

LOCAL FINANCE NOTICECHRISTINE TODD WHITMAN
GOVERNORJANE M. KENNY
COMMISSIONERSTEPHEN R. SASALA, II
ACTING DIRECTOR**Readoption of N.J.A.C. 5:30 — Local Finance Board Rules**

In mid-July, the Local Finance Board completed a readoption of the Board's general rules in the New Jersey Administrative Code. N.J.A.C. 5:30 contains procedures that affect all local government units, operating procedures of the Local Finance Board, and a number of provisions that affect municipalities and counties. The rules are in effect and have the force of law.

While many of the amendments were procedural and technical in nature, the Board adopted a number of significant policy and procedure changes. All local government units should carefully review this Notice to assess its affect on their organization and procedures. The bulk of the substantive changes affect municipal and county governments.

The full text of the chapter as amended is included with this Notice. Generally, the Board took advantage of the required five-year review of the rules to eliminate a good deal of archaic text and update it with descriptions of current practices. If you are interested in those specific changes, please consult the New Jersey Register at 30 N.J.R. 2204(b). Those changes included:

- N.J.A.C. 5:30-1.1
 - Codifies the requirement of a public hearing for all Board applications unless waived by the Chair or Board.
 - Sets the meetings of the Board to be held on the second Wednesday of each month; at the call of the chair; and permits the use of telephone conference call equipment in lieu of personal attendance for a board member.
- N.J.A.C. 5:30-1.3 - Details the procedures to be followed when appealing a decision of the Director to the Board.
- The following sections were reworded, but maintained existing procedures:
 - N.J.A.C. 5:30-2.1 - waiver of a down payment on a bond ordinance or debt limit
 - N.J.A.C. 5:30-2.3 and 2.4 — down payments for capital improvements and preliminary expenses
 - N.J.A.C. 5:30-2.8 — self-liquidating bonds
 - N.J.A.C. 5:30-6.1 and 6.5 - requirements of audits and affidavit of governing body members
- Repeals sections related to signing of checks and audit standards for community development block grants as their provisions had been codified in statute or combined, over the years, with other procedures (N.J.A.C. 5:30 8.6, 8.8, and 8.9).

The balance of this Notice reviews the substantive policy changes made by the Board.

5:30-2.2 — Automatic Waiver of Appearance at Board Hearings

A primary role of the Board is to review many kinds of local unit financial actions. Traditionally, this meant a public hearing and appearance of the applicant. In actual practice, it has been found that a number of these applications were of such little controversy that requiring the applicants to appear at the hearing was of little value and often costly to the applicant. Therefore, the Board decided to waive the requirement to appear when the Board considers certain applications that waive the requirement of a down payment on the following State sponsored loan programs:

1. Green Acres — Department of Environmental Protection
2. Transportation Trust Fund Authority Act — Department of Transportation

Still, a full application with supporting documentation will be required and a vote of the Board will be taken. An appearance will only be required when requested by the Board.

5:30-2.3 — Down Payment Practices

This section clarifies the procedures for appropriating bond ordinance down payment funds. Down payment funds may now specifically be made available from any combination of the following sources:

1. Reserve funds in the capital improvement fund accumulated from annual budget appropriations
2. Current budget appropriation
3. Emergency appropriation

5:30-3.3 (c) — Budget Rider Clarification

This section was substantially rewritten to align it with existing policies concerning the rider section of municipal and county budgets. The section now lists those riders permitted by default without any special approval of the Division. They include:

1. Animal Control
2. State or Federal Aid for maintenance of libraries
3. Bequest, Escheat
4. Construction code fees due to the Hackensack Meadowlands Development Commission
5. Outside employment of off-duty municipal police officers
6. Unemployment compensation insurance
7. Reimbursement of sale of gasoline to State automobiles
8. State training fees - Uniform Construction Code Act
9. Older Americans Act - Program income
10. Municipal Alliance on Alcoholism and Drug Abuse - program income
11. Tax appeal filing fees collected by the county board of taxation
12. Sanitary landfill closure trust fund

5:30-3.5 — Detail in Support of Current Budget Appropriation

Many years ago this section established two important practices: that municipal and county budgets had to have their operating lines broken into "Salary and Wage" and "Other Expense" categories; and that documentation that supports the budget be made available to the public. It also provided an appeal to the Board if documentation was not available on a timely basis. The amendments replaced archaic language about

The documentation section was amended because it had been found to be unworkable, given the time limits that required an appeal to the Board if a governing body refused to make material available to the public prior to the public hearing on the budget. By the time appeals could be filed, the public hearing would have taken place. It was also unclear as to what information was to be made available. In amending the rule, the Board reiterated that governing bodies have an obligation to make the information upon which they make their decisions available to the public. The amended rule places the following requirements upon governing bodies:

1. That after the introduction of the budget, but, no later than seven days prior to the public hearing on the budget, the supporting documents that provide appropriate detail covering the makeup of any revenue or appropriation shall be made available to the public.
2. The documents shall be made available for public inspection at the office of the municipal clerk or chief financial officer. Copies of the documents shall be made available to the public pursuant to the provisions of N.J.S.A. 47:1A-2 (public access to records law).
3. The "appropriate" detail shall include those schedules, estimates, or lists of proposed revenues and appropriations that were utilized by the governing body in its final deliberations on the budget, or used in such other circumstances that reflect the details of the line items shown in the introduced budget. This includes subaccount line item budgets, salary schedules, and similar material.

This rule specifically exempts disclosure of any details that were part of a meeting of the governing body that was closed to the public pursuant to the Open Public Meetings Act, i.e., contract negotiation strategy. Also note that the disclosure requirement pertains to the information used by the governing body in its **final** deliberations on the introduced budget. This excludes so-called "work-in-progress" or planning documents. Recognizing the development of the budget is a complex process, this is specifically intended to exclude the working information that led to the final decisions.

Governing bodies must ensure the information is available for public review. The format of how that is done is left to the governing body. While the rule does not provide an enforcement section, the Board noted in the rule summary, that it is expected that the public will ask for enforcement through the legal process, which could involve appeals to the court, as well as to the Division.

5:30-5.1 — Emergency Appropriations

This section details the filing of documents with the Division for any municipal or county budget emergency appropriation (N.J.S.A. 40A:4-46 through 40A:4-49) passed after adoption of the budget. The requirements are:

1. Two certified copies of the resolution authorizing the emergency appropriation.
2. An affidavit of the Chief Financial Officer as required by N.J.S.A. 40A:4-52.
3. For any emergency appropriation entitled "Down payments on improvements," an accounting of the capital improvement fund from the beginning of the budget year through the date of introduction of the related ordinance.

For "special emergency" appropriations adopted pursuant to N.J.S.A. 40A:4-53-55, where an appropriation is made in subsequent years' budgets, the following procedure is followed:

1. In the case of a five year emergency, an amount not less than twenty percent of the net deferred charge, unless the local unit elects to include a greater amount, until the emergency has been funded in full.

2. In the case of a three year emergency, an amount not less than one-third of the net deferred charge, unless the local unit elects to include a greater amount until the emergency has been funded in full.

In addition, the rule now provides that revenues from Federal or State governments for emergencies resulting from natural or other disasters shall be recognized as miscellaneous revenues. They may also be credited to the appropriation, **only** if the grant is a reimbursement for funds expended by the local unit for emergency purposes in advance of receipt of the grant **and** in the fiscal year the emergency took place.

If an emergency appropriation is being funded by ordinance, adopted pursuant to the Local Bond Law, the funding shall be for the net amount reflected in the deferred charge and shall represent the total subject to bonding, plus not more than one percent of the amount of the deferred charge for the costs of issuing the bonds.

5:30-5.3 — Emergencies Over 3% of Total Appropriations

In this section, the Board eliminated the requirement of written opinion from the municipal attorney for municipal and county emergencies in excess of 3% limit.

5:30-6.1 — Audits

While this language reinforces existing municipal and county requirements of audit, it also recognizes the responsibility of registered municipal accountants to utilize the following appropriate industry standard for authoritative references as may be applicable to the situation:

1. Generally Accepted Auditing Standards as promulgated by the American Institute of Certified Public Accountants
2. Government Accounting Standards Board with regard to disclosure of notes to the financial statements
3. U.S. Office of Management and Budget Circular A-133
4. New Jersey Office of Management and Budget Circular 98-07
5. Generally Accepted Government Auditing Standards promulgated by the U.S. General Accounting Office

5:30-8.1 — EDP Systems

Since 1964, the Board required that **all local unit** use of computerized financial, revenue, and property tax accounting systems had to be approved by the Director. With the common use of these systems, the Division stopped reviewing individual systems a number of years ago and permitted their use on a general basis, as long as the system had at some point been approved by the Division. The new rule changed the system by adding a series of requirements.

