

1. Short title. This section shall be cited as “The Yonkers city school district facilities modernization program act” and is hereby established as follows.

2. Legislative Findings and Declaration of Need. The legislature finds that Yonkers schools have a growing population yet the average age of the school buildings in Yonkers is seventy-five years with the oldest building at one hundred nineteen years old; nine are over ninety-seven years old and most are past their useful life and in need of extensive refurbishment. The age of buildings in Yonkers is significantly over the sixty-five years average age of schools in New York State. Even by maximizing the debt borrowing under existing constitutional and statutory limits the Yonkers city school district is unable to finance modernization of its facilities at a reasonable rate as needs are far greater than the availability of capital. The city school district’s facilities are landlocked in highly dense urban neighborhoods lacking proper school bus loops, athletic facilities and other essential school amenities required for the safe and proper administration of an educational institution, and while the Yonkers city school district has invested significant capital, deterioration of building stock outpaces the district’s ability to repair it.

The legislature further finds that such deterioration of the schools and inability to expand school sites to provide even a modicum of customary facilities and amenities to students is a serious impediment to learning and teaching. If the quality of education in the city is to be improved, existing schools must be rehabilitated and reconstructed and new city schools must be built. This will include the retirement of old facilities which will be replaced by more efficiently operating buildings with better use of space. Renovations shall result in facilities more conducive to current education requirements and shall be equipped to operate at lower maintenance costs with improved energy efficiency.

Unlike its sister cities of Buffalo, Rochester and Syracuse, the city of Yonkers’ the student population has been rising, especially with students with special needs and students with English as a second language. This increased enrollment has required overuse of available classroom space for regular instruction and resulted in a shortage of libraries, art rooms, music rooms, computer rooms and other common school facility elements. Construction of new facilities will allow for reallocation of classroom space to essential specialized uses. However the city’s fiscal limitations magnify the inability to maintain existing aging facilities or provide new facilities to accommodate the increasing student populations. Existing funding formulas did not allow Buffalo, Rochester and Syracuse to adequately maintain their school facilities. This was accommodated by special legislation. Yonkers is also unable to pursue a modernization program without special legislation as was provided to the Buffalo, Rochester and Syracuse city school districts. As a result the city of Yonkers has an immediate need for special legislation providing for new school buildings and a facilities modernization program patterned after funding received by the Buffalo, Rochester and Syracuse school districts.

The legislature further finds that as a result of the foregoing, legislation granting certain new or additional authority to the city and the city school district of the city of Yonkers as set forth in such legislation is necessary, which authority should enable both parties to better, more economically and more innovatively manage the acquisition, design, construction, financing, operation, and maintenance of new educational facilities.

3. Definitions. As used or referred to in this legislation:

(a) “Capital improvement plan” shall mean the city school district’s ongoing, annually updated five-year capital financing plan for the construction and reconstruction of facilities, the acquisition and replacement of vehicles and equipment and the completion of other long-term capital projects undertaken and financed by the issuance of general obligation bonds by the city on behalf of the city school district pursuant to existing state law applicable to all school districts.

(b) “City” shall mean the city of Yonkers.

(c) “City school district” shall mean the city school district of the city of Yonkers acting by and through the board of education of the city school district of the city of Yonkers.

(d) “City council” shall mean the city council of the city of Yonkers.

(e) “Commissioner” shall mean the commissioner of education of the state of New York.

(f) “Compliance officer” shall mean an independent compliance firm with an in-depth knowledge base and breadth of experience conducting Minority and Women-Owned Business Enterprise (MWBE) and Disadvantaged Business Enterprise (DBE) utilization compliance monitoring for school districts within New York State. Such firm shall support the facilities modernization program by developing and implementing an MWBE/DBE Utilization Master Plan for the governance of all project contracts to ensure compliance with all federal, State, and local laws, rules, and regulations as applicable. At the election of the YJSC board with the approval of the SED, the program manager may serve as the compliance officer.

(g) “Comptroller” shall mean the comptroller of the state of New York.

(h) “Facilities modernization plan” or “Facilities modernization program” shall mean the comprehensive, strategic plan developed by the city school district and to be implemented in several phases for the construction, renovation, rehabilitation and equipping of new and existing educational facilities and collateral educational, athletic and recreational facilities located in the city, which plan shall be in addition to but separate from the city school district’s ongoing five year capital improvement plan required by subdivision 6 of section 3602 of the education law and the regulations of the commissioner, and such other matters set forth in subdivision six of this section; which plan shall identify by the number of buildings to be constructed or reconstructed to the satisfaction of SED and include district wide technology plan and related incidental expenses and as adopted by the YJSC Board after a public hearing.

(i) “MWBE/DBE Utilization Master Plan” shall be a plan prepared by the Program Manager to the satisfaction of the YJSC board to meet disparity as established by existing state studies.

(j) “Person” shall mean a municipality or other governmental body, a public corporation or an authority, a private corporation, a limited liability company or partnership, or an individual.

(k) “Program manager” shall mean the independent program management firm that has been selected by the city and the city school district through the request for proposal process to oversee the implementation of the facilities modernization plan to assist it in: (i) developing and implementing procedures for the projects undertaken and contracted for by the city school district or the YJSC board; (ii) reviewing plans and specifications for projects; (iii) developing and implementing policies and procedures to utilize employment resources to provide sufficient skilled employees for such projects, including developing and implementing training programs, if required; (iv) managing such projects and acting as the construction manager of the project and owners representative; and (v) providing such planning, design, financing, and other services as may be appropriate to implement one or more construction or reconstruction projects pursuant to this act.

