

[Second Reprint]

SENATE, No. 1914

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MAY 14, 2012

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Requires certain user fees for the provision of traditional municipal services to be included within the 2% municipal and county property tax levy cap.

CURRENT VERSION OF TEXT

As amended by the Senate on May 24, 2012.



(Sponsorship Updated As Of: 6/1/2012)

1 AN ACT concerning the provision of services under the local tax
2 levy cap and amending P.L.2007, c.62.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 9 of P.L.2007, c.62 (C.40A:4-45.44) is amended to
8 read as follows:

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

11 "Adjusted tax levy" means an amount not greater than the sum of
12 the amount to be raised by taxation of the previous fiscal year[, less
13 any waivers from a prior fiscal year required to be deducted by the
14 Local Finance Board pursuant to section 11 of P.L.2007, c.62
15 (C.40A:4-45.46)] plus the amount of any user fees for traditional
16 municipal services collected for a service, that result multiplied by
17 1.02, to which the sum of exclusions defined in subsection b. of
18 section 10 of P.L.2007, c.62 (C.40A:4-45.45) shall be added.

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

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

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

28 "Traditional municipal services" means those basic services
29 provided generally throughout the municipality without regard to a
30 taxpayer's preference, and which have been traditionally funded
31 through the municipal purposes property tax levy, including, but not
32 limited to the clearing and lighting of roads and streets, the
33 collection and disposal of solid waste, leaves, and recyclable
34 materials along the roads and streets, general police patrol and
35 response, and fire response.

36 "User fees for traditional municipal services" means amounts
37 collected by a '[local unit] municipality' for the provision of
38 traditional municipal services that were previously funded through
39 the local purposes property tax levy in the local budget year prior to
40 the local budget year in which P.L. c. (pending before the
41 Legislature as this bill) was enacted, but does not include amounts
42 collected pursuant to a shared services or joint meeting agreement,
43 regardless of its date of execution¹, or ²[amounts collected from
44 insurance carriers pursuant to a fire response cost recovery

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted May 17, 2012.

²Senate floor amendments adopted May 24, 2012.

1 ordinance or agreement¹】 fees anticipated to be collected by a
2 municipality on behalf of another governmental entity when the
3 municipality does not set the fee rate and the fee collection
4 arrangement existed on the effective date of P.L.,
5 c. (pending before the Legislature as this bill)².
6

7 2. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to
8 read as follows:

9 10. a. (1) In the preparation of its budget the total of the amount
10 to be raised by taxation and the amount to be raised by user fees for
11 traditional municipal services by a local unit shall not exceed,
12 except as provided in paragraph (2) of this subsection, the sum of
13 new ratables~~【,】~~ and the adjusted tax levy~~【, and the total of waivers~~
14 approved pursuant to section 11 of P.L.2007, c.62 (C.40A:4-
15 45.46)~~】~~; provided, however, that in the case of a county, the amount
16 to be raised by taxation shall not exceed the amount permitted by
17 section 4 of P.L.1976, c.68 (C.40A:4-45.4).

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

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

29 increases in amounts required to be raised by taxation for capital
30 expenditures, including debt service as defined by law; increases in
31 pension contributions and accrued liability for pension
32 contributions in excess of 2.0%; increases in health care costs equal
33 to that portion of the actual increase in total health care costs for the
34 budget year that is in excess of 2.0% of the total health care costs in
35 the prior year, but is not in excess of the product of the total health
36 care costs in the prior year and the average percentage increase of
37 the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et
38 seq.), as annually determined by the Division of Pensions and
39 Benefits in the Department of the Treasury; and extraordinary costs
40 incurred by a local unit directly related to a declared emergency, as
41 defined by regulation promulgated by the Commissioner ~~【of the~~
42 Department~~】~~ of Community Affairs, in consultation with the
43 Commissioner of Education, as appropriate.

44 If there are no exclusions, then the amount of the difference shall
45 reduce the adjusted tax levy by that amount. Any cancelled or
46 unexpended appropriation for any exclusion pursuant to this
47 subsection ¹【or waiver pursuant to section 11 of P.L.2007, c.62

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

4 (cf: P.L.2010, C.44, s.9)

5
6 3. Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is amended to
7 read as follows:

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

9 b. (1) The governing body of a local unit may request approval,
10 through a public question submitted to the legal voters residing in
11 its territory to increase the amount to be raised by taxation by more
12 than the allowable adjusted tax levy. Approval shall be by an
13 affirmative vote of in excess of 50 percent of the people voting on
14 the question at the election. The local unit budget proposing the
15 increase shall be introduced and approved in the manner otherwise
16 provided for budgets of that local unit at least 20 days prior to the
17 date on which the referendum is to be held, and shall be published
18 in the manner otherwise provided for budgets of the local unit at
19 least 12 days prior to the referendum date, unless otherwise directed
20 by the Director of the Division of Local Government Services in the
21 Department of Community Affairs.

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

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

37 (a) for calendar year budgets only on the fourth Tuesday in
38 January and the second Tuesday in March; and

39 (b) for fiscal year budgets, only the last Tuesday in September,
40 or the second Tuesday in December.

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

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

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

2 d. The adjusted tax levy shall be increased or decreased
3 accordingly whenever the responsibility and associated cost of an
4 activity performed by a local unit is transferred to or from a local
5 unit, other government entity, or other service provider, or when a
6 local unit shifts the funding for a traditional municipal service or
7 activity which was included in the local budget for the local budget
8 year prior to the local budget year in which P.L. c. (pending
9 before the Legislature as this bill) was enacted, into or out from its
10 local purposes property tax levy.
11 (cf: P.L.2011, c.134, s.60)

12
13 4. This act shall **'[take effect] be effective'** immediately **'and**
14 **'shall first be applicable to municipal annual budgets introduced and**
15 **'approved pursuant to N.J.S.40A:4-5 or section 1 of P.L.1989, c.31**
16 **'(C.40A:4-5.1) in the municipality's budget year next following the**
17 **'date of enactment'**.