

New Jersey Local Budget Law

N.J.S.A. 40A:4-1 et seq.

(Current as of 10/27/10)

New Jersey Division of Local Government Services

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N.J.S.A. Section	Title	Page
40A:4-1	Short title	1
40A:4-2	Definitions	1
40A:4-3	Annual budget	1
40A:4-3.1	Municipalities, operation under State, calendar fiscal year	1
40A:4-3.2	Adoption of State, calendar fiscal year by ordinance	2
40A:4-3.3	Assistance provided to municipalities in which fiscal year has been changed	3
40A:4-3.4	Report to Legislature on which municipalities have adopted State fiscal year	4
40A:4-3.5	Actions by director	5
40A:4-4	Procedures for adoption of budget	5
40A:4-5	Introduction and approval	5
40A:4-5.1	Local budget date extension	6
40A:4-6	Advertisement of budget	6
40A:4-6.1	Satisfaction of advertisement of budget requirements	6
40A:4-7	Time of public hearing	7
40A:4-8	Public hearing; time and place	7
40A:4-9	Amendments to budget	7
40A:4-10	Adoption of budget; copies; public inspection	8
40A:4-11	Budget to be transmitted to county board	9
40A:4-12	Amount to be raised by taxation for local purposes	9
40A:4-12.1	Certification of preliminary municipal tax levy under State fiscal year	9
40A:4-13	Inclusion of amount required for school purposes	9

N.J.S.A. Section	Title	Page
40A:4-14	School items; separate certification	10
40A:4-15	Late approval of budget	10
40A:4-16	County board to advise director of failure to receive budget	10
40A:4-17	Director's certificate to the county board	10
40A:4-18	Table of aggregates for late budgets	11
40A:4-19	Temporary appropriations	11
40A:4-19.1	Appropriation to provide for extended time period where budget dates have been extended	12
40A:4-20	Emergency temporary appropriations	12
40A:4-21	Separate sections required	12
40A:4-22	Form and content of current budget	13
40A:4-22.1	"State-funded social service programs"; county trust fund; disbursement; annual budget message	13
40A:4-22.2	"Attorney Identification Card Program"	13
40A:4-23	Arrangement of revenues; current fund	14
40A:4-24	Surplus	14
40A:4-25	Miscellaneous revenues	14
40A:4-25.1	Use of library monies transferred to municipality	14
40A:4-26	Miscellaneous revenues limited to cash receipts; exemption	15
40A:4-27	Miscellaneous revenues; sale of property	15
40A:4-27.1	Anticipation in budget	15
40A:4-27.2	Municipal "cap" exemption	15
40A:4-27.3	Distribution of certain municipal revenues to real property taxpayers; definitions	15

N.J.S.A. Section	Title	Page
40A:4-28	Miscellaneous revenues; sinking fund surplus	16
40A:4-29	Receipts from delinquent taxes	16
40A:4-30	Amount to be raised by taxes to support municipal budget	16
40A:4-31	Arrangement of appropriations	17
40A:4-32	Separate items of appropriations	17
40A:4-33	Operation of utility or enterprise	17
40A:4-34	Appropriations for utility or enterprise	18
40A:4-35	Utility operations; surplus; deficit	18
40A:4-35.1	Transfer of surplus revenue	18
40A:4-36	Dedicated revenues; general definition	18
40A:4-37	Dedicated assessment budget	19
40A:4-38	Appropriation in dedicated assessment budget	19
40A:4-39	Anticipation of dedicated revenues	19
40A:4-40	Reserve for uncollected taxes; appropriation	20
40A:4-40.1	Reduction of reserve for uncollected taxes by sale of total property tax levy	20
40A:4-40.2	Reduction of reserve for uncollected taxes by deduction of receipts for sale of unpaid taxes, liens	21
40A:4-40.3	Fiscal analysis prior to sale of total property tax levy	21
40A:4-41	Computation of reserve for uncollected taxes	21
40A:4-42	Required appropriation for cash deficit	22
40A:4-43	Capital budgets; definition	22
40A:4-44	Form, arrangement and detail of capital budgets	22
40A:4-45	Separate capital budgets	23

N.J.S.A. Section	Title	Page
40A:4-45.1	Legislative policy	23
40A:4-45.1a	"Cost-of-living adjustment" defined	23
40A:4-45.2	Limitation on increase of appropriations	23
40A:4-45.2b	Deduction from county appropriation for services assumed by State	24
40A:4-45.3	Municipalities; budget limitation exceptions	25
40A:4-45.3a	Referendum; when held, applicability	28
40A:4-45.3a1	Provision of polling places; election worker compensation	29
40A:4-45.3b	Proceeds of sale of municipal assets for immediately preceding year as exceptions	29
40A:4-45.3d	Local Finance Board authorized to grant additional exceptions	29
40A:4-45.3e	Additional exceptions to limits on increases to certain appropriations of local units	29
40A:4-45.4	Limitation on increase in county tax levies over previous year; exceptions	30
40A:4-45.4a	Transfer of funds authorized by s. 40A:4-58 from appropriation not subject to limitation to appropriation subject to limitation; prohibition	32
40A:4-45.4b	Budget cap exception for solid waste reclamation utility	32
40A:4-45.12	Annual variable percentage limitation on increases in expenditures	32
40A:4-45.13	Assumed service or function by county or municipality; addition to final appropriation	33
40A:4-45.14	Permissible increase in appropriations	33
40A:4-45.15a	Municipality permitted certain final appropriations	34
40A:4-45.15b	County permitted certain final appropriations, county tax levy	35
40A:4-45.15c	Amount of difference, certain; available for appropriation	35

N.J.S.A. Section	Title	Page
40A:4-45.16	Referendum; increase in final appropriations	35
40A:4-45.19	Increases in final appropriations or tax levies in years in which new service or program is funded; explanatory statement on ballot concerning amount of appropriation	36
40A:4-45.38	Transfer of funds from appropriation subject to limitation	36
40A:4-45.39	Reduction for unrealized municipal revenues	37
40A:4-45.40	Transfer of services, deduction from county appropriation	37
40A:4-45.41	Appropriation included in spending limitation	37
40A:4-45.42	Annual report to Governor, Legislature	37
40A:4-45.43	Exemption on limits on increases for certain appropriations for pension contributions	37
40A:4-45.43a	Additional exceptions to limits on increases to appropriations	37
40A:4-45.44	Definitions relative to property tax levy cap concerning local units	38
40A:4-45.45	Cap on calculation of adjusted tax levy by local unit; exclusions	38
40A:4-45.45a	Amounts raised to pay recycling tax treated as exclusion for calculation of adjusted tax levy	39
40A:4-45.46	Waiver for local unit to increase amount raised by taxes to address extraordinary costs; referendum	39
40A:4-45.47	Actions taken by director to implement provisions concerning cap on the property tax levy; rules, regulations	40
40A:4-46	Emergency appropriations	40
40A:4-47	Emergency appropriations provided for in next budget	41
40A:4-48	Emergency appropriations not exceeding, with other appropriations, 3% of the operating appropriations	41
40A:4-49	Emergency appropriations exceeding, with other appropriations, 3% of the operating appropriations	41

N.J.S.A. Section	Title	Page
40A:4-50	Emergencies financed from surplus	42
40A:4-51	Emergency notes authorized	42
40A:4-52	Conclusiveness of emergency appropriations upon affidavit of finance officer	42
40A:4-53	Special emergency appropriations	42
40A:4-54	Authorization of special emergency appropriations	43
40A:4-54.1	Emergency funding for certain employee group insurance programs	43
40A:4-54.2	Certified copy of resolution, submission	43
40A:4-54.3	Notice provided to members	44
40A:4-55	Special emergency notes	44
40A:4-55.1	Special emergency appropriations; adoption of ordinance	44
40A:4-55.2	Financing appropriation	44
40A:4-55.3	Manner of financing appropriation from surplus funds	44
40A:4-55.4	Manner of financing appropriation by borrowing money	45
40A:4-55.5	Approval and filing of ordinance or resolution	45
40A:4-55.6	Rules and regulations; proof of emergency and need for appropriation	45
40A:4-55.7	Effect of revision of Title 40	45
40A:4-55.8	County colleges; special emergency appropriation; resolution; contents	45
40A:4-55.9	Financing; reduction of appropriation; resolution	46
40A:4-55.10	Exclusion from next succeeding budget; limitation on period of appropriation	46
40A:4-55.11	Filing certified copies of resolution; disposition by commissioner of education	46

N.J.S.A. Section	Title	Page
40A:4-55.12	Applicability of provisions relating to tax anticipation notes	46
40A:4-55.13	Public exigency caused by civil disturbances; special emergency appropriation; resolution	46
40A:4-55.14	Financing; surplus funds; borrowing	46
40A:4-55.15	Surplus funds; inclusion in annual budget	47
40A:4-55.16	Borrowing money; resolution	47
40A:4-55.17	Applicability of tax anticipation notes provisions to special emergency notes; filing resolution	47
40A:4-55.18	Distressed municipality defined	47
40A:4-55.19	Judgments; payment; appropriation; resolution; notes; conditions	47
40A:4-55.20	Approval of resolution	48
40A:4-55.21	Powers and obligations of municipality; ad valorem taxes; levy	48
40A:4-56	Contracts of special or technical nature	48
40A:4-57	Expenditures void without appropriations	48
40A:4-58	Appropriation transfers during last 2 months of fiscal year	49
40A:4-59	Appropriation transfers during first 3 months of succeeding year	49
40A:4-60	Unexpended balances canceled by resolution	49
40A:4-61	Assessment revenue fund	50
40A:4-62	Public utility funds	50
40A:4-62.1	Snow removal reserves; permitted, rules, regulations	50
40A:4-63	Money in separate funds treated as trust funds	50
40A:4-64	Tax anticipation notes	50
40A:4-65	Application of proceeds	51

N.J.S.A. Section	Title	Page
40A:4-66	Limitation of amount	51
40A:4-67	Limitation of maturity and renewals	51
40A:4-68	Interest rate	51
40A:4-69	Form, registration and redemption	51
40A:4-70	Recital of borrowing power; authorization	52
40A:4-71	Execution of notes or coupons	52
40A:4-72	Sale and report of sale	52
40A:4-73	Conclusive presumption of validity of proceedings and notes	52
40A:4-74	Utility anticipation notes	53
40A:4-75	Liability on notes	53
40A:4-76	Examination of budget	53
40A:4-77	Scope of examination	53
40A:4-78	Approval of budget, exemptions	54
40A:4-79	Certification of director	54
40A:4-80	Action on disapproved budget	55
40A:4-81	Amendment of disapproved budget	55
40A:4-82	Judicial review of local government board's determination	55
40A:4-83	Regulations by the local government board and director	55
40A:4-84	Orders of director binding	55
40A:4-85	Power to change title or text of appropriation	56
40A:4-86	Correction of revenue item	56
40A:4-87	Special items of revenue and appropriations	56
40A:4-88	Filing of amendment, correction in local budget	56

Local Budget Law

N.J.S.A. 40A:4 -1 et seq.

40A:4-1. Short title

This chapter may be cited as the "Local Budget Law".

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-2. Definitions

The following words, as used in this chapter, shall have the following meanings unless the context clearly indicates a different meaning:

"budget" means the budget of a local unit.

"cash basis budget" means a budget prepared in accordance with this chapter, and in such form that based on the limitations, percentages and estimates hereinafter provided there will be sufficient cash collected to meet all debt service requirements, necessary operations of the local unit for the fiscal year and, in addition, provide for any mandatory payments required to be met during the fiscal year.

"county board" means the county board of taxation.

"debt service" means the payment by the local unit of the principal and interest on the obligations issued by it, whether permanent or temporary.

"governing body" means the board of chosen freeholders of a county, or the commission, council, board or body having control of the finances of a municipality.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-3. Annual budget

The governing body of each local unit shall adopt a budget for each fiscal year. The budget of each local unit shall be prepared on a cash basis unless otherwise permitted by law.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-3.1. Municipalities, operation under State, calendar fiscal year

a. Except as provided in subsection b. or c. of this section, any municipality operating under the State fiscal year as of January 1, 1997 shall continue to operate under the State fiscal year; and any municipality which was required to change to the State fiscal year but failed to implement the change shall continue to operate under the calendar year fiscal year.

b. Any municipality may apply to the Local Finance Board for approval to convert to the State fiscal year, and the Board shall approve the conversion if it finds it is in the interest of the taxpayers of the municipality to change. Any municipality whose fiscal year is changed pursuant to this section shall prepare a transition year budget to cover the period between January 1 and June 30 prior to the beginning of its first State fiscal year.

c. A municipality operating under the State fiscal year, and which has adopted an ordinance pursuant to subsection b. of section 3 of P.L.1991, c.75 (C.40A:4-3.2) (as amended by section 2 of P.L.2008, c.92), may apply to the Local Finance Board for approval to revert to

a calendar fiscal year, commencing on January 1 of the succeeding calendar year. The Board shall approve the reversion after verification that ordinances have properly been adopted and that the municipality is poised to make a six-month transition year budget. A municipality that reverts to a calendar fiscal year pursuant to this subsection shall prepare a six-month transition year budget to cover the fiscal period between July 1 and December 31 immediately prior to the beginning of the calendar fiscal year.

A municipality that reverts to a calendar fiscal year pursuant to the provisions of this section shall:

- (1) not issue bonds, notes or any other form of borrowing to finance that reversion;
- (2) limit the municipal tax levy to an amount within the lower and upper amounts calculated by multiplying one-half the levy of the municipality for the current State fiscal year by .95 and 1.05, unless a different amount is approved by the director. The tax collector in consultation with the chief financial officer shall compute the estimated tax levy range for the municipality to use for the transition year;
- (3) limit total appropriations during the transition year budget to an amount within the lower and upper amounts calculated by multiplying one-half the total appropriations for the municipality for the current State fiscal year by .95 and 1.25, unless a different amount is approved by the director. The chief financial officer shall compute the estimated total appropriations range for the municipality to use for the transition year.

L.1991, c. 75, s. 2; amended 2000, c. 126, s. 16; 2008, c. 92, s. 1.

40A:4-3.2. Adoption of State, calendar fiscal year by ordinance

a. Any municipality for which the fiscal year is not changed pursuant to section 2 of P.L.1991, c.75 (C.40A:4-3.1) may, by ordinance, adopt a State fiscal year. The ordinance shall be introduced prior to or concurrently with the introduction of the municipal budget to take effect in the current calendar year, except that in the first year following the effective date of P.L.1991, c.75 (C.40A:4-3.1 et al.), the director shall establish the last date for introduction of the ordinance. The ordinance may be introduced and adopted according to the same time schedule as the annual budget of the municipality, which shall be a transition year budget, and shall be filed with the director upon final adoption. The ordinance shall not be subject to referendum.

b. A municipality operating under the State fiscal year pursuant to an ordinance adopted pursuant to subsection a. of this section may, by ordinance, revert to a calendar fiscal year. After the adoption of the ordinance authorizing the reversion to a calendar fiscal year, the municipality shall apply to the Local Finance Board for approval to revert to a calendar fiscal year, commencing on January 1 of the succeeding calendar year. The Board shall approve the reversion after verification that ordinances have properly been adopted and that the municipality is poised to make a six-month transition year budget. A municipality that reverts to a calendar fiscal year pursuant to this subsection shall prepare a six-month transition year budget to cover the period between July 1 and December 31 immediately prior to the beginning of the calendar fiscal year.