(l) “Project” shall mean (i) work at an existing school building site that involves the design, reconstruction, or rehabilitation of all or a portion of an existing school building for its continued use as a school of the city school district, which may include an addition to existing school buildings for such continued use and which also may include (1) the construction or reconstruction of athletic fields, playgrounds, and other recreational facilities for such existing school buildings, and/or (2) the acquisition and installation of all equipment necessary and attendant to and for the use of such existing school buildings and/or (ii) the acquisition of land for new school buildings and athletic fields, playgrounds and other recreations facilities; and/or (iii) construction of new school buildings and land acquisition from the city or private parties which also may include (1) the construction or reconstruction of athletic fields, playgrounds, and other recreational facilities for such new school buildings and (2) the acquisition and installation of all equipment necessary and attendant to and for the use of such new school buildings, including but not limited to items located at sites not within a project that will allow YJSC board to conduct district-wide technology improvements to benefit existing school buildings; and/or (3) the acquisition of additional real property by the city to facilitate the project.

(m) "Project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and a labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

(n) “YJSC board” shall mean the Yonkers joint schools construction board, a joint instrumentality of the city and the city school district, acting for and on behalf of the city and the city school district.

(o) "SED" shall mean the state education department.

4. Establishment of the YJSC Board. (a) For the benefit of the city of Yonkers and the inhabitants thereof, a board to be known as the Yonkers joint schools construction board, and sometimes referred to as the YJSC board, is hereby established for the accomplishment of the purposes specified in this act. The YJSC Board shall conduct meetings as often as deemed necessary to accomplish its purposes, but not less than quarterly. The YJSC Board shall be administered by nine (9) members: sitting ex officio shall be the mayor of Yonkers, president of the board of education, superintendent of the city school district, city council president, city council majority leader and city council minority leader; and the remaining three (3) members who shall sit at the pleasure of the mayor of Yonkers and be appointed by the mayor of Yonkers. The members of the YJSC board shall serve without salary, but each member shall be reimbursed for actual and necessary expenses incurred in the performance of such member's official duties as a member of the YJSC Board.

(b) Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the State, any City, County, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the State, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the YJSC board, nor shall service as such member, officer or employee of the YJSC board be deemed incompatible or in conflict with such office or employment.

(c) A majority of the whole board shall constitute a quorum for the transaction of any business or the exercise of any power of the YJSC board. No action shall be taken by the YJSC board except pursuant to a favorable vote of at least a majority of the whole board participating in a meeting at which such action is taken.

(d) The YJSC board shall be effective upon filing with secretary of state a certificate of organization indicating that its organizational meeting has been held and shall continue after the tenth anniversary of its date of organizational meeting during any period when bonds or notes are outstanding.

5. General Powers of the YJSC Board. Except as otherwise limited by this act, the YJSC board shall have the following powers in addition to those specially conferred elsewhere in this act, subject only to agreements with bondholders:

(a) To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the board and to prepare recommendations in regard thereto.;

(b) To make use of existing studies, surveys, plans, data and other material in the possession of the city, the city school district, or any person in order to avoid duplication of effort;

(c) To To apply for and to accept any grants or financial or other aid, in any form, from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, for any or all of the purposes specified in this act, and to comply, subject to the provisions of this act, with the terms and conditions thereof;

(d) To enter into cooperative agreements with the state, any state agency, the city, or the city school district for any lawful purposes necessary or desirable to effect the purposes of this act upon such terms and conditions as shall be determined to be reasonable;

(e) To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this act.

6. YJSC Board Responsibilities. The YJSC board shall develop and maintain the facilities modernization plan for so long as the projects authorized pursuant to this act, are yet to be undertaken. Before formal selection of the projects occurs, the superintendent of the city school district shall submit to the YJSC board a comprehensive draft plan recommending and outlining the projects proposed to be potentially undertaken pursuant to this section. The YJSC board shall use the comprehensive draft plan as the basis for the facilities modernization plan. Such facilities modernization plan shall include: (a) an estimate of total costs to be financed, proposed financing plan, proposed

method of financing, terms and conditions of the financing, estimated financing costs (calculated on a net interest cost basis), and, since city general obligation bonds or notes are not proposed as the method of financing, a comparison of financing costs between such bonds or notes and the proposed method of financing. The plan should also address what specific options would be used to ensure that sufficient resources exist to cover the local share of any such project cost on an annual basis; (b) information concerning the potential persons to be involved in the financing and such person's role and responsibilities; (c) estimates on the design, reconstruction and rehabilitation costs by project, any administrative costs for potential projects, and an outline of the timeframe expected for completion of each potential project; (d) direction to the program manager in the implementation of the plan; (e) coordination with any proposed amendments to the city school district's five year capital facilities plan submitted in accordance with subdivision 6 of section 3602 of the education law, the regulations of the commissioner and the provisions of this section; and (f) a diversity plan, in compliance with section thirteen of this act, to develop diversity goals, including appropriate community input and public discussion, and develop strategies that would create and coordinate any efforts to ensure a more diverse workforce for the projects. The MWBE/DBE Utilization Master Plan should address accountability for attainment of the diversity goals, what forms of monitoring would be used, and how such information would be publicly communicated. The independent compliance officer shall: develop, implement, advertise, promote and monitor MWBE/DBE policies and procedures for each project to be followed by prime contractors and subcontractors for such projects; obtain and maintain records and documentation to confirm compliance with any applicable requirements for each project; identify contractors in non-compliance with any such requirements pursuant to this section or in violation of any federal, state and local laws, rules or regulations. The independent compliance officer shall report to the YJSC board on a monthly basis.

