

**Raymond J. Lesniak, pro se
Christopher (Kip) Batement, pro se
Michael J. Doherty, pro se
c/o Raymond J. Lesniak
530 Irvington Avenue
Elizabeth, New Jersey 07208**
[1246801_1](#)

RAYMOND J. LESNIAK, individually as a taxpayer, and in his official capacity as a New Jersey State Senator for the 20th Legislative District; CHRISTOPHER (Kip) BATEMAN, individually as a taxpayer, and in his official capacity as a New Jersey State Senator for the 16th Legislative District; and MICHAEL J. DOHERTY, individually as a taxpayer, and in his official capacity as a New Jersey State Senator for the 23rd Legislative District,

Plaintiffs,

v.

THE STATE CAPITOL JOINT MANAGEMENT COMMISSION; NEW JERSEY DEPARTMENT OF TREASURY, DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION; AND NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY,

Defendants.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY
DOCKET NO.: MER-L-**

Civil Action

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiffs, Raymond J. Lesniak, Individually, as a taxpayer and resident of the State of New Jersey, and in his official capacity as New Jersey State Senator for the 20th Legislative District; Christopher (Kip) Bateman, Individually, as a taxpayer and resident of the State of New Jersey, and in his official capacity as New Jersey State Senator for the 16th Legislative District; and Michael J. Doherty, Individually, as a taxpayer and resident of the State of New Jersey, and in his official capacity as New Jersey State Senator for the 23rd Legislative District, hereby allege the following

against the defendants, State Capitol Joint Management Commission; New Jersey Department of Treasury, Division of Property Management and Construction; and the New Jersey Economic Development Authority:

NATURE OF THE ACTION

1. Plaintiffs seek a declaratory judgment that the resolutions of the State Capitol Joint Management Commission and New Jersey Economic Development Authority authorizing a lease and leaseback arrangement and the securing of the financing for a full renovation of the Executive Branch facility of the State Capitol Complex and substantial improvements and upgrades to the infrastructure in the Legislative Branch Facility of the State Capital Complex (collectively, the “Project”), violate the Debt Limitation Clause, N.J. Const., Article VIII, § II, Para. 3 and the Appropriations Clause of the New Jersey Constitution, N.J. Const., Article VIII, § II, Para. 2; and the improper approval of the Project circumvents the rights of legislators to authorize the construction of the Project and the financing thereof in violation of the Separation of Powers.

2. Plaintiffs also seek injunctive relief against the defendants proceeding with the sale of bonds and incurring liabilities pursuant to the bond resolution of the NJEDA and the leasing arrangement between the JMC and the NJEDA without prior legislative approval and, to the extent that the principal obligation and debt service exceed 1% of the annual budget, the submission of the funding of the Project for voter approval by New Jersey taxpayers.

PARTIES

3. Plaintiff, Raymond J. Lesniak is a taxpayer and resident of the State of New Jersey, County of Union, City of Elizabeth. In his individual capacity, he is directly interested in the expenditures and financing mechanisms proposed by the defendants in his individual capacity as a taxpayer.

4. Plaintiff, Raymond J. Lesniak, is also a New Jersey State Senator from the 20th Legislative District. His official position as a State Senator is directly impacted by the proposed transactions because the funding mechanisms are intended to circumvent the Legislature in that the bonds will be sold and the commitments will be made by the defendants for the expansion of a prior, legislatively approved project without legislative approval, thus denying plaintiffs of their right to vote on the expansion.

5. Christopher (Kip) Bateman is a taxpayer and resident of the State of New Jersey, County of Somerset, Branchburg Township (Neshanic Station). In his individual capacity, he is directly interested in the expenditures and financing mechanisms proposed by the defendants in his individual capacity as a taxpayer.

6. Plaintiff, Christopher (Kip) Bateman, is also a New Jersey State Senator from the 16th Legislative District. His official position as a State Senator is directly impacted by the proposed transactions because the funding mechanisms are intended to circumvent the Legislature in that the bonds will be sold and the commitments will be made by the defendants for the expansion of a prior, legislatively approved project without legislative approval, thus denying plaintiffs of their right to vote on the expansion.