A municipality that reverts to a calendar fiscal year pursuant to the provisions of this section shall:

- (1) not issue bonds, notes or any other form of borrowing to finance that reversion;

(2) limit the municipal tax levy to an amount within the lower and upper amounts calculated by multiplying one-half the levy of the municipality for the current State fiscal year by .95 and 1.05, unless a different amount is approved by the director. The tax collector in consultation with the chief financial officer shall compute the estimated tax levy range for the municipality to use for the transition year;

(3) limit total appropriations during the transition year budget to an amount within the lower and upper amounts calculated by multiplying one-half the total appropriations for the municipality for the current State fiscal year by .95 and 1.25, unless a different amount is approved by the director. The chief financial officer shall compute the estimated total appropriations range for the municipality to use for the transition year.

L.1991, c. 75, s. 3; amended 2008, c. 92, s. 2.

40A:4-3.3. Assistance provided to municipalities in which fiscal year has been changed

The director and the Local Finance Board shall provide such assistance to municipalities in which the fiscal year has been changed to the State fiscal year as may be necessary to assure a smooth transition by the municipality to the State fiscal year and to establish and assure the sound financial condition of the municipality during the transition year and the first fiscal year following the transition year. To this end, the director or the Local Finance Board is authorized, by rule or directive, as appropriate, for the transition year and the first fiscal year following the transition year, to:

- a. Establish or adjust dates and statutory provisions relating to the budget and fiscal affairs of the municipality, including provisions relating to the collection and enforcement of liens for property taxes;
- b. In conjunction with the Director of the Division of Taxation in the Department of the Treasury, establish or adjust dates and statutory provisions relating to property tax assessment and appeal;
- c. Establish the amount of temporary appropriations to be permitted under N.J.S.40A:4-19, the amount of the appropriation required for "reserve for uncollected taxes" pursuant to N.J.S.40A:4-41, the amount of final appropriations on which the expenditure limitation is to be calculated pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3) and the calculation of exemptions from those limitations, the amount of tax anticipation notes which may be issued or outstanding at any time pursuant to N.J.S.40A:4-66, and the amount to be raised by taxation for the municipal budget if the municipality fails to strike the tax rate in a timely manner;
- d. Establish guidelines to govern the calculation of the amount required for the operation of the local unit for the fiscal year pursuant to N.J.S.40A:4-17 in the event that the county board has not received a copy of the budget resolution in a timely fashion; the calculation of surplus anticipated pursuant to N.J.S.40A:4-24; the calculation of miscellaneous revenues pursuant to N.J.S.40A:4-26; the calculation of the maximum amount which may be anticipated as "receipts from delinquent taxes" pursuant to N.J.S.40A:4-29; the amount of dedicated revenues derived from publicly owned or operated utilities or enterprises which may be stated in the budget pursuant to N.J.S.40A:4-33; and the calculation of the "cash deficit of preceding year" pursuant to N.J.S.40A:4-42;

e. Establish, adjust or make any other changes in municipal budgeting procedures in order to retire notes which may be issued after or outstanding on the effective date of this act, including, but not limited to, emergency notes authorized pursuant to N.J.S.40A:4-51, special emergency notes authorized pursuant to N.J.S.40A:4-55, notes issued to finance appropriations by distressed municipalities pursuant to section 2 of P.L.1982, c.66 (C.40A:4-55.19), and tax anticipation notes issued pursuant to N.J.S.40A:4-64; and

f. Establish, alter or adjust, as necessary, the index rate pursuant to section 4 of P.L.1983, c.49 (C.40A:4-45.1a), the calculation of exceptions allowable pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3), the calculation of the final appropriations in a municipality which has adopted the index rate, as set forth in section 7 of P.L.1983, c.49 (C.40A:4-45.14) and the filing dates for the verified statement of the financial condition of the local unit as of the close of the fiscal year, as required under N.J.S.40A:5-12.

L.1991, c. 75, s. 4.

40A:4-3.4. Report to Legislature on which municipalities have adopted State fiscal year

On or before October 15, 1992 and for five years annually thereafter, the Director of the Division of Local Government Services in the Department of Community Affairs shall issue a preliminary report to the Legislature regarding which municipalities have adopted the State fiscal year, as authorized pursuant to P.L.1991, c.75 (C.40A:4-3.1 et al.) during that calendar year. On or before February 1, next succeeding that calendar year and for five years annually thereafter, the director shall issue a final report to the Legislature for that previous calendar year. Data for any municipality for which complete data are not reported in the February 1 final report shall be reported in the succeeding October 15 preliminary report in those years in which a preliminary report is required to be issued, as set forth hereunder. On or before February 1, 1998 and annually thereafter, the division shall issue one annual report, which shall be included as part of the annual report of the Division of Local Government Services. The director shall set forth in the report those municipalities which have issued or in which an ordinance has been proposed authorizing the issuance of "fiscal year adjustment bonds," as authorized pursuant to section 5 of that act, the following information:

- a. the amount of the proposed or issued "fiscal year adjustment bonds";
- b. the amount of the actual or proposed issuance costs;
- c. the amount of the actual or proposed total issue;
- d. the amount of the proposed interest costs;
- e. the proposed total costs of the issue;
- f. the proposed or actual interest rate;
- g. the proposed or actual term;
- h. the current amount of tax anticipation notes outstanding;
- i. the current credit ratings by Moody's Investors Service and Standard & Poors Corporation;
- j. whether there is bond insurance for the issue;

- k. the method of issuance;
- l. the amount of outstanding debt prior to issue;
- m. the percentage of net debt prior to issue;
- n. the percentage of net debt following issue;
- o. the amounts paid or to be paid to the financial advisor, the bond counsel, the local attorney, the accountant, the auditor, and the underwriter;
- p. the amounts paid or to be paid for any other issuance costs; and
- q. identification of the financial advisor, the bond counsel, the local attorney, the accountant, the auditor, and the underwriter.

L.1992, c. 26.

40A:4-3.5. Actions by director

The Director of the Division of Local Government Services in the Department of Community Affairs shall take such action as the director deems necessary and consistent with the intent of P.L.2008, c.92 (C.40A:4-3.5 et al.) to implement its provisions.

L.2008, c. 92, s. 3.

40A:4-4. Procedures for adoption of budget

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.

The procedure shall be as follows:

- a. Introduction and approval.
- b. Public advertising.
- c. Public hearing.
- d. Amendments and public hearings, if required.
- e. Adoption.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-5. Introduction and approval

The governing body shall introduce and approve the annual budget:

- a. In the case of a county, not later than January 26 of the calendar fiscal year.
- b. In the case of a municipality, not later than February 10 of the calendar fiscal year; and, in the case of a municipality which operates on the State fiscal year, not later than August 10.

The budget shall be introduced in writing at a meeting of the governing body. Approval thereof shall constitute a first reading which may be by title. Three certified copies of the approved budget shall be transmitted to the director within three days after approval. Upon the approval of the budget by the governing body, it shall fix the time and place for the holding of a public hearing upon the budget.

L.1960, c. 169, s. 1; amended 1964, c. 78, s. 1; 1991, c. 75, s. 9; 1994, c. 72, s. 7.

40A:4-5.1. Local budget date extension

Notwithstanding the provisions of any law, rule or regulation to the contrary, the Director of the Division of Local Government Services, in the Department of Community Affairs, hereinafter the "director," may, with the approval of the Local Finance Board, in the Department of Community Affairs, extend the dates for the introduction and approval, and for the adoption, of county and municipal budgets, for any local fiscal year, beyond the dates required under the "Local Budget Law" (N.J.S.40A:4-1 et seq.).

Notwithstanding any provision of this section to the contrary, the governing body of a local unit may adopt the budget for that unit at any time within 10 days after the director has certified his approval thereof and returned the same, if the certification is later than the date of the advertised hearing.

L.1989, c. 31, s. 1; amended 1991, c. 75, s. 10.

40A:4-6. Advertisement of budget

Every budget shall be advertised after approval. The advertisement shall contain a copy of the budget or a budget summary as provided in section 12 of P.L.1995, c.259 (C.40A:4-6.1), and shall set forth the date, the time and the place of the hearing. It shall be published at least 10 days prior to the date fixed therefor; in the case of a municipality, in a newspaper published and circulating in the municipality, if there be one, and if not, in a newspaper published in the county and circulating in the municipality; in the case of a county, in a newspaper published in the county seat, if there be one, and if not, in a newspaper published in the county and having a substantial circulation therein.

L.1960, c. 169, s. 1; amended 1995, c. 259, s. 8.

40A:4-6.1. Satisfaction of advertisement of budget requirements

The governing body of a municipality or county may satisfy the advertisement requirements for the introduction and passage of a budget in the following manner:

- a. The publication of a summary pursuant to the provisions of N.J.S.40A:4-6 citing:
 - (1) The totals of the major sections of the budget, including but not limited to, operating expenses, capital improvement appropriations, salaries and wages, and surplus for the previous and current budget years;
 - (2) The amount of any principal and interest of any debt to be paid in the current budget year and the total amount of debt remaining;
 - (3) The total number of persons employed in the previous budget year and the total number estimated to be employed in the current budget year, the municipal purposes property tax levy of the previous budget year and the estimated municipal purposes property tax levy of the current budget year, the total amount to be raised by taxation and the total amount to be received from other sources in the current budget year, and the total appropriations of the previous year's budget and of the current year's budget; and
 - (4) The location, phone number and office hours of the principal municipal or county building where copies of the budget will be available to the public and the name of the person or the office to be contacted if a person wants to receive a copy of the budget by mail.

b. The name of the municipality or county and the budget title shall be printed in bold 16 point typeface and the remainder of the summary shall be printed in bold 8 point typeface.

L.1995, c. 259, s. 12.

40A:4-7. Time of public hearing

No budget shall be adopted until a public hearing has been held thereon and taxpayers and all persons having an interest therein shall have been given an opportunity to present objections.

Such hearing shall be held not less than 18 days in the case of a county, and not less than 28 days in the case of a municipality, after the approval of the budget.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-8. Public hearing; time and place

The public hearing shall be held at the time and place specified in the advertisement thereof, but may be adjourned from time to time until the hearing is closed.

The budget shall be read, at the public hearing in full, or it may be read by its title, if

1. At least one week prior to the date of the hearing, a complete copy of the approved budget,

a. shall be made available for public inspection, in the case of a county budget, in each free public library, if any, in each municipality of the county and in the free county libraries or regional libraries of the county or, in the case of a municipal budget, in the free public library, if any, of the municipality and in the free county libraries or regional libraries located in the municipality or, if no county libraries or regional libraries are located in the municipality, the county or regional library of the county in which the municipality is located, and the public officer delegated the responsibility for delivering copies of the approved budget to such libraries shall forward to the governing body an attestation that each such delivery was made, and

b. is made available to each person requesting the same, during said week and during the public hearing, and

2. The governing body shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in subsections 1.a. and 1.b. of this section have been met.

After closing the hearing, the governing body may adopt the budget, by title without amendments, or may approve amendments as provided in N.J.S.40A:4-9 before adoption.

L.1960, c. 169, s. 1; amended 1964, c. 78, s. 2; 1995, c. 259, s. 9.

40A:4-9. Amendments to budget

a. Amendments to budgets required by the director may be made prior to the time of holding the public hearing on the budget, without public advertisement.

b. The governing body may amend the budget during or after the public hearing. All amendments shall be read in full and shall be forthwith submitted to the director.

c. Except as provided in subsection e. of this section, no amendment by the governing body shall be effective until taxpayers and all persons having an interest therein shall have been granted a public hearing thereon, if such amendment shall:

1. add a new item of appropriation in an amount in excess of 1% of the total amount of appropriations as stated in the approved budget, or
2. increase or decrease any item of appropriation by more than 10%, or
3. increase the amount to be raised by taxes by more than 5%, unless the same is made to include an emergency temporary appropriation only.

Notice of hearing on any amendment shall be advertised at least three days before the date set therefor. Any such amendment must be published in full or by a summary pursuant to subsection d. of this section in the same manner as an original publication and must be read in full at the hearing and before adoption.

d. The governing body of a municipality or county may satisfy the publication requirements for an amendment by publishing a summary stating the main provisions of the amendment and the location, telephone number and office hours of the principal municipal or county building where copies of the amendment are available and the name of the person or office to be contacted if a person wants to receive a copy of the amendment by mail. The summary shall be published in the manner provided in subsection b. of section 12 of P.L.1995, c.259 (C.40A:4-6.1).

e. Amendments to budgets required by the director after certification of State aid amounts, for the purpose of appropriating State aid revenue to be received by the municipality in the local budget year that may have the effect of reducing the amount required to be raised by taxation for local purposes, may be made without public advertisement or public hearing.

L.1960, c. 169, s. 1; amended 1964, c. 78, s. 3; 1995, c. 259, s. 10.

40A:4-10. Adoption of budget; copies; public inspection

No budget or amendment thereof shall be adopted unless the director shall have previously certified his approval thereof. Final adoption shall be by resolution adopted by a majority of the full membership of the governing body, and may be by title where the procedures required by N.J.S.40A:4-8 and N.J.S.40A:4-9 or section 12 of P.L.1995, c.259 (C.40A:4-6.1), as applicable, have been followed.

The budget shall be adopted in the case of a county not later than February 25, and in the case of a municipality not later than March 20 of the calendar fiscal year or September 20 of the State fiscal year, except that the governing body may adopt the budget at any time within 10 days after the director shall have certified his approval thereof and returned the same, if such certification shall be later than the date of the advertised hearing.

If, in the case of a municipality which operates on the State fiscal year, the governing body fails to adopt the budget within the permitted time, the chief financial officer of the local unit shall so notify the director the next working day after the expiration of the permitted time.

Copies of the budget, as adopted, in such form and in such quantity as determined by the Local Finance Board, shall be transmitted to the director, and made available in print for public inspection at the local library, within three days after adoption.

Upon adoption, the budget shall constitute an appropriation for the purposes stated therein and an authorization of the amount to be raised by taxation for the purposes of the local unit.

The adopted budget shall be provided for public inspection on the local unit's website, if one exists, and made available online and in print as required by this section in a "user-

friendly" summary format using plain language. The Local Finance Board shall promulgate a "user-friendly," plain language summary format for use by local units for this purpose pursuant to section 39 of P.L.2007, c.63 (C.40A:5-48).

L.1960, c. 169, s. 1; amended 1964, c. 78, s. 4; 1991, c. 75, s. 11; 1994, c. 72, s. 8; 1995, c. 259, s. 11.

