ASSEMBLY, No. 971



STATE OF NEW JERSEY

220th LEGISLATURE



PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

SYNOPSIS

Requires municipalities to share certain payments in lieu of property taxes with school districts; informs counties, school districts, and DCA of certain information related to property tax exemptions and abatements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



An Act concerning certain property tax exemptions and amending P.L.1991, c.431, P.L.2007, c.62, and P.L.1991, c.441.

**Be It Enacted** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1991, c.431 (C.40A:20-3) is amended to read as follows:

3. As used in P.L.1991, c.431 (C.40A:20-1 et seq.):

a. "Gross revenue" means annual gross revenue or gross shelter rent or annual gross rents, as appropriate, and other income, for each urban renewal entity designated pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.). The financial agreement shall establish the method of computing gross revenue for the entity, and the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, which shall be included in the gross revenue; provided, however, that any federal funds received, whether directly or in the form of rental subsidies paid to tenants, by a nonprofit corporation that is the sponsor of a qualified subsidized housing project, shall not be included in the gross revenue of the project for purposes of computing the annual **[**services**]** service charge for **[**municipal**]** public services supplied to the project; and provided further that any gain realized by the urban renewal entity on the sale of any unit in fee simple, whether or not taxable under federal or State law, shall not be included in computing gross revenue.

b. "Limited-dividend entity" means an urban renewal entity incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits and the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to each total project unit cost, if the project is undertaken in units, or the total project cost, if the project is not undertaken in units, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the unit or project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12% or the percentage per annum arrived at by adding 1 1/4% to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be the greater of 12% or the percentage per annum arrived at by adding 1 1/4% per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

c. "Net profit" means the gross revenues of the urban renewal entity less all operating and non-operating expenses of the entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all annual service charges paid pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12); (b) all payments to the municipality of excess profits pursuant to section 15 or 16 of P.L.1991, c.431 (C.40A:20-15 or 40A:20-16); (c) an annual amount sufficient to amortize the total project cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, over the term of the abatement as set forth in the financial agreement; (d) all reasonable annual operating expenses of the urban renewal entity and any other entity whose revenue is included in the computation of excess profits, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies, and payments into repair or maintenance reserve accounts; (e) all payments of rent including, but not limited to, ground rent by the urban renewal entity; (f) all debt service;

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, except interest which is part of debt service, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding any proprietary ownership interest in the entity.

The urban renewal entity shall provide to the municipality an annual audited statement which clearly identifies the calculation of net profit for the urban renewal entity during the previous year. The annual audited statement shall be prepared by a certified public accountant and shall be submitted to the municipality within 90 days of the close of the fiscal year.

d. "Nonprofit entity" means an urban renewal entity incorporated pursuant to Title 15A of the New Jersey Statutes for which no part of its net profits inures to the benefit of its members.

e. "Project" means any work or undertaking pursuant to a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), which has as its purpose the redevelopment of all or any part of a redevelopment area including any industrial, commercial, residential or other use, and may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational and welfare facilities.

f. "Redevelopment area" means an area determined to be in need of redevelopment and for which a redevelopment plan has been adopted by a municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

g. "Urban renewal entity" means a limited-dividend entity, the New Jersey Economic Development Authority or a nonprofit entity which enters into a financial agreement pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) with a municipality to undertake a project pursuant to a redevelopment plan for the redevelopment of all or any part of a redevelopment area, or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project.

h. "Total project unit cost" or "total project cost" means the aggregate of the following items as related to a unit of a project, if the project is undertaken in units, or to the total project, if the project is not undertaken in units, all of which as limited by, and approved as part of the financial agreement: (1) cost of the land and improvements to the entity, whether acquired from a private or a public owner, with cost in the case of leasehold interests to be computed by capitalizing the aggregate rental at a rate provided in the financial agreement; (2) architect, engineer and attorney fees, paid or payable by the entity in connection with the planning, construction and financing of the project; (3) surveying and testing charges in connection therewith; (4) actual construction costs which the entity shall cause to be certified and verified to the municipality and the municipal governing body by an independent and qualified architect, including the cost of any preparation of the site undertaken at the entity's expense; (5) insurance, interest and finance costs during construction; (6) costs of obtaining initial permanent financing; (7) commissions and other expenses paid or payable in connection with initial leasing; (8) real estate taxes and assessments during the construction period; (9) a developer's overhead based on a percentage of actual construction costs, to be computed at not more than the following schedule:

$500,000 or less - 10%

$500,000 through $1,000,000 - $50,000 plus 8% on excess above $500,000

$1,000,001 through $2,000,000 - $90,000 plus 7% on excess above $1,000,000

$2,000,001 through $3,500,000 - $160,000 plus 5.6667% on excess above $2,000,000

$3,500,001 through $5,500,000 - $245,000 plus 4.25% on excess above $3,500,000

$5,500,001 through $10,000,000 - $330,000 plus 3.7778% on excess above $5,500,000

over $10,000,000 - 5%

If the project includes units in fee simple, with respect to those units, "total project cost" shall mean the sales price of the individual housing unit which shall be the most recent true consideration paid for a deed to the unit in fee simple in a bona fide arm's length sales transaction, but not less than the assessed valuation of the unit in fee simple assessed at 100 percent of true value.

If the financial agreement so provides, there shall be excluded from the total project cost: (1) actual costs incurred by the entity and certified to the municipality by an independent and qualified architect or engineer which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or federal law; and (2) any extraordinary costs incurred by the entity and certified to the chief financial officer of the municipality by an independent certified public accountant in order to alleviate blight conditions within the area in need of redevelopment including, but not limited to, the cost of demolishing structures considered by the entity to be an impediment to the proposed redevelopment of the property, costs associated with the relocation or removal of public utility facilities as defined pursuant to section 10 of P.L.1992, c.79 (C.40A:12A-10) considered necessary in order to implement the redevelopment plan, costs associated with the relocation of residents or businesses displaced or to be displaced by the proposed redevelopment, and the clearing of title to properties within the area in need of redevelopment in order to facilitate redevelopment.

i. "Housing project" means any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing;

the undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances of the undertaking, such as, but not limited to, streets, sewers, water, utilities, parks; site preparation; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing.

j. "Redevelopment relocation housing project" means a housing project which is necessary, useful or convenient for the relocation of residents displaced by redevelopment of all or any part of one or more redevelopment areas.

k. "Low and moderate income housing project" means a housing project which is occupied, or is to be occupied, exclusively by households whose incomes do not exceed income limitations established pursuant to any State or federal housing program.

l. "Qualified subsidized housing project" means a low and moderate income housing project owned by a nonprofit corporation organized under the provisions of Title 15A of the New Jersey Statutes for the purpose of developing, constructing and operating rental housing for senior citizens under section 202 of Pub.L. 86-372 (12 U.S.C. s.1701q) or rental housing for persons with disabilities under section 811 of Pub.L. 101-625 (42 U.S.C. s.8013), or under any other federal program that the Commissioner of Community Affairs by rule may determine to be of a similar nature and purpose.

m. "Debt service" means the amount required to make annual payments of principal and interest or the equivalent thereof on any construction mortgage, permanent mortgage or other financing including returns on institutional equity financing and market rate related party debt for a project for a period equal to the term of the tax exemption granted by a financial agreement.

n. "Chief executive officer of the county" means the county executive, county manager, county supervisor, or president of the board of chosen freeholders, as appropriate to the form of government of a county.

(cf: P.L.2003, c.125, s.7)

2. Section 8 of P.L.1991, c.431 (C.40A:20-8) is amended to read as follows:

8. Every urban renewal entity qualifying under **[**this act**]** P.L.1991, c.431 (C.40A:20-1 et seq.), before proceeding with any projects, shall make written application to the municipality for approval thereof, and shall provide copies of the application, for informational purposes, to the board of chosen freeholders and the chief executive officer of the county within which the municipality is located, and to the board of education and superintendent of any school district, including a regional school district, that is coextensive with the municipality, or of which the municipality is a constituent. The urban renewal entity, at the time an application is made, shall provide notice of the application submission to the Director of the Division of Local Government Services in the Department of Community Affairs, which shall post the notice on the Internet website of the department. The application shall be in a form, and shall certify to those facts and data, as shall be required by the municipality, and shall include but not be limited to:

a. A general statement of the nature of the proposed project, that the undertaking conforms to all applicable municipal ordinances, and that the project accords with the redevelopment plan and master plan of the municipality, or, in the case of a redevelopment relocation housing project, provides for the relocation of residents displaced or to be displaced from a redevelopment area, or, in the case of a low and moderate income housing project, the housing units are restricted to occupation by low and moderate income households.