7. Michael J. Doherty is a taxpayer and resident of the State of New Jersey, County of Warren, Washington Township. In his individual capacity, he is directly interested in the expenditures and financing mechanisms proposed by the defendants in his individual capacity as a taxpayer.

8. Plaintiff, Michael J. Doherty, is also a New Jersey State Senator from the 23rd Legislative District. His official position as a State Senator is directly impacted by the proposed transactions because the funding mechanisms are intended to circumvent the Legislature in that the

bonds will be sold and the commitments will be made by the defendants for the expansion of a prior, legislatively approved project without legislative approval, thus denying plaintiffs of their right to vote on the expansion.

9. Defendant, State Capitol Joint Management Commission (“JMC”) is an entity in the Executive Branch created pursuant to the State Capitol Joint Management Commission Act, L. 1992, c. 67, N.J.S.A. 52:31-34, et seq., which grants JMC jurisdiction over the State Capitol Complex that includes, the State House, the State House Annex, ancillary structures, facilities, and components integral to the use of the State House or State House Annex, together with contiguous common use facilities.

10. Defendant, New Jersey Department of Treasury, Division of Property Management and Construction (“DPMC”) has agreed to undertake the construction of the State House Project on behalf of JMC and oversee the construction contract with the successful bidder.

11. Defendant, New Jersey Economic Development Authority (“NJEDA”), is an agency of the State of New Jersey which is delegated the authority to render assistance to government bodies through, among other means, the issuance of obligations and entering into contracts, including leases and development agreements pursuant to N.J.S.A. 34:1B-1 et seq. The financing of the project will be effectuated through the issuance of bonds by the NJEDA, the proceeds of which shall be used to pay for the costs of the project, the refunding of the bonds issued by the NJEDA, which refunding is required to remove the bond lien of the New Jersey Building Authority (NJBA”) and effectuate the issuance of bonds and the costs of the issuance of the bonds.

GENERAL ALLEGATIONS

12. It has been long recognized by the Legislature and the Executive Branch that the State Capitol Building needs extensive renovations and repairs.

13. In December 2009, the Senate adopted a concurrent resolution approving several New Jersey Building Authority (“NJBA”) projects, which included a project that the NJBA wished to undertake to improve the State Capitol Complex. A copy of the concurrent Resolution No. 163 is annexed hereto and made a part hereof as **Exhibit A**.

14. On May 10, 2012, the NJBA adopted a project report for exterior envelope restoration and repairs for the New Jersey Executive State House Project. Copies of the Minutes, Resolution and Project Report of the NJBA which recommended a project for an estimated cost of \$38,000,000, and the Minutes of the November 7, 2012 NJBA Board Meeting which authorized the Bond Resolution for an amount not to exceed \$50,830,000 are annexed hereto and made a part hereof as **Exhibit B**.

15. On June 14, 2012, the Senate adopted a concurrent resolution which authorized \$38,000,000 for the renovations and repair of the Executive State House and relocation of facilities in the State House Garage. A copy of the concurrent Resolution No. 119 is annexed hereto and made a part hereof as **Exhibit C**.

16. At its meeting on November 24, 2015, the NJBA reported on the status of the pending Executive State House Exterior Renovation and Repair Project, which the NJBA was then overseeing. The minutes of the NJBA’s November 24, 2015 meeting reflect that the NJBA was considering recommending an expansion of the Project and recognized that among the protocols required to advance a larger comprehensive restoration/renovation project was the step of obtaining “a concurrent resolution approving the project by both houses of the Legislature.” The NJBA recognized that pursuant to the statute governing the NJBA, legislative approval was required before the NJBA could approve bond financing for the larger comprehensive restoration/renovation project.

A copy of the NJBA minutes of the November 24, 2015 meeting is annexed hereto and made a part hereof as **Exhibit D**.