40A:4-11. Budget to be transmitted to county board

The clerk of the local unit shall transmit a certified copy of the budget, as adopted, to the county board not later than 15 days following the adoption of the budget.

L.1960, c. 169, s. 1; amended 1991, c. 75, s. 12; 1994, c. 72, s. 9.

40A:4-12. Amount to be raised by taxation for local purposes

The amount to be raised by taxation, as stated in the county budget, shall be the amount to be raised by taxation for county purposes. The amount to be raised by taxation, as stated in the municipal budget, shall be the amount to be raised by taxation for municipal purposes and for school purposes where school district costs are required to be included in the municipal budget. These taxes shall be assessed, levied and collected within the respective taxing districts in the manner prescribed by law.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-12.1. Certification of preliminary municipal tax levy under State fiscal year

On or before May 13 of each year, the governing body of each municipality operating under the State fiscal year shall certify, by resolution, to the Director of the Division of Local Government Services a preliminary municipal tax levy to be utilized in calculation of the municipal portion of the third and fourth installments of property taxes. The amount of the preliminary municipal tax levy shall be calculated in such a manner as to level insofar as possible the municipal portion of third and fourth installments and the subsequent first and second installments, but unless otherwise approved by the director, the amount of the preliminary municipal tax levy shall not be less than 95% of the current fiscal year's municipal tax levy. A copy of the certification shall be forwarded to the director, and to the county board of taxation which shall then use the levy in preparation of the extended tax duplicate for the municipality pursuant to R.S.54:4-55. If the governing body fails to act in a timely manner, the director may prepare and certify the preliminary municipal tax levy and shall provide a copy to the county board of taxation and the municipality. The director shall promulgate forms and instructions as necessary for the calculation of the preliminary municipal tax levy.

L.1994, c. 72, s. 16.

40A:4-13. Inclusion of amount required for school purposes

The amount to be raised by taxes for school purposes, required to be certified to the governing body of a municipality for inclusion in its budget, shall be set forth in a separate section of the budget upon adoption and shall be added to the amount to be raised by taxes for school purposes, if any, which were included in the approved budget upon the final adoption of the budget, or it may be omitted from the budget as approved and may be added to the budget, by resolution, on final adoption without public advertisement.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-14. School items; separate certification

In making the certifications of the budget for transmission to the county board, the amount to be raised by taxes for school purposes by a municipality shall be separately stated and

a. In municipalities in which the amount to be raised by taxes for school purposes is required to be certified to the governing body for inclusion in its budget, there shall be deducted from the "municipal tax levy":

(1) The amount appropriated for debt service after first deducting therefrom the amount of the State school building aid, if any; and

(2) The amount of any emergency appropriation for school purposes certified to the municipality and approved by the governing body thereof;

(3) The amount appropriated for school capital improvements for land, buildings and equipment.

b. In all other municipalities, there shall be deducted from the municipal tax levy any appropriations for school purposes required.

Said items shall be added by the county board to the amounts to be raised by taxation for school purposes.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1978, c. 136, s. 24, eff. Oct. 30, 1978; L.1979, c. 23, s. 1, eff. Feb. 8, 1979.

40A:4-15. Late approval of budget

The director may certify any budget not filed with him within the time prescribed. Such budget must be accompanied by a statement of reasons, satisfactory to the director, for such delay.

All actions subsequently taken by the director and the local unit with respect to certification and adoption of the budget are to be taken forthwith and as if the introduction, approval, hearing or filing had occurred on time.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-16. County board to advise director of failure to receive budget

Where the county board has not received a copy of the budget resolution or other evidence showing the amount to be raised by taxation for the purposes of a county or taxing district not later than March 31 of the calendar fiscal year, in the case of a county, taxing district or a municipality for which the fiscal year is January 1 through December 31 or not later than October 6 in those municipalities which operate on the State fiscal year, the board shall immediately notify the director of such failure.

L.1960, c. 169, s. 1; amended 1991, c. 75, s. 13; 1994, c. 72, s. 10.

40A:4-17. Director's certificate to the county board

The director may, in accordance with subsection a. or b. of this section, after receipt of notice that the county board has not received a copy of the budget resolution or other evidence showing the amount to be raised by taxation for the purposes of a local unit, or other failure of a governing body to act in accordance with law:

a. transmit to the county board a certificate setting forth the amount required for the operation of the local unit for the fiscal year. The operating budget of the preceding year shall constitute and limit the appropriations of the current year with suitable adjustments for debt service, other mandatory charges and changes in revenues, but excluding the amount to be raised for taxes for school purposes where required to be included in the municipal budget.

The certificate shall be prepared by using the revenues and appropriations appearing in the adopted budget of the preceding year with suitable adjustments to include, without limitation:

Any amounts required for principal and interest of indebtedness falling due in the fiscal year;

Any deferred charges or statutory expenditures required to be raised in the fiscal year; and

In addition, the director shall adjust the revenues, local tax requirements and surplus revenues appearing in the adopted budget of the preceding year in such manner that the cash basis provisions of this chapter shall apply.

b. establish the amount to be raised by taxation and certify the same to the county tax board. The local unit shall have 45 days thereafter to finally adopt its budget pursuant to law. If the governing body fails to act accordingly, the director may act in accordance with subsection a. of this section.

L.1960, c. 169, s.1; amended 1991, c. 75, s. 14; 1994, c. 72, s. 11.

40A:4-18. Table of aggregates for late budgets

a. In municipalities operating under a calendar fiscal year, immediately upon receipt of the director's certificate the county board shall fill out the table of aggregates required by R.S.54:4-52 and shall determine the amount of "other local taxes" for the year based upon the certificate of the director. Upon completion, the county board shall transmit a copy of each municipality's table of aggregates to the director.

If the local unit shall have adopted a budget for the calendar fiscal year and shall have transmitted a certified copy thereof to the county board on or before April 10, the board may substitute the adopted budget in the place of the amount certified by the director, but no such substitutions shall be made after May 1, unless otherwise approved by the director.

b. In municipalities operating under the State fiscal year, immediately upon receipt of the director's certificate, the county board of taxation shall use the certificate to prepare the extended tax duplicate for the municipality. If the local unit shall have adopted a budget for the fiscal year and shall have transmitted a certified copy thereof to the county board on or before October 10, the board may substitute the adopted budget in the place of the amount certified by the director, but no such substitutions shall be made after October 15, as the case may be, unless otherwise approved by the director.

Amended 1978, c. 136, s. 25; 1979, c. 23, s. 2; 1991, c. 75, s. 15; 1994, c. 72, s. 12.

40A:4-19. Temporary appropriations

The governing body may and, if any contracts, commitments or payments are to be made prior to the adoption of the budget, shall, by resolution adopted within the first 30 days of

the beginning of the fiscal year, make appropriations to provide for the period between the beginning of the fiscal year and the adoption of the budget.

The total of the appropriations so made shall not exceed 26.25% of the total of the appropriations made for all purposes in the budget for the preceding fiscal year excluding, in both instances, appropriations made for interest and debt redemption charges, capital improvement fund and public assistance.

Nothing herein contained shall prevent or relieve the governing body from making appropriations during the last 10 days of the year preceding the beginning of the fiscal year for all interest and debt redemption charges maturing during the fiscal year.

Amended 1991, c. 75, s. 16; 1996, c. 113, s. 10.

40A:4-19.1. Appropriation to provide for extended time period where budget dates have been extended

In any local fiscal year for which budget dates have been extended pursuant to section 1 of this act, the Director of the Division of Local Government Services may permit temporary budget appropriations to provide for the period between the date upon which the budget was scheduled for adoption pursuant to N.J.S.40A:4-5 and the actual date upon which the budget was adopted.

L.1989, c. 31, s. 5; amended 1991, c. 75, s. 17.

40A:4-20. Emergency temporary appropriations

In addition to temporary appropriations necessary for the period prior to the adoption of the budget and regular appropriations, the governing body may, by resolution adopted by a 2/3 vote of the full membership thereof, make emergency temporary appropriations for any purposes for which appropriations may lawfully be made for the period between the beginning of the current fiscal year and the date of the adoption of the budget for said year. The amount of such emergency temporary appropriations shall be included under the correct headings in the budget as adopted. If they are adopted after the introduction and approval of the budget and were not included in the budget as approved, they shall be included by amendment in the budget as adopted, except that no public advertisement or public hearings shall be required as to their adoption as amendments.

A copy of each resolution making such emergency temporary appropriations shall be filed forthwith with the director.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-21. Separate sections required

The budget shall provide separate sections for:

- a. Operation of local unit (current fund).
- b. Operation of any municipal public utility.
- c. Dedicated assessment budget.
- d. Dedicated by rider.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-22. Form and content of current budget

Every budget shall be prefaced by an explanatory statement of its contents and shall be itemized according to the respective objects and purposes for which appropriations are made. Itemization shall be in the form, classification and detail prescribed by regulations of the local government board.

The itemization, form and arrangement of the budget shall be such as to facilitate the exercise of the comptroller function.

The budget shall consist of a tabulated statement of:

- a. all anticipated revenues applicable to the expenditures for which appropriations are made in the budget, and
- b. the appropriations to be made for all purposes for which such revenues are to be expended.

The total of anticipated revenues must equal the total of appropriations.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-22.1. "State-funded social service programs"; county trust fund; disbursement; annual budget message

a. A county may establish a trust fund account entitled "State-funded social service programs" from which expenditures of county and State funds shall be disbursed for the following:

- (1) Section 5 of P.L.1959, c.86 (C.44:10-5) for the various assistance to families with dependent children programs;
- (2) R.S.30:4-78 with respect to payments for all county patients residing in State psychiatric facilities and facilities for the developmentally disabled;
- (3) Section 30 of P.L.1951, c.138 (C.30:4C-30) for maintenance on behalf of children;
- (4) R.S.44:7-25 for old age assistance;
- (5) Section 3 of P.L.1951, c.139 (C.44:7-40) for assistance to the permanently and totally disabled; and
- (6) Section 44 of P.L.1962, c.197 (C.44:7-46) for assistance for the blind.

Any required county share or match for these programs shall be first appropriated in the annual county budget, then paid to the trust fund prior to disbursement.

b. Commencing with the first year the State-funded social service program trust fund account is established, the board of chosen freeholders shall include in the annual budget message, required pursuant to N.J.S.40A:4-22, a summary of the anticipated State aid and county share for each program included in the trust fund.

L.1995, c. 264, s. 1.

40A:4-22.2. "Attorney Identification Card Program"

A county may establish a trust fund account entitled, "Attorney Identification Card Program" trust fund into which shall be deposited all fees paid by attorneys for the purchase of identification cards and from which expenditures shall be disbursed exclusively for the

procurement of equipment, ongoing maintenance and supplies, and associated services necessary to issue the cards and to operate and maintain the system.

L.2009, c. 11, s. 1.

40A:4-23. Arrangement of revenues; current fund

The anticipated revenues shall be classified as "surplus anticipated", "miscellaneous revenues", "receipts from delinquent taxes", and "amount to be raised by taxes to support municipal budget appropriations".

In parallel columns to the right of the several items of anticipated revenues, the following shall be stated:

- a. The amounts estimated to be realized from the several items of revenue in the current fiscal year.
- b. The amounts anticipated from the same source in the preceding year.
- c. The amounts actually received in cash or realized in accordance with regulations of the local government board during such preceding year.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-24. Surplus

"Surplus" in the current section of accounts shall consist of the excess of quick assets such as cash, investments, State or other public aid receivable, and deferred charges over legal and demand liabilities.

Unless the director shall give his prior written consent thereto, the amount of any item of "surplus anticipated" included in any budget shall not exceed the amount of surplus held in cash or quick assets at the beginning of the fiscal year.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-25. Miscellaneous revenues

"Miscellaneous revenues" shall include such amounts as may reasonably be expected to be realized in cash during the fiscal year from known and regular sources, or from sources reasonably capable of anticipation, and lawfully applicable to the appropriations made in the budget, other than dedicated revenues, revenues from taxes to be levied to support the budget, receipts from delinquent taxes, and surplus. Miscellaneous revenues stated in the budget shall be classified according to their respective sources.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-25.1. Use of library monies transferred to municipality

Monies approved by the State Librarian for transfer to a municipality by the board of trustees of its municipal free library, pursuant to subsection c. of R.S.40:54-15, may be anticipated by the municipality as a miscellaneous revenue; provided, however, that the monies shall be used solely and exclusively by the municipality for the purposes of reducing the amount the municipality is required to raise by local property tax levy for municipal purposes. The director shall certify that each municipality has complied with this section. If the director finds that monies transferred to a municipality by its municipal free library pursuant to subsection d. of R.S.40:54-15 are not used by that municipality solely and exclusively to reduce the amount required to be raised by the local property tax

levy, then the director shall correct the municipal budget, pursuant to N.J.S.40A:4-86, to ensure that the transferred funds are used for that purpose only.

L.2008, c. 8, s. 2.

40A:4-26. Miscellaneous revenues limited to cash receipts; exemption

No miscellaneous revenues from any source shall be included as an anticipated revenue in the budget in an amount in excess of the amount actually realized in cash from the same source during the next preceding fiscal year, unless the director shall determine upon application by the governing body that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination, in writing, to the local unit.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-27. Miscellaneous revenues; sale of property

A local unit may anticipate as a miscellaneous revenue the total amount of all payments due and payable to the local unit during the fiscal year, directly or indirectly as a result of the sale of property by the local unit, when the obligation to make such payment is entered into prior to the adoption of the budget.

Amended 1991, c. 75, s. 18; 1994, c. 72, s. 13; 2000, c. 126, s. 17.

40A:4-27.1. Anticipation in budget

Any monies due a municipality pursuant to the provisions of section 19 of P.L. 1975, c. 326 (C. 13:1E-28) may be anticipated by the municipality for the purposes of preparing its annual budget.

L. 1985, c. 38, s. 39; amended by L. 1987, c. 74, s. 7.

40A:4-27.2. Municipal "cap" exemption

Any monies due a municipality pursuant to the provisions of section 40 of P.L. 1985, c. 38 (C. 48:13A-5.1) may be anticipated by the municipality for the purposes of preparing its annual budget.

L. 1985, c. 38, s. 41; amended by L. 1987, c. 74, s. 8.

40A:4-27.3. Distribution of certain municipal revenues to real property taxpayers; definitions

a. The governing body of a municipality, by resolution, may determine to distribute receipts from a miscellaneous revenue to the real property taxpayers of the municipality during the current local budget year. The distribution shall take the form of a credit against the taxes assessed against each taxable line item on the tax list for the current tax year. The amount of the credit, which shall not be less than 0.10 cent, shall be an amount that is proportional to the ratio of the assessed value of each taxable line item over the taxable value of all real property in the municipality, as determined by the county tax board.

b. For the purposes of this section:

"Reimbursement amount" means a sum of money equal to a credit against taxes distributed pursuant to subsection a. of this section to the landlord of a multifamily dwelling and shall be considered a property tax reduction for the purposes of the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2 et seq.).

c. When a reimbursement amount is received by the landlord of a multifamily dwelling pursuant to subsection a. of this section, the reimbursement amount shall be considered a "property tax reduction" as defined in section 2 of the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.3), and shall be distributed in the same manner as distributions or credits are made under the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2 et seq.).

d. In addition to any regulations promulgated pursuant to the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2 et seq.), the Director of the Division of Local Government Services in the Department of Community Affairs shall provide, through rules, regulations and forms adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), that reimbursement distributions or credit received by tenants under P.L.2001, c.140 (C.40A:4-27.3) shall be provided to tenants as a tenant property tax rebate.