Local units procuring or upgrading systems or services after June 1, 1998, must ensure that these systems meet the following requirements:

1. Transaction recording and reporting elements shall provide audit trails and reports that meet Generally Accepted Government Accounting Standards, and meet requirements of audit, Technical Accounting Directives and all relevant provisions of the Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.).
2. For property tax accounting systems, the vendor or system owner, and the local unit's certified tax collector shall certify that they have tested and found that any automated

calculation of interest or penalty meets the appropriate requirements of N.J.S.A. 54:4-1 et seq. and any local ordinance or resolution related thereto.

3. For revenue accounting systems, the vendor or system owner, and the local unit chief financial officer shall certify that they have tested and found that any automated calculation of billing, amount due, interest, or penalty meets the requirements of any statute or local unit ordinance or resolution for those revenues maintained by the system.

In addition, for all systems:

1. Each local unit shall adopt and maintain appropriate internal control practices related to password or other security controls to ensure integrity of transactions, creating and maintaining backup files, and documentation of system operations.
2. All systems and services shall be capable of handling transactions, making calculations, storing dates, and properly operating as of, or with information dated on or after, January 1, 2000, on the following timetable: local units operating on a calendar fiscal year, as of December 31, 1998, and local units operating on any other fiscal year, by June 30, 1998. Local units shall obtain vendor certifications, perform tests, or take other appropriate action to ensure these deadlines are met.
3. These requirements are subject to review by the local unit auditor as part of the annual review of internal controls. Failure of a local unit to comply with the Year 2000 compliance shall be noted in the general comments and recommendations section of the annual audit.

5:30-8.3 and 8.4 - Surety Bond Changes

These sections have listed the monetary limits of surety bonds required by tax and utility collectors and municipal court officials. The limits in the rule had been established over 20 years ago, and changes in financial practices and amounts handled by officials warranted their review.

The Division consulted with risk managers and the surety bond industry to determine appropriate, contemporary limits. Because of concern that the State Mandate/State Pay law would require the State to pay for cost increases, the old limits were not repealed, but supplemented with new, recommended limits. Local units are urged to review these limits with their risk managers or insurance advisers to determine which limits should be utilized by the government.

5:30-8.7 — Notice of Occurrences

This section was adopted many years ago and required the municipal treasurer to advise the Director and Department of Education whenever there might be a prospective default on Type 1 school bonds. While this rule was in response to a particular set of circumstances, the notion of reporting on such incidents coincided with recent SEC requirements for secondary bond disclosure in the context of "Notices of Material Events" (Local Finance Notice CFO-95-8).

Given this requirement, the Board has elaborated on, and formalized a new requirement that reads:

It is the duty and responsibility of the chief financial officer to advise the Division of Local Government Services and the Department of Education in any case where there might be a prospective default in the payment of principal or interest of any municipal, county, utility, or Type 1 school bonds.

This clearly requires the chief financial officer in any local unit to advise the Division and Department of Education (as appropriate for school bonds) whenever there is a possibility of default on bonds. This will place the State regulatory agencies in a position to respond and provide assistance on a timely basis.

The Division hopes this summary will assist local officials in implementing the requirements of the new rules.

Stephen R. Sasala, II, Acting Director
Division of Local Government Services

Distribution:

Local Unit Chief Financial Officers
Registered Municipal Accountants, Authority, and Fire District Auditors

NEW JERSEY ADMINISTRATIVE CODE
TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS
CHAPTER 30. LOCAL FINANCE BOARD

SUBCHAPTER 1. GENERAL PROVISIONS

5:30-1.1 Rules and regulations

(a) All applications to the Board shall require a hearing before the Board, which shall include an appearance by the applicant at the time the application is heard. The chair or the Board may waive such appearance if it is found in the interest of the Board or the applicant to do so.

(b) The Local Finance Board shall meet on the second Wednesday of each month of the calendar year at its office, 101 South Broad Street, Trenton, New Jersey at the date and time specified in each notice of public meeting issued by the Board. Further, the business that would otherwise be handled at the regular meetings required pursuant to N.J.S.A. 52:27BB-13 shall be considered at the next following meeting scheduled pursuant to this subsection.

(c) The Board shall also meet at the call of the chair by notice in writing or via facsimile at such time and place as shall be specified in said notice. The Board, in its discretion, may agree to meet upon the receipt of a telephone request from the chair or any member thereof to transact any business which may properly come before it. The members of the Board may be considered in attendance at a meeting by using telecommunications equipment as permitted by the Open Public Meetings Act.

(d) The board shall meet as a municipal finance commission in those municipalities in which it functions and all other actions shall be taken as the Local Finance Board.

(e) Additional information on the Board and its practices can be obtained by contacting the Executive Secretary, Local Finance Board, 101 Broad Street, PO Box 803, Trenton, New Jersey 08625-0803, (609) 292-4537.

(f) References in this chapter to the Director or Division shall refer to the Director of the Division of Local Government Services, or to the Division of Local Government Services, as appropriate.

5:30-1.2 Duties

The Local Finance Board studies the entire field of local government in New Jersey, and promulgates reasonable rules and regulations for the interpretation and administration of State laws included within the jurisdiction of the division.

5:30-1.3 Hearings

(a) The Local Finance Board holds hearings when required by law, and also when it determines that interested persons should be given an opportunity to be heard.

(b) Hearings to appeal a determination or action of the Director pursuant to N.J.S.A. 52:27BB-15 shall be held upon receipt of a written request filed with the chair or executive secretary and which include an explanation of the determination or action of the Director which is being appealed, the nature of and reason for the appeal, and supporting documentation as may be requested by the Board.

5:30-1.4 Vote

(a) In the case of a vote on any appeal from a determination of the Director, the Director shall disqualify himself or herself from a vote, but shall preside at the hearing on the appeal. A vote of a majority of the whole board, namely, five votes, shall be required in determining whether any appeal from any action of the Director shall be sustained or reserved.

(b) In the case of a vote on any other matter heard before the board, a majority of the vote of the whole board, including that of the director, shall be required.

5:30-1.5 Advice to director

The Local Finance Board shall advise the director concerning the administration of the division, the exercise of his powers, and the problems of local government.

5:30-1.6 Determinations

The board may, if it so elects, direct that hearings under the foregoing shall be held by a member thereof, but all determinations shall be made by a majority of the full board.

5:30-1.7 Forms; general provisions

All forms required to be filed with the Local Finance Board or Division of Local Government Services, such as statements, applications and reports shall be filed on forms (or approved facsimiles) approved by the Board or the Director of the Division of Local Government Services, certified as to their accuracy by an appropriate official and in accordance with the instructions relating to each. Forms are available upon request to the Local Finance Board or the Division of Local Government Services.

5:30-1.8 (Reserved)

5:30-1.9 (Reserved)

5:30-1.10 (Reserved)

5:30-1.11 Realized revenue

(a) When required to do so by the Local Finance Board, governmental units shall file a form entitled "Realized Revenue Report." The form of the Realized Revenue Report shall be approved by the Board.

(b) All statements shall be certified as being accurate and complete by the Chief Financial Officer of the local unit.

5:30-1.12 (Reserved)

5:30-1.13 (Reserved)

5:30-1.14 (Reserved)

5:30-1.15 (Reserved)

SUBCHAPTER 2. LOCAL BOND LAW

5:30-2.1 Exceptions to debt limitation of N.J.S.A. 40A:2-7

When a local government seeks a waiver from the debt limitations of N.J.S.A. 40A:2-6 for a bond ordinance authorizing obligations solely for the purposes delineated in N.J.S.A. 40A:2-7, the application must be submitted to the Local Finance Board within the established filing schedule on a form approved by the Board. Approval of bond and note financing in excess of the debt limit under N.J.S.A. 40A:2-7(c), (d) and (e) require the applicant to justify and demonstrate the existence of extraordinary conditions.