b. A description of the proposed project outlining the area included and a description of each unit thereof if the project is to be undertaken in units and setting forth architectural and site plans as required.

c. A statement prepared by a qualified architect or engineer of the estimated cost of the proposed project in the detail required, including the estimated cost of each unit to be undertaken.

d. The source, method and amount of money to be subscribed through the investment of private capital, setting forth the amount of stock or other securities to be issued therefor or the extent of capital invested and the proprietary or ownership interest obtained in consideration therefor.

e. A fiscal plan for the project outlining a schedule of annual gross revenue, the estimated expenditures for operation and maintenance, payments for interest, amortization of debt and reserves, and payments **[**to the municipality**]** in lieu of taxes to be made pursuant to a financial agreement to be entered into with the municipality.

f. A proposed financial agreement conforming to the provisions of section 9 of **[**this act**]** P.L.1991, c.431 (C.40A:20-9).

g. Any other information relevant to determining the financial impact of the project as may be required pursuant to a rule adopted by the Commissioner of Community Affairs or the Local Finance Board.

The application shall be addressed and submitted to the mayor or other chief executive officer of the municipality. The mayor or other chief executive officer shall, within 60 days of his receipt of the application thereafter, submit the application with his recommendations to the municipal governing body. **[**The**]** Simultaneously therewith, the mayor or other chief executive officer of the municipality shall submit copies of his recommendations to the board of chosen freeholders and the chief executive officer of the county within which the municipality is located and to the board of education and superintendent of any school district, including a regional school district, that is coextensive with the municipality, or of which the municipality is a constituent. Representatives of the county and school district or districts may submit recommendations to the municipal governing body within 10 days after the date of submittal of the recommendations of the mayor or chief executive officer of the municipality. After affording representatives of the county and school district, or districts, a 10-day period to review the proposed project and the recommendations of the mayor or chief executive officer of the municipality, and after giving due consideration to the recommendations submitted by all interested parties, the municipal governing body shall by resolution approve or disapprove the application, but in the event of disapproval, changes may be suggested to secure approval. An application may be revised and resubmitted.

(cf: P.L.1991, c.431, s.8)

3. Section 9 of P.L.1991, c.431 (C.40A:20-9) is amended to read as follows:

9. Every approved project shall be evidenced by a financial agreement between the municipality and the urban renewal entity. The agreement shall be prepared by the entity and submitted as a separate part of its application for project approval. The agreement shall not take effect until approved by ordinance of the municipality. Any amendments or modifications of the agreement made thereafter shall be by mutual consent of the municipality and the urban renewal entity, and shall be subject to approval by ordinance of the municipal governing body upon recommendation of the mayor or other chief executive officer of the municipality prior to taking effect.

The financial agreement shall be in the form of a contract requiring full performance within 30 years from the date of completion of the project, and shall include the following:

a. That the profits of or dividends payable by the urban renewal entity shall be limited according to terms appropriate for the type of entity in conformance with the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

b. That all improvements and land, to the extent authorized pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12), in the project to be constructed or acquired by the urban renewal entity shall be exempt from taxation as provided in P.L.1991, c.431 (C.40A:20-1 et seq.).

c. That the urban renewal entity shall make payments for **[**municipal**]** public services as provided in P.L.1991, c.431 (C.40A:20-1 et seq.).

d. That the urban renewal entity shall submit annually, within 90 days after the close of its fiscal year, its auditor's reports to the mayor and governing body of the municipality,in which the urban renewal entity shall certify to the mayor and the governing body of the municipality the number of school-age children residing in the approved project who are attending a public school. The urban renewal entity, at the time the auditor’s reports are submitted, shall provide copies of the reports to the Director of the Division of Local Government Services in the Department of Community Affairs, which shall post the reports on the Internet website of the department.