17. Up to and through the time of the NJBA board meeting, plaintiffs as New Jersey State Senators would have had an opportunity to vote for the approval of any expanded project before the NJBA passed a bond resolution and secured the debt service for additional funding to finance the cost of the comprehensive restoration/renovation project. See N.J.S.A. 52:18A-78.1 et seq., particularly N.J.S.A. 52:18A-78.8. The NJBA is also required to conduct a public hearing on the project, and cause notice of the hearing to be published in the municipality in which the project is to be located. N.J.S.A. 52:18A-78.6 and 7.

18. Sometime after the November 24, 2015 meeting, the Christie Administration (hereinafter “Executive Branch”) decided to greatly expand the scope of the Project and to transfer responsibility for the administration of the Project to the JMC and the financing of the cost of the Project to the NJEDA, instead of the NJBA, for the sole purpose of circumventing the need for further legislative approval of the expansion of the Project by means of a concurrent resolution of the both Houses of the Legislature. By transferring the property to JMC and NJEDA, the Executive Branch could also bypass the requirement for a public hearing, which was applicable to an NJBA project.

19. On or about January 25, 2017, the JMC received a summary letter for the restoration of the exterior building envelope of the New Jersey Executive State House, which was used as the basis of a resolution by JMC concerning the Executive Branch Facility and the approval of “a full renovation and not just minimalist and ad-hoc individual manner approach to the restoration/renovation of the State Capitol Complex.” According to the JMC and the Executive Branch officials, the estimated cost of this greatly expanded Project is approximately \$300,000,000.

The JMC approved the summary letter on January 31, 2017. A copy of the January 31, 2017 Resolution of the JMC approving the summary letter is annexed hereto and made a part hereof as **Exhibit E**.

20. After consulting the Capitol City Redevelopment Corporation on April 21, 2017, on or about April 25, 2017, the JMC adopted a Resolution, with respect to the renovation of the Executive Branch Facility and the Legislative Branch Facility in the State Capitol Complex (“the Project”). The Resolution indicated that the estimated cost of the Project, which was discussed at the JMC’s January 31, 2017 meeting was “approximately \$300,000,000”. The Resolution indicated that the financing of the Project will be effectuated through the issuance of bonds by the NJEDA, “the proceeds of which shall be used to pay for the costs of the Project, the refunding of the bonds issued by the NJBA which refunding is required to remove the lien of the NJBA bonds and effectuate the issuance of the bonds, and the cost of issuance of the bonds.”

21. The JMC Resolution stated that “in connection with the bonds, (1) the JMC will lease the State Capitol Complex to the NJEDA pursuant to a lease between the JMC, as lessor, and the NJEDA, as leasee (“the Lease”) and (2) the NJEDA will sublease the State Capitol Complex to the JMC pursuant to an agreement and sublease between the NJEDA, as sublessor, and the JMC, as subleasee (“the Sublease”). Furthermore, “the debt service on the bonds will be payable from rent to be paid by the JMC pursuant to the Sublease.” A copy of the JMC Resolution and the Lease and Sublease are annexed hereto and made a part hereof as **Exhibit F**.

22. The Lease and Sublease between the NJEDA and the JMC regarding the project states that the JMC must repay the EDA “subject to appropriation from time to time by the State Legislature.” (Lease § G). The proceeds of the “refunding bonds” will be used to remove the leased

premises from the lien that was imposed in favor of the NJBA for funds previously expended on the Project with legislative approval.

23. Pursuant to the agreement between the NJEDA and the JMC, the JMC will lease the premises to the NJEDA, and the NJEDA will sublease the State Capitol Complex to the JMC.

24. The agreement also states the JMC shall pay a trustee of the NJEDA “basic rent-the amount of which is sufficient to pay the aggregate bond obligations that are due on a given payment date” (Lease, § 4.1).

25. The terms of the rental payments under this section are subject to Section 4.4(b), which states that the payments “shall be subject to and dependent upon appropriations being made from time to time by the State Legislature for such purpose. The State Legislature has no obligation to make such appropriations.” (Lease, §4.4(b)). The subsection expressly states that the JMC’s obligation to pay shall not constitute a debt of the State; nor shall it be a pledge of the credit of the State.