7. Facilities Modernization Plan; Project Costs. (a) The facilities modernization plan contemplates approximately Two Billion One Hundred Fifty Million and 00/100 dollars (\$2,150,000,000) of facility needs in four phases. The aggregate amount of project costs authorized and undertaken pursuant to this act as phase one shall not exceed Five Hundred Twenty-Three Million dollars (\$523,000,000), unless otherwise authorized by law. Because of the urgent need to address increased enrollment, phase one shall consist of three new schools along with critical infrastructure system replacements at the existing schools to maintain safe operation of the existing schools until future renovations are made as part of the modernization plan. Such infrastructure system replacement will be coordinated so that the work remains in place and is incorporated into the future renovation of the schools. Subsequent legislative acts authorizing additional costs shall be enacted for each of the remaining phases of the plan.

(b) Notwithstanding the provisions of any other general, special, or local law to the contrary, for purposes of undertaking projects authorized pursuant to this act, the YJSC board is hereby authorized to plan, and for state building aid calculation purposes, SED is hereby authorized to permit the YJSC board to undertake projects that utilize a maximum cost allowance approach determined on a city school district wide basis at ninety-eight percent (98%) of approved costs rather than on an individual building basis.

(c) The facilities modernization plan shall be reviewed prior to each phase and adjusted to the known needs based on the updated information at that time;

(d) A demographic study shall be initiated prior to each phase of the facilities modernization plan and the facilities modernization plan shall be adjusted based on the space needs identified in such demographic studies.

(e) The YJSC board shall submit the components of each phase of the facilities modernization plan to the superintendent of the city school district for review to ensure that the plan meets program needs.

8. Project Eligibility. To be eligible for selection as a project to be undertaken pursuant to this section, such project shall be included by the city school district in its facilities modernization plan as a special section of the District's five-year capital facilities plan that is required pursuant to subdivision 6 of section 3602 of the education law and the regulations of the commissioner. The facilities modernization plan and any portions of such plan relating to such projects, including any amendments thereto, shall have the contents required in the regulations of the commissioner and shall be submitted to the commissioner for approval. Notwithstanding anything to the contrary in this section, the city school district may elect to finance a project under its ongoing capital improvement plan pursuant to the powers and authority granted to all school districts in the state or as part of the facilities modernization plans pursuant to the special powers and authority granted to the city school district and the YJSC board by this Yonkers city school district facilities modernization program act. Commencing on the effective date of this section, the city school district shall create and maintain a written schedule listing each project undertaken, certified to annually by

the city's commissioner of finance, which schedule shall identify each project and its cost and formally designate such project as being undertaken pursuant to either the facilities modernization plan or the capital improvement plan.

9. Determination of Projects. (a) Upon approval by the commissioner of the YJSC board's comprehensive facilities modernization plan, the YJSC board may select projects to be undertaken pursuant to this section, as provided for in such approved facilities modernization plan. After the YJSC board has selected a new project and plans and specifications for such project have been prepared and approved by the YJSC board, which are consistent with the approved comprehensive plan, the YJSC board shall deliver such plans and specifications to the commissioner for his or her approval. After approval by the commissioner, the plans and specifications shall be returned to the YJSC board. All such specifications shall detail the number of students the completed project is intended to serve, the site description, the types of subjects to be taught, the types of activities for school, recreational, social, safety, or other purposes intended to be incorporated in the school building or on its site and such other information as the YJSC board and the commissioner shall deem necessary or advisable.

(b) The YJSC board, upon receipt of such approved plans and specifications for a project may enter into contracts for such project.

10. Contracts. Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary:

(a) the YJSC board is hereby authorized and empowered to enter into contracts, leases, rental agreements, installment purchase contracts or other arrangements relating to the design (pursuant to the approved plans and specifications), construction, reconstruction, rehabilitation, equipping, financing or managing of one or more projects undertaken pursuant to this section with any person, upon such terms and conditions and for such consideration and for such terms and duration, not to exceed thirty years, as may be agreed upon by the YJSC board and such person notwithstanding the provisions of any other general, special, or local law to the contrary, relating to the length, duration, and terms of contracts that the city or the city school district may enter into, as set forth in subdivision six of this section.

(b) a contract entered into between the YJSC board and any person pursuant to this section may be awarded either pursuant to public bidding in compliance with section 103 of the general municipal law or, in order to foster major investment in existing school buildings or new school buildings and to deliver quality products and services that are beneficial to the city school district and the public it serves, on the basis of factors other than cost alone, including, but not limited to, adherence to facility design, quality and durability or materials, energy efficiency, incorporating systems and approaches which provide maximum facility value using the best current development, construction, leasing, and financing techniques available, and maximization of state building aid, and such a contract may be entered into pursuant to the following provisions of this section for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the YJSC board.

(c) Any contract awarded or entered into by the YJSC board for the construction, lease, or lease-purchase of an educational facility or for any projects undertaken pursuant to this section shall not be subject to section 101 of the general municipal law when the YJSC board has chosen to require a project labor agreement, pursuant to subdivision (f) below.

