

SENATE, No. 2619

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 12, 2022

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Excludes solid waste, recycling, fuel and cyber insurance costs from appropriations cap and property tax levy cap for certain local units.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/29/2022)

1 AN ACT concerning certain local unit budgets through the
2 calculation of the appropriations cap and local property tax levy
3 cap, and amending P.L.1976, c.68 and P.L.2007, c.62.

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

7
8 1. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
9 read as follows:

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

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

15 b. Capital expenditures, including appropriations for current
16 capital expenditures, whether in the capital improvement fund or as
17 a component of a line item elsewhere in the budget, provided that
18 any such current capital expenditure would be otherwise bondable
19 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

20 c. (1) An increase based upon emergency temporary
21 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
22 situation or event which immediately endangers the health, safety or
23 property of the residents of the municipality, and over which the
24 governing body had no control and for which it could not plan and
25 emergency appropriations made pursuant to N.J.S.40A:4-46.
26 Emergency temporary appropriations and emergency appropriations
27 shall be approved by at least two-thirds of the governing body and
28 by the Director of the Division of Local Government Services, and
29 shall not exceed in the aggregate 3% of the previous year's final
30 current operating appropriations.

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

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

35 d. All debt service, including that of a Type I school district;

36 e. Upon the approval of the Local Finance Board in the
37 Division of Local Government Services, amounts required for
38 funding a preceding year's deficit;

39 f. Amounts reserved for uncollected taxes;

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

41 h. Expenditure of amounts derived from new or increased
42 construction, housing, health or fire safety inspection or other
43 service fees imposed by State law, rule or regulation or by local
44 ordinance;

45 i. Any amount approved by any referendum;

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 j. Amounts required to be paid pursuant to (1) any contract
2 with respect to use, service or provision of any project, facility or
3 public improvement for water, sewerage, parking, senior citizen
4 housing or any similar purpose, or payments on account of debt
5 service therefor, between a municipality and any other municipality,
6 county, school or other district, agency, authority, commission,
7 instrumentality, public corporation, body corporate and politic or
8 political subdivision of this State; (2) the provisions of article 9 of
9 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
10 municipality to the intermunicipal account; (3) any lease of a
11 facility owned by a county improvement authority when the lease
12 payment represents the proportionate amount necessary to amortize
13 the debt incurred by the authority in providing the facility which is
14 leased, in whole or in part; and (4) any repayments under a loan
15 agreement entered into in accordance with the provisions of section
16 5 of P.L.1992, c.89;
- 17 k. (Deleted by amendment, P.L.1987, c.74.)
- 18 l. Appropriations of federal, county, independent authority or
19 State funds, or by grants from private parties or nonprofit
20 organizations for a specific purpose, and amounts received or to be
21 received from such sources in reimbursement for local
22 expenditures. If a municipality provides matching funds in order to
23 receive the federal, county, independent authority or State funds, or
24 the grants from private parties or nonprofit organizations for a
25 specific purpose, the amount of the match which is required by law
26 or agreement to be provided by the municipality shall be excepted;
- 27 m. (Deleted by amendment, P.L.1987, c.74.)
- 28 n. (Deleted by amendment, P.L.1987, c.74.)
- 29 o. (Deleted by amendment, P.L.1990, c.89.)
- 30 p. (Deleted by amendment, P.L.1987, c.74.)
- 31 q. (Deleted by amendment, P.L.1990, c.89.)
- 32 r. Amounts expended to fund a free public library established
33 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
34 inclusive;
- 35 s. (Deleted by amendment, P.L.1990, c.89.)
- 36 t. Amounts expended in preparing and implementing a housing
37 element and fair share plan pursuant to the provisions of P.L.1985,
38 c.222 (C.52:27D-301 et al.) and any amounts received by a
39 municipality under a regional contribution agreement pursuant to
40 section 12 of that act;
- 41 u. (Deleted by amendment, P.L.2004, c.74.)
- 42 v. (Deleted by amendment, P.L.1990, c.89.)
- 43 w. (Deleted by amendment, P.L.2004, c.74.)
- 44 x. Amounts expended to aid privately owned libraries and
45 reading rooms, pursuant to R.S.40:54-35;
- 46 y. (Deleted by amendment, P.L.1990, c.89.)
- 47 z. (Deleted by amendment, P.L.1990, c.89.)

