



**LFN 2016-14**

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# Local Finance Notice

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## 2017 Fire District Budget Submission

Fire District budget documents for calendar year 2017 are now available on the [Division of Local Government Services website](#). Users can view and download the following items:

- Fire Budget Excel Workbook (financial pages and informational schedules)
- Fire Budget Package Word Document (certifications, resolutions, informational questionnaires)
- 2017 Fire Budget Instructions
- 2017 Fire District Budget Calendar

The Fire Budget Package is comprised of a Word Document and Excel Workbook and includes all related forms and numbered pages that make up the complete budget document. Please be sure to download both files. All pages and schedules are numbered and must be assembled in the order detailed in the 2017 Fire Budget Instructions available on the Division's website.

Each fire district is required to submit its budget on the forms provided by the Division. **Any fire district that submits a budget for calendar year 2017 on an outdated form will be required to re-submit the budget on the correct form. Fire district budgets for calendar year 2017 will NOT be approved by the Division if they are prepared on an outdated form.**

### GovConnect

The Division requires all fire districts to have at least one official enrolled in the internet-based GovConnect network (through the State's "My New Jersey" portal) to receive Division and other state government information via e-mail on a timely basis. District leadership should make sure an appropriate individual is enrolled. District leadership can contact the GovConnect Help Desk at [egg@dca.state.nj.us](mailto:egg@dca.state.nj.us) to register for GovConnect if not already registered.

### Distribution

**Fire District Officials  
Auditors**

### Internet Website/Webpage

Effective February 1, 2013, N.J.S.A. 40A:14-70.2 requires all fire districts to maintain an internet website or a webpage on their municipality's website that contains certain information as described in the statute. Please review the statute to determine that all required content is displayed on the fire district's website or webpage. An authorized officer of the fire district must certify on the budget form that the fire district's website or webpage complies with the minimum statutory requirements of N.J.S.A. 40A:14-70.2. **No fire district budget will be approved unless its website is fully compliant with N.J.S.A. 40A:14-70.2.**

### Budget Information

Standardized budget forms provide an efficient and successful budget process. The presentation ensures that the ensuing year's proposed operations are fully disclosed. It is imperative that each fire district prepare its fiscal year budget pursuant to N.J.A.C. 5:31-2.4. All preparers should make a detailed review of the forms and instructions before attempting to complete them. In the Excel workbook, input is only permitted in yellow highlighted cells. The data entered into these cells will carry through to the remainder of the Excel workbook. The workbook is protected to prevent entry of data and manipulation of formulas aside from the yellow highlighted cells. **Do not attempt to enter any data into cells that are not highlighted, attempt to change any formulas in the workbook, or attempt to override the protection in the workbook. This will interfere with the function of the workbook and will result in an incomplete and/or incorrectly prepared budget.**

The budget submission date is established pursuant to statute and has been codified in N.J.A.C. 5:31-2.4 requiring each fire district to transmit two certified copies of the introduced annual budget to the Director of the Division of Local Government Services at least sixty (60) days prior to the annual election to be held on February 18, 2017. **Due to the high volume of fire district budgets, the Division strongly recommends that fire districts submit their introduced budgets as early as possible rather than waiting until the statutory due date.**

No fire district budget shall be finally adopted until the Director approves same. The budget shall be adopted no later than twenty-five (25) days prior to the annual election to be held on February 18, 2017. Two certified copies of the budget as adopted, including Pages C-7 and C-8, must be transmitted to the Director within seven (7) days after adoption. In addition, each fire district must submit a pdf copy of the complete adopted budget package to [authoritiesunit@dca.nj.gov](mailto:authoritiesunit@dca.nj.gov) with the name of the authority in the subject line.

### Property Tax Levy Cap Summary

The passage of P.L. 2010, c. 44 made substantial amendments to the original levy cap law that took effect in 2008. There are several items of note that require fire district attention:

1. The levy cap was decreased from an annual increase of four percent to two percent and the allowable exclusions modified (see below).

