

ASSEMBLY, No. 3804

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 2, 2022

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman SADAF F. JAFFER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Assemblywomen Jasey, Reynolds-Jackson, Assemblyman Moen, Assemblywoman Mosquera, Assemblymen Spearman, Space, Wirths, Assemblywoman Haider, Assemblymen Stanley, Auth, Assemblywomen DeFuccio, Carter, Jimenez, Assemblyman Conaway, Assemblywoman Sumter, Assemblyman Verrelli, Assemblywoman Swain, Assemblyman Tully, Assemblywoman McKnight, Assemblymen Daniels, DeAngelo, Caputo, McKeon, Kennedy, Freiman, Karabinchak, Atkins, Mejia, Assemblywoman Tucker, Assemblymen Calabrese, Clifton, Assemblywoman Park, Assemblyman Sauickie and Assemblywoman Sawyer

SYNOPSIS

Increases distribution to municipalities from Energy Tax Receipts Property Tax Relief Fund over two years; prohibits anticipation of certain revenue in municipal budget; requires additional aid be subtracted from municipal property tax levy.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 2/9/2023)

1 AN ACT concerning State aid to municipalities and amending
2 P.L.1997, c.167 and 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
12 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)**】** the difference between any amount distributed to
16 a local unit pursuant to paragraph (2) of subsection e. of section 2
17 of P.L.1997, c.167 (C.52:27D-439) in its current fiscal year and its
18 previous fiscal year, that result multiplied by 1.02, to which the sum
19 of exclusions defined in subsection b. of section 10 of P.L.2007,
20 c.62 (C.40A:4-45.45) shall be added.

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

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

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

30 "County entity budget authority" means the county tax
31 administrator, county superintendent of election, county board of
32 election, county register of deeds and mortgages, county clerk,
33 county surrogate, county prosecutor, and county sheriff, in their role
34 as the appointing authority of their respective offices.

35 "County entity" means a county board of taxation, office of the
36 county superintendent of election, office of the county board of
37 election, office of the county register of deeds and mortgages, office
38 of the county clerk, office of the county surrogate, office of the
39 county prosecutor, and county sheriff's department.

40 (cf: P.L.2015, c.249, s.2)

41
42 2. Section 2 of P.L.1997, c.167 (C.52:27D-439) is amended to
43 read as follows:

44 2. a. **【**Commencing July 1, 1997 there**】** There is established
45 the "Energy Tax Receipts Property Tax Relief Fund" as a special

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.

1 dedicated fund in the State Treasury into which there shall be
2 credited annually, commencing in State fiscal year 1998, the sum of
3 \$740,000,000 or the amount determined pursuant to subsection e. of
4 this section from the following: net payments under the "Sales and
5 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and
6 use of energy or utility services, net payments under the
7 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
8 et seq.) from gas, electric, and gas and electric public utilities,
9 whether municipal or otherwise, that were subject to tax pursuant to
10 the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to
11 January 1, 1998, net payments under the Corporation Business Tax
12 Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from
13 telecommunications public utilities that were subject to tax pursuant
14 to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April
15 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49 et seq.)
16 from sewerage and water corporations, net payments under the
17 "Transitional Energy Facility Assessment Act," P.L.1997, c.162
18 (C.54:30A-100 through C.54:30A-113), and such sums from the
19 General Fund as may be necessary to provide that the annual
20 amount credited to the fund shall equal \$740,000,000 or the amount
21 determined pursuant to subsection e. of this section.

22 b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-
23 16 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other
24 provision of law concerning the apportionment and distribution by
25 the State of taxes paid by public utilities,

26 (1) There shall be paid during the State fiscal year 1998 and
27 during each fiscal year thereafter from the "Energy Tax Receipts
28 Property Tax Relief Fund" to the municipalities of the State the sum
29 of \$740,000,000 or the amount determined pursuant to subsection e.
30 of this section.