e. That the urban renewal entity shall, upon request, permit inspection of property, equipment, buildings and other facilities of the entity, and also permit examination and audit of its books, contracts, records, documents and papers by authorized representatives of the municipality or the State.

f. That in the event of any dispute between the parties matters in controversy shall be resolved by arbitration in the manner provided in the financial agreement.

g. That operation under the financial agreement shall be terminable by the urban renewal entity in the manner provided by P.L.1991, c.431 (C.40A:20-1 et seq.).

h. That the urban renewal entity shall at all times prior to the expiration or other termination of the financial agreement remain bound by the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

The financial agreement shall contain detailed representations and covenants by the urban renewal entity as to the manner in which it proposes to use, manage or operate the project. The financial agreement shall further set forth the method for computing gross revenue for the urban renewal entity, the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, the plans for financing the project, including the estimated total project cost, the amortization rate on the total project cost, the source of funds, the interest rates to be paid on the construction financing, the source and amount of paid-in capital, the terms of mortgage amortization or payment of principal on any mortgage, a good faith projection of initial sales prices of any condominium units and expenses to be incurred in promoting and consummating such sales, and the rental schedules and lease terms to be used in the project. Any financial agreement may allow the municipality to levy an annual administrative fee, not to exceed two percent of the annual service charge for public services.

(cf: P.L.2015, c.95, s.28)

4. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to read as follows:

12. The rehabilitation or improvements made in the development or redevelopment of a redevelopment area or area appurtenant thereto or for a redevelopment relocation housing project, pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation for a limited period as hereinafter provided. When housing is to be constructed, acquired or rehabilitated by an urban renewal entity, the land upon which that housing is situated shall be exempt from taxation for a limited period as hereinafter provided. The exemption shall be allowed when the clerk of the municipality wherein the property is situated shall certify to the municipal tax assessor that a financial agreement with an urban renewal entity for the development or the redevelopment of the property, or the provision of a redevelopment relocation housing project, or the provision of a low and moderate income housing project has been entered into and is in effect as required by P.L.1991, c.431 (C.40A:20-1 et seq.).

Delivery by the municipal clerk to the municipal tax assessor of a certified copy of the ordinance of the governing body approving the tax exemption and financial agreement with the urban renewal entity shall constitute the required certification. For each exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.), upon certification as required hereunder, the tax assessor shall implement the exemption and continue to enforce that exemption without further certification by the clerk until the expiration of the entitlement to exemption by the terms of the financial agreement or until the tax assessor has been duly notified by the clerk that the exemption has been terminated.

Within 10 calendar days following the later of the effective date of an ordinance following its final adoption by the governing body approving the tax exemption or the execution of the financial agreement by the urban renewal entity, the municipal clerk shall transmit a certified copy of the ordinance and financial agreement to the Director of the Division of Local Government Services in the Department of Community Affairs, the chief financial officer of the county and to the county counsel of the county within which the municipality is located, and to the board of education and the superintendent of any school district coextensive with the municipality or of which the municipality is a constituent, including a regional school district, for informational purposes. Upon receipt of an ordinance and financial agreement, the Department of Community Affairs shall post the ordinance and agreement on the Internet website of the department.

Whenever an exemption status changes during a tax year, the procedure for the apportionment of the taxes for the year shall be the same as in the case of other changes in tax exemption status during the tax year. Tax exemptions granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.) represent long term financial agreements between the municipality and the urban renewal entity and as such constitute a single continuing exemption from local property taxation for the duration of the financial agreement. The validity of a financial agreement or any exemption granted pursuant thereto may be challenged only by filing an action in lieu of prerogative writ within 20 days from the publication of a notice of the adoption of an ordinance by the governing body granting the exemption and approving the financial agreement. Such notice shall be published in a newspaper of general circulation in the municipality and in a newspaper of general circulation in the county if different from the municipal newspaper.

a. The financial agreement shall specify the duration of the exemption for urban renewal entities in accordance with the parameters of either paragraph (1) or paragraph (2) of this subsection:

(1) the financial agreement may specify a duration of not more than 30 years from the completion of the entire project, or unit of the project if the project is undertaken in units, or not more than 35 years from the execution of the financial agreement between the municipality and the urban renewal entity; or

(2) for each project undertaken pursuant to a redevelopment agreement which allows the redeveloper to undertake two or more projects sequentially, the financial agreement may specify a duration of not more than 30 years from the completion of a project, or unit of the project if the project is undertaken in units, or not more than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement. As used in this subsection, "redevelopment agreement" means an agreement entered into pursuant to subsection f. of section 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or redevelopment entity and a redeveloper.