5:30-2.2 Automatic waiver of appearance

An appearance by the applicant before the Board for applications for the waiver of down payment shall not be required for the following State loan programs: Green Acres, Department of Environmental Protection and Department of Transportation--Transportation Trust Fund Authority Act. A full application with supporting documentation shall be required and a vote of the Board shall be taken. An appearance shall only be required when requested by the

5:30-2.3 Payments for capital improvement

(a) When N.J.S.A. 40A:2-11 requires local governments to appropriate a down payment which is not less than five percent of the amount of obligations authorized for each bond ordinance, the down payment must have been made available prior to final adoption of the bond ordinance from any combination of the following sources:

1. Reserve funds in the capital improvement fund accumulated from annual budget appropriations;
2. Current budget appropriation; and/or
3. Emergency appropriation.

(b) Moneys accumulated in the capital improvement fund from annual budget appropriations may be utilized to fully fund the acquisition of capital items without the issuance of bonds.

(c) Capital improvement fund moneys may be expended for preliminary costs of capital projects, such as engineering and architect fees, by a resolution of the governing body.

(d) All moneys expended from the capital improvement fund other than those permitted for preliminary costs shall be made by an appropriation through an adopted ordinance.

(e) All expenditures from a capital surplus account, from a capital reserve set aside for a specific capital purpose, or from a capital improvement fund other than those expenditures permitted for preliminary expenses, shall be made by means of an ordinance appropriation duly adopted by the municipality or county, which ordinance shall become effective upon advertising following final adoption in the manner required by statute.

5:30-2.4 (Reserved)

5:30-2.5 (Reserved)

5:30-2.6 (Reserved)

5:30-2.7 (Reserved)

5:30-2.8 Self-liquidating improvements and extensions

(a) Obligations to finance an improvement or extension of a municipal public utility shall be deemed to be for a self-liquidating purpose in the fiscal year in which the obligations to finance the same have been authorized or issued and calculated pursuant to N.J.S.A. 40A:2-8.

1. In instances that a local unit desires to establish a utility, and desires the Local Finance Board to determine that any debt would be self-liquidating and, therefore, the debt excluded from the net debt of the local unit, the local unit shall provide appropriate supporting documentation to indicate the utility shall be self-liquidating.

2. Such documentation shall include, as appropriate to the circumstances, the following:

- i. The amount of cash on hand based on prepaid service revenue;
- ii. Presentation of evidence of participation or connection supported by enforceable documents guaranteeing every pledge or agreement;
- iii. An engineering or other study of annual income from casual, or ancillary use of the facility with adequate reasons for supporting such estimate;
- iv. Statement of amount estimated to be derived from any concessions, other recreational activities, or other activities, with suitable explanation;
- v. Projected budget for the first full year of operations, setting forth the amounts required for salaries and wages, insurance, detail of other operating expenses, and amounts required for annual debt service;
- vi. Statement in the application that adequate liability insurance will be carried in an amount adequate for the protection of the public and the local unit, with a certification by some local municipal official that the coverage appears to be adequate, based on the best information obtainable;
- vii. Statement to the effect that any determination of self-liquidation is subject to the provisions of N.J.S.A. 40A:4-35 which requires any annual deficit to be provided for

the next annual municipal budget and the next debt to be computed according to the provisions of N.J.S.A. 40A:2-48;

viii. A statement setting forth any covenant to be included in any bond issue in order to insure the purchaser that the bonds will be met at maturity regardless of the income from the utility.

3. All of the provisions of (a)2 above shall be in addition to or part of the formal application in the form required by the Local Finance Board for municipal extensions of credit.

4. The Board will, after receiving each application, set a date for public hearing thereon and will, if it is deemed necessary, require the presentation of any supplemental or additional detail deemed to be in order.

5. Any governing body, may, if it has adequate unencumbered borrowing power, undertake a project of this nature without the approval of the Local Finance Board, assuming that it is willing to have the prospective indebtedness included in the net debt of the municipality. In an instance of this kind, the municipality could, assuming that the first full year's operations of the project did in fact produce sufficient cash revenues to meet all operating expenses and debt service charges, secure a deduction in the annual debt statement required to be filed at the end of the year or any subsequent year. It would follow, of course, that if the income in any instance was inadequate to meet operating expenses and debt service, it would be necessary to take the charge against the net debt as required by N.J.S.A. 40A:2-48.

5:30-2.9 through 5:30-2.19 (Reserved)

5:30-2.9 through 5:30-2.19 (Reserved)

5:30-3.1 (Reserved)

SUBCHAPTER 3. ANNUAL BUDGET

5:30-3.2 Procedures for adoption of budget

(a) All budgets shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the governing body.

(b) The procedure shall be as follows:

1. Introduction and approval;
2. Public advertising;
3. Public hearing;
4. Amendments and public hearings, if required;
5. Adoption;
6. The clerk of the local unit shall transmit a certified copy of the budget, as adopted, to the county board not later than March 31 of the fiscal year.

5:30-3.3 Examination of budget

(a) The Director shall examine the budget filed in his office with reference to all estimates of revenue and to the following appropriations:

1. Payment of interest and debt redemption charges;
2. Deferred charges and statutory expenditures;

3. Cash deficit of preceding year;
4. Reserve for uncollected taxes;
5. Other reserves and nondisbursement items.

(b) The Director shall also examine the budget for detail and accuracy of itemization and for compliance as to form, arrangement and content with the provisions of this chapter and the regulations of the Local Finance Board.

(c) A local unit may, by resolution, include any of the following dedications by rider in the budget of the local unit, without further approval of the Board or Director of the Division of Local Government Services. All such receipts shall be for the sole purpose for which the funds are intended.

1. Animal control;
2. State or Federal aid for maintenance of libraries;
3. Bequest, escheat;
4. Construction code fees due to the Hackensack Meadowlands Development Commission;
5. Outside employment of off-duty municipal police officers;
6. Unemployment compensation insurance;
7. Reimbursement of sale of gasoline to State automobiles;
8. State training fees--Uniform Construction Code Act;
9. Older Americans Act--program income;
10. Municipal Alliance on Alcoholism and Drug Abuse--program income;
11. Tax appeal filing fees collected by the county boards of taxation; and
12. Sanitary landfill closure trust fund.

5:30-3.4 Filing of municipal budget amendments

(a) All budget amendments submitted to the Director, Division of Local Government Services for approval per N.J.S.A. 40A:4-85 and N.J.S.A. 40A:4-87 shall be filed with the Director within five days after adoption.

(b) Any such budget amendment not filed within the prescribed time must be accompanied by a statement of reasons, satisfactory to the Director, for such delay.

5:30-3.5 Detail in support of current budget appropriation

(a) In the budget document filed with the Director, line items of appropriations for administration, operation and maintenance of each office, department, institution or other agency of each local unit shall be shown separately, and provide, at a minimum, a breakdown for "salaries and wage" and "other expenses."

(b) After the introduction of the budget, but no later than seven days prior to the public hearing on the budget, each local unit shall make available to the public such supporting documents that provides appropriate detail covering the makeup of any revenue or appropriation. Such documents shall be made available for public inspection at the office of the municipal clerk or chief financial officer. Copies of the documents shall be made available to the public pursuant to the provisions of N.J.S.A. 47:1A-2.

(c) The appropriate detail as required in (b) above shall include those schedules, estimates, or lists of proposed revenues and appropriations that were utilized by the governing body in its final deliberations on the budget, or used in such other circumstances that reflect the details of the lines items shown in the introduced budget. This provision shall not require the disclosure of any details that were part of a meeting of the governing body that was closed to the public pursuant to the Open Public Meetings Act.

5:30-3.6 through 5:30-3.8 (Reserved)

5:30-3.6 through 5:30-3.8 (Reserved)

SUBCHAPTER 4. CAPITAL BUDGETS AND CAPITAL IMPROVEMENT PROGRAMS

5:30-4.1 Authority and application

(a) This subchapter is adopted by the Local Finance Board pursuant to its powers authorized at N.J.S.A. 52:27BB-10, 52:27BB-32, and 40A:4-43 to 45.

(b) This subchapter shall apply to all local units, and it shall be the duty of the governing body of each local unit to comply.

5:30-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Annual budget" means the Official Budget required to be adopted by the Local Budget Law, and which for purposes of this subchapter includes a separate section known as the Capital Budget and Capital Improvement Program.

"Capital budget" means the first year of a capital program.

"Capital program" means a moving, multi-year plan and schedule for capital projects, including prospective financing sources and, when pertinent, first year operating costs and savings.