26. Under Section 7.1(a)(i) of the Lease, it is provided that a default will not occur if the failure to make a rental is a result of a “non-appropriation”. Section 7.2 provides for an acceleration of the debt service clause in the event of default other than “non-appropriation”. The lease documents provide that JMC will not have an obligation to pay rentals or other amounts under the agreement, if there is a “non-appropriation”.

27. Consequently, despite the concurrent resolution of both houses of the Legislature for renovations and repairs to the State Capitol Complex, with which the NJBA was proceeding as late as November 2015, the Executive Branch, through the agreements between JMC and NJEDA, and with the assistance of the DPMC, but without the approval of the Legislature, has purported to transfer a pending project that had been authorized by the Legislature, to other Executive Branch

agencies, namely the JMC and the NJEDA, in an effort to circumvent the need for legislative approval of the greatly expanded Project and avoid the public hearing requirements of the NJBA.

28. On May 3, 2017, New Jersey State Treasurer, Ford Scudder (“Treasurer Scudder”), testified before the Assembly Budget Committee about the State House Renovations/Restoration Project. Mr. Scudder indicated that the State House Complex would be leased to the NJEDA for financing and leased back to the JMC to make lease payments to NJEDA equal to the debt service on the bonds that are in issue. According to Mr. Scudder, this form of leasing transaction does not require legislative approval or voter approval.

29. Treasurer Scudder indicated that the cost of the Project and the related sale of bonds would be paid over the course of 20 to 30 years with annual lease payments on the order of \$20,000,000 to \$25,000,000 per year. So that the entire debt service could cost anywhere from \$500,000,000 to \$750,000,000. A copy of a Transcript of Treasurer Scudder’s testimony taken from an audio tape of the Assembly Budget Committee hearing is annexed hereto and made a part hereof as **Exhibit G**.

30. The annual budget for New Jersey is an estimated \$34,000,000,000, so that considering the debt service, it is likely that the expenditures will exceed 1% of the total amount appropriated in accordance with the General Appropriations Law for the current fiscal year.

31. On May 11, 2017, the NJEDA, upon information and belief, adopted a Bond Resolution, approving NJEDA/State Lease Revenue Bonds 2017 Series and State Lease Revenue and Refunding Bonds 2017 Series (State House Project). The Resolution approved actions associated with and necessary to the adoption and issuance of the NJEDA/State Lease Revenue Bonds 2017 Series and State Lease Revenue and Refunding Bonds 2017 Series, including the forms of the Lease, Sublease and Bond Purchase Contract and related items. A copy of the Agenda of the

New Jersey Economic Development Authority, May 11, 2017, is annexed hereto and made a part hereof as **Exhibit H**.

32. The NJEDA and JMC have no independent means of financing the repayment of the Bonds, which are to be sold by the NJEDA, or securitizing the debt service with real estate or other collateral, except for appropriations by the Legislature. Despite the limiting language in the lease documents, and the statutory provision applicable to the sale of bonds by the NJEDA, N.J.S.A. 34:1B-54, the Legislature is being placed under duress by the Executive Branch, to fund the debt service and rent obligations incurred by the defendants, because otherwise there will be catastrophic financial consequences to the State and its creditworthiness if a “non-appropriation” occurs.

FIRST COUNT
(Separation of Powers)

33. Plaintiffs repeat each and every one of the previous paragraphs of this Complaint as if the same were set forth herein at length.

34. The separation of powers is expressly established in Art. III, ¶ 1 of the New Jersey Constitution:

The powers of the government shall be divided among the three distinct branches, the Legislature, Executive, and Judicial. No person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution. (N.J. Const. of 1947, Art. III, ¶ 1),

35. The doctrine of separation of powers manifests a profound belief that the concentration of governmental power in one branch increases the potential for oppression, and that division of power helps ensure appropriate limitations on the use of power.