31 (2) A portion of the \$740,000,000 or the amount determined
32 pursuant to subsection e. of this section shall be allocated in a
33 manner that provides that each municipality shall receive an amount
34 not less than the largest annual amount received or to be received
35 by the municipality from:

36 (a) the distribution of \$685,000,000 from the proceeds of the
37 public utilities franchise and gross receipts taxes under P.L.1940,
38 c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)
39 in calendar year 1994, 1995 or 1996; or

40 (b) the distribution of \$685,000,000 from the proceeds of the
41 public utilities franchise and gross receipts taxes under P.L.1940,
42 c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.)
43 or from taxes and assessments collected in replacement of such
44 taxes as released by the Division of Local Government Services in
45 the Department of Community Affairs as fiscal year 1998 estimated
46 franchise and gross receipts taxes State aid distributions by
47 municipality prior to the certification of apportionment of such

1 funds by the Director of the Division of Taxation and the amounts
2 required pursuant to subsection d. of this section.

3 (3) A portion of the \$740,000,000 or the amount determined
4 pursuant to subsection e. of this section shall be allocated in a
5 manner that provides that each municipality shall receive an amount
6 equal to the difference, if any, between the amount it received
7 pursuant to paragraph (2) of this subsection and the sum of the
8 amounts that the municipality received pursuant to the certification
9 made in the 1997 calendar year released by the Division of Local
10 Government Services in the Department of Community Affairs as
11 the fiscal year 1998 estimated franchise and gross receipts taxes
12 State aid distribution of \$685,000,000 and the certification of the
13 1997 fiscal year distribution of \$45,000,000.

14 (4) The portion of the \$740,000,000 or the amount, not more
15 than \$755,000,000, determined pursuant to subsection e. of this
16 section remaining after the allocations pursuant to paragraphs (2)
17 and (3) of this subsection shall be distributed in proportion to the
18 amounts distributed pursuant to paragraph (2) of this subsection.

19 c. (1) The funds distributed pursuant to paragraphs (2) and (4)
20 of subsection b. of this section shall be distributed annually to
21 municipalities on the following schedule: July 15, 35% of the total
22 amount due; August 1, 10% of the total amount due; September 1,
23 30% of the total amount due; October 1, 15% of the total amount
24 due; November 1, 5% of the total amount due; and December 1, 5%
25 of the total amount due.

26 (2) The funds distributed pursuant to paragraph (3) of
27 subsection b. of this section, prior to January 1, 2002 for all
28 municipalities, and distributed after January 1, 2002 for
29 municipalities operating on a State fiscal year basis, shall be
30 distributed annually to those municipalities on or before June 30.
31 The funds distributed after January 1, 2002 pursuant to paragraph
32 (3) of subsection b. of this section to calendar year municipalities
33 shall be distributed annually on or before July 15.

34 d. The allocation set forth in paragraph (2) of subsection b. of
35 this section shall be adjusted to increase each appropriate municipal
36 distribution by the amount necessary to:

37 (1) make corrections to apportionment valuations or distribution
38 values made by the Director of the Division of Taxation in the
39 Department of the Treasury pursuant to R.S.54:30-2; and

40 (2) correct equitable distortions, as determined by the State
41 Treasurer, resulting from the application of section 2 of P.L.1980,
42 c.10 (C.54:30A-24.1) and section 4 of P.L.1980, c.11 (C.54:30A-
43 61.1).

44 The director shall report to the Legislature, on or before July 15,
45 1997, the amount and distribution of the corrections pursuant to
46 paragraphs (1) and (2) of this subsection.

47 e. (1) The amount credited to the "Energy Tax Receipts
48 Property Tax Relief Fund" shall be \$745,000,000 for State fiscal