"Capital project" means any of the following, with an expected useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$25,000 or more, regardless of the financing sources:

1. Acquisition and/or development of land;
2. Acquisition of major equipment, furniture, or other personal property;
3. Acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structures, improvements or public works;
4. Any other matter described in N.J.S.A. 40A:2-22;

"Director" means the Director of the Division of Local Government Services or his designated representative.

"Financing sources" means any of the following, in any combination, from which moneys are provided to finance capital projects:

1. Appropriations in the annual budget(s) of the current, utility or enterprise, capital or other fund;
2. Bonds or notes;
3. Appropriations from the Capital Improvement Fund or any other funds or reserves;
4. State or Federal aid;
5. Private contributions, bequests, etc.

"Local unit" means any county or municipality.

5:30-4.3 When required

(a) Every local unit shall prepare and adopt a capital budget, in conjunction with its annual operating budget, for any year in which it proposes to undertake a capital project. Inclusion of the following in the annual budget for the year shall, as a minimum, demonstrate the necessity of adopting a capital budget: appropriations for capital improvement fund, specific capital line items or down payments.

(b) No local unit shall adopt a bond ordinance unless:

1. It has already adopted a capital budget as part of the annual budget; or
2. If prior to final adoption of the annual budget, by adoption of a temporary capital budget which subsequently shall be included in the annual budget; or
3. If a need is determined after adoption of the annual budget, by adoption of a capital budget or an amendment to the capital budget.

(c) Every local unit which adopts a capital budget shall also adopt a capital program, as provided below, or add a year to an existing capital program to replace the budget year. The capital program shall be submitted to the director with the capital budget.

5:30-4.4 Method of adoption

(a) Any capital budget or capital improvement program that is to be adopted shall:

1. Be assembled and prepared by the officer(s) responsible for preparing the annual budget, provided that the provisions of N.J.S.A. 40:55D-29, permitting the governing body to authorize the planning board to prepare a suggested capital improvement program, are considered.
2. Be adopted by the affirmative vote of a majority of the full authorized membership of the governing body.
3. Be referred to the planning board, if it affects the adopted master plan, at least 45 days prior to adoption. (See N.J.S.A. 40:55D-31 for full provisions.) Observance of this requirement would suggest notification to the planning board by January 10 for counties and February 3 for municipalities.

4. Be treated as part of the Official Budget and shall be published as part of it.

5. When an initial adoption or amendment is needed outside of the normal budget adoption procedure, the following should be observed:

- i. Planning board review: As described above, this is optional at governing body discretion per N.J.S.A. 40:55D-29, except that it is mandatory per N.J.S.A. 40:55D-31 if the project affects the master plan (consult local attorney for guidance);
- ii. Use of the Standard forms described below;
- iii. Adoption by resolution;
- iv. Same majority vote;
- v. Publication in local newspaper;
- vi. Filing with the Director for review and certification.

(b) The following is an amendment to the Capital Budget and Capital Improvement Program:

- 1. Form CB1 (Capital Budget and Capital Program Amendment) is to be utilized for a change in priority of a specific project and use funds for a new unrelated project.
- 2. Form CB2 (Capital Budget and Capital Program Amendment) is to be utilized for new projects not previously considered.
- 3. Advertisement of either form CB1 or CB2 is not required if a copy of the ordinance authorizing the project is submitted with amendment forms and contains the following statement:

"The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of an inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services as on file with the (municipal clerk) (Clerk of the Board of Chosen Freeholders) and is available for public inspection."
- 4. Forms CB1 and CB2, as appropriate, shall be prepared and submitted in duplicate to the Director, Division of Local Government Services.

5:30-4.5 Forms and content

(a) The director shall provide forms as part of the annual budget document. These forms are mandatory, except that the director, at his discretion, may authorize the use of other forms that provide substantially the same information. Prior written approval shall be sought.

(b) The capital budget shall include by title all projects scheduled for startup in the current budget year or for continuation/completion from prior years, the amounts appropriated and the anticipated financing by source and amount.

(c) Capital program forms rules are as follows.

1. The capital program shall include by title all projects anticipated for the budget year and two or more additional years, as provided below, with the estimated costs and the anticipated financing by sources and amounts:

Population	Minimum Program Period
Under 10,000	3 years
Over 10,000	6 years

2. A municipality with population under 10,000 may discontinue annual capital program submissions whenever it shall, in compliance with the terms of this regulation, have had no capital budgets for three consecutive years provided, that the capital program shall be reinstated when a capital budget is adopted.

5:30-4.6 Review and certification

(a) The director shall, as part of his review of each local unit's annual budget, determine whether a capital budget and program are required, and if so, whether it has been included in the proper form. This review shall not extend to any determination as to the sufficiency or wisdom of its content.

(b) If the required capital budget and programs are not included in accordance with the requirements of this regulation, approval of the entire budget may be withheld, pending local corrective action.

5:30-4.7 Capital expenditures proscribed

Pursuant to N.J.S.A. 40A:4-44, no local unit shall make appropriations or authorize expenditures or obligations for capital projects in the absence of an adopted capital budget or other than in accordance therewith, except for the preliminary expenses of plans, specifications, and estimates.

5:30-4.8 Director's action

The director is authorized to advise local units of the requirements and purposes of this regulation, to issue such forms and provide such guidance as may be necessary, and to take such other steps as may, in his judgment, be necessary to effectuate the purposes of this regulation in light of the need for orderly overall fiscal administration.

5:30-4.9 (Reserved)

SUBCHAPTER 5. EMERGENCY APPROPRIATIONS

5:30-5.1 Emergency appropriations

(a) For emergency appropriations made after the adoption of the annual budget, for a purpose unforeseen at the time of adoption, and made pursuant to N.J.S.A. 40A:4-46 through 40A:4-49, the local unit shall file the following documents with the Director with five working days of the passage of the emergency resolution:

1. Two certified copies of the resolution authorizing the emergency appropriation;
2. An affidavit of the chief financial officer as required by N.J.S.A. 40A:4-52; and
3. For any emergency appropriation entitled "Down payments on improvements," an accounting of the capital improvement fund from the beginning of the budget year through the date of introduction of the related ordinance.

(b) For special emergency appropriations adopted pursuant to N.J.S.A. 40A:4-53 through 55, appropriations shall be made in the subsequent year's budgets pursuant to the following:

1. In the case of a five year emergency, an amount not less than 20 percent of the net deferred charge, unless the local unit elects to include a greater amount, until the emergency has been funded in full.
2. In the case of a three year emergency, an amount not less than one-third of the net deferred charge, unless the local unit elects to include a greater amount until the emergency has been funded in full.

(c) Revenues from Federal or State governments for emergencies resulting from natural or other disaster shall be recognized as miscellaneous revenues, or may be credited to the appropriation, only if the grant is a reimbursement for funds expended by the local unit for emergency purposes in advance of receipt of the grant and in the fiscal year the emergency took place.

(d) If an emergency appropriation is being funded by ordinance, adopted pursuant to the Local Bond Law, the funding shall be for the net amount reflected in the deferred charge and shall represent the total subject to bonding, plus not more than one percent of the amount of the deferred charge for the costs of issuing the bonds.

- 5:30-5.2 (Reserved)
 5:30-5.3 (Reserved)
 5:30-5.4 through 5:30-5.11 (Reserved)
 5:30-5.12 (Reserved)
 5:30-5.13 (Reserved)
 5:30-5.14 (Reserved)

SUBCHAPTER 6. ANNUAL AUDIT

5:30-6.1 Uniform accounting system for local units

(a) The Requirements of Audit that have been promulgated for municipalities, and counties, which are deemed to include the county surrogate's office and the county probation department, are considered as minimum requirements and should be elaborated upon whenever, in the judgment of the registered municipal accountant, it is required.

(b) Copies of Requirements of Audit may be obtained from:

Local Finance Board

Division of Local Government Services
 Department of Community Affairs
 PO Box 803
 Trenton, New Jersey 08625-0803

(c) In addition to the Requirements of Audit, the registered municipal accountant of each local unit shall also utilize the requirements of the following authoritative resources, incorporated herein by reference, in conducting the annual audit as appropriate and applicable:

1. Generally Accepted Auditing Standards as promulgated by the American Institute of Certified Public Accountants;
2. Government Accounting Standards Board with regard to disclosure of notes to the financial statements;
3. U.S. Office of Management and Budget Circular A-133;
4. New Jersey Office of Management and Budget Circular 98-07; and
5. Generally Accepted Government Auditing Standards promulgated by the U.S. General Accounting Office.