A financial agreement may provide for an exemption period of less than 30 years from the completion of the entire project, less than 35 years from the execution of the financial agreement, or less than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement. Nothing in this subsection shall be construed as requiring a financial agreement for a project undertaken pursuant to a redevelopment agreement which allows the redeveloper to undertake two or more projects sequentially to specify a duration within the parameters of paragraph (2) of this subsection.

b. During the term of any exemption, in lieu of any taxes to be paid on the buildings and improvements of the project and, to the extent authorized pursuant to this section, on the land, the urban renewal entity shall make payment to the municipality of an annual service charge **[**, which**]** for public services. The municipality shall remit a portion of that revenue to the county, and to the school district or districts, as provided hereinafter. In addition, the municipality may assess an administrative fee, not to exceed two percent of the annual service charge, for the processing of the application. The annual service charge for **[**municipal**]** public services supplied to the project to be paid by the urban renewal entity for any period of exemption, shall be determined as follows:

(1) An annual amount equal to a percentage determined pursuant to this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), of the annual gross revenue from each unit of the project, if the project is undertaken in units, or from the total project, if the project is not undertaken in units. The percentage of the annual gross revenue shall not be more than **[**15%**]** 15 percent in the case of a low and moderate income housing project, nor less than **[**10%**]** 10 percent in the case of all other projects.

At the option of the municipality, or where because of the nature of the development, ownership, use or occupancy of the project or any unit thereof, if the project is to be undertaken in units, the total annual gross rental or gross shelter rent or annual gross revenue cannot be reasonably ascertained, the governing body shall provide in the financial agreement that the annual service charge shall be a sum equal to a percentage determined pursuant to this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total project cost or total project unit cost determined pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day of the month following the substantial completion of the project or any unit thereof, if the project is undertaken in units. The percentage of the total project cost or total project unit cost shall not be more than **[**2%**]** two percent in the case of a low and moderate income housing project, and shall not be less than **[**2%**]** two percent in the case of all other projects.

(2) In either case, the financial agreement shall establish a schedule of annual service charges to be paid over the term of the exemption period, which shall be in stages as follows:

(a) For the first stage of the exemption period, which shall commence with the date of completion of the unit or of the project, as the case may be, and continue for a time of not less than six years nor more than 15 years, as specified in the financial agreement, the urban renewal entity shall pay the municipality an annual service charge for **[**municipal**]** public services supplied to the project in an annual amount equal to the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11). For the remainder of the period of the exemption, if any, the annual service charge shall be determined as follows:

(b) For the second stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), or **[**20%**]** 20 percent of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(c) For the third stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), or **[**40%**]** 40 percent of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(d) For the fourth stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), or **[**60%**]** 60 percent of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater; and

(e) For the final stage of the exemption period, the duration of which shall not be less than one year and shall be specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), or **[**80%**]** 80 percent of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater.

If the financial agreement provides for an exemption period of less than 30 years from the completion of the entire project, less than 35 years from the execution of the financial agreement, or less than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement, the financial agreement shall set forth a schedule of annual service charges for the exemption period which shall be based upon the minimum service charges and staged adjustments set forth in this section.

The annual service charge shall be paid to the municipality on a quarterly basis in a manner consistent with the municipality's tax collection schedule.

Each municipality which enters into a financial agreement on or after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.) shall remit **[**5**]** five percent of the annual service charge collected by the municipality to the county in accordance with the provisions of R.S.54:4-74.