L.2001, c. 140.

40A:4-28. Miscellaneous revenues; sinking fund surplus

Whenever the sinking funds to the credit of the several issues of term bonds of a local unit equal the principal of such issues and there is a cash surplus in the sinking fund, such surplus may, upon written application by the sinking fund commission and the approval of the director, be used, in whole or in part, as an anticipated miscellaneous revenue in the budget of such local unit.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-29. Receipts from delinquent taxes

Delinquent taxes shall consist of taxes levied for prior fiscal years unpaid and owing to the local unit, and in the case of a municipality, also the lien value of tax titles to real estate standing in the name of the municipality.

The maximum amount which may be anticipated as "Receipts from Delinquent Taxes" shall be computed in the manner set forth in the following paragraph.

A determination of the percentage of collection of delinquent taxes for the year immediately preceding the fiscal year. This percentage shall be determined by dividing the amount of prior year's delinquent taxes collected by the amount of delinquent taxes unpaid and owing on the first day of the year, after adjusting such amount by the addition of prior year's taxes added during such fiscal year, less any prior year's delinquent taxes abated, remitted or canceled during such year. The maximum which may be anticipated is the sum produced by the multiplication of the amount of delinquent taxes unpaid and owing to the local unit on the first day of the current fiscal year by the percentage of collection of delinquent taxes for the year immediately preceding the current fiscal year.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-30. Amount to be raised by taxes to support municipal budget

The amount to be raised by taxes shall be the amount required to be levied by taxation for the support of the municipal budget. It is the difference between the total of all general municipal budget appropriations, including chapter 6 school debt service (R.S. 18:6 et seq.), and such deferred charges and statutory expenditures for chapter 6 schools as are required to be raised in the municipal budget, less the total of anticipated revenues. It shall include

the amount required to be appropriated for the "reserve for uncollected taxes" in accordance with, and subject to, the limitations of 40A:4-41 and 40A:4-42.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-31. Arrangement of appropriations

The several items of appropriations shall have set forth in parallel columns to the right thereof the following:

- a. Amount of appropriations for current year.
- b. Amount of appropriations for preceding year.
- c. Amount of appropriations by emergency resolution.
- d. Amount of total appropriations for preceding year as modified by all transfers.
- e. Amounts expended (paid or charged).
- f. Amounts expended (reserved).

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-32. Separate items of appropriations

Separate items shall be included for at least:

- a. Administration, operation and maintenance of each office, department, institution or other agency of the local unit.
- b. Contingent expenses in an amount not more than 3% of the total amount stated pursuant to subdivision as of this section.
- c. Interest and debt redemption charges.
- d. Deferred charges and statutory expenditures.
- e. The payment of all judgments not for capital purposes and for which notes or bonds cannot be lawfully issued.
- f. Such reserves as may be required by this chapter, or deemed advisable by the governing body.
- g. Cash deficit of preceding year.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-33. Operation of utility or enterprise

The anticipated revenues from the operation of any utility or enterprise owned or operated by a local unit and the appropriations to be made therefor shall be set forth in a separate section of the budget.

Dedicated revenues, derived from publicly owned or operated utilities or enterprises, shall not be stated in the budget in an amount which is in excess of the appropriation therein to the purposes to which the same are applicable, or in excess of the amount actually realized in cash from the same source during the preceding fiscal year, unless the director shall, upon application of the governing body, determine that the facts clearly warrant the

expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination in writing to the local unit.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-34. Appropriations for utility or enterprise

Appropriations for any utility or enterprise owned or operated by the local unit shall be in the form and detail prescribed by the regulations of the local governing board and shall include, at least

- a. Operations.
- b. Interest and debt retirement.
- c. Deferred charges and statutory expenditures.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-35. Utility operations; surplus; deficit

If, in any year as a result of the operation of such utility or enterprise under the system of accounting thus directed, there shall be a surplus, or such surplus can be reasonably anticipated, then such surplus, when authorized by the board or body controlling the utility or enterprise, may be included in the budget as an item of miscellaneous revenue, under the caption of "Surplus from (designation of the utility fund)".

If, in any year as a result of such operation, there shall be a deficit or an anticipated deficit, then an appropriation for such deficit shall be included in the budget under the caption of "Deficit in (designation of the utility fund)". If any anticipated deficit shall exceed the appropriation therefor, the excess shall be provided for in the budget of the following year. This section shall not, however, supersede the specific dedication of receipts from a utility or enterprise as provided in any law which authorized the establishment or creation of such utility or enterprise unless so directed by the board or body controlling the same.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-35.1. Transfer of surplus revenue

To the extent there is available surplus revenue collected by a municipality pursuant to chapter 62 of Title 40 of the Revised Statutes for supplying a utility service which is regulated by the Board of Public Utilities pursuant to subsection d. of N.J.S.40A:31-23, an amount not to exceed 5% of the annual costs of operation of the utility may be transferred annually from the accounts of the municipal utility and included in the local budget pursuant to N.J.S.40A:4-35.

L.1983, c. 111, s. 5; amended 1989, c. 109, s. 2.

40A:4-36. Dedicated revenues; general definition

"Dedicated revenues" shall include all amounts reasonably expected to be realized in cash during the fiscal year from any source other than the issuance of bonds or notes and required by law to be applied to a specific purpose.

Dedicated revenues stated in the budget shall be classified according to their respective sources and shall be stated in a separate section of the budget, together with the appropriations to the purposes to which such dedicated revenues are applicable. The total of anticipated revenues must equal the total of appropriations.

In the event such appropriations include payments to be made for the principal of or interest on bonds or notes, the amount required for such purposes shall be separately stated.

Any anticipated deficit in expenditures to which dedicated revenues are applicable shall be provided for by an appropriation in the budget.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-37. Dedicated assessment budget

Every dedicated assessment budget shall include revenues derived from the collection of special assessments on property specially benefited. No amount shall be stated in the budget in excess of the required appropriation to which such revenues are applicable or in excess of the amount of the revenues so derived, held in cash at the beginning of the fiscal year. Nothing herein contained shall prevent a local unit from paying in full, or on account at maturity, any note or notes to which such revenues are applicable, even though such note or notes may not have been included in such dedicated budget.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-38. Appropriation in dedicated assessment budget

Every dedicated assessment budget shall contain an appropriation for the payment of principal of bond anticipation notes or bonds maturing during the fiscal year.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-39. Anticipation of dedicated revenues

a. In the budget of any local unit, dedicated revenues anticipated during the fiscal year from any dog tax, dog license, revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license, sinking fund for term bonds, bequest, escheat, federal grant, motor vehicle fine dedicated to road repairs, relocation costs deposited into a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a), fee revenues collected in connection with recreation programs operated pursuant to section 2 of P.L.1999, c.292 (C.40:48-2.56), receipts from franchise assessments levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) to be retained by the municipality, refund payments from a joint insurance fund deposited into a joint insurance revolving fund established pursuant to section 12 of P.L.1996, c.113 (C.40A:10-36.2), fee revenues collected in connection with the "Attorney Identification Card Program" pursuant to section 1 of P.L.2009, c.11 (C.40A:4-22.2), fee revenues imposed on delinquent amounts owed to the county or municipality and collected pursuant to section 37 of P.L.2000, c.126 (C.40:23-6.53) (as amended by section 2 of P.L.2009, c.233) or section 1 of P.L.1983, c.208 (C.40:48-5a) (as amended by section 3 of P.L.2009, c.233), and, subject to the prior written consent of the director, other items of like character when the revenue is not subject to reasonably accurate estimate in advance, may be included in said budget by annexing to said budget a statement in substantially the following form:

"The dedicated revenues anticipated during the year from (here insert one or more of the sources above, as the case may be) are hereby anticipated as revenue and are hereby appropriated for the purposes to which said revenue is dedicated by statute or other legal requirement."

b. Dedicated revenues included in accordance with this section shall be available for expenditure by the local unit as and when received in cash during the fiscal year. The inclusion of such dedicated revenues shall be subject to the approval of the director, who may require such explanatory statements or data in connection therewith as the director deems advisable for the information and protection of the public.

cf: P.L.2010, c. 233, s. 4.

40A:4-40. Reserve for uncollected taxes; appropriation

There shall be included in each budget an appropriation for "reserve for uncollected taxes" sufficient in amount so that the anticipated cash receipts for the fiscal year shall at least equal the sum of the following items, each of which is hereinafter referred to as a "lawful yearly expenditure":

- a. The total of all current budget appropriations (except for reserve for uncollected taxes);
- b. The amounts due or to become due for school, county, State, local and special district taxes prior to the end of the fiscal year; and
- c. The amounts of any other anticipated current expenditures for the fiscal year. In the event that the exact amount of any such lawful yearly expenditure shall not be known at the time of the adoption of the budget, the amount thereof shall be estimated, but no such estimate shall be less than the amount of such lawful yearly expenditure for the next preceding fiscal year; provided, however, that in the case of a Type II school district, the lawful yearly expenditure for the amount due or to become due for school taxes prior to the end of the fiscal year shall be based upon the proposed budget submitted by the local board of education to the commissioner pursuant to section 28 of P.L.1975, c. 212 (C. 18A:7A-28).

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1978, c. 136, s. 26, eff. Oct. 30, 1978; L.1979, c. 23, s. 3, eff. Feb. 8, 1979.

40A:4-40.1. Reduction of reserve for uncollected taxes by sale of total property tax levy

- a. A municipality may reduce its reserve for uncollected taxes by deducting any or all payments anticipated during the fiscal year from the sale of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), from the reserve for uncollected taxes as calculated pursuant to N.J.S.40A:4-40 and N.J.S.40A:4-41, provided that the obligation to make such payment is entered into prior to adoption of the budget. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.
- b. A municipality shall not execute a contract for the sale of the total property tax levy unless the Division of Local Government Services in the Department of Community Affairs has reviewed the fiscal impact of the sale of the total property tax levy. The municipality shall forward a copy of a proposed contract and the fiscal analysis of the impact of the sale required to be provided to the municipal governing body pursuant to section 14 of P.L.1997, c.99 (C.40A:4-40.3), as soon as they are available, to the Division of Local Government Services for review. The division shall review the fiscal impact of the contract within 15 business days after receipt and shall approve or disapprove the contract in writing within that time. The director of the division may condition the approval of the contract on budget actions that the director may determine.

L.1997, c. 99, s. 12.

40A:4-40.2. Reduction of reserve for uncollected taxes by deduction of receipts for sale of unpaid taxes, liens

A municipality may reduce its reserve for uncollected taxes by deducting any or all receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, provided that such amount be calculated in the same manner as receipts for delinquent taxes are calculated in N.J.S.40A:4-29, and that prior to adoption of the budget, such sale is authorized by resolution of the governing body. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

L.1997, c. 99, s. 13.

40A:4-40.3. Fiscal analysis prior to sale of total property tax levy

Prior to the award of a contract for the sale of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), or when a municipality chooses to reduce its reserve for uncollected taxes by deducting the receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, the chief financial officer or registered municipal accountant shall provide the governing body a fiscal analysis of the impact of the sale on the current budget and the projected budgets for the next two subsequent years. The Director of the Division of Local Government Services in the Department of Community Affairs may promulgate a standard form to be used for this purpose, which, if promulgated, shall include, but not be limited to, the amount of the reserve for uncollected taxes, receipts for delinquent taxes and the municipal tax rate. The analysis shall be a public record.

L.1997, c. 99, s. 14.

40A:4-41. Computation of reserve for uncollected taxes

- a. For the purpose of determining the amount of the appropriation for "reserve for uncollected taxes" required to be included in each annual budget where less than 100% of current tax collections may be and are anticipated, anticipated cash receipts shall be as set forth in the budget of the current year, and in accordance with the limitations of statute for anticipated revenue from, surplus appropriated, miscellaneous revenues and receipts from delinquent taxes.
- b. Receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by the last day of the preceding fiscal year.
- c. (1) For any municipality in which tax appeal judgments have been awarded to property owners from action of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq. in the preceding fiscal year, the governing body of the municipality may elect to determine the reserve for uncollected taxes by using the average of the percentages of taxes levied which were received in cash by the last day of each of the three preceding fiscal years. Election of this choice shall be made by resolution, approved by a majority vote of the full

membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

(2) If tax appeal judgments of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq., result in tax reductions for the previous fiscal year, the governing body of the municipality may elect to calculate the current year reserve for uncollected taxes by reducing the certified tax levy of the prior year by the amount of the tax levy adjustments resulting from those judgments. Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

d. The director may promulgate rules and regulations to permit a three-year average to be used to determine the amount required for the reserve for uncollected taxes for municipalities to which subsection c. of this section is not applicable.

cf: P.L.2010, c. 56, s. 1.

40A:4-42. Required appropriation for cash deficit

An appropriation for "cash deficit of preceding year" shall appear in each annual budget in the amount by which the liabilities and cash disbursements of the local unit for expenditures in the fiscal year next preceding exceed the cash receipts and other realized revenues in such next preceding fiscal year, except to the extent that such lawful yearly expenditures have been provided for by surplus anticipated in the budget of such years.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-43. Capital budgets; definition

The governing body may and shall, when directed by the local government board, prepare, approve and adopt a budget for the expenditure of public funds for capital purposes to give effect to general improvement programs.

A capital budget shall be a plan for the expenditure of public funds for capital purposes, showing as income the revenues, special assessments, free surplus, and down payment appropriations to be applied to the cost of a capital project or projects, expenses of issuance of obligations, engineering supervision, contracts and any other related expenditures.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-44. Form, arrangement and detail of capital budgets

The local government board shall adopt, and may from time to time amend, reasonable rules and regulations for capital budgets. Regulations may classify the type of budget required, according to the size of the local unit, the nature of the capital projects or any other reasonable basis of distinction, and shall require a statement of capital undertakings underway or projected for a period not greater than over the next ensuing 6 years as a general improvement program.

After promulgation of regulations by the local government board, the governing body shall expend or incur obligations for capital purposes only after the adoption of a capital budget and in accordance with such budget except for the preliminary expense of plans, specifications and estimates.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-45. Separate capital budgets

The board may require separate capital budgets to give effect to a general improvement program as follows:

- a. A special capital budget for the expenditure of funds realized from the sale of obligations and adopted at the time such sale is authorized.
- b. A separate capital budget adopted at the same time and as part of the annual budget.
- c. A consolidated capital budget providing for the consolidation of capital projects, with the annual budget treating borrowed funds and other receipts as special revenue and capital projects as separately itemized appropriations under the proper office, department, institutions or other agency of the local unit.
- d. Any other type or form of budget adapted to planning and guiding expenditures for capital improvement programs.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-45.1. Legislative policy

It is hereby declared to be the policy of the Legislature that the spiraling cost of local government must be controlled to protect the homeowners of the State and enable them to maintain their homesteads.