(d) Whenever the YJSC board enters into a contract for a project undertaken pursuant to this section, it shall be deemed to be a public works project for the purposes of article 8 of the labor law, and all the provisions of article 8 of the labor law shall be applicable to all the work involved with such project including the enforcement of prevailing wage requirements by the New York State department of labor.

(e) Every contract entered into by the YJSC board for a project shall contain a provision that the design of such project shall be subject to the review and approval of the city school district and that the design and construction standards of such project shall be subject to the review and approval of the commissioner. In addition, every such contract shall contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of any contracts for a project undertaken pursuant to this section and a performance bond for the faithful performance of the project, which shall conform to the provisions of section 103(f) of the general municipal law, and that a copy of such performance and payment bonds shall be kept by the YJSC board and shall be open to public inspection.

(f) Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary: (i) The YJSC board may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the YJSC board's request for proposals for the project and when the YJSC board determines that the record supporting the decision to enter into such an agreement establishes that it is justified by the interests underlying the competitive bidding laws, and (ii) Any contract, subcontract, lease, grant, bond, covenant or other agreement for projects undertaken pursuant to this act shall not be subject to section 101 of the general municipal law when the YJSC board has chosen to require a project labor agreement, pursuant to subdivision (i) of this section. This exemption shall only apply to the projects undertaken pursuant to this act and shall not apply to projects undertaken by any other school district or municipality unless otherwise specifically authorized.

(g) All contracts entered into by the YJSC board in excess of three million dollars with respect to any contract for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement shall require that each contractor and subcontractor shall participate in apprentice training programs in the trades of work it employs that have been approved by the state department of labor for not less than three years.

(h) For the purposes of article 15A of the executive law, YJSC board shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

(i) In the event the YJSC board shall cease to exist for any reason whatsoever during the life of such contracts as it has entered into pursuant to this section, such contracts shall remain in full force and effect and the city or city school district shall stand in the place and stead of the YJSC board with respect to all rights and obligations under such contracts and with respect to all powers granted to the YJSC board by this section; provided, however, that such powers are exercised by the city school district pursuant to its jurisdiction and the general laws applicable thereto, except as modified by this section.

11. Independent Program Manager. (a) The YJSC board shall utilize the services of the program manager selected by the city and the city school district through the request for proposal process to oversee the implementation of the facilities modernization plan. The city has chosen the program manager based on its experience in planning, designing, and constructing new and/or reconstructing existing school buildings, public facilities, commercial facilities, and/or infrastructure facilities, and in the negotiation and management of labor contracts and agreements, training programs, educational programs, and physical technological requirements for educational programs.

(b) All contracts entered into by the YJSC board for projects undertaken pursuant to this section shall be managed by such program manager. The program manager shall also review project schedules, review payment schedules, prepare cost estimates and review for coordination purposes the safety programs of contractors and all training programs, if required. The program manager shall implement procedures for verification by it that all work for which payment has been requested has been satisfactorily completed.

(c) The program manager, and its affiliates or subsidiaries, if any, shall be prohibited from awarding contracts or being awarded contracts for or performing any work other than contemplated for the program manager.

12. Requests for Proposals for the Award of Projects. (a) The YJSC board shall consult with the commissioner in creating guidelines to be used in the preparation of individual requests for proposals in connection with projects prior to the development of any requests for proposals by the program manager. Prior to the issuance by the program manager of a request for proposals, the YJSC board shall cause to be published a notice of such issuance in the official newspaper of the city school district, if any, and in at least one newspaper of general circulation in the city. Concurrent with the publication of such notice, a draft request for proposals shall be filed with the YJSC board.

(b) Each proposal shall require the inclusion of information relating to each project: (1) the background and experience of the person including any history of labor violations, and when applicable, the identity and experience of the person's general contractor, heating and plumbing contractor, electrical contractor, and design firm; (2) the ability of the person to secure adequate financing, if applicable, including the identification of the firm, if any, that

will be used for financing the project; and (3) identification and specification of all direct and indirect costs which would become a charge to the YJSC board, in whatever form, relating to the project and such other information as may be determined to have a material bearing on the ability to evaluate any proposal.

(c) Proposals received in response to a request for proposals shall be evaluated taking into consideration (i) maximization of state building aid, (ii) net cost, (iii) the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women owned business enterprises pursuant to article 15-A of the executive law through joint ventures or subcontractor relationships, and (iv) such additional factors set forth in the request for proposals, including, but not limited to, quality and durability of materials, energy efficiency, facility design incorporating systems and approaches which provide maximum facility value at the lowest possible cost for the reconstruction, rehabilitation and equipping, or new construction and equipping, of such projects.

(d) A contract award may be made to any responsible person selected taking into consideration (i) maximization of state building aid, (ii) net cost, (iii) the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women owned business enterprises pursuant to article 15-A of the executive law through joint ventures or subcontractor relationships, and (iv) such additional factors set forth in the request for proposals, including, but not limited to, quality and durability of materials, energy efficiency, facility design incorporating systems and approaches which provide maximum facility value at the lowest possible cost for the reconstruction, rehabilitation and equipping, or new construction and equipping, of such projects; provided, however, that if an award is made to any person whose total proposal does not provide the lowest net cost, the city school district or the YJSC board shall adopt a resolution after a public hearing which includes particularized findings relevant to factors evaluated indicating that the requirements of the city school district or the YJSC board, as applicable, are met by such award and that such action is in the public interest. Any such contract may be a single guaranteed maximum price general contract, utilize a full construction management contract approach, or utilize a turnkey contract approach or any other method deemed advisable in the reasonable judgment of the YJSC board.