Each municipality which enters into a financial agreement on or after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), shall remit a percentage of the annual service charge to the school district or districts, including regional school districts, immediately upon receipt of that service charge. The amount of the annual service charge to be remitted to the school district or districts, including regional school districts, pursuant to this section shall be: for a residential project, the amount calculated by multiplying the number of school-age children who are attending public school in the municipality or at a school in a regional school district that serves the municipality and who are residing in the approved project as certified by the urban renewal entity in the annual auditor’s report to the mayor and governing body of the municipality, by the base per pupil amount determined by the Commissioner of Education for the previous school year pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49); and for a nonresidential project or a project with both residential and nonresidential components, five percent of the annual service charge collected by the municipality or an in-kind contribution equal in value to five percent of the annual service charge. When an amount is remitted to more than one school district, including regional school districts, the amount shall be divided amongst the districts in proportion to each district’s share of the total school tax levy in the municipality.

Against the annual service charge the urban renewal entity shall be entitled to credit for the amount, without interest, of the real estate taxes on land paid by it in the last four preceding quarterly installments.

Notwithstanding the provisions of this section or of the financial agreement, the minimum annual service charge shall be the amount of the total taxes levied against all real property in the area covered by the project in the last full tax year in which the area was subject to taxation, and the minimum annual service charge shall be paid in each year in which the annual service charge calculated pursuant to this section or the financial agreement would be less than the minimum annual service charge.

c. All exemptions granted pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time prescribed in the financial agreement.

Upon the termination of the exemption granted pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all affected parcels, land and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the urban renewal entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

(cf: P.L.2018, c.97, s.17)

5. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to read as follows:

3. a. Notwithstanding the provisions of any other law to the contrary, a school district shall not adopt a budget pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6) with an increase in its adjusted tax levy that exceeds, except as provided in subsection e. of section 4 of P.L.2007, c.62 (C.18A:7F-39), the tax levy growth limitation calculated as follows: the sum of the prebudget year adjusted tax levy and the adjustment for increases in enrollment multiplied by 2.0 percent, and adjustments for an increase in health care costs, increases in amounts for certain normal and accrued liability pension 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) for the year set forth in those sections, less any payment received in the prebudget year pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12), and, in the case of an SDA district as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3), during the 2018-2019 through the 2024-2025 school years, increases to raise a general fund tax levy to an amount that does not exceed its local share.

b. (1) The allowable adjustment for increases in enrollment authorized pursuant to subsection a. of this section shall equal the per pupil prebudget year adjusted tax levy multiplied by EP, where EP equals the sum of:

(a) 0.50 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 1%, but not more than 2.5%;

(b) 0.75 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 2.5%, but not more than 4%; and

(c) 1.00 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 4%.

(2) A school district may request approval from the commissioner to calculate EP equal to 1.00 for any increase in weighted resident enrollment if it can demonstrate that the calculation pursuant to paragraph (1) of this subsection would result in an average class size that exceeds 10% above the facilities efficiency standards established pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

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

d. (1) The allowable adjustment for increases in health care costs authorized pursuant to subsection a. of this section shall equal that portion of the actual increase in total health care costs for the budget year, less any withdrawals from the current expense emergency reserve account for increases in total health care costs, that exceeds 2.0 percent of the total health care costs in the prebudget year, but that is not in excess of the product of the total health care costs in the prebudget year multiplied by 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.

(2) The allowable adjustment for increases in the amount of normal and accrued liability pension contributions authorized pursuant to subsection a. of this section shall equal that portion of the actual increase in total normal and accrued liability pension contributions for the budget year that exceeds 2.0 percent of the total normal and accrued liability pension contributions in the prebudget year.

(3) In the case of an SDA district, as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3), in which the prebudget year adjusted tax levy is less than the school district's prebudget year local share as calculated pursuant to section 10 of P.L.2007, c.260 (C.18A:7F-52), the allowable adjustment for increases to raise a tax levy that does not exceed the school district's local share shall equal the difference between the prebudget year adjusted tax levy and the prebudget year local share.

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

f. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of a school district activity is transferred to another school district or governmental entity.

