

5:30-7
LOCAL FINANCE BOARD - MUNICIPAL BUDGET LOCAL EXAMINATION AND APPROVAL

5:30-7.1 Authority

- (a) Pursuant to N.J.S.A. 40A:4-78, the Local Finance Board is empowered to adopt criteria relating to municipal exemption from the Director's examination of the annual budget.
- (b) This subchapter is to ensure that municipalities participating in the program are financially sound and the temporary elimination of the Director's review of the budget will not expose the municipality to evidence financial risk.

5:30-7.2 Definitions

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

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

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

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

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

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

"*Local examination*" or "*locally examine*" means:

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

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

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

5:30-7.3 Local examination process

- (a) Each year the chief financial officer of each municipality shall certify its local examination status to the Division as part of its annual financial statement.
- (b) Subject to the criteria in this subchapter, each municipality may locally examine their budget in any two of every three consecutive years.
- (c) In every municipality participating in the local examination process, the governing body and chief financial officer shall ensure that the annual budget has been locally examined.
- (d) In order to conduct a local examination, the municipality must be advised by the Director that it meets the eligibility criteria in N.J.A.C. 5:30-7.4, and then qualify for local examination by certifying that it meets the criteria in N.J.A.C. 5:30-7.5.
- (e) A municipality conducting a local examination shall file copies of the annual financial statement, annual debt statement, introduced and adopted budget, amendments, certifications, and other documents required to be filed with the Director, as required by law and rule, as if the budget were to be examined by the Director.
- (f) By resolution of the governing body, any municipality that qualifies for local examination may choose to have its budget examined by the Director and not participate in the local examination process that year.

5:30-7.4 Eligibility for local examination

- (a) Upon adoption of this rule, the Director shall randomly assign each municipality to one of three reporting year pools. Each pool shall be assigned the years in which the budget shall be considered for local examination.
 1. For calendar fiscal year 1997 budgets, the Director shall notify municipalities of their status as soon as practicable.
 2. In subsequent years, within 30 days after the start of each fiscal year, the Director shall determine and notify all municipalities if they are eligible or ineligible for local examination for the fiscal year.
- (b) Municipalities that meet one or more of the following criteria shall not be eligible for local examination in a given year and shall have their budgets examined by the Director:
 1. Have outstanding fiscal year adjustment bonds or refunding obligations of fiscal year adjustment bonds;
 2. Qualify for municipal (urban) aid pursuant to N.J.S.A. 52:27D-178 et seq.;
 3. Received Supplemental Municipal Property Tax Relief Discretionary (N.J.S.A. 52:27D-118.35) funds or Transitional Aid to Localities (N.J.S.A. 52:27S-118.42a) funds in the previous fiscal year;

4. Were subject to a Division field audit that produced negative findings in the previous fiscal year;
5. Are currently or during the previous year were under any form of Local Finance Board supervision pursuant to N.J.S.A. 52:27BB-1 et seq.;
6. Sold its tax levy if permitted by statute in the previous year;
7. If, during the current or prior fiscal year, a private entity is or was temporarily fulfilling the duties of a chief municipal finance officer pursuant to N.J.S.A. 40A:9-140.10;
8. If, during the current or prior fiscal year, an individual who does not hold a municipal finance officer certificate is or was serving as a temporary municipal finance officer pursuant to N.J.S.A. 40A:9-140.13.f;
9. If, in the prior fiscal year, voters approved the sale of a water or sewer system pursuant to N.J.S.A. 40:62-5;
10. If, in the prior fiscal year, the municipality has completed the approval process pursuant to the Water Infrastructure Protection Act (N.J.S.A. 58:30-1 et seq.) for the sale of a water or sewer system;
11. Failed to submit to the Division a user-friendly budget section corresponding with the previous year's adopted budget;
12. The Director's subsequent review of the previous year's locally examined adopted budget shows that the budget failed to meet the requirements of local examination. Such a finding shall disqualify a municipality from local examination for the following three years; or
13. If, in the opinion of the Director, the fiscal integrity or solvency of the municipality will be jeopardized by local examination.