13. Compliance Officer. (a) All contracts entered into by the YJSC Board for projects undertaken by this section shall be monitored by an independent compliance officer. The compliance officer shall have the authority to (i) develop, implement, advertise, promote and monitor policies and procedures to utilize and provide sufficient MWBE, DBE and skilled minority employment resources participation opportunities to be followed by prime contractors and subcontractors for such projects; and have access to all proposed bid specifications documentations, drawings, blueprints and any other documentation associated with such bid specifications; (ii) provide technical assistance to potential MWBE and DBE contractors and subcontractors interested in bidding on any such project; (iii) obtain and maintain records and documentation as are necessary to confirm compliance with any established MWBE, DBE or skilled minority employment resources utilization goals for any such project; (iv) identify contractors in non-compliance with the established MWBE, DBE or skilled minority employment resources utilization goals or in willful violation of any federal, state and local laws rules and regulations; (v) monitor and report the upward/downward price adjustment and payment amounts to MWBE's and DBE's listed on contractors utilization plan for any such project; (vi) develop and work with YJSC board to enforce agreed financial or monetary sanctions for any contractors non-compliance with MWBE/DBE Utilization Master Plan; [and (vii) such other related responsibilities and powers related to the authority set forth in this paragraph].

14. Building Aid; Operation of Projects; Exemption from Taxes.(a) Notwithstanding any other general, special, or local law or provision or regulation, all costs under the facilities modernization plan approved by SED shall receive building aid from the State at a rate of ninety-eight percent (98%) of approved costs. Projects exceeding the Maximum Cost Allowance ("MCA") as identified by SED shall receive the calculated MCA equal to the policy of two five-year cycles. When the YJSC board exercises the option of combining two five-year cycles for a project, the facility shall not be eligible for aid for ten years after project initiation. Notwithstanding any other general, special, or local law or provision of this section to the contrary, any project undertaken pursuant to this section shall be operated and maintained by the board of education of the city school district in the same manner as existing school buildings owned by the city are operated and maintained by such board.

(b) Notwithstanding any other provision of any general, special, or local law to the contrary, any project undertaken pursuant to the provisions of this section shall be exempt from all taxes (including sales and use taxes), special assessments, and special ad valorem levies and from the payment of any and all charges and rents for sewer systems, both while such project is being constructed and during its use by the city school district for school purposes.

(c) Notwithstanding any other provision of law, building aid that would otherwise be payable for the school district portion of expenditures for capital outlays and debt service for each project undertaken pursuant to the provisions of this act in accordance with subdivision 6 of section 3602 of the education law, shall be paid to the city.

15. Maintenance of Effort Exclusion. Payment of debt service on bonds, notes or other obligations issued to secure financing for projects undertaken pursuant to this act shall not be considered when determining the "city amount" required pursuant to subparagraph (ii) of paragraph a of subdivision 5-b of section 2576 of the education law; provided, however, that this provision shall not otherwise affect the determination of said "city amount" with respect to funding unrelated to projects undertaken pursuant to this act.

16. SED Oversight of Projects. Nothing in this section shall be construed to exempt a project undertaken pursuant to this section from the review and approval procedures applied to such projects by the state department of education when undertaken by the city school district pursuant to the education law; provided however, the SED shall appoint an SED representative to be the SED project manager for all aspects of the facilities modernization plan including but not limited to having authority to expedite SED review and to grant approvals related to program reports, master plan, building plans and specifications.

17. Joint Ventures. Notwithstanding any general, special, or local law to the contrary, the YJSC board, in order to create new and different learning environments or to provide for public safety, health, or other social services needs for those attending, working in, or affiliated with any educational facility, may enter into joint venture agreements with any person to jointly build, share, or utilize, but not operate or maintain, educational facilities built, designed, constructed, or leased pursuant to the terms of this act. In order to provide new and different learning experiences, such joint ventures may include but shall not be limited to such entities as colleges, universities, libraries, hospitals, nonprofit or governmental agencies providing security, social or legal services, and for-profit entities that may provide learning experiences in commerce, industry, law, medicine, dentistry, nursing or medical related businesses, the arts (fine or performing), the sciences, banking, insurance, catering, food processing, manufacturing, journalism, engineering, architectural, draftsmen, surveying skills, or any trade or skill utilized in the construction industry, bio-medical, computers, electronics, hotel, restaurant, advertising, public relations, tourism, languages, governmental service (foreign or domestic), secretarial skills, court reporting, customs work, public safety, fashion design and production, sports business, transportation, photography, optics, imaging, radio or television production, or any other type of service, industry, or business industry for the instruction of children and adults of this state for academic, remedial, or vocational training or education. The city school district is hereby authorized to receive building aid for facility projects constructed or renovated for use by city school district students at cooperating organizations and institutions within Westchester County which may be outside the city, provided such organization or institution is not a Board of Cooperative Educational Services.