5:30-6.2 through 5:30-6.4 (Reserved)
 5:30-6.2 through 5:30-6.4 (Reserved)
 5:30-6.5 Certification of governing body

(a) The annual audit of accounting records and transactions required of every local unit pursuant to N.J.S.A. 40A:5-4 shall be filed by the local unit's registered municipal accountant with the clerk of the board of chosen freeholders or municipal clerk pursuant to N.J.S.A. 40A:5-6, and a copy shall be delivered to each member of the governing body.

(b) The governing body of each local unit shall, by resolution, certify to the Local Finance Board that all members of the governing body have personally reviewed, as a minimum, the sections of the annual audit entitled: General Comments, Recommendations, Auditor's Opinions, and Single Audit Findings.

1. Such certification shall also be evidenced by the execution of a group affidavit form, promulgated by the Board, that shall be originally signed by each member of the governing body.

2. Such resolution of certification and group affidavit shall be adopted and executed by the governing body not later than 45 days after the receipt of the annual audit.

(c) Failure to comply with these requirements may subject the members of the local governing body to the penalty provisions of N.J.S.A. 52:27B-52.

5:30-6.6 (Reserved)
 5:30-6.7 (Reserved)
 5:30-6.8 through 5:30-6.11 (Reserved)
 5:30-6.8 through 5:30-6.11 (Reserved)

SUBCHAPTER 7. MUNICIPAL BUDGET LOCAL EXAMINATION AND APPROVAL

5:30-7.1 Authority

(a) Pursuant to N.J.S.A. 40A:4-78, the Local Finance Board is empowered to adopt criteria relating to municipal exemption from the Director's examination of the annual budget.

(b) This subchapter is to ensure that municipalities participating in the program are financially sound and the temporary elimination of the Director's review of the budget will not expose the municipality to evidence financial risk.

5:30-7.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Annual budget" or "budget" means the annual budget of the municipality as described in the Local Budget Law.

"Comptroller function" means conduct of government accounting and transactions.

"Director" means the Director of the Division of Local Government Services.

"Division" means the Division of Local Government Services.

"Local Budget Law" means the provisions of N.J.S.A. 40A:4-1 et seq.

"Local examination" or "locally examine" means:

1. The procedure set forth in N.J.S.A. 40A:4-78(b) and this subchapter that permits municipal officials to examine and approve the annual budget pursuant to N.J.S.A. 40:4-76 through 4-79 in lieu of the Director; and
2. The annual budget has been adopted in accordance with all other provisions of law, including, but not limited to, the "Local Budget Law," (N.J.S.A. 40A:4-1 et seq.) and the regulations of the Local Finance Board.

"Local examination certification" or "local examination certificate" means the form provided by the Director and executed by the governing body and chief financial officer certifying that the adopted budget has been locally examined.

"Reporting year pool" means the group of municipalities considered by the Director for local examination in a given year.

5:30-7.3 Local examination process

(a) Each year the chief financial officer of each municipality shall certify its local examination status to the Division as part of its annual financial statement.

(b) Subject to the criteria in this subchapter, each municipality may locally examine their budget in any two of every three consecutive years.

(c) In every municipality participating in the local examination process, the governing body and chief financial officer shall ensure that the annual budget has been locally examined.

(d) In order to conduct a local examination, the municipality must be advised by the Director that it meets the eligibility criteria in N.J.A.C. 5:30-7.4, and then qualify for local examination by certifying that it meets the criteria in N.J.A.C. 5:30-7.5.

(e) A municipality conducting a local examination shall file copies of the annual financial statement, annual debt statement, introduced and adopted budget, amendments, certifications, and other documents required to be filed with the Director, as required by law and rule, as if the budget were to be examined by the Director.

(f) By resolution of the governing body, any municipality that qualifies for local examination may choose to have its budget examined by the Director and not participate in the local examination process that year.

5:30-7.4 Eligibility for local examination

(a) Upon adoption of this rule, the Director shall randomly assign each municipality to one of three reporting year pools. Each pool shall be assigned the years in which the budget shall be considered for local examination.

1. For calendar fiscal year 1997 budgets, the Director shall notify municipalities of their status as soon as practicable.
2. In subsequent years, within 30 days after the start of each fiscal year, the Director shall determine and notify all municipalities if they are eligible or ineligible for local examination for the fiscal year.

(b) Municipalities that meet one or more of the following criteria shall not be eligible for local examination in a given year and shall have their budgets examined by the Director:

1. Have outstanding fiscal year adjustment bonds;
2. Qualify for municipal (urban) aid pursuant to N.J.S.A. 52:27D-178 et seq.;
3. Received Supplemental Municipal Property Tax Relief Discretionary (N.J.S.A. 52:27D-118.35) funds in the previous fiscal year;
4. Were subject to a Division field audit that produced negative findings in the previous fiscal year;
5. Are currently or during the previous year were under any form of Local Finance Board supervision pursuant to N.J.S.A. 52:27BB-1 et seq.;

6. Sold its tax levy if permitted by statute in the previous year;

7. The Director's subsequent review of the previous year's locally examined adopted budget shows that the budget failed to meet the requirements of local examination. Such a finding shall disqualify a municipality from local examination for the following three years; or

8. If, in the opinion of the Director, the fiscal integrity or solvency of the municipality will be jeopardized by local examination.

(c) At the initiative of the Director, the criteria in (b) above may be waived if the Director determines the fiscal integrity or solvency of the municipality shall not be jeopardized by local examination. Requests for waivers by a municipality shall not be considered by the Director.

5:30-7.5 Qualifying for budget local examination

(a) If determined to be eligible for local examination, the chief financial officer shall determine if the municipality meets all of the following criteria:

1. The outstanding indebtedness of the previous fiscal year is not in excess of 3.5 percent;

2. All emergencies approved for the previous fiscal year did not exceed three percent of total appropriations;

3. The tax collection rate exceeded 90 percent;

4. Total deferred charges did not equal or exceed four percent of the total tax levy;

5. There were no "agreed upon procedural deficiencies" not performed by the registered municipal accountant and noted on Sheet 1a of the Annual Financial Statement; and

6. There was no operating deficit for the previous fiscal year.

(b) The chief financial officer shall record the determination on a form, prepared by the Director as part of the annual financial statement, and provide a copy of the form to the governing body. Prior to introduction of the budget, if the governing body chooses not to locally examine the budget, it shall pass a resolution to that effect and immediately forward it to the Director.

(c) If all of the criteria in (a) above are met, and the governing body does not elect to have the Director examine the budget, the municipality shall locally examine its budget.

(d) If the municipality fails to meet any of the criteria in (a) above, the Director shall examine the budget for that year.

5:30-7.6 Completion of local examination

(a) Prior to adoption of the budget, the governing body and the chief financial officer shall examine the budget for the following:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- i. Payment of interest and debt redemption charges;
- ii. Deferred charges and statutory expenditures;
- iii. Cash deficit of preceding year;
- iv. Reserve for uncollected taxes;
- v. Other reserves and non-disbursement items; and
- vi. Any inclusions of amounts required for school purposes;

2. That the provisions relating to limitation on increases of appropriations at N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met;

3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5;

4. That, pursuant to the Local Budget Law:

i. All estimates of revenue are reasonable, accurate and correctly stated;

ii. Items of appropriation are properly set forth; and

iii. By itemization, form, arrangement, and content, the budget will permit the exercise of the comptroller function within the municipality;

5. That the budget and associated amendments have been introduced, publicly advertised, and adopted in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification; and

6. That all other applicable statutory requirements have been fulfilled.

(b) If the chief financial officer and governing body find that the budget meets the requirements of (a) above, they shall execute the local examination certificate. The chief financial officer shall execute the local examination certificate by signature. The governing body shall execute the certification by passage of a resolution by a not less than a majority of the full membership of the governing body. No locally examined budget shall be adopted unless the local examination certificate has been approved by the chief financial officer and governing body.

(c) A local examination certificate signatory who has reason to believe that any part(s) of the budget may not meet all the requirements of local examination may execute a local examination certificate and take exception to any part(s) of the budget. Such exceptions shall be specific and itemized on the form. The form shall be forwarded to the Director

immediately upon execution, and the budget shall not be adopted until the Director makes a determination on the exceptions and directs the governing body to act as the Director determines to be appropriate.

(d) Failure of the governing body or the chief financial officer to execute the local examination certification shall result in the Director examining the budget in full. No budget adoption shall be valid unless all procedures of this subchapter have been followed in their entirety.

