

LOCAL FINANCE NOTICECHRISTINE TODD WHITMAN
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DIRECTOR**Mandate Relief Law of 2000
Provisions Of Chapter 126 of P.L. 2000**

Governor Whitman signed a new Mandate Relief bill (S-519/A-1183) into law on September 21, 2000, as P.L. 2000, c. 126. The law, the third multi-purpose mandate relief act, is a continuation of the efforts of the Legislature to reduce costs and administrative burdens of a variety of State requirements on local units. The Act took effect immediately upon the Governor signing the bill.

This Local Finance Notice summarizes the changes made in the law by subject and includes an abridged version of the law with the changes. While the summary represents the action taken in the law, consult with your legal counsel before taking any local action or making changes in practices. In a number of cases the changes require the adoption of formal rules before the change will become effective. These changes are specifically noted. The section number of the law is shown after each title.

For convenience we have broken the law into various categories. They include:

1. Budget and Financial Administration
2. Shared Services
3. Hours of Operation
4. For Counties Only
5. General and Miscellaneous Laws

Copies of this Notice are being sent to Municipal Clerks, Freeholder Board Clerks, Chief Financial Officers, Authority Executive Directors, Fire District Commissioners, and all local unit auditors. Clerks are asked to share this Notice with their Mayor and Governing Body, Chief Administrative Officer, and any other officials that may have interest in its various provisions.

Budget and Financial Administration

Registration and inspection fees for filling of air cylinders for respiratory equipment (6): This amendment exempts fire companies, first aid or rescue squads, whether paid, part-paid, or volunteer, from any fees charged by the Department of Labor or the Department of Health and Senior Services for registration or inspection with regard to the filling of air cylinders for respiratory equipment used by them.

Approval of municipal solid waste collection district's budget (13): This change eliminates the requirement that the Local Finance Board approve municipal solid waste collection district budgets. Instead, beginning in CY 2001, district budgets will be part of the municipal budget.

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Summary of bond ordinance (14 and 15): This section extends the same summary publication options to bond ordinances, both prior to the public hearing and after adoption, that exist for other ordinances. The summary form will include the purpose of the ordinance, amount of indebtedness authorized, time and place of the public hearing and time and place to obtain a copy. The Division will provide the form to be used for the summary. **This amendment will not take effect** until the Division adopts rules. The Division will consult with bond counsels on the content for the form, and will not approve any locally developed forms during the interim period.

Mandatory Change to State Fiscal Year Budgeting (16): This section eliminates the previous mandatory requirement that any municipality that reaches 35,000 in population has to change to a State fiscal year budget. It also makes conversion to the State fiscal year optional.

Anticipation of miscellaneous revenue (17): This section changes the procedure for permitting the sale of property to be anticipated in a municipal or county budget (N.J.S.A. 40A:4-27). The change permits the contract for sale to be executed by the time the budget is adopted. Previously, the contract had to be executed prior to introduction of the budget.

Reserve of uncollected taxes (18): This change permits the Director to promulgate rules and regulations to permit the use of a three-year average to determine the amount of reserve for uncollected taxes that must be included as part of a local budget. While rules are authorized under the law, they are not anticipated at this time.

Claimant's certification and declaration exception (21): N.J.S.A. 40A:5-16 is amended to authorize circumstances that will allow a local unit to pay a claim without written or electronic certification of the claimant/vendor. Such transactions would be authorized only after the adoption of rules by the Local Finance Board, and would be limited to certain types of circumstances. The important implication of this change is that it will ultimately permit the use of procurement cards by local units (similar to, but more restrictive than credit cards) and permit use of payment transactions over the Internet. The adoption of these rules will be pending research and possible pilot testing of the program before it is finally adopted for all local units. Until then, the prohibition on the use of bank and travel and entertainment credit cards is still in effect.

Insurance funds (24): This change (N.J.S.A. 40A:10-6) provides the statutory authorization that permits local government units to establish insurance funds for the provision of contributory or non-contributory self-funded, or partially self-funded, health benefits for employees or their dependants. This provision also validates self-insurance funds operating prior to the effective date of this bill and authorizes the Director to adopt rules regulating these funds. Pending adoption of rules (sometime in 2001), existing funds can continue to operate without change.

Vehicle registration of solid waste collection and disposal vehicles (33): This section permits solid waste collection and disposal vehicles operated by a public entity to be registered for a period of five years. The registration fee is limited to no more than the one-year registration fee in effect as of March 1, 1999. DEP has advised us that since renewals have already been paid for 2000, this will have practical impact next year. DEP will develop a process to address this for next year's renewal cycle.

Third-party disbursement services (38): This new section of law is intended to provide a permanent resolution to the practice of permitting payroll services to make payments on behalf of local units and boards of education. Under the provision, the Local Finance Board, in consultation with the Commissioner of Education, may adopt rules and regulations permitting local government units and boards of education to contract with third-party disbursement service organizations in order to make payments and execute financial transactions for those purposes under such conditions as permitted by the Local Finance Board. These rules are expected to be

in place by the beginning of next year. Where there are existing practices, local officials are expected to continue exercising prudence and sound internal controls until the rules are adopted.