18. Financing of Projects. (a) To finance project costs authorized and undertaken pursuant to this act, bonds, notes and other obligations in an aggregate principal amount not to exceed Five Hundred Twenty-Three Million dollars (\$523,000,000), plus such additional amount of bonds, notes and other obligations necessary to provide for a debt service reserve fund and to pay reasonable costs of issuance, are authorized to be issued on behalf of the YJSC board pursuant to subdivisions (d) or (e) of this section; provided, however, that bonds, notes and other obligations issued to refund or advance refund previously issued bonds, notes and other obligations under this act may exceed such aggregate principal limitation; provided, further however, that any accretion of principal of bonds, notes and other obligations issue pursuant to the authority contained in this act that would constitute interest under the internal revenue code of 1986, as amended shall not count against such aggregate principal limitation. Any bonds, notes or other obligations issued by or on behalf of the YJSC board pursuant to this act, and the income therefrom shall, to the maximum extent practicable, be exempt from taxation.

(b) Notwithstanding the provisions of any other general, special, or local law to the contrary, any bonds notes or other obligations issued to finance any project authorized and undertaken pursuant to this act, including ancillary

financing costs described in paragraph (a) of this section, may be issued without regard to any debt limitation applicable to the city or the city school district or any instrumentality thereof.

(c) Notwithstanding any general, special, or local law or ordinance to the contrary, contracts entered into by the YJSC board for projects undertaken pursuant to this act: (a) may be initially funded by the city from any available monies or from the proceeds of city obligations issued in anticipation of permanent financing from any source provided under the act and the reimbursement to the city of any available monies so advanced or the payment of obligations of the city issued in anticipation of permanent financing (including permanent financing issued through the city of Yonkers industrial development agency for such purpose) is hereby specifically authorized .

(d) Notwithstanding any limitations contained in article 18A of the general municipal law, including subdivisions 4, 12 and 13 of section 854 and section 926 of the general municipal law, a project undertaken pursuant to this section shall be a 'project' within the definition and for the purposes of subdivision 4 of section 854 of the general municipal law, which may be financed, owned, or leased by the city of Yonkers industrial development agency or any successor agency thereto and the city of Yonkers industrial development agency is expressly authorized to refinance obligations issued by the city in anticipation of financing authorized by this act and/or reimburse the city for monies advanced by the city for projects undertaken pursuant to this act. In connection with the city of Yonkers industrial development agency financing of the costs of any project undertaken pursuant to this act, the city and the city school district may grant a leasehold or license interest in the land and or building constituting such project to the city of Yonkers industrial development agency and may enter into installment purchase contracts to facilitate such financing.

(e) Projects undertaken pursuant to this act may be financed through a special program agreement with the state of New York municipal bond bank agency pursuant to the provisions of section 2435-a of the public authorities law. It shall be the duty of the YJSC board to compare the financing available for such projects through the city of Yonkers industrial development agency with financing available through the state of New York municipal bond bank agency, and to employ the financing mechanism that will result in the lowest cost to the taxpayers of the city and the state calculated on a net interest cost basis. It shall be the duty of the YJSC board and the city of Yonkers industrial development agency to share with the state of New York municipal bond bank agency any information in their possession that is required by the state of New York municipal bond bank agency to determine the cost of financing such projects and to compute the interest rate that would have been applicable to a bond issuance by the state of New York municipal bond bank agency in the event that financing is obtained through the city of Yonkers industrial development agency or any alternative funding conduit. Any failure to provide such information within thirty days of receipt of a request from the state of New York municipal bond bank agency shall be deemed to be a failure of the YJSC board to submit the data needed to compute the apportionment of state building aid, and the commissioner shall withhold such apportionment until such information is fully submitted. Upon request of the YJSC board, the director of the state of New York municipal bond bank agency shall submit such reports as the commissioner may require on the financing of such projects and/or the interest rate that would have been applicable to such projects if they had been financed through such agency.

(f) Notwithstanding any other provision of any general, special, or local law or provision of this act to the contrary, any project undertaken pursuant to this act shall be operated and maintained by the board of education of the city school district in the same manner as existing school buildings owned by the city are operated and maintained by such board.

(g) Notwithstanding any other provision of any general, special, or local law to the contrary, any project undertaken pursuant to the provisions of this act shall be exempt from all taxes (including sales and use taxes), special assessments, and special ad valorem levies and from tip payments of any and all charges and rents for sewer systems, both while such project is being constructed and during its use by the city school district for school purposes.

19. Exemption from Bond Issuance Charge. Any notes, bonds, or other obligations issued to finance projects authorized pursuant to this act shall be exempt from the collection of any bond issuance charge under subdivision 2 of section 2976 of the public authorities law.

20. Security for Bonds, Notes and Other Obligations; Remedies. In the event that the city or city school district shall fail to make a payment in such amount and by such date as is provided to be made by such city or city school district

under agreements entered into with the city of Yonkers industrial development agency or any successor agency thereto, such entity shall so certify to the state comptroller. Such certificate shall be in such form as the state comptroller deems desirable, but shall specify the amount by which such payment shall have been deficient. The state comptroller, upon receipt of such certificate from such entity, shall withhold such amount of state and/or school aid payable to such city or city school district to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to each financial institution acting as trustee on behalf of bondholders of the Yonkers industrial development agency or any successor agency thereto, the amount so withheld by the state comptroller. Any amount so paid to bondholders from such state and/or school aid shall not obligate the state to make, nor entitle the city or the city school district to receive, any additional amounts of state and/or school aid. Nothing contained in this section shall be deemed to prevent the state from modifying, reducing or eliminating any program or programs of state and/or school aid; nor shall the state be obligated by the terms hereof to maintain state and/or school aid at any particular level or amount.

