

**ASSEMBLY, No. 1766**

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**STATE OF NEW JERSEY**

**217th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Co-Sponsored by:**

**Assemblywoman N.Munoz and Assemblyman Webber**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

3

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

6

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

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

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

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

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

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

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

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

44 (cf: P.L.2010, c.44, s.8)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45       d. The adjusted tax levy shall be increased or decreased  
46 accordingly whenever the responsibility and associated cost of an  
47 activity performed by a local unit is transferred to or from a local  
48 unit, other government entity, or other service provider, or when a

1 local unit shifts the funding for a traditional municipal service or  
2 activity which was included in the local budget for the local budget  
3 year prior to the local budget year in which P.L. \_\_\_\_\_ c. (pending  
4 before the Legislature as this bill) was enacted, into or out from its  
5 local purposes property tax levy.  
6 (cf: P.L.2011, c.134, s.60)

7  
8 4. This act shall take effect immediately.  
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11 STATEMENT  
12

13 This bill is intended to help insulate local taxpayers from efforts  
14 by municipal officials to remove the cost of providing certain  
15 traditional municipal services from under the 2% municipal and  
16 county property tax levy cap by shifting to a “user fee” based  
17 funding system for traditional municipal services that were  
18 previously included the local budget prior to enactment of this bill.  
19 The provisions of this bill do not apply to amounts collected  
20 pursuant to a shared services or joint meeting agreement regardless  
21 of when the agreement is executed.

22 Currently, the expenditures for services that are removed from  
23 the local purposes property tax levy may still be “capped” by the  
24 cap on final appropriations under N.J.S.A.40A:4-45.1 et seq., but  
25 that cap is not as strict as the 2% local purposes property tax levy  
26 cap.

27 The bill also removes obsolete language regarding a tax cap  
28 waiver process that was previously obviated.