(cf: P.L.2018, c.67, s.6)

6. Section 4 of P.L.1991, c.441 (C.40A:21-4) is amended to read as follows:

4. The governing body of a municipality may determine to utilize the authority granted under Article VIII, Section I, paragraph 6 of the New Jersey Constitution, and adopt an ordinance setting forth the eligibility or noneligibility of dwellings, multiple dwellings, or commercial and industrial structures, or all of these, for exemptions or abatements, or both, from taxation in areas in need of rehabilitation. The ordinance may differentiate among these types of structures as to whether the property shall be eligible for exemptions or abatements, or both, within the limitations set forth in P.L.1991, c.441 (C.40A:21-1 et seq.). With respect to a type of structure, the ordinance shall specify the eligibility of improvements, conversions, or construction, or all of these, for each type of structure. The ordinance may differentiate for the purposes of determining eligibility pursuant to this section among the various neighborhoods, zones, areas or portions of the designated area in need of rehabilitation.

An ordinance adopted pursuant to this section may be amended from time to time. An amendment to an ordinance shall not affect any exemption, abatement, or tax agreement previously granted and in force prior to the amendment.

Application for exemptions and abatements from taxation may be filed pursuant to an ordinance so adopted to take initial effect in the tax year in which the ordinance is adopted, and for tax years thereafter as set forth in P.L.1991, c.441 (C.40A:21-1 et seq.), but no application for exemptions or abatements shall be filed for exemptions or abatements to take initial effect in the eleventh tax year or any tax year occurring thereafter, unless the ordinance is readopted by the governing body pursuant to this section.

The municipality shall provide a copy of an ordinance introduced or adopted pursuant to this section, including one amending or repealing an ordinance, to the Director of the Division of Local Government Services in the Department of Community Affairs, which shall post the ordinance on the Internet website of the department.

(cf: P.L.2007, c.268, s.2)

7. This act shall take effect immediately.

STATEMENT

This bill revises various aspects of the laws governing property tax exemptions. Specifically, the bill requires municipalities to share certain payments in lieu of property taxes (PILOTs) with school districts. The bill also requires notice to be provided to the county, school districts, and Department of Community Affairs (DCA) when a municipality considers and approves a property tax exemption.

Under current law, any urban renewal entity that benefits from a long-term property tax exemption is required to make annual PILOTs to the municipality in which it is located. Currently, the municipality is required to remit five percent of the PILOT to the host county, thereby retaining 95 percent of the payment. Under the bill, municipalities would also be required to remit certain portions of these PILOTs to the school districts that serve the municipality, including regional school districts.

For a residential property, the municipality would be required to provide those school districts with an amount equal to the product of: (1) the number of school-age children who attend a public school or regional school district that serves the municipality, and who reside in the project; and (2) the base per pupil amount determined by the Commissioner of Education for the previous school year pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49). Alternatively, this amount would equal five percent of the PILOT, or an in-kind contribution equal in value to that amount, if the long-term tax exemption concerns nonresidential or mixed-use property. When an amount is remitted to more than one school district, the amount would be divided amongst those districts in proportion to each district’s share of the total school tax levy in the municipality.

The bill also provides that when an urban renewal entity applies for a long-term property tax exemption, the entity would be required to provide copies of the application to the county, school districts, and the Director of the Division of Local Government Services (DLGS) in the DCA. The DLGS would be required to post this application on the Internet website of the DCA.

Under current law, the mayor of a municipality is required to submit recommendations to the municipal governing body within 60 days of receiving an application from an urban renewal entity for a long-term tax exemption. The bill would require these recommendations to be simultaneously submitted to the county and the local school districts that serve the municipality. Thereafter, representatives of the county and school districts may submit recommendations to the governing body within 10 days of receiving the mayor’s recommendations.

The bill would also require a municipality to provide the DLGS and the school districts with a copy of an ordinance and financial agreement approving a long-term tax exemption. Currently, a municipality is required to only provide the county these documents. The bill also requires the DCA to post the ordinance and financial agreement on the DCA’s website.

After an application for a long-term property tax exemption is approved, current law requires the urban renewal entity to submit an annual audit to the municipality. Under the bill, this annual audit would be required to certify the number of school-age children attending public school who are residing in the approved project. The bill would also require an urban renewal entity to provide copies of the audit to the Director of the DLGS for publication on the DCA’s website.

The bill also requires a municipality to provide the DLGS with a copy of an ordinance that effectuates a five-year property tax abatement, and requires the DLGS to post this ordinance on the website of the DCA.