36. Thomas Jefferson explained that “the powers of government should be so divided and balanced among several bodies ... that no one could transcend a legal limit, without being effectually checked and restrained by the others.” Thomas Jefferson, Notes on the State of Virginia, 120 (W.

Peden e.d. 1955), cited in General Assembly of the State of New Jersey v. Byrne, 90 N.J. 376, 381 (1982). “The Framers [of the New Jersey Constitution of 1947] therefore sought to prevent tyranny by constructing a new government that could limit its own aggrandizement of authority.” Id.

37. As stated by Justice Handler in his opinion on behalf of the unanimous court in Knight v. Margate, 86 N.J. 374, 388-89 (1981):

It is a constitutional axiom that each branch of government is distinct and is the repository of the powers which are unique to it; the members or representatives of one branch cannot arrogate powers of another branch. The constitutional spirit inherent in the separation of governmental powers contemplates that each branch of government will exercise fully its own powers without transgressing upon powers rightfully belonging to a cognate branch. Each branch of government is counseled and restrained by the constitution not to seek dominance or hegemony over the other branches. [86 N.J. at 388], cited in General Assembly v. Byrne, 90 N.J. 376 at 382-383.

38. In the present case, the State Capitol Renovation Project was a legislatively approved project to be financed and constructed under the auspices of the NJBA at an estimated \$38,000,000, which funding had been approved by the Concurrent Resolution of both Houses of the Legislature.

39. While the legislatively approved NJBA Project was pending, the Executive Branch determined to greatly expand the scope of the Project from an estimated \$38,000,000 to approximately \$300,000,000 and add a debt service that will increase the expenditures to as much as \$750,000,000.

40. The means selected by the Executive Branch, including the JMC, NJEDA and DPMC, for the greatly enhanced project described as a comprehensive reconstruction and renovation of the State House Complex was chosen by the Executive Branch for the sole purpose of bypassing the Legislature and the taxpaying public, even though the construction and financing of the original project had been previously approved by the Legislature, and the Legislature had authorized the NJBA to obtain a lien on the State Capitol Complex for the cost of the original Project.

41. Plaintiffs having approved the original NJBA project, the Resolutions of the JMC and NJEDA to greatly expand the scope of the Project, and enter into a lease/lease-back agreement as a funding mechanism to circumvent the need for a further legislative authorization, as well as compliance with the NJBA public hearing requirements, violate the plaintiffs' interest in the Project as taxpayers and New Jersey State Senators, whose right to vote on the authorization of the expanded Project is being frustrated by the Executive Branch. Indeed the JMC and NJEDA have completely disregarded the provisions in the State Capital Joint Management Commission Act, N.J.S.A. 52:31-43 ("JMC Act"), which obligates the Legislature to "ensure that the appropriate State agency maintain and preserve the State Capitol complex or undertake or contract for any project for repair or alteration of any element of the complex, annually is appropriated such sums as are necessary to protect, preserve and maintain the complex to the highest standards."

42. The Resolutions of the JMC and the NJEDA approving the lease/lease-back agreement to finance the greatly expanded project, and the sale of NJEDA bonds to finance the Project, without prior legislative approval, violate the Separation of Powers and the Legislature's prerogatives under the JMC Act.

WHEREFORE, plaintiffs request the following legal and equitable relief:

A. A Declaratory Judgment that the Resolutions of the JMC and NJEDA, and the agreement by the DPMC to provide assistance to the JMC, for the expanded Project, without prior legislative approval, violates the Separation of Powers and the rights of the plaintiffs;

B. A Declaratory Judgment that the Resolutions of the JMC and the NJEDA are *ultra vires* and violate the Legislature's statutory prerogatives; and the Resolutions of the JMC and NJEDA approving the Project and authorizing the sale of bonds by the NJEDA to fund the cost of the Project, are void *ab initio*.

C. An injunction barring the sale of bonds by NJEDA and enjoining the commencement or continuation of construction by the JMC, with the assistance of the DPMC, of the expanded Project; and

D. Such other legal and equitable relief as the Court deems just and proper.

SECOND COUNT
(Violation of Debt Limitation Clause)

43. Plaintiffs repeat each and every one of the previous paragraphs of this Complaint as if the same were set forth herein at length.