2. The authority to request levy cap waivers from the Local Finance Board was eliminated. Local cap referendums are the only method for exceeding the cap beyond the formula.
3. Creation of “Cap Banking” started with CY 2011:
  - a) “banks” the amount of the difference between the maximum allowable amount to be raised by taxation and the actual amount to be raised by taxation.
  - b) permits a district that has kept its budget under cap to add to its adjusted tax levy in any one of the three succeeding years
  - c) Levy cap bank certifications are available for the Districts to download from the Document Library section of the GovConnect Portal
4. The public referendum question to increase the amount to be raised by taxation by more than the allowable adjusted tax levy requires an affirmative vote in excess of 50% of those voting on the question at the election.
5. Capital appropriations (Page F-5) require a “Special Meeting” in 2016 to be eligible for appropriation in the calendar year 2017 Proposed Budget. If these capital appropriations are being financed there must be a referendum vote in the form of a “Special Election” or a question on the “General Election” ballot, along with approval by the Local Finance Board. A “Special Election” shall be held in the same manner as the “General Election.

Forms are available on the Division’s website to certify the results of any “Special Meeting” as well as a form to certify the results of any elections.

More detailed information about the levy cap is included as Appendices to this Notice. Appendix A includes details of the cap calculation formula and levy cap referendum procedures; Appendix B includes tables detailing levy cap exclusions; and Appendix C is a copy of the budget law.

### **Property Tax Levy Cap Exclusions**

The following items are exclusions from the levy cap pursuant to N.J.S.A. 40A:4-45.45(b):

- a. Increases in appropriations for capital improvements are exclusions from the levy cap, regardless of how they are funded. This includes year-to-year increases in debt service, capital leases, down payments, and Reserve for Future Capital Outlay. The amount of the increase is a permanent exclusion.
- b. Increases in pension contributions and accrued liability for pension contributions in excess of 2%.
- c. Increases in health care costs in excess of 2% of the prior year cost, but not in excess of the average percentage increase of the State Health Benefits Program (SHBP) as annually determined by the Division of Pension and Benefits. For 2017, the SHBP increase percent is 2.4%.
- d. Extraordinary costs incurred by a local unit directly related to an emergency declared by the Governor.

### **Other Budget Related Requirements**

1. *Budget at Introduction:* The introduced budget must be “cap compliant” and balanced upon introduction. This means that the budget must be at or under the levy cap and properly reflect any proposed levy cap referendum. All required budget documentation must be consistent with the introduced budget.
2. *Levy Cap Referendums:* The budget message on Page N-1 must indicate if the district plans to include a levy cap increase question as part of its budget referendum. An introduced budget requiring referendum questions must include separate line item appropriations that will be funded by the tax levy increase proposed by the referendum.

**Transfers to or from referendum line item appropriations are not permitted at any time.** This means that referendum line items are only expended after the base line item amount is depleted. In addition, referendum funds that are unexpended at the end of the fiscal year must be cancelled at year end, unless reserves are justified to the Division. The Division will order the cancellations if balances are found during review of the following year’s budget, and the levy cap will be adjusted accordingly.

*Treatment of Unexpended Appropriations:* Any cancelled or unexpended appropriations for exclusions or referendums will be deducted from the adjusted levy based on the audit report or as noted in the budget message.

3. *Grants:* When grants have been awarded prior to budget introduction, include the anticipated grant revenue in the budget along with the corresponding grant appropriation. Grants awarded subsequent to budget introduction will be processed as a budget amendment either at the public hearing or at any time after final adoption as allowed by N.J.S.A. 40A:14-78.5(e).
4. *Capital Appropriations:* Capital appropriations (Page F-5) require a “Special Meeting” in 2016 to be eligible for appropriation in the calendar year 2017 Proposed Budget. If these capital appropriations are being financed there must be a referendum vote in the form of a “Special Election” or a question on the “General Election” ballot, along with approval by the Local Finance Board. A “Special Election” shall be held in the same manner as the “General Election. Forms are available on our web page to certify the results of any “Special Meeting” as well as a form to certify the results of any elections.

Capital appropriations listed on Page F-5 require

The date of the voter election

The percentage of affirmative votes for the capital items

The date of Local Finance Board approval (if financing is necessary)

Restricted, unrestricted and/or grant revenue utilized for capital purposes will be considered in the calculation of the Levy Cap. The District must include in the budget message if they plan to use unrestricted or grant revenue to purchase capital items.