PERS to PFRS transfer (42): This section provides relief for any municipality that failed to print on the ballot the amount of the cost increase for the proposed PERS to PFRS transfer for police officers. Those municipalities may apply to the Director for permission to include the 1997 budget year amount of the pension appropriation, representing the increase due to the switch, as an increase in the cap base upon which final appropriations are based. The Division is aware of only one municipality affected by this provision.

Photocopying fees for "New Residential Construction Off-site Conditions" (26): N.J.S.A. 46:3C-7 now permits a municipality making available the lists required under the *"New Residential Construction Off-site Conditions Disclosure Act"* to charge copying fees in the same manner as for other public records pursuant to N.J.S.A. 47:1A-2. This amendment is intended to promote uniformity of municipal charges for all types of reproduced documents.

2. Shared Services

Definition of local unit as it applies to the Interlocal Services Act (7): This provision adds authorities subject to the "Local Authorities Fiscal Control Law" to the definition of local units as it relates to the Interlocal Service Act.

Interlocal Service agreements between local units and authorities (7 and 8): By defining authorities and fire districts as a local unit under the Interlocal Services Act, this change permits them to enter into contracts for the joint provision of services that are "incidental to the primary purposes" of the authority. The effect of this section would allow, for example, a municipality to contract with a local authority for snow removal services if the authority has a truck equipped with a plow. In order to do this, the municipality or county that created the authority must amend its enabling ordinance to authorize the work. The ordinance does not have to be filed with the Local Finance Board.

Tenure rights of certified professionals under the Interlocal Services Act (9): In this change, N.J.S.A. 40:8A-5 is amended to provide that employment contracts for joint services of an employee or officer, who is required to comply with a state certification program, to designate one of the local units as the primary employer for the purpose of tenure rights. This means that such an official shall not accrue tenure in the local unit that contracts for the service. This provision is intended to encourage the use of shared services of professionals.

Interlocal Services – Cap Law Exemption (19 and 20): The cap law for municipalities and counties now include formal exceptions for Interlocal Service agreements. N.J.S.A. 40A:4-45.3 and 40A:4-45.4 are amended to include as an exception to the limits of the "cap" law, the amounts expended by a municipality or a county under an interlocal service agreement entered into or under a joint contract pursuant to the "Consolidated Municipal Service Act". While this has previously been permitted by an interpretation of the Local Finance Board, the law expands the process by permitting the difference between the cost of the service under the Interlocal Service Agreement and the cost of providing the service themselves to be added to the cap base. The Division will be developing a certification form to be used for requests for this exemption. It will affect Interlocal Service Agreement costs that take affect after September 21, 2000.

3. Hours of Operation

Several sections of the law address the role of governing bodies in setting the hours of several officials who are subject to State law. In all cases, hours must be commensurate with the compensation paid to the officials. The specific changes are:

Tax Collector's Office (22): N.J.S.A. 40A:9-141 changes the existing procedure for setting the Tax Collector's office hours from an ordinance to a resolution.

Tax Assessor's Office (23): Tax Assessors are now subject to the same process of setting hours as Tax Collectors. N.J.S.A. 40A:9-146 has clarified that an appointing authority, by resolution or order, may set the total number of weekly hours of operation of the Tax Assessor's office and the total weekly number of work hours of the Tax Assessor. Excluded from the governing body's control is the ability to set the actual work hours of the tax assessor.

Construction Official's Office (29): Section 29 amends N.J.S.A. 52:27D-126 to permit the appointing authority of a municipality, by resolution or order, to set the hours of operation of the Construction Official's office and the Construction Official. Like Assessors, excluded from control of the governing body are the specific work hours of the Construction Official.

4. For Counties Only

Collection of delinquent County fines (37): This change permits County Freeholder Boards to enter into a contract with a private agency or firm to collect any delinquent fees or fines owed to the county.

Implementation of a County early retirement incentive program (44): Existing law permits limited use of early retirement incentives when entering into new shared service agreements. Counties, because of the regional nature of their services, have limited opportunities to exercise this option. This change permits counties to adopt and implement an early retirement incentive program that will result in a reduction of employees. Similar to the early retirement incentive programs for shared services, approval from the Director of the Division is required.

Freeholder Vacancy (10 and 11): N.J.S.A. 40:20-35.11a and 40:41A-145.1 are amended to provide that if at any time after the election of a member of a county board of chosen freeholders, and the commencement of the term of office of that person, the freeholder-elect dies or is unable to assume office, the county committee of the political party of which the deceased freeholder-elect was the nominee shall appoint another person to fill the position until the next general election. If the deceased freeholder-elect was not the nominee of a political party, on or within 30 days after the time fixed for the commencement of the term of office, the board of freeholders, without regard to party, shall appoint a successor to fill the position until the next general election.

