, 33 West State Street, Trenton, New Jersey. All communications shall be addressed to its principal office. The Commission may also have offices at such other places within the State of New Jersey as the business of the Commission may require or make desirable as determined by the Commission.

Section 4. - **SEAL**. Reserved.

ARTICLE II
MEMBERS

MEMBERS

There is hereby created a New Jersey Commission on Capital Budgeting and Planning. The Commission shall consist of 12 members selected as follows: The State Treasurer and any three other members of the Executive Branch designated by the Governor to so serve at his pleasure, two members of the General Assembly, two members of the Senate and four public members from the State at large.

The members from the General Assembly shall be appointed by the Speaker of the General Assembly. The members of the Senate shall be appointed by the President of the Senate. No more than one of the members appointed by the Speaker or President shall be from the same political party. Legislative members shall serve while members of their respective houses for the term for which they have been elected.

Of the four public members two shall be appointed by the Governor with advice and consent of the Senate, no more than one of whom shall be of the same political party, and two by the Legislature, one each by the President of the Senate and the Speaker of the General Assembly, for a term of six years and until their successors are qualified, provided that the members serving on the effective date of this act shall continue to serve until the expiration of their appointments. The President of the Senate shall make the first appointment of a public member upon the expiration of the term of the public member first occurring after the effective date of this act, and the Speaker of the General Assembly shall make the second appointment of a public member upon the expiration of the term of the public member next occurring after the effective date of this act. The public members shall be chosen based upon their experience and expertise in public finance and the capital improvement process. Any vacancy among the public members shall be filled in the same manner as the original appointment, but for the unexpired term only. A member shall be eligible for reappointment.

Members of the Commission shall serve without compensation, but public members shall be entitled to reimbursement for expenses incurred in the performance of their duties.

ARTICLE III
OFFICERS

Section 1. - OFFICERS

The officers of the Commission shall be the Chairperson and the Vice Chairperson.

Section 2. - CHAIRPERSON

The Chairperson of the Commission shall be a public member selected annually by the membership of the Commission and shall hold office until the next annual meeting or until a successor is elected and qualified. The Chairperson shall preside at all meetings of the Commission and have general control over the business and affairs of the Commission, subject to the direction of the Commission.

Section 3. - VICE CHAIRPERSON

The Vice Chairperson shall be elected from among the public members of the Commission at each annual meeting of the Commission and shall hold office until the next annual meeting or until a successor is elected and qualified. The Vice Chairperson shall preside over all meetings in the absence of the Chairperson and shall perform the duties of the Chairperson in the event the Office of the Chairperson is vacant or in the event the Chairperson is unable to perform such duties by reason of illness, disability or absence. The Vice Chairperson shall have such other duties and powers as conferred by the members of the Commission.

Section 4. - REMOVAL OF OFFICERS AND COMMISSIONERS

The Commission shall have no authority to remove an individual from a position as a Commission member. This power shall remain with the appointing authority. The Commission may remove an Officer by a vote of the majority of the Commission.

ARTICLE IV
STAFF

Section 1. - EXECUTIVE DIRECTOR

The Director of the Division of Budget and Accounting shall name an Executive Director, and the services of the Executive Director shall be offered pro bono subject to the approval by the Commission.

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The Executive Director shall serve as the Chief Administrative Officer and Secretary of the Commission. The Executive Director shall keep the official records of the Commission, minutes of the actions taken at the meetings of the Committee, the seal of the Commission, and shall certify, when required, copies of records and shall from time to time perform such other duties as shall be assigned by the Commission. The Executive Director shall prepare the State Capital Improvement Plan to be submitted to the Governor and the Legislature.

Section 2. - STAFF AND OTHER PERSONNEL

- a. The staff shall be provided by the Division of Budget and Accounting of the Department of the Treasury from the Bureau of Capital Planning;
- b. The Commission shall be entitled to call to their assistance, such personnel of any State agency, municipality or political subdivision as may be required in order to perform their duties;
- c. Pursuant to P.L. 1975, Chapter 208 the Commission shall be entitled to make use of existing studies, survey, plans, data and other materials in the possession of any State agency or any municipality or political subdivision of this State.
- d. The Commission may conduct public hearings in furtherance of its general purposes and request the appearance of officials of any State agency and solicit the testimony of interested groups and the general public at such place or places and at such times it shall designate.

Section 3. - PROFESSIONAL SERVICES

Upon recommendation of the Executive Director, the Commission may approve professional services required for the efficient and effective operation of the Commission. Professional services as used in this section may include, but are not limited to, the services of bond counsel, engineering and appraisal services, financial and credit reporting services, and architectural services in order to perform the duties and are within the limits of funds appropriated or otherwise made available to the Commission.

Section 4. - CONTRACTING POWERS

The Commission shall follow all State of New Jersey, Department of the Treasury procurement and contracting procedures.

ARTICLE V
MEETINGS

Section 1. - ANNUAL MEETING

An annual meeting of the Commission shall be held at which the Commission shall take the following actions:

(a.) adopt the annual notice of meetings required by the "Open Public Meetings Act", P.L. 1975, Chapter 231 (N.J.S.A. 10:4-6 et seq.) as amended.

(b.) elect a Chairperson and Vice Chairperson pursuant to Article III, Section 2 and 3 of these By-laws.

Section 2. - REGULAR MEETINGS

Unless changed by the Executive Director, at least five regular meetings of the Commission shall be held at a time and place to be designated by the Executive Director. Adequate notice as defined under the "Open Public Meetings Act," P.L. 1975, Chapter 231 (N.J.S.A. 10:4-6 et seq.) shall be given by the Executive Director.