5. *Increase in Certain Shared Services Cost - Levy Cap Exclusions:* The Division has determined that recipients of shared services may exclude from their levy cap calculation increases passed on by the provider for the general exclusions described above. In these cases, the provider must certify to their recipients the specific increases in service charges in their budget, the amount passed along to their recipients who must budget the increases. Certifications of shared service exclusions will be part of the recipient’s budget submission and reflected on Page F-11. The use of this exception is optional; providers and recipients are not obligated to account for the exceptions if they choose not to do so.

6. *Service Transfers:* A service transfer occurs when one local unit transfers the responsibility and the cost of funding a service to another local unit or to a subordinate agency of the local unit, such as a utility or authority. In these cases, the transferring local unit no longer has the responsibility of funding the cost of the service.

In these cases, there will be a levy cap base adjustment for both government entities, pro-rated as necessary for the period of time the transfer is in effect. For the transferring local unit, the adjustment will be based on the prior year's expenditure less offsetting revenues. For the providing local unit, the adjustment will be the current year appropriation, less offsetting revenues the provider will receive. Shared services are not considered transferred services and will not result in levy cap base adjustments.

Service transfers and the impact on the levy cap must also be described in the local unit's budget message.

7. *Release of Restricted Fund Balance Referendum Resolution:* Restricted Fund Balance is the accumulation of funds that are reserved for use as capital improvements or as down payments for fixed asset acquisition. The amount is shown on Page F-9. Restricted Fund Balance shall be used exclusively for its intended purpose.

For certain unique circumstances, a Fire District could have a Restricted Reserve where the intended purpose is no longer essential. If so, a District that previously appropriated funds for restricted purposes, but now finds it advisable and necessary to release these funds for other unrestricted purposes may choose to release those funds from restriction. In that event, a public referendum is required.

This referendum question will ask the voters to approve the release of Restricted Fund Balance as General Unrestricted Revenue and will further request that those funds be appropriated in the proposed budget as a way to provide and maintain essential services for the District. The District must identify the appropriations for which this amount will be used. The vote will take place in the same manner as a Levy Cap Referendum (see Appendix A for guidelines).

8. *Election Results:* Election Results, along with a copy of the ballot, are submitted to the Director within 5 days after the annual election in February. Failure to submit the election results and sample ballot will delay the certification of the tax levy to the municipal assessor. **When a discrepancy exists between the levy in the adopted budget and the levy approved by the voters on the ballot, the Division will certify the lesser amount.**
9. *Audit Report:* The December 31, 2015 audit report was due to the Division by May 5, 2016. A group affidavit accepting the audit was required at the first regular scheduled meeting after the audit was received and a synopsis of the audit was to be published thereafter. In addition, if the audit report includes findings, a corrective action plan was required to be submitted to the Division within 45 days after receipt of the audit. Please verify that all of these documents related to the audit were filed with the Division before submitting the 2017 Proposed Budget to the Division. Budgets cannot be examined and approved without these documents. Please also see [Local Finance Notice 2014-13](#) regarding annual audit requirements for fire districts.
10. *Fire District Budget Amendments:* [N.J.S.A. 40A:14-78.5](#) establishes a process for fire districts, similar to that of municipalities and counties, to seek Director approval to insert special items of revenue into their budgets after the budget is adopted. While the new revenue item may

have been made available by any private or public funding source, the amount of the corresponding appropriation cannot exceed the amount of revenue received. See [Local Finance Notice 2012-11](#) for a detailed explanation of this process.

If you have difficulty in downloading the material from the Division's website, contact the Division at (609) 633-6238. If you need assistance completing the forms, the Bureau of Authority Regulation is available to assist you and may be reached at (609) 633-6238 or by e-mail at [authoritiesunit@dca.nj.gov](mailto:authoritiesunit@dca.nj.gov).