21. Actions Against the YJSC Board. (a) Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the YJSC board for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the YJSC board or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the YJSC board, the city and the city school district, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the YJSC board for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of section [tbd] of this [tbd].

(b) The venue of every action, suit or special proceeding brought against the Authority shall be the supreme court in the County of Westchester.

(c) Neither any director of the YJSC board nor any officer, employee, or agent of the YJSC Board, while acting within the scope of his or her authority, shall be subject to any liability resulting from exercising or carrying out any of the powers given in this [Title].

22. Progress Reports. On [June 30, 2017] and annually thereafter, until completion of the projects in a total aggregate maximum amount of \$523,000,000 authorized pursuant to this act, the YJSC board shall issue a report to the governor, the comptroller, the commissioner, the temporary president of the senate, the speaker of the assembly, the city Mayor, the city council and the city school district on the progress and status of the projects undertaken by the YJSC board. Provided further, that if any such entities request information on the progress and status of the projects prior to such report, it shall be provided to such entities by the YJSC board. In addition, on or before June 30, 2019, the YJSC board shall issue a report to the city Mayor, the city school district, the governor, the commissioner, the comptroller, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly, the state board of regents, and the chairs and ranking minority members of the New York state senate and assembly committees on education, the finance committee of the New York state senate, and the ways and means committee of the New York state assembly and the division of the budget. Such report shall identify the fiscal and pedagogical results of the projects undertaken pursuant to this act, along with recommendations for its continuance to a phase two, amendments, or discontinuance.

23. Net Interest Cost analysis. Clause (a) of subparagraph 5 of paragraph e of subdivision 6 of section 3602 of the education law is amended by adding a new item (v) to read as follows:

(v) Notwithstanding the provisions of item (i) of this clause, where such [city] or city school district has entered into an agreement with the state of New York municipal bond bank agency pursuant to subdivision one of section twenty four hundred thirty five- a of the public authorities law and paragraph (a) of subdivision [sixteen] of the Yonkers city school district facilities modernization program act, or an agreement with the City of Yonkers industrial development agency or an alternative funding conduit entity for projects authorized pursuant to the Yonkers city school district facilities modernization program act, to finance debt related to school rehabilitation or reconstruction or new school buildings that is subject to subparagraph three of this paragraph, the lesser of: (A) the net interest cost, as defined by the commissioner, applicable to the obligations issued by the state of New York municipal bond bank

agency or the City of Yonkers industrial development agency for such purpose; or (B) such net interest cost, as defined by the commissioner, that would have been applicable to bonds issued by the state of New York municipal bond bank agency if the project had been authorized to be financed and had been financed through such entity, as certified to the commissioner by the executive director of the state of New York municipal bond bank agency, shall be the interest rate established for such [city] applicable to such debt.

24. Apportionment of Capital Outlays. The opening paragraph of subdivision 6 of section 3602 of the education law, as separately amended by chapter 59 and section 7 of part A2 of chapter 62 of the laws of 2003, and by _____ is amended to read as follows:

Apportionment for capital outlays and debt service for school building purposes. Any apportionment to a school district pursuant to this subdivision shall be based upon base year approved expenditures for capital outlays incurred prior to July first, two thousand one from its general fund, capital fund or reserved funds and current year approved expenditures for debt service, including debt service for refunding bond issues eligible for an apportionment pursuant to paragraph g of this subdivision and lease or other annual payments to the New York city educational construction fund created by article ten of this chapter or the city of Yonkers educational construction fund created by article ten-B of this chapter which have been pledged to secure the payment of bonds, notes or other obligations issued by the fund to finance the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of combined occupancy structures, or for lease or other annual payments to the New York state urban development corporation created by chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, pursuant to agreement between such school district and such corporation relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building, or for annual payments to the dormitory authority pursuant to any lease, sublease or other agreement relating to the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise provide for school district capital facilities or school district capital equipment made under the provisions of section sixteen hundred eighty of the public authorities law, or for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for educational facilities of a city school district under the provisions of section sixteen of chapter six hundred five of the laws of two thousand, or for payments, pursuant to any assignment authorized by section twenty-seven hundred ninety-nine-tt of the public authorities law, of debt service in furtherance of funding the five-year educational facilities capital plan of the city of New York school district or related debt service costs and expenses as set forth in such section, for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, design, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for projects authorized pursuant to the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, design, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for projects authorized pursuant to the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, design, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for projects authorized pursuant to the Yonkers city school district facilities modernization program act, or for lease, lease-purchase or other annual payments to another school district or person, partnership or corporation pursuant to an agreement made under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, provided that the apportionment for such lease or other annual payments under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, other than payments under a lease-purchase agreement or an equivalent agreement, shall be based upon approved expenditures in the current year. Approved expenditures for capital outlays from a school district's general fund, capital fund or reserved funds that are incurred on or after July first, two thousand two, and are not aidable pursuant to subdivision six-f of this section, shall be aidable as debt service under an assumed amortization established pursuant to paragraphs e and j of this subdivision. In any such case approved expenditures shall be only for new construction, reconstruction, purchase of existing structures, for site purchase and improvement, for new garages, for original equipment, furnishings, machinery, or apparatus, and for professional fees and other costs incidental to such construction or reconstruction, or purchase of existing structures. In the case of a lease or lease-purchase agreement entered pursuant to section four hundred three-b, subdivision eight of section twenty-five hundred three or subdivision six