1 year 1999, \$750,000,000 for each of State fiscal years 2000 and
2 2001, \$755,000,000 for State fiscal year 2002, and for each fiscal
3 year thereafter the amount equal to the amount credited in the prior
4 fiscal year multiplied by the sum of 1.0 and the index rate or zero,
5 whichever is greater. As used in this section, "index rate" means
6 the rate of annual percentage increase, rounded to the nearest half-
7 percent, in the Implicit Price Deflator for State and Local
8 Government Purchases of Goods and Services, computed and
9 published quarterly by the United States Department of Commerce,
10 Bureau of Economic Analysis, calculating the annual increase
11 therein at the second calendar quarter which occurred in the next
12 preceding State fiscal year. The Director of the Division of Local
13 Government Services shall promulgate annually the index rate to
14 apply in the next following State fiscal year which shall be the same
15 as the index rate determined pursuant to section 4 of P.L.1983, c.49
16 (C.40A:4-45.1a). Any amount of aid distributed to a municipality
17 in excess of the amount distributed to the municipality from the
18 "Energy Tax Receipts Property Tax Relief Fund" during the State
19 fiscal year 2002 shall be used solely and exclusively by each
20 municipality for the purpose of reducing the amount the
21 municipality is required to raise by local property tax levy for
22 municipal purposes.

23 (2) In addition to the amount credited in paragraph (1) of this
24 subsection, there shall be an amount sufficient to provide to each
25 municipality from the "Energy Tax Receipts Property Tax Relief
26 Fund" an additional amount to be determined as follows: in fiscal
27 year 2023 an amount equal to 50 percent of the difference between
28 the sum of Consolidated Municipal Property Tax Relief Aid and
29 Energy Tax Receipts Property Tax Relief Aid paid to that
30 municipality in fiscal year 2008 and the sum of Consolidated
31 Municipal Property Tax Relief Aid and Energy Tax Receipts
32 Property Tax Relief Aid paid to that municipality in fiscal year
33 2012, and in fiscal year 2024, and in each fiscal year thereafter, 100
34 percent of that difference amount. The amounts determined herein
35 shall be distributed to municipalities annually pursuant to the
36 schedule under paragraph (1) of subsection c. of this section. A
37 municipality shall not anticipate for purposes of preparing its
38 annual budget the receipt of any State aid payment distributed
39 pursuant to this paragraph prior to the introduction of the budget by
40 the governing body pursuant to the "Local Budget Law,"
41 N.J.S.40A:4-1 et seq. A municipality shall amend its local budget
42 pursuant to N.J.S.40A:4-9 to properly reflect the additional amount
43 distributed to that municipality from the "Energy Tax Receipts
44 Property Tax Relief Fund." The amendment to the municipal
45 budget shall increase revenue and reduce the amount to be raised by
46 taxation for local purposes by the same amount as the additional
47 amount distributed to that municipality from the "Energy Tax
48 Receipts Property Tax Relief Fund."

1 f. Notwithstanding any other provision of this section or any
2 other provision of law to the contrary, if any municipality paid a
3 county for an amount for county purposes from the amount it
4 received from its apportionment of taxes according to the
5 limitations on the municipalities apportionment under section 4 of
6 P.L.1980, c.11 (C.54:30A-61.1), the highest amount of that
7 payment during calendar years 1994, 1995, and 1996 shall be paid
8 annually directly to that county by the State Treasurer and be
9 deducted from that municipality's distribution otherwise determined
10 pursuant to paragraph (2) of subsection b. of this section.

11 (cf: P.L.2002, c.3, s.1)

12
13 3. Section 4 of P.L.1997, c.167 (C.52:27D-441) is amended to
14 read as follows:

15 4. a. (1) The annual appropriations act for each State fiscal
16 year commencing with fiscal year 1998 shall appropriate and
17 distribute during the fiscal year an amount not less than
18 \$740,000,000 or the amount determined pursuant to subsection e. of
19 section 2 of P.L.1997, c.167 (C.52:27D-439) from the "Energy Tax
20 Receipts Property Tax Relief Fund" pursuant to the provisions of
21 that section **【**2 of P.L.1997, c.167 (C.52:27D-439), for the purposes
22 of that fund**】**.

23 (2) The annual appropriations act for each State fiscal year
24 commencing with fiscal year 2023 shall appropriate and distribute
25 to each municipality an amount not less than (a) the sum of
26 Consolidated Municipal Property Tax Relief Aid and Energy Tax
27 Receipts Property Tax Relief Aid paid to that municipality in fiscal
28 year 2012 and (b) the amount distributed to each municipality
29 pursuant to paragraph (2) of subsection e. of section 2 of P.L.1997,
30 c.167 (C.52:27D-439).