(e) Upon adoption of the budget, the municipal clerk shall include the local examination certification with the adopted budget sent to the Director pursuant to N.J.S.A. 40A:4-10.

(f) The local examination certificate shall be subject to acceptance by the Director. Acceptance shall be signified by the Director certifying the amount to be raised by taxation to the county board of taxation.

5:30-7.7 Revocation of qualification

(a) The Director may revoke qualification for local examination and assume responsibility for examination if:

1. After notice by the Director, the governing body fails to introduce or adopt the budget on a timely basis;
2. The municipality applies for a budget cap waiver pursuant to N.J.S.A. 40A:4-45.3(ee); or
3. If the introduced budget or subsequent amendments include the sale of a property tax levy if permitted by statute in the previous year.

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-8.1 Electronic data processing systems for financial, revenue, and property tax accounting

(a) Local units utilizing electronic data processing systems or services for financial, payroll, revenue, or property tax accounting, and equipment used for cash receipting purposes, are subject to the following provisions:

1. Local units procuring or upgrading systems or services after June 1, 1998 shall ensure that they meet the following requirements:
 - i. Transaction recording and reporting elements shall provide audit trails and reports that meet generally accepted government accounting standards, and meet requirements of audit, Technical Accounting Directives and all relevant provisions of the Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.).
 - ii. For property tax accounting systems, the vendor or system owner, and the local unit's certified tax collector, shall certify that they have tested and found that any automated calculation of interest or penalty meets the appropriate requirements of

N.J.S.A. 54:4-1 et seq. and any local ordinance or resolution related thereto.

iii. For revenue accounting systems, the vendor or system owner, and the local unit chief financial officer, shall certify that they have tested and found that any automated calculation of billing, amount due, interest, or penalty meets the requirements of any statute or local unit ordinance or resolution for those revenues maintained by the system.

2. Each local unit shall adopt and maintain appropriate internal control practices related to password or other security controls to ensure integrity of transactions, creating and maintaining back-up files, and documentation of system operations.

3. All systems and services shall be capable of handling transactions, making calculations, storing dates, and properly operating as of, or with information dated on or after, January 1, 2000, on the following timetable: local units operating on a calendar fiscal year, as of December 31, 1998, and local units operating on any other fiscal year, by June 30, 1998. Local units shall obtain vendor certifications, perform tests, or take other appropriate action to ensure these deadlines are met.

4. The requirements of this section shall be subject to review by the local unit auditor as part of the annual review of internal controls. Failure of a local unit to comply with (a)3 above shall be noted in the general comments and recommendations section of the annual audit.

5:30-8.2 (Reserved)

5:30-8.3 Minimum surety bond coverage for tax collectors

(a) Each tax collector and collector of utility rents shall be bonded with a surety bond calculated as follows:

1. The minimum requirement for the surety bond of each tax collector shall be such percentage of the preceding year's tax duplicate as is required by the schedule set forth in this subsection.

2. The minimum requirement for the surety bond of each collector of utility rents shall be such percentage of the preceding year's utility charges as is required by the schedule set forth in this subsection.

3. Tax Levy or Utility Charges Minimum Bond Required

Up to \$100,000	25% of the Levy
\$100,000 to \$250,000	\$25,000 + 8% of all over \$100,000
\$250,000 to \$500,000	\$37,000 + 6% of all over \$250,000
\$500,000 to \$750,000	\$52,000 + 4% of all over \$500,000
\$750,000 to \$1,000,000	\$62,000 + 2% of all over \$750,000
\$1,000,000 to \$2,000,000	\$67,000 + 1% of all over \$1,000,000
\$2,000,000 to \$5,000,000	\$77,000 + 1/2 % of all over \$2,000,000
\$5,000,000 and upwards	\$92,000 + 1/4 % of all over \$5,000,000

4. Local units are encouraged to utilize the following recommended amounts in lieu of the minimum amounts in order to provide a higher level of security of public funds:

Up to \$200,000	25% of the Levy
\$200,000 to \$350,000	\$50,000 + 8% of all over \$200,000
\$350,000 to \$500,000	\$62,000 + 6% of all over \$350,000
\$500,000 to \$1,000,000	\$71,000 + 4% of all over \$500,000
\$1,000,000 to \$2,500,000	\$91,000 + 2% of all over \$1,000,000
\$2,500,000 to \$5,000,000	\$121,000 + 1% of all over \$2,500,000
\$5,000,000 and upwards	\$146,000 + 1/2 % of all over \$5,000,000

(b) The following additional provisions shall apply to such surety bonds:

1. In fixing such minimum bond, the nearest even \$1,000 shall be used.
2. When the collector of taxes and the collector of utility charges is the same person, the minimum surety bond coverage shall be computed separately. The required amounts shall be combined in a single surety bond.
3. The minimum coverage arrived at by use of the foregoing schedule shall be an overall minimum amount where there is more than one person in the office. The several persons handling funds should be bonded in accordance with their responsibility.
4. In any case where a municipality desires to substitute for the foregoing method any other method which it deems satisfactory and which complies with the provisions of the existing statutes, such substituted procedure, shall, if approved by the Local Finance Board, be deemed to comply with this chapter.

5:30-8.4 Minimum surety bond requirements for municipal courts

(a) Every municipal court judge and municipal court administrator shall be bonded with a surety bond in a minimum amount in accordance with the following schedule:

Total Annual Receipts	Minimum Bond Required
\$1 to \$5,000	\$2,000
\$5,000 to \$10,000	\$2,000 + 30% of all over \$5,000
\$10,000 to \$20,000	\$3,500 + 25% of all over \$10,000
\$20,000 to \$50,000	\$6,000 + 15% of all over \$20,000
\$50,000 to \$100,000	\$10,500 + 12% of all over \$50,000
\$100,000 to \$200,000	\$16,500 + 8% of all over \$100,000
\$200,000 to \$500,000	\$24,500 + 5% of all over \$200,000
\$500,000 to \$1,000,000	\$39,500 + 2% of all over \$500,000
\$1,000,000 and up	\$49,500 + 1% of all over \$1,000,000

(b) Local units are encouraged to utilize the following recommended amounts in lieu of the minimum amount in order to provide a higher level of security of public funds.

\$1 to \$10,000	\$2,500
\$10,000 to \$25,000	\$2,500 + 30% of all over \$10,000
\$25,000 to \$50,000	\$5,500 + 25% of all over \$25,000
\$50,000 to \$100,000	\$11,750 + 15% of all over \$50,000
\$100,000 to \$200,000	\$19,250 + 12% of all over \$100,000
\$200,000 to \$500,000	\$31,250 + 8% of all over \$200,000
\$500,000 to \$1,000,000	\$47,250 + 5% of all over \$500,000
\$1,000,000 and up	\$72,250 + 2% of all over \$1,000,000

(c) The municipal judge and the municipal court administrator shall be bonded in such amount as may be deemed appropriate and adequate under the circumstances, the amount, including all assistants, to be not less than the minimum referred to in (a) above, and in every case where the minimum requirement applies, based on the volume of annual transactions, the municipal judge and the municipal court administrator shall be bonded in the amount of not less than \$1,000 each.

(d) In those cases where the minimum requirement, based on the volume of business of the Court, calls for an amount in excess of \$2,000, it may be appropriate to bond the municipal court judge and municipal court administrator, as the case may be, in an amount which shall be above the \$1,000 minimum required by statute to the nearest \$500.00 above said minimum.

(e) The municipal governing body may allocate the amount of the coverage as between the municipal judge, municipal court administrator, and other employees, in accordance with the financial responsibility of each officer with due regard to the \$1,000 minimum for each individual.

(f) There shall be a recomputation as to the minimum bond requirement annually and if the bond presently in force is less than the minimum required by the above schedule, the bond shall be increased.

(g) In all cases, however, a new bond shall be obtained at least every three years, coinciding with the term of office of the municipal court judge.

5:30-8.5 Guidelines concerning receipt and custody of public funds

(a) No officer of a local unit shall accept in receipt of the payment of any tax, license, fee or other charge, a check in excess of the amount actually due.

(b) Under no circumstances shall said officer engage in the practice of cashing checks with public funds.

5:30-8.6 (Reserved)

5:30-8.7 Notice of occurrences

It is the duty and responsibility of the chief financial officer to advise the Division of Local Government Services and the Department of Education, as appropriate, in any case where there might be a prospective default in the payment of principal or interest of any of the local unit's debt obligations.