of section twenty-five hundred fifty-four of this chapter, approved expenditures for the lease or other annual payments shall not include the costs of heat, electricity, water or other utilities or the costs of operation or maintenance of the leased facility. An apportionment shall be available pursuant to this subdivision for construction, reconstruction, rehabilitation or improvement in a building, or portion thereof, being leased by a school district only if the lease is for a term of at least ten years subsequent to the date of the general construction contract for such construction, reconstruction, rehabilitation or improvement. Each school district shall prepare a five year capital facilities plan, pursuant to regulations developed by the commissioner for such purpose, provided that in the case of a city school district in a city having a population of one million inhabitants or more, such facilities plan shall comply with the provisions of section twenty-five hundred ninety-p of this chapter and this subdivision. Such plan shall include, but not be limited to, a building inventory, and estimated expense of facility needs, for new construction, additions, alterations, reconstruction, major repairs, energy consumption and maintenance by school building, as appropriate. Such five year plan shall include a priority ranking of projects and shall be amended if necessary to reflect subsequent on-site evaluations of facilities conducted by state supported contractors.

25. Subdivision 12 of section 2432 of the public authorities law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

(12) "Special Program Municipality". Any city having a population of less than one million but more than three hundred fifty thousand; and any city having a population of less than two hundred fifty thousand but more than two hundred thousand, determined according to the federal decennial census of nineteen hundred eighty. Such term shall also include the city of Syracuse solely for the purpose of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act and the city of Yonkers solely for the purpose of the Yonkers city school district facilities modernization program act .

26. Subdivision 1 of section 2435-a of the public authorities law, as amended by chapter 58 of the laws of 2006, is amended to read as follows:

(1) In order to fulfill the purposes of this title and to provide a means by which the special program municipalities may (a) receive moneys to refund certain property taxes determined to be in excess of state constitutional tax limits or to reimburse the special program municipalities for the prior refunding of such taxes or (b) receive moneys to be applied to the cost of settling litigation involving the city school districts of special program municipalities and the teachers' unions in such special program municipalities, or (c) receive moneys for the financing of public improvements to be applied to the cost of the reconstruction, rehabilitation, renovation or new construction of an educational facility pursuant to the provisions of subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, or (d) receive moneys for the financing of public improvements to be applied to the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of subdivision fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, or (e) receive moneys for the financing of public improvements to be applied to the cost of a project for design, reconstruction or rehabilitation of a school building, or the construction of a new school building, pursuant to the provisions of subdivision [seventeen] of the Yonkers city school district facilities modernization program act, and notwithstanding any general or special law to the contrary, the agency and each special program municipality are hereby authorized to enter into one or more special program agreements, which special program agreements shall, consistent with the provisions of this title, contain such terms, provisions and conditions as, in the judgment of the agency, shall be necessary or desirable. Each special program agreement shall specify the amount to be made available to the respective special program municipality from the proceeds of an issue of special program bonds and shall require such special program municipality, subject to appropriation by the appropriate legislative body of such special program municipality, to make payments to the agency in the amounts and at the times determined by the agency to be necessary to provide for payment of such issue of special program bonds and such other fees, charges, costs and other amounts as the agency shall in its judgment determine to be necessary or desirable.

27. Subdivision 4 of section 2436 of the public authorities law, as amended by chapter 58 of the laws of 2006, is amended to read as follows:

4. In the event that a special program municipality shall fail to make a payment in such amount (as calculated in accordance with the special program agreement to which such municipality shall be a party) and by such date as is

provided to be made by such municipality in its special program agreement, the chairman of the agency shall so certify to the comptroller. Such certificate shall be in such form as the agency deems desirable, but shall specify the amount by which such payment shall have been deficient. The comptroller, upon receipt of such certificate from the agency, shall withhold from such special program municipality any state aid payable to such municipality to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld; provided, however, that in the case of a special program agreement entered into for the purpose described in paragraph (b) or (c) or (d) or (e) of subdivision one of section twenty four hundred thirty five-a of this title, the comptroller shall be authorized to withhold from the special program municipality such school aid as is payable to the city school district of the special program municipality, to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld. Any amount so paid to the agency from such state and/or school aid shall not obligate the state to make, nor entitle the special program municipality to receive, any additional amounts of state and/or school aid. Nothing contained therein shall be deemed to prevent the state from modifying, reducing or eliminating any program or programs of state and/or school aid; nor shall the state be obligated by the terms hereof to maintain state and/or school aid at any particular level or amount.

28. Subdivision 1 of section 2438 of the public authorities law, as amended by chapter 58 of the laws of 2006, is amended to read as follows:

(1) The agency shall not issue bonds and notes in an aggregate principal amount at any one time outstanding exceeding [two billion] dollars, excluding tax lien collateralized securities, special school purpose bonds, special school deficit program bonds, special program bonds issued to finance the reconstruction, rehabilitation or renovation of an educational facility pursuant to the provisions of subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, special program bonds issued to finance the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of subdivision fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, special program bonds issued to finance the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of subdivision [seventeen] of the Yonkers city school district facilities modernization program act and bonds and notes issued to refund outstanding bonds and notes.

29. Effect of Inconsistent Provisions. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general, special, or local, or of the city charter or an ordinance or resolution of the city council or the board of education of the city school district, or any rule or regulation, the provisions of this act shall be controlling, provided that nothing contained in this act shall be held to supplement or otherwise expand the powers or duties of the city or the city school district except as specified herein.

30. Severability; construction. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

31. Effective Date. This act shall take effect immediately.