- 1 aa. Extraordinary expenses, approved by the Local Finance
2 Board, required for the implementation of an interlocal services
3 agreement;
- 4 bb. Any expenditure mandated as a result of a natural disaster,
5 civil disturbance or other emergency that is specifically authorized
6 pursuant to a declaration of an emergency by the President of the
7 United States or by the Governor;
- 8 cc. Expenditures for the cost of services mandated by any order
9 of court, by any federal or State statute, or by administrative rule,
10 directive, order, or other legally binding device issued by a State
11 agency which has identified such cost as mandated expenditures on
12 certification to the Local Finance Board by the State agency;
- 13 dd. Expenditures of amounts actually realized in the local
14 budget year from the sale of municipal assets in extraordinary cases
15 and with the permission of the Local Finance Board;
- 16 ee. Any local unit which is determined to be experiencing fiscal
17 distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-
18 118.24 et seq.), whether or not a local unit is an "eligible
19 municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-
20 118.26), and which has available surplus pursuant to the spending
21 limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may
22 appropriate and expend an amount of that surplus approved by the
23 director and the Local Finance Board as an exception to the
24 spending limitation. Any determination approving the
25 appropriation and expenditure of surplus as an exception to the
26 spending limitations shall be based upon:
- 27 1) the local unit's revenue needs for the current local budget
28 year and its revenue raising capacity;
- 29 2) the intended actions of the governing body of the local unit
30 to meet the local unit's revenue needs;
- 31 3) the intended actions of the governing body of the local unit
32 to expand its revenue generating capacity for subsequent local
33 budget years;
- 34 4) the local unit's ability to demonstrate the source and
35 existence of sufficient surplus as would be prudent to appropriate as
36 an exception to the spending limitations to meet the operating
37 expenses for the local unit's current budget year; and
- 38 5) the impact of utilization of surplus upon succeeding budgets
39 of the local unit;
- 40 ff. Newly authorized operating appropriations for the municipal
41 court or violation's bureau when approved by the vicinage Presiding
42 Judge of the Municipal Court after consultation with the mayor and
43 governing body of the municipality;
- 44 gg. (Deleted by amendment, P.L.2004, c.74.)
- 45 hh. (Deleted by amendment, P.L.2004, c.74.)
- 46 ii. Subject to the approval of the Local Finance Board,
47 expenditures related to the cost of conducting and implementing a

1 total property tax levy sale pursuant to section 16 of P.L.1997, c.99
2 (C.54:5-113.5);

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

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

11 ll. Amounts expended by a municipality under an interlocal
12 services agreement entered into pursuant to the "Interlocal Services
13 Act," P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the
14 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
15 governing body of the municipality that will receive the service
16 may choose to allow the amount of projected annual savings to be
17 added to the amount of final appropriations upon which its
18 permissible expenditures are calculated pursuant to section 2 of
19 P.L.1976, c.68 (C.40A:4-45.2);

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

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

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

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

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

39 rr. Expenditures related to gasoline and diesel fuel;

40 ss. Amounts expended for the purpose of collection and
41 disposal of solid waste and recycling;

42 tt. Amounts appropriated in the first three years after the
43 effective date of P.L. , c. (C.) (pending before the
44 Legislature as this bill) for cyber insurance.

45 In the first full year when an existing appropriation or
46 expenditure that is subject to budget limitations is made an
47 exception to budget limitations, a municipality shall deduct from its
48 final appropriations upon which its permissible expenditures are

1 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
2 the amount which the municipality expended for that purpose
3 during the last full budget year, or portion thereof, in which the
4 purpose so excepted was funded from appropriations in the
5 municipal budget.

6 In the first full year when an existing appropriation or
7 expenditure that is not subject to budget limitations is made subject
8 to budget limitations, a municipality shall add to its final
9 appropriations upon which its permissible expenditures are
10 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
11 the amount which the municipality expended for that purpose
12 during the last full budget year, or portion thereof, in which the
13 purpose so excepted was funded from appropriations in the
14 municipal budget.
15 (cf: P.L.2007, c.311, s.17)

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

19 10. a. (1) In the preparation of its budget the amount to be
20 raised by taxation by a local unit shall not exceed, except as
21 provided in paragraph (2) of this subsection, the sum of new
22 ratables, the adjusted tax levy, and the total of waivers approved
23 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided,
24 however, that in the case of a county, the amount to be raised by
25 taxation shall not exceed the amount permitted by section 4 of
26 P.L.1976, c.68 (C.40A:4-45.4).