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Approved: Timothy J. Cunningham, Director

<b>Document</b>	<b>Internet Address</b>
Fire District Budget Forms	<a href="http://www.nj.gov/dca/divisions/dlgs/programs/au_budgets.html">http://www.nj.gov/dca/divisions/dlgs/programs/au_budgets.html</a>
Local Finance Notice 2011-36	<a href="http://www.nj.gov/dca/divisions/dlgs/lfns/11/2011-36.doc">http://www.nj.gov/dca/divisions/dlgs/lfns/11/2011-36.doc</a>
Local Finance Notice 2012-11	<a href="http://www.nj.gov/dca/divisions/dlgs/lfns/12/2012-11.doc">http://www.nj.gov/dca/divisions/dlgs/lfns/12/2012-11.doc</a>
Local Finance Notice 2013-7	<a href="http://www.nj.gov/dca/divisions/dlgs/lfns/13/2013-7.pdf">http://www.nj.gov/dca/divisions/dlgs/lfns/13/2013-7.pdf</a>
Local Finance Notice 2014-13	<a href="http://www.nj.gov/dca/divisions/dlgs/lfns/14/2014-13.pdf">http://www.nj.gov/dca/divisions/dlgs/lfns/14/2014-13.pdf</a>

## APPENDIX A

### 1. Fire District Property Tax Levy Cap

#### Levy Cap Formula

The law (N.J.S.A. 40A:4-45.44 through 45.47) establishes a formula that limits increases to the amount to be raised by taxation (tax levy) in all local units that raise property taxes (municipal, county and fire districts).

The core of the formula is a two percent increase to the previous year's tax levy which is then subject to exceptions. The formula to calculate the levy cap is as follows:

#### Base Formula

- Starting with the prior year Fire District Tax Levy:
- **Deduct** any one-year exclusions:
- **Add/deduct** the net cost increase or decrease if service delivery is transferred from one government agency to another. Please consult with the Division for additional guidance if this provision will be used.
- **Add** two percent (2%) of the sum of the previous steps
- **Add** to it the district tax value of added assessments as certified by the Tax Assessor based on the October 1 added assessment tax billing. The Municipal Tax Assessor will prepare a certification based on the boundary of each fire district in a municipality. The Division of Taxation will provide Tax Assessors direction on preparing and submitted this form.
- **Add General Exclusions:** There are several general exclusions: increases in debt service and capital expenditures; weather and other "declared" emergencies; pension contributions in excess of two percent, and health benefit cost increases in excess of 2% but limited by the increase in State Health Benefit rate increases.

While some levy cap exclusions are treated as permanent add-ons, others will only be exclusions for the life of the specific appropriation. Appendix B following lists each exclusion, its explanation, and treatment.

### 2. Levy Cap Referendum Questions

#### General Information

A fire district may exceed the two percent property tax levy cap by a referendum question at the annual budget referendum asking the voters to approve an amount that will be added to the tax levy. The content of the referendum becomes an immediate addition to the district's property tax levy and is part of the base amount for the following year.

The levy cap referendum becomes part of the annual budget referendum and is subject to procedures set forth in the budget referendum law, N.J.S.A. 40A:14-72 & 78.5. Approval by more than 50% of the voters is required.

To place a property tax levy cap referendum on the budget:

1. The introduced and approved budget submitted to the Division of Local Government Services must include and identify the specific amounts and budget line items for which funds approved at referendum will be used.
2. A budget amendment may include items to be part of a referendum question.
3. The adopted budget contains all amounts to be put out for public vote.
4. At adoption, the Board of Commissioners must pass a resolution authorizing the referendum question. The resolution must be in the form of the model resolution included in this Notice.
5. The ballot must include the referendum question and explanatory statement in the form of the samples included in this Notice.

**Public Question (N.J.S.A. 40A:4-45.46(b))**

The public question for a cap levy referendum shall reference only the "Amount Proposed for Cap Levy Referendum that is part of the calculation of the Maximum Allowable Amount to be Raised by Taxation as shown on the Levy Cap Summary (Page F-10) that is part of the Fire District Budget package. The Public Question and Interpretative Statement to be placed on the ballot shall be as follows:

Public Question

"Shall the Board of Commissioners of *(name and number of fire district)* be authorized to adopt the *(insert year)* Fire District Budget, notwithstanding that its property tax levy will exceed the Property Tax Levy Cap Maximum Allowable Amount to be Raised by Taxation increase limitation by *(insert percent)* or *(insert dollar amount)* as provided by N.J.S.A. 40A:4-45.46b?