44. The financial condition of the State of New Jersey is in a crisis due in substantial part to the proliferative spending by the Executive Branch through the use of the independent authorities authorized to sell contract bonds, the repayment of which, bypasses the Debt Limitation and Appropriations Clauses of the New Jersey Constitution, but passing the financial burdens relation to such transactions onto future generations of New Jersey taxpayers.

45. The existence of a financial crisis in New Jersey that has been created in substantial part by such unchecked creation of long-term debt by so-called independent authorities is so well established that it meets the criteria for judicial notice.

46. This undisciplined and unchecked spending has adversely affected the credit worthiness and credit rating of New Jersey to the detriment of its taxpayers.

47. Provisions such as those utilized by the JMC and the NJEDA in their lease/lease-back agreement, e.g., “subject to legislative appropriations” and “default” and “acceleration” resulting from non-payment of rent not being triggered by a “non-appropriation”, are hollow labels for the Executive Branch’s deceptive funding devices, which fail to account for the real world economics underlying government spending.

48. In fact, such funding devices used by the Executive Branch and its agencies place the Legislature under duress to annually appropriate the funds to secure the long-term debt incurred pursuant to such transactions, whether the repayment is called rent or otherwise.

49. Such funding devices, as the lease/lease-back agreement employed by the Executive Branch in the present case, conflicts with the obligations of the Legislature under the Debt Limitation and Appropriations Clauses of the New Jersey Constitution.

50. The sublease between the JMC and the NJEDA at Section 7.2(d) provides that notwithstanding the fact an event of non-appropriation under the agreement does not constitute a default, "... the agreement will not terminate and the JMC will remain obligated to pay such Rentals, all future Rentals, and all other amounts required to be paid under this agreement, from appropriations to the project." Consequently, the lease/lease-back agreement, wherein the JMC leases the Project to the NJEDA for \$1.00, and the NJEDA leases the Project back to the JMC in return for the payment of "rent" in the amount of the annual debt service for as long as the NJEDA must repay the bonds will, in reality, assuredly compel future legislatures to annually appropriate the funds needed to pay the debt service in order to prevent the creditworthiness and credit rating of the State from collapsing.

51. The form of the instrument utilized for such transactions is not determinative as to whether it is lease or a contract of purchase, or whether it will violate the Debt Limitation Clause of the New Jersey Constitution, particularly when the improvements are being made to are a structure that is erected on State owned land and leased to a State agency for a nominal amount. In such case, the aggregate amount of future rent should be considered an immediate debt or liability of the State, since the State is essentially selling the Project to itself in order to generate revenues to pay off the bonds. In this case, the revenues used for the NJEDA to pay off the bonds will be derived solely

from the “rent” from the JMC, which means that payments for the bonds will be indirectly paid from the State Treasury. The rentals will not come from sources other than legislative appropriations.

52. For these reasons, the JMC/NJEDA transactions should be considered installment contracts as opposed to true lease agreements. Because of the risk to the creditworthiness of the State will ultimately fall on the shoulders of the taxpayers, the aggregate amount of future payments should be considered an immediate debt or liability of the State that will assuredly compel the future legislatures to annually appropriate the “rent” payments in order to prevent the State’s creditworthiness from collapsing.

53. Because the NJEDA does not have a special fund or a separate revenue source for the repayment of the contemplated bonds, but must rely upon a pledge by the State to repay the debt, the NJEDA actually serves no governmental function other than as a conduit to issue the bonds for the State itself, thus becoming a shield to insulate the State from being labeled a debtor.