At the same time the Legislature recognizes that local government cannot be constrained to the point that it is impossible to provide necessary services to its residents.

In recognition that the two concepts may be at cross purposes, the Legislature recommends that the program proposed hereunder be instituted on an experimental basis with a review at the end of the period to adjust the program based upon experience.

L.1976, c. 68, s. 1, eff. Aug. 18, 1976.

40A:4-45.1a. "Cost-of-living adjustment" defined

As used in this amendatory and supplementary act, "cost-of-living adjustment" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second and fourth quarter which occurred in the next preceding local fiscal year. Any reference to "index rate" means the "cost-of-living adjustment" defined in this section. The Director of the Division of Local Government Services shall promulgate bi-annually the cost-of-living adjustment to apply in the next following local fiscal year.

L.1983, c. 49, s. 4; amended 1991, c. 75, s. 20; 2004, c. 74, s. 1.

40A:4-45.2. Limitation on increase of appropriations

For local budget years beginning on or after July 1, 2004 municipalities and counties shall be prohibited from increasing their final appropriations by more than 2.5% or the cost-of-living adjustment, whichever is less, over the previous year, except within the provisions set forth hereunder.

For the purpose of this section, in computing its final appropriations for the previous year, a municipality or county shall include, as part of its final appropriations:

a. Amounts of revenue generated by:

(1) an increase in its valuations based solely on applying the preceding year's local purposes tax rate of the municipality to the assessed value of new construction or improvements, or on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements, as may be appropriate, and

(2) payments in lieu of taxes on a parcel of land received on or after January 1, 2007 pursuant to the terms of a financial agreement under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), less any amounts remitted by a municipality to a county pursuant to subsection b. of section 12 of P.L.1991, c.431 (C.40A:20-12);

b. (Deleted by amendment, P.L.1990, c.89.)

c. Amounts approved by referendum, pursuant to section 1 of P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312 (C.40A:4-45.19);

d. (Deleted by amendment, P.L.1990, c.89.)

e. Expenditures for the assumption of any service or function of a local public utility, a local public authority, or a special purposes district, as approved by the Local Finance Board pursuant to section 3 of P.L.1983, c.49 (C.40A:4-45.13).

For the 1991 local budget year, the final appropriations from the prior year shall be the total appropriations for the 1990 budget year. In each local budget year in which any service, function, or portion thereof, is transferred to, or assumed by, the State or federal government from a municipal government, the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated the amount which the municipality expended for that service or function during the last full budget year, or portion thereof, throughout which the service or function so transferred was funded from appropriations in the municipal budget.

In each budget year subsequent to 1990, whenever any municipality shall have transferred to any local public utility, any local public authority or any special purposes district, during the immediately preceding budget year, or at any time during the current budget year prior to the final adoption of the budget, any service or function funded during the immediately preceding budget year, either partially or wholly, from appropriations in the municipal budget, the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to this section the amount which the municipality expended for that service or function during the last full budget year throughout which the service or function so transferred was funded from appropriations in the municipal budget.

cf: P.L.2010, c. 149, s. 1.

40A:4-45.2b. Deduction from county appropriation for services assumed by State

For each local fiscal year, or portion thereof, in which a service or function associated with the provisions of this act is assumed by the State, the county shall deduct from its final appropriations upon which its permissible county tax levy is calculated the amount which the county expended for that service or function during the last full budget year, or portion

thereof, for which the service or function so transferred was funded from appropriations in the county budget.

L.1990, c. 66, s. 14.

40A:4-45.3. Municipalities; budget limitation exceptions

In the preparation of its budget a municipality shall limit any increase in said budget to 2.5% or the cost-of-living adjustment, whichever is less, over the previous year's final appropriations subject to the following exceptions:

- a. (Deleted by amendment, P.L.1990, c.89.)
- b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;
- c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.
(2) (Deleted by amendment, P.L.1990, c.89.)
The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;
- d. All debt service, including that of a Type I school district;
- e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;
- f. Amounts reserved for uncollected taxes;
- g. (Deleted by amendment, P.L.1990, c.89.)
- h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;
- i. Any amount approved by any referendum;
- j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement

authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89;

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. (Deleted by amendment, P.L.2004, c.74.)

v. (Deleted by amendment, P.L.1990, c.89.)

w. (Deleted by amendment, P.L.2004, c.74.)

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding

device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets in extraordinary cases and with the permission of the Local Finance Board;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

- 1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;
- 2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;
- 3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;
- 4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and
- 5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Newly authorized operating appropriations for the municipal court or violation's bureau when approved by the vicinage Presiding Judge of the Municipal Court after consultation with the mayor and governing body of the municipality;

gg. (Deleted by amendment, P.L.2004, c.74.)

hh. (Deleted by amendment, P.L.2004, c.74.)

ii. Subject to the approval of the Local Finance Board, expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5);

jj. Amounts expended for a length of service award program pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

kk. Amounts expended to provide municipal services or reimbursement amounts to multifamily dwellings for the collection and disposal of solid waste generated by the residents of the multifamily dwellings. This subsection shall cease to be operative at the end of the first local budget year in which the municipality has fully phased in its reimbursement amount expenses;

ll. Amounts expended by a municipality under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of the municipality that will receive the service may choose to allow the amount of

projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

mm. Amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of each participating municipality may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

nn. (Deleted by amendment, P.L.2004, c.74.)

oo. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;

pp. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security;

qq. Amounts required to be paid by a municipality pursuant to the provisions of section 4 of P.L.2007, c.311 (C.13:1E-96.5).

In the first full year when an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

In the first full year when an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a municipality shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

L.1976, c. 68, s. 3; amended 1977, c. 10, s. 1; 1980, c. 66; 1981, c. 56, s. 1; 1983, c. 49, s. 5; 1985, c. 22; 1985, c. 82, s. 1; 1987, c. 74, s. 2; 1988, c. 66; 1989, c. 3, s. 17; 1989, c. 100, s. 19; 1990, c. 89, s. 2; 1990, c. 95, s. 3; 1992, c. 89, s. 6; 1993, c. 269, s. 16; 1994, c. 72, s. 6; 1997, c. 99, s. 9; 1997, c. 388, s. 12; 2000, c. 26, s. 4; 2000, c.126, s. 19; 2001, c. 25, s. 5 2001, c. 342, s. 10; 2003, c. 92, s. 1; 2004, c. 74, s. 3; 2007, c. 311, s. 17.

40A:4-45.3a. Referendum; when held, applicability

The provisions of any other law to the contrary notwithstanding, any referendum conducted by a municipality pursuant to subsection I. of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the purpose of requesting approval for increasing the municipal budget by more than 2.5% over the previous year's final appropriations, shall be held on the last Tuesday in the month of February of the year in which the proposed increase is to take effect. The municipal budget proposing such increase shall be introduced and approved in the manner otherwise provided in N.J.S.40A:4-5 at least 20 days prior to the date on which such referendum is to be held, and shall be published in the manner otherwise provided in N.J.S.40A:4-6 at least 12 days prior to said referendum date. Notice shall be published

pursuant to section 7 of P.L.1953, c.211 (C.19:57-7) on the next day following the introduction of the budget. This section shall apply only to municipalities that operate on the January 1 to December 31 fiscal year.

L.1979, c. 268, s. 1; amended 1981, c. 66, s. 1; 1991, c. 75, s. 21; 2004, c. 74, s. 4.

40A:4-45.3a1. Provision of polling places; election worker compensation

Notwithstanding the provisions of Title 19 of the Revised Statutes to the contrary, referenda conducted by any municipality pursuant to subsection I. of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the purpose of increasing the municipal budget by more than 2.5% over the previous year's final appropriations, may be conducted with respect to the provision of polling places and the compensation of election workers in the same manner as is provided for school elections under Title 19 of the Revised Statutes.

L.1983, c. 69, s. 1; amended 1995, c. 279, s. 45; 2004, c. 74, s. 5.

40A:4-45.3b. Proceeds of sale of municipal assets for immediately preceding year as exceptions

Notwithstanding any provisions of P.L.1976, c.68 (C.40A:4-45.1 et seq.) to the contrary, municipalities shall, in budget year 1981 and in all subsequent budget years in deriving their final appropriations for the prior year upon which the 2.5% annual increase permitted under section 2 of P.L.1976, c.68 (C.40A:4-45.2) is calculated, not be required to treat as exceptions to the prior year's final appropriations any appropriations of the proceeds of the sale of municipal assets which were contained in their budgets for the year 1980 or for any prior budget year. In all fiscal years subsequent to budget year 1981, municipalities shall, in deriving their final appropriations for the immediately preceding budget year upon which the 2.5% annual increase is calculated, treat the amounts of the proceeds of the sale of municipal assets appropriated in their budgets for the immediately preceding year as exceptions to the final appropriations under section 3 of P.L.1976, c.68 (C.40A:4-45.3).

L.1981, c. 64, s. 2; amended 2004, c. 74, s. 6.

40A:4-45.3d. Local Finance Board authorized to grant additional exceptions

In addition to the exceptions to the limit on increases in final appropriations for any budget year, listed in section 3 of P.L.1976, c.68 (C.40A:4-45.3), the Local Finance Board shall have the authority to grant additional exceptions, applicable to all municipalities and only effective for the local budget year in which the exception is granted, upon a finding of extraordinary circumstances that result in an unanticipated increase in expenditures for a service essential to the health, safety and welfare of the residents of the State.

L.1990, c. 89, s. 5.

40A:4-45.3e. Additional exceptions to limits on increases to certain appropriations of local units

In addition to the exceptions to the limits on increases to municipal appropriations set forth in section 3 of P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth in section 4 of P.L.1976, c.68 (C.40A:4-45.4), an increase in appropriations that represents expenditures made by a municipality or county for the purpose of funding the provision of health insurance shall be exempt from the limits on increases to municipal appropriations and to the limits on increases to the county tax levy in county budgets, respectively, for any

budget year, to the extent that the increases in health care costs equal that portion of the actual increase in total health care costs for the budget year that is in excess of four percent 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, as annually determined by the Division of Pensions and Benefits in the Department of the Treasury.

L.2007, c. 62, s. 13.

40A:4-45.4. Limitation on increase in county tax levies over previous year; exceptions

In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 2.5% or the cost-of-living adjustment, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

- a. The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation;
- b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditures would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;
- c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the county, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.
(2) (Deleted by amendment, P.L.1990, c. 89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or f. below;

- d. All debt service;
- e. (Deleted by amendment, P.L.1990, c. 89.)
- f. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate

amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

h. (Deleted by amendment, P.L.1987, c.74.)

i. (Deleted by amendment, P.L.1990, c.89.)

j. (Deleted by amendment, P.L.1990, c.89.)

k. (Deleted by amendment, P.L.1990, c.89.)

l. (Deleted by amendment, P.L.2004, c.74.)

m. (Deleted by amendment, P.L.1990, c.89.)

n. (Deleted by amendment, P.L.1990, c.89.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;

t. (Deleted by amendment, P.L.2004, c.74.)

u. Expenditures for the administration of general public assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

v. Amounts in a separate line item of a county budget that are expended on tick-borne disease vector management activities undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

w. Amounts expended by a county under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

- x. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;
- y. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security;
- z. Expenditures of amounts received pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96).

In the first full year where an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a county shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

In the first full year where an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a county shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

L.1976, c. 68, s. 4; amended 1977, c. 10, s. 2; 1981, c. 56, s. 2; 1983, c. 49, s. 6; 1987, c. 74, s. 3; 1989, c. 3, s. 18; 1989, c. 100, s. 20; 1990, c. 89, s. 3; 1993, c. 76; 1993, c. 269, s. 17; 1995, c. 259, s. 27; 1997, c. 52, s. 3; 2000, c. 126, s. 20; 2003, c. 92, s. 2; 2004, c. 74, s. 7; 2007, c. 311, s. 18.

40A:4-45.4a. Transfer of funds authorized by s. 40A:4-58 from appropriation not subject to limitation to appropriation subject to limitation; prohibition

No transfer of funds which is authorized by N.J.S. 40A:4-58 shall be made from an appropriation which is not subject to limitation pursuant to section 3 or 4 of P.L.1976, c. 68 (C. 40A:4-45.3 and 40A:4-45.4) to an appropriation which is subject to such limitation.

L.1981, c. 56, s. 3.

40A:4-45.4b. Budget cap exception for solid waste reclamation utility

Notwithstanding the provisions of section 4 of P.L.1976, c.68 (C.40A:4-45.4) to the contrary, amounts appropriated in a county budget pursuant to N.J.S.40A:4-35 related to the operation of a county solid waste reclamation utility shall not be subject to limits on increases in the county tax levy in any budget year.

L.2001, c. 348, s. 2.

40A:4-45.12. Annual variable percentage limitation on increases in expenditures

The Legislature finds that the constraints placed upon local government by P.L.1976, c. 68 (C. 40A:4-45.1 et seq.) are successfully accomplishing their purpose of controlling the growth in the cost of local government.

The Legislature finds, however, that a uniform fixed percentage limitation on increases in expenditures has not adequately reflected either national economic trends or the differing

needs of the various local governments of the State. As a result, local governments have been unevenly affected in their ability to provide necessary services to their residents.

The Legislature, therefore, determines that P.L.1976, c. 68 requires adjustment to provide for an annually variable percentage limitation which more accurately reflects annual nationwide increases in the basic costs of governmental operations, to provide a mechanism whereby local officials and taxpayers can examine the particular needs of their community and determine whether or not the use of this limitation more nearly addresses those needs, and to modify several features of the law which have proven to be arbitrary or to result in unintended effects on the structure of local government.

L.1983, c. 49, s. 1, eff. Jan. 31, 1983.

40A:4-45.13. Assumed service or function by county or municipality; addition to final appropriation

a. In any budget year subsequent to 1982, whenever a county or municipality shall have lawfully assumed, during the immediately preceding budget year, or at any time during the current budget year prior to the final adoption of the budget, the provision of any service or function funded during the immediately preceding budget year wholly by a local public utility, a local public authority or a special purposes district, and where the provision of that service or function by the county or municipality is the result of the lawful dissolution of the public utility, public authority, or special services district previously providing the service or function, the county or municipality shall add to the final appropriations for the current budget year upon which its permissible expenditures are calculated, or upon which its permissible county tax levy is calculated, the amount certified by the Local Finance Board for appropriation by the county or municipality to fund that service or function in the current budget year.

b. In any budget year subsequent to 1982, whenever a county shall have lawfully assumed, during the immediately preceding budget year, or at any time during the current budget year prior to the final adoption of the budget, the provision of any service or function funded during the immediately preceding budget year wholly or partially by one or more municipalities within the county from appropriations in the municipal budget, the county shall add to the final appropriations for the current year upon which its permissible county tax levy is calculated the amount certified by the Local Finance Board for appropriation by the county to fund that service or function in the current budget year.

c. The Local Finance Board shall approve the assumption of any service or function for the purpose of its eligibility under the provisions of this section. The board shall approve the assumption if it finds: that the assumption was lawfully made; that the assumption does not deleteriously affect the health, safety or welfare of the residents of a county or municipality; and that the assumption represents an efficient and feasible means of providing the service or function. The board shall, in approving the assumption, certify to the county or municipality assuming the service or function the amount of appropriation to fund the service or function which shall be eligible for the provisions of this section.