A "yes" vote will authorize the Board of Commissioners of the fire district to adopt the budget that was introduced and published. N.J.S.A. 40A:4-45.2 provides a property tax levy cap of two percent (2%) on the amount of increase. This amount can be exceeded when approved by referendum of the voters.

The following are those line items to which the increases apply:

*(List line items)*

...

If referendum is approved (a "yes" vote) by at least 50 percent of the voters casting a vote at the referendum, the budget will be deemed adopted.

A "no" vote means that the District Board of Commissioners must adopt the budget within the increase limits set forth by the law.



*(Insert here “any other such relevant information as the Board may wish to include” in the Statement.)”*

### **Conduct of Election**

The Director of the Division of Local Government Services has determined pursuant to N.J.S.A. 40A:45-47 that the polling places and election shall be handled as part of the annual fire district election pursuant to N.J.S.A. 40A:14-72 et seq.

### **Enabling Resolution**

The referendum must be authorized by Board of Commissioners resolution. The resolution must include the following elements:

- A declaration of the amount of the increase above the maximum allowable amount to be raised by taxation otherwise permitted and the percentage increase over the maximum allowable amount the amount represents.
- The appropriation line items and the amount to be appropriated for each appropriation item if the voters approve the question and if the voters disapprove the question
- The language of the ballot question
- The interpretative statement for the ballot question
- Any other information the Board of Commissioners chooses to include

If planned at the time of introduction, the resolution must be approved by a majority of the full membership of the Board of Commissioners prior to introduction of the budget. A certified copy of the resolution is to be filed with the Division as part of the introduced budget. If the budget is amended prior to adoption and a referendum created or amended, the resolution must be adopted or amended as appropriate and filed with the Division.

The Attorney General has provided the Division advice with regard to the amount to be appropriated in context of the amounts in the resolution if the voters disapprove the question. The advice concludes that the information set forth in good faith in a resolution is designed to more fully inform the voters as to the question before them and not to limit the discretion of the Board of Commissioners in finally formulating its budget if the referendum is rejected. This provides the Board of Commissioners the flexibility to amend the budget to meet current needs if the referendum is rejected.

Therefore the resolution must reflect a good faith effort on the part of the Board of Commissioners on its estimate of where the added spending will take place.

The model [resolution is on the Division's website.](#)

## APPENDIX B – 2010 LEVY CAP EXCLUSIONS

Statutory Exclusion	Application and Interpretation Notes
Capital expenditure increases	<ul style="list-style-type: none"> <li>• Improvements financed under Local Bond Law provisions meeting the definition in the law – non-operating expenses with useful life of more than 5 years</li> <li>• All appropriations in the capital improvement section of the budget, including, but not limited to:               <ul style="list-style-type: none"> <li>○ Capital leases, regardless of when entered into.</li> <li>○ Capital cash appropriation in budget but excluding any appropriations that are offset with grant revenues</li> <li>○ Deferred charges to future taxation unfunded (where an improvement is authorized and funding is provided from a budget appropriation in lieu of issuing debt service)</li> </ul> </li> <li>• Increases in capital expenditure costs that are part of a shared service agreement; pursuant to certifications by service provider.</li> <li>• Capital expenditure exclusions will be treated as permanent exclusions</li> </ul>
Debt service increases	<ul style="list-style-type: none"> <li>• All appropriations in the debt service section of the budget, including, but not limited to:               <ul style="list-style-type: none"> <li>○ General Obligation, full faith and credit debt</li> <li>○ Refunding bonds, regardless of purpose</li> <li>○ Bond Anticipation Notes</li> <li>○ Interest on Tax Anticipation Notes</li> </ul> </li> <li>• Local Budget Law protected notes (<u>N.J.S.A. 40A:4-75</u>)               <ul style="list-style-type: none"> <li>○ Emergency Notes as authorized under the Local Budget Law</li> <li>○ Special Emergency Notes</li> </ul> </li> <li>• Debt service emergencies and down-payment emergencies</li> <li>• Increases in debt service that is part of a shared service agreement; pursuant to certifications by service provider.</li> <li>• Increases in debt service are treated as permanent exclusions</li> </ul>