Any meeting by the Commission may be held by telephone conference call, provided that such meetings are consistent with the provisions of the "Open Public Meeting Act".

Section 3. - SPECIAL MEETINGS

A special meeting may be called, in accordance with the "Open Public Meetings Act", at any time by the Executive Director and the Chairperson or the Vice-Chairperson in his absence, and on request of any four members. Written notice of each special meeting, specifying the time and place of the meeting, shall be given to members by mail, facsimile transmission or in person, at least two days in advance of the meeting, but any matters may be considered at the meeting, whether or not specified in the notice.

Section 4. - EMERGENCY MEETINGS

Emergency meetings may be called by the Executive Director at any time in accordance with the "Open Public Meetings Act".

Section 5. - QUORUM

Seven members of the Commission shall constitute a quorum for the purpose of transacting business. Action may be taken and motions and resolutions adopted by plurality vote of the members of the Commission present and voting at a meeting except as noted in Article

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V Sections 8, 9,10 and 11. Each member shall be entitled to one vote. The existence of a vacancy in the membership of the Commission shall not prevent a quorum from transacting business.

Section 6. - DESIGNEES

The State Treasurer may designate an officer or employee of the Department of Treasury to represent him/her at meetings of the Commission, and the designee may lawfully vote and otherwise act on behalf of the Treasurer. The designation shall be in writing and delivered to the Commission and shall continue in effect until revoked or amended in writing and delivered to the Commission.

Each legislative and executive branch member of the Commission may designate a staff member to represent that member at meetings of the Commission, and the designee may lawfully vote and otherwise act on behalf of that member on general matters of business except for matters under Article V Sections 8, 9,10 and 11 and Article X.

Section 7. - VOTING

The voting on matters at meetings of the Commission shall be by voice vote. Actions may be taken, and motions and resolutions adopted by the Committee upon the affirmative vote of a plurality of the quorum, except as noted in Article V Sections 8, 9, 10 and 11. The yeas and nays of a roll call vote shall be entered into the minutes of such meeting.

Commission members may vote by telephone at the time the vote is taken.

Section 8. - CAPITAL PROJECT BUDGET RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE, VOTE REQUIRED

Commission recommendation of approval for a Capital Project Budget recommendation shall require an affirmative vote of at least seven members of the authorized membership of the Commission.

Section 9. - BOND ISSUANCE REFERENDA RECOMMENDATION, VOTE REQUIRED

The Commission shall review any bill introduced in either House of the Legislature, except the annual appropriations bill, which makes provision for an appropriation for a capital project, or for the authorization of the issuance of bonds, notes or other evidences of indebtedness of the State, or of bonds, notes or other evidences of indebtedness of a State agency containing a moral pledge of the State. The Commission shall study the necessity, desirability and relative priority of such appropriation or indebtedness by reference to the plan

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or otherwise. The Commission shall promptly prepare and forward its recommendation on the bill to the House in which it was introduced.

The Commission recommendation of approval of an authorization of the issuance of statute bonds, notes of other obligations of the State or of a State agency containing a moral pledge of the State, shall require an affirmative vote of at least seven members of the authorized Commission.

Section 10. - NEW JERSEY BUILDING AUTHORITY PROJECTS, VOTE REQUIRED.

Commission recommendation of approval of a proposed project by the New Jersey Building Authority, as required by N.J.S.A. 52:18A-78.6 shall require an affirmative vote of at least seven members of the authorized membership of the Commission.

Section 11. - ANNUAL DEBT REPORT, VOTE REQUIRED

Commission recommendation of approval of the annual Debt Report (52:93-3.a7) shall require an affirmative vote of at least seven members of the authorized membership of the Commission.

ARTICLE VI
ORDER OF BUSINESS

The order of business at regular meetings shall be:

- (a) Reading of the Open Public Meetings Act notice
- (b) Roll call
- (c) Vote on the minutes of the previous meeting
- (d) Report of the Executive Director
- (e) Communications
- (f) Unfinished business
- (g) New business
- (h) Public comment (at the discretion of the Commission)
- (i) Time and place of the next meeting
- (j) Adjournment

The Chair may revise the order of business to suit specific scheduling needs.

ARTICLE VII
PUBLIC HEARINGS

The Commission may conduct public hearings in furtherance of its general purposes, which shall be held upon any matter upon the request of any four members of the Commission.

ARTICLE VIII
COMMITTEES

The Chairperson of the Commission is authorized to create any committees that are deemed necessary to facilitate its purposes from time to time.

ARTICLE XI
FISCAL YEAR

The fiscal year of the Commission shall commence on the first day of July or each calendar year and conclude on the last day of June of the next calendar year.

ARTICLE X
AMENDMENTS

These By-laws may be amended by resolution duly adopted at any meeting, regular or special, by an affirmative vote of at least seven members provided that notice of intention to present such resolution shall be given at least two days in advance of the meeting at which the motion to adopt such resolution is to be made. Such notice may be given in writing, mailed, faxed or given orally.

ARTICLE XI
SUSPENSION OF BY-LAWS

The provisions of these By-laws may be suspended by a vote of seven of the members of the entire Commission.

ARTICLE XII
INDEMNIFICATION OF MEMBERS, OFFICERS AND STAFF

To the extent that any insurance then in effect may not be applicable, each person now or hereafter who was or is a party, or threatened to be made a party, to any pending, threatened or completed action, suit or proceeding, whether civil, administrative or investigative, by reason of the fact that such person is or was a member, officer or employee of the Commission, shall be indemnified to the full extent indemnification is permitted with respect to the State entities under and pursuant to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.).

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