L.1983, c. 49, s. 3, eff. Jan. 31, 1983.

40A:4-45.14. Permissible increase in appropriations

a. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the contrary, in any year for which the cost-of-living

adjustment is equal to or less than 2.5%, a county may, by resolution approved by a majority vote of the full membership of the governing body, provide that in the local fiscal year to which the resolution applies, the tax levy of the county shall be increased by a percentage rate greater than the cost-of-living adjustment, but not to exceed 3.5% over the previous year's county tax levy.

b. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the contrary, in any year in which the cost-of-living adjustment is equal to or less than 2.5% a municipality may, by ordinance approved by a majority vote of the full membership of the governing body, provide that in the local fiscal year to which the ordinance applies, the final appropriations of the municipality shall be increased by a percentage rate greater than the cost-of-living adjustment, but not to exceed 3.5% over the previous year's final appropriations.

c. The ordinance or resolution, as appropriate, shall be introduced after the beginning of the local fiscal year to which it applies and prior to the date provided by law for the introduction and approval of the annual budget of the municipality or county. The ordinance or resolution shall state the greater percentage rate to be adopted and the additional amount of increased final appropriations or tax levy which that greater percentage rate represents over that which the 2.5% rate or cost-of-living adjustment, as appropriate represents. The ordinance or resolution may, thereafter, be adopted, after publication and a public hearing separately afforded upon 10 days' notice duly published, by a majority vote of the authorized membership of the governing body. Any procedures provided in a form of local government for the exercise of veto powers by a mayor or county executive with respect to ordinances generally shall pertain. An ordinance or resolution so adopted shall, notwithstanding any other provision of law, take effect immediately upon adoption.

Upon adoption of the ordinance or resolution, the permissible final appropriations of the municipality, or permissible county tax levy of the county, shall be calculated for the year as provided in section 3 or 4 of P.L.1976, c.68 (C.40A:4-45.3 or 40A:4-45.4), except that the percentage rate so adopted shall be used. The final appropriations or county tax levy so calculated shall be used in the immediately following year for the purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).

A copy of any ordinance or resolution introduced pursuant to this section shall be filed with the Director of the Division of Local Government Services within five days of introduction, and a copy of the ordinance or resolution adopted shall be filed with the director within five days of adoption.

In any year for which an ordinance is adopted by a municipality pursuant to this section, no referendum shall be held in that municipality pursuant to subsection I. of section 3 of P.L.1976, c.68 (C.40A:4-45.3); provided that a municipality may hold a special election if required by law pursuant to that subsection.

L.1983, c. 49, s. 7; amended 1983, c. 312, s. 1; 1986, c. 203, s. 1; 1987, c. 74, s. 6; 1991, c. 75, s. 22; 2004, c. 74, s. 8.

40A:4-45.15a. Municipality permitted certain final appropriations

a. (Deleted by amendment, P.L.2004, c.74.)

b. Notwithstanding any provisions of P.L.1976, c.68 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any local budget year beginning on or after July 1, 2004 for which

the cost-of-living adjustment is equal to or less than 2.5%, increases its final appropriations in an amount less than 3.5%, shall be permitted, after adoption of an ordinance by the governing body, to appropriate the difference between the amount of its actual final appropriations and the 3.5% percentage rate, as an exception to its final appropriations in either of the next two succeeding years. In the year immediately following the year in which the amount of difference is so appropriated, the amount of difference shall be added to the final appropriations of the preceding year for the purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).

L.1994, c. 100, s. 1; amended 2004, c. 74, s. 9.

40A:4-45.15b. County permitted certain final appropriations, county tax levy

a. (Deleted by amendment, P.L.2004, c.74.)

b. Notwithstanding any provisions of P.L.1976, c.68 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local budget year beginning on or after January 1, 2005 for which the cost-of-living adjustment is equal to or less than 2.5%, increases its final appropriations or county tax levy in an amount less than 3.5%, shall be permitted, after adoption of a resolution by the governing body, to appropriate the difference between the amount of its actual final appropriations or county tax levy and the 3.5% percentage rate, as an exception to its final appropriations or county tax levy in either of the next two succeeding years. In the year immediately following the year in which the amount of difference is so appropriated, the amount of difference shall be added to the final appropriations or county tax levy of the preceding year for the purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).

L.1994, c. 100, s. 2; amended 2004, c. 74, s. 10.

40A:4-45.15c. Amount of difference, certain; available for appropriation

Notwithstanding the provisions of sections 1 and 2 of P.L.1994, c.100 (C.40A:4-45.15a and C.40A:4-45.15b) to the contrary, the amount of difference remaining as of June 30, 2003 for appropriation in the next two succeeding local budget years shall remain in place and be available for appropriation by a county or municipality.

L.2004, c. 74, s. 11.

40A:4-45.16. Referendum; increase in final appropriations

In any public referendum conducted by a municipality pursuant to subsection i. of section 3 of P.L.1976, c. 68 (C. 40A:4-45.3i.), the public question to be submitted to the voters at the referendum election shall state only the amount by which the final appropriations of the municipality shall be increased by more than the permissible level over the previous year's final appropriations if the question is approved by the voters, and the percentage rate of increase which that amount represents over the permissible rate. There shall be set forth in an accompanying explanatory statement a list of the appropriations line items to which the increased amount shall apply and such other relevant information as the governing body may wish to include therein.

A resolution adopted by a municipality to authorize the conduct of such a referendum shall set forth, in addition to the above, the amount to be appropriated for each applicable appropriations item: a. if the referendum question is approved by the voters; and b. if the referendum question is disapproved by the voters.

L.1983, c. 49, s. 9, eff. Jan. 31, 1983.

40A:4-45.19. Increases in final appropriations or tax levies in years in which new service or program is funded; explanatory statement on ballot concerning amount of appropriation

a. In the first local budget year in which a county or municipality shall commence to fund a new service or program, which it is required to provide as a result of a binding referendum initiated and approved by the voters of the county or municipality, there shall be added to the final appropriations upon which the permissible municipal expenditures are calculated, or upon which the permissible county tax levy is calculated, the amount determined by the county or municipal governing body to be necessary to fund the service or program in that local budget year.

b. Notwithstanding the provisions of any other law to the contrary, whenever, on or after the effective date of this act, a binding referendum question is required to be submitted in a county or municipality as a result of a petition initiated by the voters thereof, the approval of which by the voters would require the county or municipality to provide a new service or program, the governing body of the county or municipality shall cause to be set forth in an accompanying explanatory statement to the public question to appear on the ballot the amount of appropriations determined by the governing body to be necessary to fund the service or program in the first local budget year following approval of the question, and such other relevant information as the governing body may wish to include therein. The amount so set forth shall be the amount added to the county or municipal final appropriations pursuant to subsection a. of this section in the first local budget year in which the county or municipality shall commence to fund the service or program approved by the voters.

c. For the purposes of subsections a. and b. of this section, in determining the amount of appropriations necessary to fund the provision of a new service or program, the county or municipal governing body shall deduct an amount equal to the amount of any revenues anticipated to be derived from service fees to be imposed for the service or program in the first local budget year in which the county or municipality shall commence to fund the service or program. If in any local budget year thereafter, the county or municipality shall impose new service fees or increased service fees for the service or program, the amount of final appropriations upon which the permissible municipal expenditures are calculated, or upon which the permissible county tax levy is calculated, shall be reduced in the first full local budget year to which the new or increased service fees pertain, by the amount to be derived in that year from the new service fees or the increase in service fees.

L.1983, c. 312, s. 2, eff. Aug. 26, 1983.

40A:4-45.38. Transfer of funds from appropriation subject to limitation

No transfer of funds authorized by N.J.S.40A:4-58 and N.J.S.40A:4-59 shall be made from an appropriation which is not subject to limitation pursuant to section 3 or 4 of P.L.1976, c.68 (C.40A:4-45.3 and 40A:4-45.4) to an appropriation which is subject to either of those limitations. Notwithstanding the provisions of N.J.S.40A:4-58 and N.J.S.40A:4-59 no transfer of funds is authorized between appropriations not subject to limitation pursuant to section 3 or 4 of P.L.1976, c.68 (C.40A:4-45.3 and 40A:4-45.4), except transfers may be made to interest and redemption charges.

L.1990, c. 89, s. 6.

40A:4-45.39. Reduction for unrealized municipal revenues

To the extent that a municipality fails to realize revenues appropriated in any budget year, other than federal or State aid revenues, it shall be required to reduce the amount on which it calculates its permissible increase for the following year by an amount equal to those revenues that it failed to realize.

L.1990, c. 89, s. 7.

40A:4-45.40. Transfer of services, deduction from county appropriation

In each local budget year in which any service, function, or portion thereof, is transferred to, or assumed by, the State or federal government from a county government, the county shall deduct from its final appropriations upon which its permissible county tax levy is calculated the amount which the county expended for that service or function during the last full budget year, or portion thereof, throughout which the service or function so transferred was funded from appropriations in the county budget.

L.1990, c. 89, s. 8.

40A:4-45.41. Appropriation included in spending limitation

All appropriations, other than for debt service and emergency temporary appropriations, made to cover overexpenditures or expenditures from a previous budget year, shall be included within the local unit's spending limitation in the year the appropriation is made.

L.1990, c. 89, s. 9.

40A:4-45.42. Annual report to Governor, Legislature

The Chairman of the Local Finance Board shall provide an annual report to the Governor and the Legislature detailing all significant local expenditure limitation issues that came before the Local Finance Board or the Division of Local Government Services in the Department of Community Affairs during the preceding year.

L.1990, c. 89, s. 10.

40A:4-45.43. Exemption on limits on increases for certain appropriations for pension contributions

In addition to the exceptions to the limits on increases to municipal appropriations set forth in section 3 of P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth in section 4 of P.L.1976, c.68 (C.40A:4-45.4), appropriations that represent expenditures made by a municipality or county for the purpose of funding normal and accrued liability contributions to the Public Employees' Retirement System of New Jersey due in the State fiscal years 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09, or to the Police and Firemen's Retirement System due in the State fiscal years 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08, shall be exempt from the limits on increases to municipal appropriations and to the limits on increases to the county tax levy in county budgets, respectively, for the local budget year in which those contributions are due.

L.2003, c. 108, s. 5.

40A:4-45.43a. Additional exceptions to limits on increases to appropriations

In addition to the exceptions to the limits on increases to municipal appropriations set forth in section 3 of P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth in

section 4 of P.L.1976, c.68 (C.40A:4-45.4), appropriations that represent expenditures made by a municipality or county for the purpose of funding certain normal and accrued liability contributions set forth in sections 1 and 2 of P.L.2009, c.19 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255 (C.43:16A-15) due in the State fiscal year 2009-2010 shall be exempt from the limits on increases to municipal appropriations and from the limits on increases to the county tax levy in county budgets, respectively, for the local budget year in which those contributions are due, except that for local fiscal year 2009 the full normal and accrued liability contributions to the Public Employees' Retirement System shall be added to the allowable operating appropriations before exceptions.

L.2009, c. 19, s. 5.

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 (C.40A:4-45.44 through C.40A:4-45.47 and C.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 (C.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 (C.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.2010, c. 44, s. 8.

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

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 (C.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 (C.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 (C.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 (C.40A:4-45.46), also shall be deducted from the sum of the exclusions listed in paragraphs (1) through (6) or directly reduce the adjusted tax levy if there are no exclusions.

cf: P.L.2010, c. 44, s. 9.

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

Notwithstanding the provisions of section 10 of P.L.2007, c.62 (C.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 (C.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.

- 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 (C.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 (C.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.2010, c. 44, s. 10.

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

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 (C.40A:4-45.44 through C.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 (C.40A:4-45.46).

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

40A:4-46. Emergency appropriations

A local unit may make emergency appropriations, after the adoption of a budget, for a purpose which is not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made to meet a pressing need for public expenditure to protect or promote the public health, safety, morals or

welfare or to provide temporary housing or public assistance prior to the next succeeding fiscal year.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-47. Emergency appropriations provided for in next budget

The total amount of all emergency appropriations shall be provided in full by the governing body as a deferred charge in the budget of the next succeeding fiscal year, except to the extent, if any, that provision for paying, funding or refunding any such emergency appropriation or for financing the purpose of the expenditures pursuant thereto shall previously have been made by authorization of bonds pursuant to 40A:2-3.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-48. Emergency appropriations not exceeding, with other appropriations, 3% of the operating appropriations

An emergency appropriation which, together with all prior emergency appropriations made during the same year, does not exceed 3% of the total of current and utility operating appropriations made in the budget adopted for that year shall be made as follows:

- a. The governing body shall, by resolution adopted by not less than 2/3 vote of its full membership, declare that an emergency exists requiring a supplementary appropriation.
- b. The resolution shall be in the form and content prescribed by the local government board and shall set out the nature of the emergency in full.
- c. A copy of the resolution shall be filed forthwith with the director.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-49. Emergency appropriations exceeding, with other appropriations, 3% of the operating appropriations

An emergency appropriation which together with all prior emergency appropriations made during the same year exceeds 3% of the total current and utility operating appropriations in the budget for that year shall be made as follows:

- a. The governing body shall, by resolution adopted by not less than 2/3 vote of its full membership, petition the director for permission to exceed the limitation of 3%.
- b. The resolution shall be in the form and content prescribed by the local government board, and shall set out the nature of the emergency in full.
- c. The director shall consider the resolution and, if requested by local taxpayers or by the governing body, hold a hearing thereon.
- d. The director shall, within 5 days after receipt of the resolution, or if a hearing is held, after the hearing, determine whether an emergency exists which requires such appropriation.
- e. If the director determines that such appropriation is necessary, he shall fix the maximum amount and the governing body shall not exceed that amount.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-50. Emergencies financed from surplus

A local unit may finance any emergency appropriation from surplus funds available, or may borrow money and issue its "emergency notes" as provided for in this chapter to finance any such appropriation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-51. Emergency notes authorized

Any local unit may borrow money and issue its negotiable notes to meet an emergency appropriation. Each such note shall be authorized by resolution of the governing body, shall be designated an "emergency note", and may be renewed from time to time. All such notes, and any renewals thereof, shall mature not later than the last day of the fiscal year next succeeding the fiscal year in which such notes were issued and the emergency appropriation authorized. The provisions of this chapter relating to tax anticipation notes shall apply to emergency notes except for limitations as to maturity and renewals.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-52. Conclusiveness of emergency appropriations upon affidavit of finance officer

An affidavit of a financial officer of the local unit shall be a conclusive determination of the total amount of any such emergency appropriations made in any fiscal year and of the amount of all budget appropriations for such year.