Statutory Exclusion	Application and Interpretation Notes
	<p>(no reduction of base when debt is reduced, i.e., claw-back).</p> <ul style="list-style-type: none"> <li>• Any amounts that may be required to be paid to an authority, pursuant to a service agreement entered into between the authority and the fire district, and that is necessary for the authority to meet its debt service obligations (See <a href="#">Local Finance Notice 2011-36</a> for further details).</li> <li>• Local Budget Law protected notes will only be excluded for the time the emergency is funded.</li> </ul>
Extraordinary costs relating to a declared emergency	<ul style="list-style-type: none"> <li>• <a href="#">N.J.A.C. 5:31-2.10</a> defines “extraordinary costs” as expenditures incurred for the immediate preparation, response, recovery, and restoration of public services due to extreme weather conditions or other catastrophic events that are the subject of a gubernatorial emergency declaration, and only for that portion of costs exceeding the cost of providing services under non-emergency conditions.</li> <li>• Such funds can be treated as one-time (non-permanent) property tax levy cap exclusions upon submission and review of certifications describing the expenditures to the Director of the Division of Local Government Services, and may be subject to adjustment to account for the receipt of any State or Federal reimbursements.</li> </ul>
Pensions and Health Benefits	<ul style="list-style-type: none"> <li>• All increases in PERS, PFRS, local system pension contributions, accrued liability, early retirement, prepayment of deferred pension obligations, and LOSAP appropriations over 2% are treated as permanent exclusions. Payments of deferred pension obligations are exclusions only for the life of the repayment; all other increases are permanent exclusions.</li> <li>• All increases in health insurance coverage over 2% and below the SHBP average increase are exclusions.</li> <li>• Increases in costs of health insurance <b>waivers</b> are not treated as exclusions. Beginning with FY 2011, costs related to health insurance waivers must be reflected as a separate line item in the budget.</li> <li>• Optionally, increases in pension and health benefits that are part of increased costs to a shared service agreement; pursuant to certifications by service provider.</li> </ul>

## APPENDIX C

### 2010 Local Unit Levy Cap Law

**P.L. 2007, Chapter 62, as amended by P.L. 2008, Chapter 6 and as amended by P.L.2010, Chapter 44 (S-29 R1), approved July 13, 2010**

*(Additions from P.L. 2010, c.44 are underlined; deletions not shown)*

#### **40A:4-45.44 Definitions relative to property tax levy cap concerning local units.**

For the purposes of sections 9 through 13 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.44 through 40A:4-45.47 and 40A:4-45.3e):

"Adjusted tax levy" means an amount not greater than the amount to be raised by taxation of the previous fiscal year, less any waivers from a prior fiscal year required to be deducted by the Local Finance Board pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46), that result multiplied by 1.02, to which the sum of exclusions defined in subsection b. of section 10 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.45) shall be added.

"Amount to be raised by taxation" means the property tax levy set in the annual budget of a local unit.

"Local unit" means a municipality, county, fire district, or solid waste collection district, but shall not include a municipality that had a municipal purposes tax rate of \$0.10 or less per \$100 for the previous tax year.

"New ratables" means the product of the taxable value of any new construction or improvements times the tax rate of a local unit for its previous tax year.

(cf: P.L. 2007, c.62, s.9)

#### **40A:4-45.45 Cap on calculation of adjusted tax levy by local unit; exclusions.**

10. a. (1) In the preparation of its budget the amount to be raised by taxation by a local unit shall not exceed, except as provided in paragraph (2) of this subsection, the sum of new ratables, the adjusted tax levy, and the total of waivers approved pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46); provided, however, that in the case of a county, the amount to be raised by

taxation shall not exceed the amount permitted by section 4 of P.L. 1976, c.68 (N.J.S.A. 40A:4-45.4).

(2) A local unit that has not been granted approval for a waiver pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46), may add to its adjusted tax levy in any one of the next three succeeding years, the amount of the difference between the maximum allowable amount to be raised by taxation or county purposes tax, as applicable, for the current local budget year pursuant to paragraph (1) of this subsection and the actual amount to be raised by taxation or county purposes tax, as applicable, for the current local budget year.

b. The following exclusions shall be added to the calculation of the adjusted tax levy:

increases in amounts required to be raised by taxation for capital expenditures, including debt service as defined by law;

increases in pension contributions and accrued liability for pension contributions in excess of 2.0%;

increases in health care costs equal to that portion of the actual increase in total health care costs for the budget year that is in excess of 2.0% of the total health care costs in the prior year, but is not in excess of the product of the total health care costs in the prior year and the average percentage increase of the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury; and

extraordinary costs incurred by a local unit directly related to a declared emergency, as defined by regulation promulgated by the Commissioner of the Department of Community Affairs, in consultation with the Commissioner of Education, as appropriate.