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

5:30-7.5 Qualifying for budget local examination

- (a) If determined to be eligible for local examination, the chief financial officer shall determine if the municipality meets all of the following criteria:
 - a. The outstanding indebtedness of the previous fiscal year is not in excess of 3.5 percent;
 - b. All emergencies approved for the previous fiscal year did not exceed three percent of total appropriations;
 - c. The tax collection rate exceeded 90 percent;

- d. Total deferred charges did not equal or exceed four percent of the total tax levy;
 - e. There were no "agreed upon procedural deficiencies" not performed by the registered municipal accountant and noted on Sheet 1a of the Annual Financial Statement; and
 - f. There was no operating deficit for the previous fiscal year.
 - g. The municipality did not conduct an accelerated tax sale for less than 3 consecutive years.
 - h. The municipality did not conduct a tax levy sale the previous fiscal year and does not plan to conduct one in the current year.
 - i. The current year budget does not contain budget CAP waiver, per N.J.S.A. 40A:4-45.3(ee); and
 - j. The municipality will not apply for Extraordinary Municipal Aid (N.J.S.A. 52:27D-118.35) in the current year.
- (b) The chief financial officer shall record the determination on a form, prepared by the Director as part of the annual financial statement, and provide a copy of the form to the governing body. Prior to introduction of the budget, if the governing body chooses not to locally examine the budget, it shall pass a resolution to that effect and immediately forward it to the Director.
- (c) If all of the criteria in (a) above are met, and the governing body does not elect to have the Director examine the budget, the municipality shall locally examine its budget.
- (d) If the municipality fails to meet any of the criteria in (a) above, the Director shall examine the budget for that year.

5:30-7.6 Completion of local examination

- (a) Prior to adoption of the budget, the governing body and the chief financial officer shall examine the budget for the following:
- 1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - i. Payment of interest and debt redemption charges;
 - ii. Deferred charges and statutory expenditures;
 - iii. Cash deficit of preceding year;
 - iv. Reserve for uncollected taxes;
 - v. Other reserves and non-disbursement items; and
 - vi. Any inclusions of amounts required for school purposes;

2. That the provisions relating to limitation on increases of appropriations at N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met;
 3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5;
 4. That, pursuant to the Local Budget Law:
 - i. All estimates of revenue are reasonable, accurate and correctly stated;
 - ii. Items of appropriation are properly set forth; and
 - iii. By itemization, form, arrangement, and content, the budget will permit the exercise of the comptroller function within the municipality;
 5. That the budget and associated amendments have been introduced, publicly advertised, and adopted in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification; and
 6. That all other applicable statutory requirements have been fulfilled.
- (b) If the chief financial officer and governing body find that the budget meets the requirements of (a) above, they shall execute the local examination certificate. The chief financial officer shall execute the local examination certificate by signature. The governing body shall execute the certification by passage of a resolution by a not less than a majority of the full membership of the governing body. No locally examined budget shall be adopted unless the local examination certificate has been approved by the chief financial officer and governing body.
- (c) A local examination certificate signatory who has reason to believe that any part(s) of the budget may not meet all the requirements of local examination may execute a local examination certificate and take exception to any part(s) of the budget. Such exceptions shall be specific and itemized on the form. The form shall be forwarded to the Director immediately upon execution, and the budget shall not be adopted until the Director makes a determination on the exceptions and directs the governing body to act as the Director determines to be appropriate.
- (d) Failure of the governing body or the chief financial officer to execute the local examination certification shall result in the Director examining the budget in full. No budget adoption shall be valid unless all procedures of this subchapter have been followed in their entirety.
- (e) Upon adoption of the budget, the municipal clerk shall include the local examination certification with the adopted budget sent to the Director pursuant to N.J.S.A. 40A:4-10.

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

5:30-7.7 Revocation of qualification

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