If any resolution providing for the issuance of notes to meet any such emergency appropriation shall recite or determine that such appropriation was required to meet a pressing need for public expenditure to protect or promote the public health, safety, morals or welfare or to provide for temporary housing or public assistance, such recital or determination shall be deemed to be true for the purpose of determining the validity of such notes, and the local unit issuing such notes and all others interested shall forever thereafter be estopped from denying the same.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-53. Special emergency appropriations

A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

- a. Preparation of an approved tax map.
- b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor, or of any program to update and make current any previous revaluation program when such is ordered by the county board of taxation.
- c. Preparation of a revision and codification of its ordinances.
- d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.
- e. Preparation of drainage maps for flood control purposes.
- f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.

- g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.).
- h. Contractually required severance liabilities resulting from the layoff or retirement of employees. Such liabilities shall be paid without interest and, at the sole discretion of the local unit, may be paid in equal annual installments over a period not to exceed five years.
- i. Preparation of a sanitary or storm system map.

A copy of all ordinances or resolutions as adopted relating to special emergency appropriations shall be filed with the director.

cf: P.L.2010, c. 46, s. 1.

40A:4-54. Authorization of special emergency appropriations

A local unit may adopt a resolution authorizing special emergency appropriations to cover the cost of extraordinary expense for the repair, reconstruction of streets, roads or bridges, or other public property damaged by flood or hurricane where such expense was not foreseen at the time of the adoption of the budget. A municipality may adopt a resolution authorizing special emergency appropriations to cover the cost of extraordinary expense for the repair and reconstruction of private property damaged by flood or hurricane in accordance with rules and regulations promulgated by the Department of Community Affairs for a Municipal Natural Disaster Relief Grant Program authorized pursuant to section 2 of P.L.1999, c.366 (C.40:48-9.15).

Amended 1999, c. 366, s. 1.

40A:4-54.1. Emergency funding for certain employee group insurance programs

Whenever the accumulated deficits of a municipal health insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.) exceed an amount equal to 10% of the current year's total assessments, the commissioners of the fund may adopt a resolution declaring a special emergency for the purpose of funding obligations to satisfy the accumulated deficits of the employee group insurance programs administered by the fund. The resolution must be adopted no later than 90 days after the fund year end. No resolution adopted by the commissioners for the purpose of authorizing special emergency appropriations for the insurance fund shall take effect without the approval of the Local Finance Board and the Commissioner of Banking and Insurance. The special emergency may be funded for up to three years pursuant to the provisions of either section 3 of P.L.1961, c.22 (C.40A:4-55.3) or section 4 of P.L.1961, c.22 (C.40A:4-55.4).

cf: P.L.2010, c. 231, s. 1.

40A:4-54.2. Certified copy of resolution, submission

The municipal health insurance fund shall forward a certified copy of the resolution to each fund member and the Local Finance Board and the Commissioner of Banking and Insurance. The fund shall submit a report to the Local Finance Board and the Commissioner of Banking and Insurance setting forth the elements of the accumulated deficit and provide a detailed plan that will enable the fund to retire the accumulated deficit no later than the last day of the third year following the date of the adoption of the resolution authorizing special emergency appropriations.

cf: P.L.2010, c. 231, s. 2.

40A:4-54.3. Notice provided to members

After a resolution authorizing special emergency appropriations has been approved by the Local Finance Board and the Commissioner of Banking and Insurance the municipal health insurance fund shall provide notice to each member that the resolution was approved. The fund's annual assessment shall provide sufficient detail to allow each fund member to determine what portion currently relates to the current fund assessment and what portion relates to the funding of the accumulated deficit. On behalf of members who require relief from the adjusted tax levy provisions of section 10 of P.L.2007, c.62 (C.40A:4-45.45) in order to meet their pro rata share of the deficit assessment, the fund may file a single request for waiver for all members who require such relief. The Local Finance Board shall be authorized to approve such a consolidated waiver request.

cf: P.L.2010, c. 231, s. 3.

40A:4-55. Special emergency notes

After the adoption of an ordinance or resolution for special emergency appropriations, the local unit shall by 2/3 vote of the full governing body adopt a resolution setting forth:

- a. The amount appropriated.
- b. Provision for the borrowing of money and the issuance of "Special Emergency Notes" which may be renewed from time to time, but at least 1/5 of all such notes, and the renewals thereof, shall mature and be paid in each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of the emergency resolution. The provisions of this chapter relating to tax anticipation notes shall apply to special emergency notes.
- c. A local unit may finance such appropriation from surplus funds available or borrow money in the manner prescribed above. Where any appropriation is financed from surplus funds available, at least 1/5 of the amount thereof shall be included in each annual budget until the appropriation has been fully provided for.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-55.1. Special emergency appropriations; adoption of ordinance

Any municipality may adopt ordinances authorizing special emergency appropriations to cover the cost of extraordinary expenses for the repair or reconstruction of streets, roads or bridges damaged by snow, ice, frost, or floods.

L.1961, c. 22, p. 107, s. 1, eff. May 9, 1961.

40A:4-55.2. Financing appropriation

Any municipality may finance such appropriation from surplus funds available or may borrow money to finance the same in the manner hereinafter prescribed.

L.1961, c. 22, p. 107, s. 2, eff. May 9, 1961.

40A:4-55.3. Manner of financing appropriation from surplus funds

When any such appropriation is financed from surplus funds available, at least 1/3 of the amount thereof shall be included in each annual budget until the appropriation has been fully provided for.

L.1961, c. 22, p. 107, s. 3, eff. May 9, 1961.

40A:4-55.4. Manner of financing appropriation by borrowing money

When any such appropriation is to be financed by borrowing money, the governing body of the municipality shall, after the adoption of any such ordinance, by a 2/3 vote of the full membership thereof adopt a resolution:

- a. Setting forth the amount appropriated, and
- b. Making provision for the borrowing of money and the issuance of "Special Emergency Notes" which may be renewed from time to time, but at least 1/3 of all such notes, and the renewals thereof, shall mature and be paid in each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the third year following the date of the emergency resolution. The provisions of the chapter hereby supplemented relating to tax anticipation notes shall apply to special emergency notes.

L.1961, c. 22, p. 107, s. 4, eff. May 9, 1961.

40A:4-55.5. Approval and filing of ordinance or resolution

No such ordinance or resolution shall be valid unless it is approved by the Local Government Board and a copy thereof shall be filed forthwith after it is adopted with the Director of the Division of Local Government in the Department of the Treasury for that purpose.

L.1961, c. 22, p. 108, s. 5, eff. May 9, 1961.

40A:4-55.6. Rules and regulations; proof of emergency and need for appropriation

The Local Government Board shall promulgate suitable rules and regulations as to the adoption of such ordinances and may require proof by engineering data as to the existence of any such emergency and the need for an appropriation therefor as a prerequisite to the approval of any such ordinance.

L.1961, c. 22, p. 108, s. 6, eff. May 9, 1961.

40A:4-55.7. Effect of revision of Title 40

This act shall continue in effect after, and notwithstanding the taking effect of, chapter 169 of the laws of 1960.

L.1961, c. 22, p. 108, s. 7, eff. May 9, 1961.

40A:4-55.8. County colleges; special emergency appropriation; resolution; contents

Upon the receipt of a certification from the board of school estimate of the board of trustees of a county college, a county may by a 2/3 vote of its entire governing body, adopt a resolution authorizing a special emergency appropriation to provide for funds expected to be received as State or Federal aid for the establishment of a county college. Such resolution shall:

- (a) State the amount needed to provide for said State or Federal share based upon the certification of the board of school estimate.
- (b) Set forth the amount appropriated, which shall not be in excess of the amount requested by the board of trustees.

(c) Provide for the borrowing of any amount required in anticipation of the receipt of State or Federal aid which may subsequently become available, said borrowing to be by "special county college emergency notes."

L.1965, c. 87, s. 1, eff. June 8, 1965.

40A:4-55.9. Financing; reduction of appropriation; resolution

The county may finance such appropriation from available surplus funds or borrow money in the manner prescribed above. When State or Federal funds are appropriated and become available to the board of trustees, the county upon receipt of a notice of the availability of such funds shall, by resolution, reduce the emergency appropriation by the amount certified as being available for the purpose for which the emergency appropriation was provided.

L.1965, c. 87, s. 2, eff. June 8, 1965.

40A:4-55.10. Exclusion from next succeeding budget; limitation on period of appropriation

Any emergency appropriation adopted under the provisions of this section shall not be included in the next succeeding budget but must be canceled or otherwise provided for within a 3-year period after the adoption thereof.

L.1965, c. 87, s. 3, eff. June 8, 1965.

40A:4-55.11. Filing certified copies of resolution; disposition by commissioner of education

Three certified copies of every resolution adopted under this act shall be filed with the Commissioner of Education forthwith after adoption. If the commissioner approves the same, he shall transmit 2 copies to the Director of the Division of Local Government with his approval indicated thereon.

L.1965, c. 87, s. 4, eff. June 8, 1965.

40A:4-55.12. Applicability of provisions relating to tax anticipation notes

The provisions of chapter 4 of Title 40A of the New Jersey Statutes relating to tax anticipation notes shall apply to special county college emergency notes, except for the limitations as to maturity and renewal.

L.1965, c. 87, s. 5, eff. June 8, 1965.

40A:4-55.13. Public exigency caused by civil disturbances; special emergency appropriation; resolution

A local unit may by resolution make special emergency appropriations after the adoption of the budget, for costs arising from a public exigency caused by civil disturbances.

L.1968, c. 194, s. 1, eff. July 19, 1968.

40A:4-55.14. Financing; surplus funds; borrowing

A local unit may finance such appropriations from surplus funds available or may borrow money to finance the same in the manner hereinafter prescribed.

L.1968, c. 194, s. 2, eff. July 19, 1968.

40A:4-55.15. Surplus funds; inclusion in annual budget

When any such appropriation is financed from surplus funds available, at least 1/3 of the amount thereof shall be included in each succeeding annual budget until the appropriation has been fully provided for.

L.1968, c. 194, s. 3, eff. July 19, 1968.

40A:4-55.16. Borrowing money; resolution

When any such appropriation is to be financed by borrowing money, the governing body of the local unit shall, by a 2/3 vote of the full membership thereof, adopt a resolution:

- a. Setting forth the amount appropriated, and
- b. Making provision for the borrowing of money by the issuance of "special emergency notes" which may be renewed from time to time, but at least 1/3 of all such notes, and the renewals thereof, shall mature and be paid in each succeeding year so that all notes and renewals shall have matured and have been paid not later than the last day of the third year following the date of the special emergency resolution.

L.1968, c. 194, s. 4, eff. July 19, 1968.

40A:4-55.17. Applicability of tax anticipation notes provisions to special emergency notes; filing resolution

The provisions of the chapter hereby supplemented relating to tax anticipation notes shall apply to special emergency notes. A copy of the resolution shall be filed forthwith after it is adopted with the Director of the Division of Local Finance in the Department of Community Affairs for that purpose.

L.1968, c. 194, s. 5, eff. July 19, 1968.

40A:4-55.18. Distressed municipality defined

As used in this act the term "distressed municipality" means any municipality required to pay a judgment in an amount which would require an increase in the municipal purposes levy for any year in excess of 40% over the immediately preceding year.

L.1982, c. 66, s. 1, eff. July 12, 1982.

40A:4-55.19. Judgments; payment; appropriation; resolution; notes; conditions

- a. The governing body of a distressed municipality may by resolution approved by not less than two-thirds vote of its full membership provide for the payment of any judgment against it resulting from an order of the court by providing an appropriation therefor, and financing such from surplus funds or by borrowing through issuance of notes or other obligations in the name of the municipality.
- b. Any resolution adopted under the provisions of this act shall provide that in the case of any notes issued to finance appropriations, at least one-fifth of all such notes, and any renewals thereof, shall mature and be paid each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of the resolution.

L.1982, c. 66, s. 2, eff. July 12, 1982.

40A:4-55.20. Approval of resolution

No resolution approved pursuant to this act shall have effect unless approved by the Local Finance Board pursuant to rules and regulations prescribed by it.

L.1982, c. 66, s. 3, eff. July 12, 1982.

40A:4-55.21. Powers and obligations of municipality; ad valorem taxes; levy

The power and obligation of a municipality to pay any note or obligation issued pursuant to this act shall be unlimited and the municipality shall have power and be obligated to levy ad valorem taxes upon all the taxable property within the municipality for the payment of such notes or obligations and interest thereon, without limitation of rate or amount.

L.1982, c. 66, s. 4, eff. July 12, 1982.

40A:4-56. Contracts of special or technical nature

A local unit may, if it so elects, enter into a contract for the purposes set forth in 40A:4-53 without advertising, provided the governing body shall, by resolution duly adopted by not less than 2/3 vote of the full membership thereof, determine that the services to be rendered are of a special technical nature and thus will not permit of special advertising. In the case of the purpose set forth in 40A:4-54, the provisions of general laws relating to contracts and public bidding shall control.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-57. Expenditures void without appropriations

No officer, board, body or commission shall, during any fiscal year, expend any money (except to pay notes, bonds or interest thereon), incur any liability, or enter into any contract which by its terms involves the expenditure of money for any purpose for which no appropriation is provided, or in excess of the amount appropriated for such purpose.

Any contract made in violation hereof shall be null and void, and no moneys shall be paid thereon.

Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for

- a. Capital projects to be financed in whole or in part by the issuance of notes or bonds;
- b. Contracts or leases the terms of which exceed the fiscal year in which such contracts are made, when provided by law;
- c. The purchase of the right, title and interest in the right-of-way of any street railway company in the municipality, when said right-of-way extends in, over and along any public street or highway in this State and the improving or paving of said right-of-way after the same has been acquired.

Nothing in this section shall apply to the use of funds of departments, for the operation of which budget appropriations are not made, nor to contracts for professional services for the liquidation or foreclosure of tax title liens in such municipalities wherein it is agreed that the cost of the services are to be paid, in all or in part, from the funds derived, or to be derived from the redemption of lien property or the sale of foreclosed property. The use of funds of such departments and for such service contracts shall be subject to approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 164, s. 1, eff. July 19, 1977.