If there are no exclusions, then the amount of the difference shall reduce the adjusted tax levy by that amount. Any cancelled or unexpended appropriation for any exclusion pursuant to this subsection or waiver pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46), also shall be deducted from the sum of the exclusions listed in paragraphs (1) through (6) or directly reduce

(cf: P.L.2009, c.19, s.4)

**40A:4-45.45a Amounts raised to pay recycling tax treated as exclusion for calculation of adjusted tax levy.**

4. Notwithstanding the provisions of section 10 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.45) to the contrary, amounts required to be raised to pay the recycling tax imposed by section 4 of P.L. 2007, c.311 (N.J.S.A. 13:1E-96.5) shall be treated as an exclusion that shall be added to the calculation of the adjusted tax levy.

L.2008, c.6, s.4.

**40A:4-45.46 Public question submitted for approval to raise taxes above the limitation allowable.**

11 a. (Deleted by amendment, P.L.2009, c.44)

b. (1) The governing body of a local unit may request approval, through a public question submitted to the legal voters residing in its territory to increase the amount to be raised by taxation by more than the allowable adjusted tax levy. Approval shall be by an affirmative vote of in excess of 50 percent of the people voting on the question at the election. The local unit budget proposing the increase shall be introduced and approved in the manner otherwise provided for budgets of that local unit at least 20 days prior to the date on which the referendum is to be held, and shall be published in the manner otherwise provided for budgets of the local

unit at least 12 days prior to the referendum date, unless otherwise directed by the Director of the Division of Local Government Services in the Department of Community Affairs.

(2) The public question to be submitted to the voters at the referendum shall state only the amount by which the adjusted tax levy shall be increased by more than the otherwise allowable adjusted tax levy, and the percentage rate of increase which that amount represents over the allowable adjusted tax levy. The public question shall include an accompanying explanatory statement that identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question; or, in the alternative and subject to the approval of the Director of the Division of Local Government Services in the Department of Community Affairs, a clear and concise narrative explanation of the circumstances for the increased adjusted tax levy being proposed.

(3) Unless otherwise provided pursuant to section 1 of P.L. 1989, c.31 (N.J.S.A. 40A:4-5.1), a referendum conducted pursuant to this subsection shall be held:

(a) for calendar year budgets only on the fourth Tuesday in January and the second Tuesday in March other than in a year when a presidential primary election occurs, in which case no such election on that date may be called; and

(b) for fiscal year budgets, only the last Tuesday in September, or the second Tuesday in December; provided, however, that no referendum shall be held on the same day as a referendum to exceed the school district levy cap.

(4) Any decision of the voters rejecting an increase to the tax levy cap under this subsection shall be final and conclusive, and no appeal or review shall be taken therefrom and no waiver application shall be made to the Local Finance Board.

(5) The director is authorized to act as necessary in order to consolidate ballot questions and procedures when a governing body elects to hold a referendum under both this section and section 9 of P.L.1983, c.49 (N.J.S.A. 40A:4-45.16).

c. (Deleted by amendment, P.L. 2010, c.44)

d. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of an activity performed by a local unit is transferred to or from a local unit, other government entity, or other service provider.

(cf: P.L. 2007, c.62, s.11)

**40A:4-45.47 Actions taken by director to implement provisions concerning cap on the property tax levy; rules, regulations.**

12. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall take such action as is deemed necessary and consistent with the intent of sections 9 through 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.44 through N.J.S.A 40A:4-45.46) to implement its provisions.

b. The director, in consultation with the Commissioner of Education regarding referendum dates, shall promulgate rules and regulations to effectuate the purposes of subsection b. of section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46).

L.2007, c.62, s.12.

13. This act shall take effect immediately and shall be applicable to the next local budget year following enactment.