54. Here where the issuance of the debt is not supported by an adequate independent revenue source and must be amortized exclusively by annual legislative appropriations, the transactional scheme violates the Debt Limitation Clause notwithstanding the provision stating that the State has no legal liability for the repayment of the debt. The Executive Branch is effectively committing future legislators to authorize appropriations for repayment of the debt without voter approval notwithstanding the limiting language as to the State’s legal liability in the leasing instruments. The transaction effectively places future legislatures under duress to annually appropriate funds to pay the debt service since the failure to appropriate the funds will dramatically affect the State’s credit rating to the detriment of taxpayers.

55. The Debt Limitation Clause under Article III, § II, Para. 3 of the New Jersey Constitution provides that: “[t]he Legislature shall not, in any manner, create in any fiscal year a

debt or debts, liability or liabilities of State, which together with any previous debts or liabilities shall exceed at any time 1% of the total amount appropriated by the general appropriate law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein.”

56. In view of the debt service which will cause the project to be as much as \$750,000,000, it is likely that the Project will exceed the 1% limit.

57. In 2008, the Debt Limitation Clause was amended by the “Lance Amendment”, which provides that “... the Legislature shall not enact any law that, in any manner, creates or authorizes the debt or liability of an autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, which debt or liability has a pledge of an annual appropriation as the ways and means to pay the interest of such debt or liability as it falls due and pay and discharge the principal of such debt...” without voter approval by the people. N.J. Const., Art. VIII, Sec. II, Para. 3.

58. While the Debt Limitation Clause, as amended by the Lance Amendment, provides that “voter approval is not required if the payment and discharge of the principle of the debt or liability shall be subject to appropriations of an independent non-State source of revenue paid by third parties for the use of the single object or work thereof, or from a source of State revenue otherwise required to be appropriated pursuant to another provision of the Constitution,” there is no independent non-State source or other provision in the New Jersey Constitution requiring the appropriations for the Project.

59. For such reasons, the Resolutions of the JMC and NJEDA authorizing the sale of bonds and the entry into the leasing agreement violate the Debt Limitation Clause of the New Jersey Constitution.

WHEREFORE, plaintiffs request the following legal and equitable relief:

A. A Declaration of Judgment that the Resolutions of the JMC and NJEDA, and the agreement by the DPMC to provide assistance to the JMC for the expanded Project, without prior legislative approval, violates the Debt Limitation Clause and the rights of the plaintiffs;

B. A Declaratory Judgment that the Resolutions of the JMC and the NJEDA are *ultra vires*; and the Resolutions of the JMC and NJEDA approving the Project and authorizing the sale of bonds by the NJEDA to fund the cost of the Project, are void *ab initio*.

C. An injunction barring the sale of bonds by NJEDA and enjoining the commencement or continuation of construction by the JMC, with the assistance of the DPMC, of the expanded Project; and

D. Such other legal and equitable relief as the Court deems just and proper.

THIRD COUNT
(Appropriations Clause)

60. Plaintiffs repeat each and every one of the previous paragraphs of this Complaint as if the same were set forth herein at length.

61. Under the Appropriations Clause, N.J. Const., Art. VIII, § 2, Para. 2, the power and authority to appropriate funds is vested in the New Jersey Legislature.

62. The Appropriations Clause contains three requirements: (1) all withdrawals of money from the State Treasury must be accomplished through legislative appropriation; (2) the Legislature must provide for that appropriation in one general appropriation law covering one and the same fiscal year; and (3) the budget created by the appropriations law must be balanced, *i.e.*, the State cannot adopt an annual budget in which expenditures exceed revenues.

63. The Debt Limitation Clause and the Appropriations Clause are to be read together. The two provisions play a coordinate role. In tandem, the two constitutional provisions prevent the

creation of a debt or liability, in any manner in excess of a certain amount that binds the State to appropriate funds in future years.

64. While ordinarily a debt or liability subject to an appropriation through the annual appropriations process violates neither constitutional provision, in this case where the entities in the Executive Branch have no independent means of repaying a bonded liability and have effectively placed the Legislature under duress to enact annual appropriations to pay off the debt service, the actions of the Executive Branch agencies violate both the Debt Limitation Clause and the Appropriations Clause.