40A:4-58. Appropriation transfers during last 2 months of fiscal year

a. Should it become necessary, during the last 2 months of the fiscal year, to expend for any of the purposes specified in the budget an amount in excess of the respective sums appropriated therefor and there shall be an excess in any appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriation, the governing body may, by resolution setting forth the facts, adopted by not less than 2/3 vote of the full membership thereof, transfer the amount of such excess to those appropriations deemed to be insufficient; no transfers may be made to appropriations for contingent expenses or deferred charges.

b. No transfers may be made under this section from appropriations for

1. contingent expenses,
2. deferred charges,
3. cash deficit of preceding year,
4. reserve for uncollected taxes,
5. down payments,
6. capital improvement fund,
7. interest and redemption charges.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-59. Appropriation transfers during first 3 months of succeeding year

a. If, during the first 3 months of any fiscal year, the amount of any appropriation reserve for the immediately preceding fiscal year is insufficient to pay the claims authorized or incurred during said preceding year which were chargeable to said appropriation, and there shall be an excess in any appropriation reserves over and above the amount deemed to be necessary to fulfill its purpose, the governing body may, by resolution adopted by not less than a 2/3 vote of the full membership thereof, transfer the amount of such excess to an appropriation reserve or an appropriation in the prior budget deemed to be insufficient to fulfill its purpose or for which no reserve was provided. No transfers may be made to appropriation reserve for contingent expenses or deferred charges.

b. No transfers may be made under this section from appropriation reserves for

1. contingent expenses,
2. down payments,
3. capital improvement fund.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-60. Unexpended balances canceled by resolution

Any unexpended balances of appropriations may, by resolution of the governing body, be canceled prior to the end of the fiscal year. Said resolution shall set forth the titles of the appropriations and the amounts to be canceled therefrom.

At the end of the next succeeding fiscal year, all remaining unexpended balances shall forthwith lapse, and no disbursement shall thereafter be made therefrom, except to cover specific contracts or agreements in existence at the close of such succeeding fiscal year.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-61. Assessment revenue fund

All receipts derived from special assessments on property specially benefited by any local improvements shall be segregated by the municipality and kept in a separate fund to be known as an "assessment revenue fund." They shall be applied only to the payment of that part of the cost of any such improvements which has been specially assessed on property specially benefited or of any bonds or notes issued to finance such part of the cost of any such improvements until all such bonds or notes shall have been paid.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-62. Public utility funds

All moneys derived from the operation of publicly owned or operated utility or enterprise and any other moneys applicable to its support, shall be segregated by the local unit and kept in a separate fund which shall be known as "utility fund" and shall bear a further designation identifying the utility or enterprise and, except as provided in section 40A:4-35, shall be applied only to the payment of the operating and upkeep costs, and the interest and debt redemption charges upon the indebtedness incurred for the creation of such utility or enterprise.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-62.1. Snow removal reserves; permitted, rules, regulations

a. A local unit may, by resolution, establish a snow removal reserve. Unexpended balances budgeted annually for snow removal may be lapsed into the reserve. Upon passage of a resolution of the governing body, funds in the reserve may be used for any purpose related to snow and ice removal by the local unit after current budget appropriations for that purpose have been expended.

b. The Local Finance Board is authorized to adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of this section.

L.2001, c. 138.

40A:4-63. Money in separate funds treated as trust funds

Moneys held in any separate fund shall be treated by the officers of the local unit as moneys held in trust for the purpose for which such separate fund was created, and no banking institution accepting any such fund as provided for in this chapter shall divert the moneys to any other purpose.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-64. Tax anticipation notes

In any fiscal year, in anticipation of the collection of taxes for such year, whether levied or to be levied in such year, or in anticipation of other revenues for such year, any local unit

may, by resolution, borrow money and issue its negotiable notes, each of which shall be designated "tax anticipation note of 19 " (stating the fiscal year).

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-65. Application of proceeds

The proceeds of the sale of tax anticipation notes, unless used to pay outstanding notes issued in anticipation of the collection of taxes of the same fiscal year, shall be applied only to purposes provided for in the budget or for which taxes are levied or to be levied for such year, and shall not be applied to any other purpose.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-66. Limitation of amount

The amount of tax anticipation notes of any fiscal year outstanding at any 1 time shall not exceed an amount certified as the gross borrowing power, and no such notes shall be authorized in excess of an amount certified as the net borrowing power, each computed and certified as follows:

- a. The gross borrowing power in respect to tax anticipation notes of such fiscal year, being 30% of the tax levy of the next preceding fiscal year, for all purposes in the case of a municipality and for county purposes in the case of a county, plus 30% of the amount of miscellaneous revenues realized in cash during the next preceding fiscal year, is \$.
- b. The amount of notes outstanding in anticipation of the collection of taxes of such fiscal year, except such notes as will be renewed by or paid from the proceeds of the notes to be issued, is \$.
- c. The net borrowing power, being the excess of the first over the second of the 2 above amounts, is \$.

Such certificate shall be made by the financial officer who is designated to sign such notes, filed in the office of the clerk, and quoted in full in the resolution authorizing such notes.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-67. Limitation of maturity and renewals

Tax anticipation notes may be renewed from time to time, but all such notes and any renewals thereof shall mature, in the case of municipalities within 120 days after the beginning of the succeeding fiscal year, and in the case of counties not later than June 30 of the succeeding fiscal year.

Amended 1991, c. 75, s. 23.

40A:4-68. Interest rate

Tax anticipation notes shall bear interest at a rate not exceeding 6% per annum.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-69. Form, registration and redemption

All tax anticipation notes may be in registered form or in coupon form with or without privileges of registration, and may be made redeemable prior to maturity at the option of the local unit at not exceeding par and accrued interest.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-70. Recital of borrowing power; authorization

In the text of each tax anticipation note there shall appear in substance the following recital:

"This note is issued pursuant to the local budget law and in anticipation of the collection of taxes of the budget year 19 (stating the budget year); the gross borrowing power in respect of such notes, as determined in accordance with said act, is \$ (stating the gross borrowing power as shown on the certificate quoted in the resolution authorizing such note); the amount of such notes outstanding, including all notes delivered simultaneously with this note, is \$."

Such recital shall be deemed to be made by any financial officer who signs the note, and his signature to the note shall constitute a declaration to the other officers who sign such note that the recital is correct. Such recital shall constitute conclusive evidence to the holder or holders of such note that the same was fully authorized under and within the powers, limitations and provisions of this chapter.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-71. Execution of notes or coupons

All tax anticipation notes shall be executed in the name of the local unit by such financial officer and by such other officer as may be designated by resolution, and shall be under the seal of the local unit and attested by the clerk. Coupons, if any, attached to a note shall be authenticated by the facsimile or manual signature of the financial officer who signs the note.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-72. Sale and report of sale

All tax anticipation notes may be sold at not less than par and accrued interest at private sale without previous public offering, either by resolution of the governing body or by a financial officer authorized to sell such notes by resolution of the governing body. The financial officer making any such sale shall report in writing to the governing body at the next meeting the amount, description, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser, and such report shall be entered in full on the minutes of such meeting.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-73. Conclusive presumption of validity of proceedings and notes

Unless a suit, action or proceeding questioning the authorization, sale or execution or otherwise questioning the validity of tax anticipation notes be begun prior to the delivery of such notes, any such notes reciting that they are issued pursuant to this chapter shall, after delivery thereof, be conclusively presumed to be fully authorized by all the laws of this State and to have been sold, executed and delivered by the local unit in conformity therewith. The validity of such notes shall not be questioned by either a party plaintiff or a party defendant, or by the local unit, or any taxpayer thereof, or any other interested party in any court, anything herein or in other statutes to the contrary notwithstanding.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-74. Utility anticipation notes

Any local unit which operates or owns a municipal public utility may, pursuant to resolution of the governing body passed by a majority of the full membership thereof, borrow money and issue its negotiable notes to provide funds necessary to operate the utility or enterprise and meet the necessary payments for debt service. Such notes shall be designated as "Utility Revenue Notes of 19.... (stating the year)". The amount of notes which may be issued in any fiscal year shall not exceed 50% of the revenue from Utility Rents and Miscellaneous Utility Revenues Anticipated in the annual utility budget.

Notes may be renewed from time to time but shall mature not later than 90 days after the close of the fiscal year in which the notes were originally issued.

Borrowing power provided in this section shall be exclusive of and in addition to the borrowing power provided for tax anticipation notes permitted by this chapter.

Amended 1991, c. 75, s. 24.

40A:4-75. Liability on notes

The power and obligation of a local unit to pay any note or obligation issued pursuant to this chapter shall be unlimited and the local unit shall have power and be obligated to levy ad valorem taxes upon all the taxable property within the local unit for the payment of such notes or obligations and interest thereon, without limitation of rate or amount.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-76. Examination of budget

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

- a. Payment of interest and debt redemption charges.
- b. Deferred charges and statutory expenditures.
- c. Cash deficit of preceding year.
- d. Reserve for uncollected taxes.
- e. Other reserves and nondisbursement items.

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 government board.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-77. Scope of examination

The director shall determine upon the basis of information and data available whether:

- a. all estimates of revenue are reasonable, accurate and correctly stated;
- b. items of appropriation are properly set forth;
- c. in itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the local unit;
- d. the budget complies with the requirements of law and the regulations of the local government board.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-78. Approval of budget, exemptions

a. If the director finds that all requirements of law and of the regulations of the local government board have been met, he shall approve the budget, otherwise he shall refuse to approve it.

The director, in refusing to approve a budget, shall not substitute his discretion with respect to the amount of an appropriation when such amount is not made mandatory because of the requirements of law.

b. Notwithstanding the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, the Local Finance Board is authorized to adopt rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain municipalities from the requirement that the director approve their annual budgets and to provide instead for a system of local examination and approval of such budgets by municipal officials, provided that:

- (1) the director finds that such municipalities are fiscally sound and that their fiscal practices are conducted in accordance with law and sound administrative practice;
- (2) the director shall examine the budgets of such municipalities in accordance with the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, at least every third year;
- (3) the governing body and chief financial officer of each such municipality shall each file a certification with the director stating that, with reference to the adopted budget of the municipality, they have:
 - (a) examined the budget in the manner prescribed under N.J.S.40A:4-76;
 - (b) determined that the budget complies with the requirements set forth in N.J.S.40A:4-77; and
 - (c) determined that the budget complies with all other provisions of law, including, but not limited to, the "Local Budget Law," N.J.S.40A:4-1 et seq., P.L.1976, c.68 (C.40A:4-45.1 et seq.), and the regulations of the Local Finance Board;
- (4) all budget documents required by law or the regulations adopted by the Local Finance Board shall be filed with the director on a timely basis;
- (5) other criteria and responsibilities as established by the regulations adopted by the Local Finance Board are met.

c. The director shall act to require immediate compliance with the "Local Budget Law," N.J.S.40A:4-1 et seq., if the director finds that any such exemption impairs the fiscal integrity or solvency of any such municipality. Any appeal of a governing body's action in adopting an annual budget shall be made to the director.

Amended 1996, c. 113, s. 13.

40A:4-79. Certification of director

Immediately after the making of his examination of the budget, the director shall certify the results of his determination to the governing body. A governing body shall not finally adopt a budget until a certification of approval by the director has been received.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-80. Action on disapproved budget

If the budget is disapproved, a full statement of reasons with instructions for corrections of the budget shall be transmitted to the local unit with notice of the refusal by the director to approve the same. The certification of disapproval of the director shall be published at least once in a newspaper of general circulation within the local unit. Cost of such publication shall be borne by the local unit.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-81. Amendment of disapproved budget

A governing body shall amend a disapproved budget in accordance with the instructions of the director except that the governing body may petition the local government board for a hearing upon the budget. If a petition for hearing is filed with the local government board, the director shall postpone the time required for final adoption to permit a reasonable opportunity for such hearing and redetermination.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-82. Judicial review of local government board's determination

If an aggrieved party applies for judicial review of a final determination made by the local government board, the governing body shall, nevertheless, adopt a budget in accordance with the local government board's determination, subject to such subsequent adjustment as may be consonant with the court's decision.

If the final decision of the court is adverse to the board's determination, the director shall forthwith, in writing, order the immediate amendment of the budget in accordance with the court's decision.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-83. Regulations by the local government board and director

The local government board and the director may make such rules and regulations as may be necessary to carry out the provisions of this chapter. The director may hold hearings and make such investigations as may be appropriate to the exercise of his powers in accordance with law.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-84. Orders of director binding

A final order of the director shall be binding upon the governing body and shall be complied with. The Superior Court may enforce the order in an action instituted by the director.

If a governing body fails or refuses to comply with a final order of the director, the members of a governing body who willfully fail or refuse to comply shall each be subject to a personal penalty of \$25.00 for each day after the date fixed for final action that failure or refusal to comply continues. The amount of the penalty may be recovered by the director in the name of the State as a personal debt of the member of the governing body, and shall be paid, upon receipt, into the State Treasury.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-85. Power to change title or text of appropriation

The director may, at the request of the governing body, make such correction of the title, text or amount of any item of appropriation appearing in the adopted budget only as shall be necessary to make said item of appropriation available for the specific purpose or purposes required by the local unit. To this end, the director may limit or approve adjustment of items of appropriations, but no item of appropriation required for debt service, contingent expenses, deferred charges, statutory expenditures, judgments or reserves shall be so reduced or limited.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-86. Correction of revenue item

The director may correct an item of revenue appearing in any adopted budget if any law requires such correction or makes such correction advisable. If such correction shall require that the local purpose levy of the local unit shall be adjusted, the director shall order the correction or adjustment of the local tax levy accordingly, unless the tax rate for the year shall have been struck and shall certify such adjustment to the county board of taxation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:4-87. Special items of revenue and appropriations

The director may approve the insertion of any special item of revenue in the budget of any local unit when such item shall have been made available by any public or private funding source and the amount thereof shall not have been determined at the time of the adoption of the budget, and may approve the insertion of an appropriation item of an amount equal to any such special item of revenue making such item of revenue available for expenditure.

A local unit may borrow money and issue its negotiable notes to meet such purpose. Such notes shall be authorized by resolution adopted by the governing body of the local unit and shall be designated as "Special (here insert purpose) Aid Notes".

Such notes shall mature not later than three months from their date and may be renewed from time to time until the end of the third month after the purpose for which the appropriation was made shall have been completed, or until the end of 31 days after the receipt in full by such local unit of all moneys anticipated from grants-in-aid or other sources for such purpose, whichever shall be later.

Any such notes that shall remain unpaid at the close of the first full fiscal year after the purpose shall have been completed shall be included in the budget of the then next succeeding fiscal year as an item of appropriation for the payment thereof. The provisions of this chapter relating to tax anticipation notes shall apply to such notes.

Amended 1989, c. 226, s. 1.

40A:4-88. Filing of amendment, correction in local budget

The governing body of a municipality that receives funds from the sale of tax sale certificates pursuant to section 2 of P.L.1993, c.113 (C.54:5-113.1) may file any amendment or correction in its local budget that may be required to properly reflect that receipt. Notwithstanding any other law, rule or regulation to the contrary, such funds may be used during the current local budget year, subject to the limits on final appropriations pursuant to P.L.1976, c.68 (C.40A:4-45.1 et seq.), for any lawful purposes deemed appropriate by the municipal governing body.

L.1993, c. 113, s. 3; amended 1993, c. 325, s. 2.