31 b. If the provisions of subsection a. of this section are not met
32 on the effective date of an annual appropriations act for the State
33 fiscal year, or if an amendment or supplement to an annual
34 appropriations act for the State fiscal year should violate the
35 provisions of subsection a. of this section, the Director of the
36 Division of Budget and Accounting in the Department of the
37 Treasury shall, not later than five days after the enactment of the
38 annual appropriations act, or an amendment or supplement thereto,
39 that violates the provisions of subsection a. of this section, certify to
40 the Director of the Division of Taxation that the requirements of
41 subsection a. of this section have not been met.

42 c. The Director of the Division of Taxation shall, no later than
43 five days after certification by the Director of the Division of
44 Budget and Accounting in the Department of the Treasury pursuant
45 to subsection b. of this section that the provisions of subsection a.
46 of this section have not been met or have been violated by an
47 amendment or supplement to the annual appropriations act, notify
48 all taxpayers that have filed a return under the Corporation Business

1 Tax (1946), P.L.1945, c.162 (C.54:10A-1 et seq.) during the
2 previous calendar year, other than taxpayers that are gas, electric,
3 and gas and electric, or telecommunications public utilities as
4 defined pursuant to subsection (q) of section 4 of P.L.1945, c.162
5 (C.54:10A-4) pursuant to the amendment to that section 4 made in
6 section 2 of P.L.1997, c.162, that the taxpayer shall have no
7 liability pursuant to the provisions of P.L.1945, c.162 for any
8 corporation business tax for the taxpayer's current privilege period,
9 notwithstanding any other provision of law to the contrary.
10 (cf: P.L.1997, c.167, s.4)

11
12 4. This act shall take effect immediately.

13
14
15 STATEMENT

16
17 This bill requires the distribution of additional State aid to
18 municipalities under the “Energy Tax Receipts Property Tax Relief
19 Act.” Budget constraints required reductions in the amount of
20 Consolidated Municipal Property Tax Relief Aid (CMPTRA)
21 distributed to all municipalities in Fiscal Years 2009, 2010, and
22 2011. Some municipalities also experienced reductions in their
23 Energy Tax Receipts Property Tax Relief Aid (ETR Aid)
24 distribution during that period. This supplemental funding would
25 restore, over a two-year period, approximately \$331 million in
26 reductions to CMPTRA and ETR Aid.

27 In Fiscal Year 2023, municipalities would receive an aid increase
28 equal to 50 percent of the difference between the distribution of
29 CMPTRA and ETR Aid they received in Fiscal Year 2008 and
30 Fiscal Year 2012. The fully restored amount would be distributed
31 beginning in Fiscal Year 2024 and in each fiscal year thereafter.
32 The total amount of aid to be restored to each municipality would
33 be in addition to the total amount of CMPTRA and ETR Aid
34 distributed to each municipality in Fiscal Year 2012. This
35 legislation also extends the existing ETR Aid “poison pill”
36 protection to ensure that each municipality received an aid amount
37 not less than the combined payment of CMPTRA and ETR Aid to
38 municipalities in Fiscal Year 2012 and the additional aid distributed
39 under the bill.

40 This bill also amends current law to require a municipality to
41 subtract any additional amount of ETR aid it receives, pursuant to
42 the bill, from its adjusted tax levy when computing that amount for
43 its next fiscal year. By deducting the additional amount of ETR Aid
44 from the previous year’s levy, municipalities would be permitted to
45 raise a lower amount of taxes through the levy for municipal
46 purposes. The bill prohibits a municipality from anticipating, for
47 purposes of preparing its annual budget, the receipt of any State aid

A3804 BENSON, MORIARTY

8

1 payment from the ETR aid under the provisions in the bill. The bill
2 also requires a municipality to amend its local budget to properly
3 reflect the total amount distributed to the municipality from the
4 ETR aid.