WHEREFORE, plaintiffs request the following legal and equitable relief:

A. A Declaratory Judgment that the Resolutions of the JMC and NJEDA, and the agreement by the DPMC to provide assistance to the JMC, for the expanded project without prior legislative approval violates the Appropriations Clause and the rights of the plaintiffs;

B. A Declaratory Judgment that the Resolutions of the JMC and the NJEDA are *ultra vires*; and the Resolutions of the JMC and NJEDA approving the Project and authorizing the sale of bonds by the NJEDA to fund the cost of the Project, are void *ab initio*.

C. An injunction barring the sale of bonds by NJEDA and enjoining the commencement or continuation of construction by the JMC, with the assistance of the DPMC, of the expanded Project; and

D. Such other legal and equitable relief as the Court deems just and proper.

FOURTH COUNT
(Due Process)

65. Plaintiffs repeat each and every one of the previous paragraphs of this Complaint as if the same were set forth herein at length.

66. If the NJBA had determined to expand the scope of the legislatively approved project to a full renovation of the State Capitol complex, instead of the JMC, the NJBA would have been required to conduct a public hearing pursuant to the New Jersey Building Authority Act, N.J.S.A. 52:18A-78.1 et seq.

67. In such case, the plaintiffs, as New Jersey taxpayers and State Senators, would have had a legal right to testify before the NJBA or to provide written submissions regarding the fiscal consequences of the expanded project as part of the record of such a hearing.

68. The right to testify or provide written submissions at a public regarding the project is granted to the plaintiffs and all New Jersey taxpayers by the Due Process Clause in the Fourteenth Amendment of the United States Constitution and Article I, para. 1 of the New Jersey Constitution.

69. Neither in JMC nor the NJEDA conducted a public hearing before approving the leasing agreement for the enhanced Project and the means of financing therefor.

70. By causing the transfer of the project from NJBA to the JMC and the NJEDA, which do not have a public hearing requirement in their enabling statutes, the Executive Branch deprived the plaintiffs, as well as New Jersey taxpayers in general, of their rights to procedural due process to appear and give testimony at a public hearing or provide written submissions on the fiscal consequences of the enhanced Project.

71. The plaintiffs have been deprived of their right to procedural due process of law by the actions of the JMC and NJEDA to approve the leasing agreement and the construction and financing of the enhanced Project without conducting a public hearing and providing adequate notice thereof to the general public.

WHEREFORE, plaintiffs request the following legal and equitable relief:

A. A Declaratory Judgment that the Resolutions of the JMC and NJEDA, and the agreement by the DPMC to provide assistance to the JMC, for the expanded Project, without prior legislative approval without conducting a public hearing and providing adequate notice thereof, violates the rights of the plaintiffs to due process of law;

B. A Declaratory Judgment that the Resolutions of the JMC and the NJEDA are *ultra vires*; and the Resolutions of the JMC and NJEDA approving the Project and authorizing the sale of bonds by the NJEDA to fund the cost of the Project, are void *ab initio*.

C. An injunction barring the sale of bonds by the NJEDA and enjoining the commencement or continuation of construction by the JMC, with the assistance of the DPMC, of the expanded Project; and

D. Such other legal and equitable relief as the Court deems just and proper.

Raymond J. Lesniak, pro se

Christopher (Kip) Batement, pro se

Michael J. Doherty, pro se

Dated: May 15, 2017

CERTIFICATION REQUIRED BY R. 1:38-7(c)

We certify that confidential personal identifiers have been redacted from the documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

Raymond J. Lesniak, pro se

Christopher (Kip) Batement, pro se

Michael J. Doherty, pro se

Dated: May 15, 2017

CERTIFICATION PURSUANT TO R. 4:5-1

It is hereby certified that to the best of plaintiffs' knowledge, the matter in controversy is not the subject of any other pending or anticipated litigation in the court or arbitration proceeding, and that there are no other parties whom the plaintiffs believe should be joined in this action.

Raymond J. Lesniak, pro se

Christopher (Kip) Batement, pro se

Michael J. Doherty, pro se

Dated: May 15, 2017