27 (2) A local unit that has not been granted approval for a waiver
28 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), may add
29 to its adjusted tax levy in any one of the next three succeeding
30 years, the amount of the difference between the maximum
31 allowable amount to be raised by taxation or county purposes tax,
32 as applicable, for the current local budget year pursuant to
33 paragraph (1) of this subsection and the actual amount to be raised
34 by taxation or county purposes tax, as applicable, for the current
35 local budget year.

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

38 (1) increases in amounts required to be raised by taxation for
39 capital expenditures, including debt service as defined by law;

40 (2) increases in pension contributions and accrued liability for
41 pension contributions in excess of 2.0%;

42 (3) increases in health care costs equal to that portion of the
43 actual increase in total health care costs for the budget year that is
44 in excess of 2.0% of the total health care costs in the prior year, but
45 is not in excess of the product of the total health care costs in the
46 prior year and the average percentage increase of the State Health
47 Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as

1 annually determined by the Division of Pensions and Benefits in the
2 Department of the Treasury; **[and]**

3 (4) extraordinary costs incurred by a local unit directly related to
4 a declared emergency, as defined by regulation promulgated by the
5 Commissioner of the Department of Community Affairs, in
6 consultation with the Commissioner of Education, as appropriate;

7 (5) increases in costs related to the collection and disposal of
8 solid waste and recycling equal to that portion of the actual increase
9 in total costs related to the collection and disposal of solid waste
10 and recycling for the budget year that is in excess of 2.0% of the
11 total costs related to the collection and disposal of solid waste and
12 recycling in the prior year;

13 (6) increases in gasoline and diesel fuel costs equal to that
14 portion of the actual increase in total gasoline and diesel fuel costs
15 for the budget year that is in excess of 2.0% of the total gasoline
16 and diesel fuel costs in the prior year; and

17 (7) increases in cyber insurance costs equal to that portion of the
18 actual increase in total cyber insurance costs for the budget year
19 that is in excess of 2.0% of the total cyber insurance costs in the
20 prior year.

21 If there are no exclusions, then the amount of the difference shall
22 reduce the adjusted tax levy by that amount. Any cancelled or
23 unexpended appropriation for any exclusion pursuant to this
24 subsection or waiver pursuant to section 11 of P.L.2007, c.62
25 (C.40A:4-45.46), also shall be deducted from the sum of the
26 exclusions listed in this subsection or directly reduce the adjusted
27 tax levy if there are no exclusions.

28 (cf: P.L.2010, c.44, s.9)

29

30 3. (New section) A municipality that operates on a calendar
31 fiscal year that has not adopted a 2022 municipal budget as of the
32 effective date of P.L. , c. (C.) (pending before the
33 Legislature as this bill) may amend the 2022 municipal budget prior
34 to adoption of the 2022 municipal budget to account for the
35 provisions of P.L. , c. (C.) (pending before the Legislature
36 as this bill).

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38 4. This act shall take effect immediately.

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STATEMENT

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43 The bill moves fuel costs, expenses related to the collection and
44 disposal of solid waste and recycling, and cyber insurance costs
45 outside of the budget appropriation and property tax levy caps for
46 certain local units.

47 N.J.S.A.40A:4-45.3 requires that a municipality limit
48 appropriation increases to 2.5 percent or the cost-of-living

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1 adjustment, whichever is less, over the previous year's final
2 appropriations, but provides for certain exceptions. The bill would
3 add gasoline and diesel fuel costs, expenses related to the collection
4 and disposal of solid waste and recycling, and cyber insurance costs
5 to an existing list of allowable exceptions.

6 N.J.S.A.40A:4-45.45 concerns the preparation of a local unit's
7 budget with respect to the amount to be raised by taxation. The bill
8 would allow local units to raise funds from property taxpayers for
9 the purpose of collection and disposal of solid waste and recycling,
10 fuel costs, and cyber insurance costs by making these purposes an
11 exclusion from the property tax levy cap.

12 The bill provides that a municipality that operates on a calendar
13 fiscal year that has not adopted a 2022 municipal budget may
14 amend the 2022 municipal budget prior to adoption to account for
15 the provisions of the bill.