5:30-8.8 (Reserved)

5:30-8.9 (Reserved)

5:30-8.10 Acceptance of third party financial organization payments

When authorized through bona fide "bank-by-phone" systems, local units are permitted to accept check based payments made by banks or other financial organizations on behalf of

individual persons when authorized by such persons and when such transactions provide payor information.

SUBCHAPTER 9. GOVERNMENT ELECTRONIC RECEIPT ACCEPTANCE

5:30-9.1 Purpose and authority

(a) This subchapter includes rules and guidance for local government units to utilize credit cards, debit cards, and electronic fund transfer mechanism as means of collecting local unit obligations.

(b) The rules are authorized pursuant to section 5 of P.L. 1995, c.325 (N.J.S.A. 40A:5-43 et seq.), the Government Electronic Payment Acceptance Act.

(c) While the title of the legislation refers to "electronic payment," these rules utilize the phrase "electronic receipt," as the use of "payment" could be confused with the ability of a local government unit to pay its own obligations electronically, a procedure not authorized by law.

5:30-9.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Bulk receipt" means a single deposit by a single party that represents multiple transactions.

"Card issuer" means any organization or association that issues or licenses others to issue any credit card or debit card.

"Credit card" means any instrument or device linked to an established line of credit, whether known as a credit card, charge card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in satisfying outstanding financial obligations, obtaining money, goods, services, or anything else of value on credit.

"Debit card" means any instrument or device, whether known as a debit card, automated teller machine card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value through the electronic authorization of a financial institution to debit the cardholder's account.

"Director" means the director of the Division of Local Government Services.

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

"Electronic receipt" means any receipt transaction made through the use of a credit card, debit card, or electronic funds transfer.

"Local unit" means any unit of government subject to the provisions of chapters 5 or 5A of Title 40A of the New Jersey Statutes, and the constituent parts of those units, including, but not limited to, independent local authorities, public libraries, municipal courts and joint municipal courts.

"Local unit obligations" means any local unit tax, charge, fee, penalty, fine, assessments, service or utility charge, payment transactions by the public for goods or services, except for credit card payment of delinquent local unit obligations or for the redemption of local unit liens.

"Payor identification" means information, such as an account number, property block and lot number, or other identifying characteristic, used to sufficiently identify the purpose of the receipt and person or organization using electronic receipt to pay a local unit obligation.

"Processor" means any organization with whom the local unit contracts to process or make electronic receipt transactions.

5:30-9.3 General grant of authority

(a) Local units may enter into agreements with processors to utilize electronic receipts as an alternative to acceptance of cash and checks as receipt for local unit obligations.

(b) Authorization of the local unit obligations that shall be accepted as electronic receipts shall be made by resolution of the governing body of the local unit. The resolution shall specify both the types of local unit obligations approved for electronic receipt, and the types of electronic receipt that shall be permitted.

(c) The use of specialized techniques of processing electronic receipt such as, but not restricted to, computer assisted, telephone based transactions, computer network based, and other related transactions are permitted.

(d) Forms of surcharges, fees or other mechanisms that are assessed to the originator of an electronic receipt transaction for the purpose of recouping any or all costs the local unit incurs in processing electronic receipt transactions may be utilized unless prohibited by the processor or by contract with a card issuer.

(e) Transactions related to municipal court obligations shall be authorized in accordance with Rules of the Court promulgated by the State Supreme Court.

5:30-9.4 Contracting for services

(a) Contracts for acquisition of electronic receipt equipment and services shall be subject to provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) A local unit may have contracts with more than one processor, but shall have only one contract to process transactions of any single card issuer for similar types of transactions. For example, a local unit may have a contract with one bank to process Master Cards and Visa cards for over-the-counter transactions, and separate contracts with other processors for processing Discover and American Express over the counter card transactions; but it may not have more than one contract to process Master Cards, unless it is a specialized service not available from the processor, for example, a voice response or interactive computer based system. A single contract with an independent service organization to process transactions of any number of issuers shall be permitted.

(c) Contracts shall require that processors shall transmit or otherwise deposit in the local unit's bank account the proceeds of electronic receipt transactions at any interval not to exceed 72 hours after the transmission or processing of the transactions by the local unit, weekends and holidays excepted.

(d) All contracts shall provide that chargebacks or electronic debits of returned or otherwise failed transactions shall require either paper based or electronic confirmation of the debit transaction and identification of individual debits.

5:30-9.5 Accounting and control

(a) Electronic receipt transactions shall be transmitted or otherwise sent to the processor on a daily basis at the close of the business day, or if done automatically by computer program, prior to the close of the business day of the processor.

(b) Electronic receipt transactions shall be considered a form of cash receipt and shall be subject to all local unit accounting, internal control, and auditing requirements relating to cash receipts, including, but not limited to, daily reconciliation, cash counts, reporting to the governing body, and account testing.

(c) The local unit shall retain printed documentation of all electronic receipt transactions for a period of time as required by the relevant State records retention law with regard to cash receipts or the local unit's contract with the processor, whichever is longer.

(d) All refunds of electronic receipt transactions shall be performed in accordance with all other statutory requirements related to the refunds of monies to the local unit.

(e) The local unit shall secure authorization of the processor of all credit or debit card transactions prior to execution.

5:30-9.6 Preauthorized transactions

(a) Local units may enter into processing contracts to permit individual persons desiring to make electronic receipt transactions for any combination of a specified or unlimited period of time, or number of fixed or variable payments. This permits the local unit to initiate a transaction that

electronically debits the person's bank account and deposit it in the local unit's bank account.

(b) The local unit may contract with a processor to manage and conduct such transactions.

(c) Agreements providing for preauthorized transactions shall be in writing with the person responsible for completing the transaction. Such agreement shall include the person assuming responsibility for appropriate penalties if the electronic receipt transaction is denied by the processor. Cancellation of such transactions shall be in writing and submitted to the local unit 30 days in advance of the cancellation.

(d) Notwithstanding the provisions of N.J.A.C. 5:30-9.4(c), the local unit may enter into contracts that provide for scheduling of transactions in such a way that take into account the requirements of transaction clearing systems.

5:30-9.7 Bulk payments

(a) The bulk electronic receipt of property taxes by property tax processing organizations and servicing organizations, as defined in N.J.S.A. 17:16F-15, is specifically permitted and encouraged.

(b) When deposits are made, the processor shall provide appropriate payor documentation detailing the individual transactions that make up the transfer. Such documentation may be data files designed for input to the local unit's computer system or printouts.

(c) The tax collector shall prove all deposits prior to posting the transactions to individual accounts.

5:30-9.8 Individual electronic receipts

(a) Local units may permit electronic receipts generated by individuals, generically known as "bank-by-phone," where an individual authorizes a bank or other processor organization to process a payment transaction to the local unit on the individual's behalf.

(b) The record of the transaction provided by the local unit's depository bank must provide payor identification and date of transaction.

5:30-9.9 Surcharges or convenience fees

(a) When permitted to be charged by the processor, local units may charge a percentage of the transaction or a flat fee to offset the costs of electronic receipt transactions. Such fees shall not exceed the cost of handling and processing the transaction to the local unit.

(b) Such fees shall be authorized by ordinance or resolution, as appropriate to the local unit and form of government and in accordance with procedures established by the local unit for setting other local unit fees.

(c) Any surcharge or convenience fee shall be itemized separately on the invoice, charge slip, or receipt, and shall be disclosed to the payor at the time the transaction occurs.

(d) Local units subject to the provisions of the Local Budget Law, N.J.S.A. 40A:4-1 et seq., assessing such surcharges or convenience fees shall establish a dedicated trust fund account entitled "Electronic Receipt Fees" pursuant to N.J.S.A. 40A:4-39, through which such fees shall be deposited and expended. Local units subject to the provisions of the Local Authority Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq., shall utilize the procedures of that law for handling these transactions.

5:30-9.10 Payment of electronic receipt fees

(a) Service charges or fees charged to the local unit for electronic receipt transactions shall be paid in one of the following ways:

1. Charged against a suitable appropriation in the local unit's annual budget. The appropriation may be a sub-account of an Other Expense line item.

2. Transactions that include fees that are offset by surcharges or convenience fees collected pursuant to N.J.A.C. 5:30-9.9 which shall be paid through a trust funds transaction pursuant to N.J.A.C. 5:30-9.9(d).