Health Coverage to County Employees (25): N.J.S.A. 40A:10-17.1 brings to county government an authority previously granted to municipalities; the authority to permit a county employee who receives health benefits as the dependent of his or her spouse, to waive health coverage under the county plan. At the discretion of the county, these individuals may receive annually a payment from the county that does not exceed 50% of the county's savings because of the employee's waiver of coverage. Municipal employees received this right to waive coverage as a result of the enactment of P.L.1995, c.259.

5. General and Miscellaneous Laws

Appointment to the Board of Health (3-5): R.S.26:3-3, 26:3-9 and 26:3-10 are amended to permit the governing body of a municipality, with the consent of the prospective appointee, to appoint a school nurse or the municipal physician to the local Board of Health, regardless of residency.

Pesticide applicator or pesticide operator certification, licensing, or record keeping (34): This section eliminates the provisions for any licensed health or sanitary inspector who applies a pesticide that is not classified for restricted use, on property or premises to determine insect infestation from the requirements of the pesticide applicator or pesticide operator certification, licensing or record keeping pursuant to the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.)

Sale of land to adjoining land owners (26): This section permits a local unit to sell very small parcels of land not needed for a public purpose to contiguous owners without public bidding. The parcel of land cannot be larger than one-eighth (1/8) of the minimum size required for development under the municipal zoning ordinance and without any capital improvements. Such sales would be facilitated by permitting the fair market value of the parcel to be determined by negotiation between the local unit and the owner of the contiguous real property. The negotiated sum would be subject to approval by resolution of the governing body, but in no case could that sum be less than one dollar. This is intended to enable local units to return to the tax rolls small pieces of property that are not being used for a public purpose.

Central registry of all real property (27): N.J.S.A. 40A:12-22 is amended to make the current statutory requirement that a municipality must establish and maintain a central registry of all real property acquired by it for purposes other than streets or highways optional.

Department of Environmental Protection permits (35): This section eliminates the requirement that a county or municipality performing restoration work on any manmade drainage ditch located within their jurisdiction must obtain a Department of Environmental Protection permit. However, the restoration activity cannot deviate in any manner from the original cross sectional area and location.

“SNAP” Reports (40): This change provides that the State Narcotics Action Plan reports, (“SNAP” reports) be made on a quarterly basis. The Department of Law and Public Safety shall develop and supply to all participating police departments a standard computer software program, which shall include all of the necessary parameters for reporting, so that computers may generate the SNAP reports.

Police paperwork reduction task force (43): This provision establishes a nine member Police Paperwork Reduction Task Force to study and recommend steps for reducing State requirements for information collection, reporting and retention by local police forces. The task force will include representatives of the Attorney General's office, the Division of State Police, local law enforcement agencies and municipal court administrators. The task force is charged with reviewing information requirements imposed by the State on local police and recommending ways in which these requirements may be reduced or streamlined. The task force is required to report its findings and recommendations to the Governor and the Legislature within six months and will dissolve on the 60th day after submission of its report.

Purchase of privately owned residential property (30 and 41): These two sections provide authorization for a municipality to purchase privately owned real property, which is used for residential purposes, as part of the municipality's housing element under the "Fair Housing Act." Section 31 permits purchase at the value of all liens secured by the property, excluding any tax liens, even though the property may have a fair market value less than the mortgage amounts owed. Section 41 permits purchase for the balance owed on any mortgages to


which the property is subject, even though the property may have a fair market value less than the mortgage amounts owed. Purchases are subject to rules to be adopted by Department of Community Affairs within six months of the effective date of the law.

Annual organization and reorganization meeting (12): N.J.S.A. 40:45A-1 has been amended to provide that the governing body of a municipality in which any of the members are elected for terms beginning on January 1 may by resolution fix the date and time of its annual organization or reorganization meeting. Current law requires this procedure to be done by ordinance.

Tenant's Property Tax Rebate Act (31): This change amends the definition of "qualified real rental property" in the "Tenant's Property Tax Rebate Act" to mean any building or structure or complex of buildings or structures in which five or more housing units are rented or leased. This amendment corrected an inconsistency between the intent of P.L.1998, c.15 and existing law.

Threshold for Tort Claims (32): N.J.S.A. 59:9-2 was amended to increase the lawsuit threshold for the Tort Claims Act from the current limit of \$1,000 to \$3,600. This amendment is being made to accurately reflect its current value, which has remained unchanged since the law's inception in 1972.

Use of GovConnect by government affiliated organizations (39): This section will permit nonprofit corporations whose purposes support the administration of, or personnel engaged in, government or educational services, to use the planned GovConnect system to communicate with its members (assuming they are part of GovConnect). The network can be used for the conduct of government or organizational activities, for communication with the members of such not-for-profit organizations in the conduct of such activities. However, the networks cannot be used to directly lobby State officials with regard to legislation, or by organizations that represent employees for the purpose of conducting collective negotiations with public employers. Use of the system is subject to rules adopted by the Department of Community Affairs.



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Distribution: Municipal Clerks, Clerks to the County Board of Freeholders, Authority Executive Directors, Fire District Boards of Commissioners, and all local unit auditors.