

SENATE, No. 3380

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED DECEMBER 5, 2022

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Concerns exclusions from municipal appropriations cap.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/5/2022)

1 AN ACT concerning exclusions from municipal appropriations cap
2 and amending P.L.1976, c.68.

3

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

6

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

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

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

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

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

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

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

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

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

38 f. Amounts reserved for uncollected taxes;

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

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

44 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, including amounts expended
42 for the purpose of collection and disposal of yard waste;

43 tt. Amounts appropriated for cyber insurance;

44 uu. Amounts appropriated for liability insurance;

45 vv. Amounts appropriated for worker's compensation insurance;

46 ww. Amounts appropriated for property insurance.

47 In the first full year when an existing appropriation or
48 expenditure that is subject to budget limitations is made an

1 exception to budget limitations, a municipality shall deduct from its
2 final appropriations upon which its permissible expenditures are
3 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
4 the amount which the municipality expended for that purpose
5 during the last full budget year, or portion thereof, in which the
6 purpose so excepted was funded from appropriations in the
7 municipal budget.

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

17 (cf: P.L.2007, c.311, s.17)

18

19 2. This act shall take effect immediately.

20

21

22

STATEMENT

23

24 The bill moves fuel costs, expenses related to the collection and
25 disposal of solid waste and recycling, and certain insurance costs
26 outside of the municipal budget appropriations cap.

27 N.J.S.A.40A:4-45.3 requires that a municipality limit
28 appropriation increases to 2.5 percent or the cost-of-living
29 adjustment, whichever is less, over the previous year's final
30 appropriations, but provides for certain exceptions. The bill adds
31 gasoline and diesel fuel costs and expenses related to the collection
32 and disposal of solid waste and recycling, including yard waste, to
33 an existing list of allowable exceptions. The bill also adds liability
34 insurance, worker's compensation insurance, cyber insurance, and
35 property insurance costs to the existing list of allowable exceptions.