3. When included in a contract, as a cost charged against the local unit's banking service compensating balance account.

(b) Local units are authorized to permit a processor to routinely debit the bank account to which deposits are made, or other agreed upon account, in payment of fees and service charges for electronic receipt transactions. When such transfers are made, the processor shall provide a written statement itemizing the charges. The local unit's chief financial officer or designee shall complete and attach it to a voucher, and certify that the payment was correct and was paid. Statements shall be provided anytime prior to, or within 48 hours after the execution of the debit.

5:30-9.11 Interpretations of the rules

At the request of a local unit, the Director shall provide interpretations of this subchapter to address unanticipated circumstances or new technologies.

SUBCHAPTER 10. MUNICIPAL PORT AUTHORITIES

5:30-10.1 Annual budgets of municipal port authorities

(a) Every municipal port authority shall submit its annual budget to the Local Finance Board at least 45 days prior to the date upon which such budget is scheduled for final adoption for approval by the Local Finance Board.

(b) In reviewing and approving each such budget, the Local Finance Board shall consider whether:

1. All estimates of revenue contained in such budget are reasonable, accurate and fairly stated;
2. The items of appropriation contained in such budget are properly set forth;
3. The budget, in itemization, form, arrangement and content will permit the exercise of the comptroller function within the authority; and
4. The operating income anticipated in such budget will, together with all other anticipated revenues:
 - i. Produce sufficient revenues to satisfy all obligations to the bondholders of the authority;
 - ii. Meet operating expenses, capital outlays and debt service requirements; and
 - iii. Provide for necessary reserves, all as may be required by law, regulations or terms of contracts and agreements.

(c) The Local Finance Board may require that a municipal port authority provide it with whatever information and documentation it may deem necessary in connection with its review.

(d) If the Local Finance Board finds that the foregoing conditions have been satisfied, it shall approve the budget; otherwise, it may determine either to disapprove it or to require amendments thereto. In consideration whether or not to approve the budget, the Local Finance Board shall not substitute its discretion with respect to an amount of an appropriation when the amount is not made mandatory by law or regulation.

(e) In the event the Local Finance Board shall disapprove the proposed budget, the Board shall notify the authority and shall give the authority and any other interested parties an opportunity to be heard.

5:30-10.2 Approval of municipal port authorities obligations; municipal guarantees of authority bonds; financing agreements; and leases, sales or dispositions of real property

(a) No authority shall adopt any final resolution authorizing:

1. The issuance of bonds, notes, mortgages or other obligations;
2. The entry into any agreement providing for a municipal guarantee of authority bonds;
3. The entry into any financing agreement; or
4. The entry into any agreement for the leasing, sale or disposition of real property unless and until it shall have obtained the approval of the Local Finance Board to do so.

(b) Prior to the adoption of any such proposed resolution, the authority shall submit the proposed resolution to the Local Finance Board for review and approval.

(c) The Local Finance Board may, by resolution adopted within a reasonable time, approve or disapprove any such

resolution proposed by the authority, or may require changes in the proposed resolution.

(d) The Local Finance Board shall, in the course of its review, give consideration to:

1. The nature, purpose and scope of the proposed project financing or of the lease, sale or disposition of real property;
2. The engineering and feasibility studies or appraisals prepared in connection therewith;
3. The terms and provisions of the proposed agreements for the lease, sale or disposition of real property, financing agreements, security agreements and, in the instance of a negotiated offering, the proposed or maximum conditions of sale;
4. The proposed or maximum schedule of debt service payments required and the impact thereof on the budget and financial condition of the authority and of the local unit or units which created the authority;
5. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report and feasibility studies; and the initial rate, rent, fee or change schedule or structure proposed by the authority, or other proposed method of raising the amounts required to finance the operations of the authority, pay debt service on its obligations and maintain reserves required by law, regulation or term of contracts and agreements. The Local Finance Board may examine the estimates, computations or calculations made in connection with this submission, may require the submission of any papers, documents, appraisals, witnesses, information, audits or investigations and may take any action which it may determine advisable in connection with this project.

(e) If after such review and consideration, the Local Finance Board determines that the project cost has been accurately determined, that the method for funding the project and the proposed financing arrangements are reasonable and feasible, that the proposed arrangements would not impose an undue financial burden on the authority, the local unit or the residents of the local unit which created the authority and would not materially impair the credit of the authority of the local unit or substantially reduce their ability to pay punctually the principal and interest on their outstanding indebtedness and supply essential public services and improvements; and in the case of a lease, sale or disposition of real property, that the terms of the lease, sale or disposition are fair and reasonable in light of current market conditions, it shall approve the resolution proposed by the port authority.

(f) The Local Finance Board may waive the provisions of (d) and (e) above when the proposed financing agreement, guarantee agreement or debt authorization does not exceed \$50,000 or when the proposed agreement for the leasing, sale or disposition of real property does not exceed an annual rental or total sale proceeds of \$15,000.

(g) At any time within 12 months after approval of the Local Finance Board, the authority may adopt the resolution so approved and, after adoption, shall immediately transmit a copy to the Local Finance Board. Failure of any authority to act within 12 months after approval by the Local Finance Board will void the resolution adopted by the Local Finance Board.

SUBCHAPTER 12. FEDERAL GRANTS FOR LIBRARY CONSTRUCTION AND STATE LIBRARY AID

5:30-12.1 General provisions

The following procedures are hereby promulgated covering the accounting procedures to be used by local units in accounting for Federal grants under the Federal Library Services and Construction Act and State Library Aid per N.J.S.A. 18A-74.

5:30-12.2 Procedure

- (a) An appropriation for the full amount of construction costs must be made in the usual manner by either ordinance or budget appropriation.
- (b) The Federal grant may be used as an anticipated revenue to partially finance such appropriations.
- (c) It is emphasized that only the governing body can adopt either the ordinance or the budget.

5:30-12.3 Federal grants for library services

(a) When a Federal grant for extended library services is received by the municipal treasurer it should be credit to "Reserve for Library Services with Federal Aid." (The 1966 and subsequent years' municipal budget forms will include "State or Federal Aid for Maintenance of Libraries" in the "Dedication by Rider--N.J.S.A. 40A:4-39".)

1. If budget appropriations and other moneys are customarily turned over in full to the treasurer of the board of trustees as provided in N.J.S.A. 40:54-13, the municipal treasurer should promptly draw his check on the "Reserve" account and turn the funds over to the library board.

2. If budget appropriations are customarily retained in the custody of the municipal treasurer and disbursed by him after approval by the board of trustees of the free public library, the municipal treasurer should credit the money received from the Federal grant to the aforementioned "Reserve" account and expend such moneys in the same manner as other funds are expended by the library board.

5:30-12.4 State library aid

(a) Effective January 1, 1966, the present method of budgeting and accounting for this money will be completely revised as follows:

1. The "Dedication by Rider--N.J.S.A. 40A:4-39" in the 1966 and subsequent years' municipal budget forms will include "State or Federal Aid for maintenance of libraries".

2. The item of anticipated revenue for "State Library Aid--N.J.S.A. 18:24A" together with the required, applicable appropriation will be eliminated from the 1966 and subsequent years' budget documents.

3. All municipal treasurers are instructed to credit all moneys received after January 1, 1966, for "State Library Aid--N.J.S.A. 18:24A" to a special reserve in the current fund entitled (depending upon which title is applicable in his municipality): "Reserve for maintenance of free public library with State aid" or "Reserve for aid to privately owned library or reading room with State aid".

(b) If budget appropriations are customarily turned over in full to the board of trustees of the free public library or the privately owned library, the municipal treasurer should promptly draw his check on the "Reserve" account and turn over the funds to such library.

(c) If budget appropriations are customarily retained in the custody of the municipal treasurer and disbursed by him after approval by the board of trustees of the free public library or for the aid of a privately owned library, the municipal treasurer should retain the funds in the proper "reserve" account and should expend such moneys in the same manner as other funds are expended by or for the library.

(d) All appropriations for "expense of participation in free county library" are always expended directly by the municipality for the purpose of aiding and improving the service rendered within the municipality by the free county library. State library aid for this purpose, therefore, should always be credited by the municipal treasurer to "reserve for expense of participation in free county library with State aid" and expenditures should be made in the same manner as other expenditures are made for this purpose in those municipalities where this is applicable.

(e) Unexpended balances of 1965 appropriations "with State aid" for any of the purposes cited in subsection (a)3 of this Section should be transferred at December 31, 1965, to the proper "reserve" in an amount up to, but not exceeding, the actual amount of State aid received in 1965.