

ASSEMBLY, No. 228

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblyman Thomson

SYNOPSIS

Excludes certain increases in school security expenditures from tax levy and appropriation cap, as applicable, for municipalities and counties.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/27/2020)

1 **AN ACT** concerning county and municipal expenditures on school
2 security costs and amending P.L.1976, c.68 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 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;

45 j. Amounts required to be paid pursuant to (1) any contract
46 with respect to use, service or provision of any project, facility or

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 public improvement for water, sewerage, parking, senior citizen
2 housing or any similar purpose, or payments on account of debt
3 service therefor, between a municipality and any other municipality,
4 county, school or other district, agency, authority, commission,
5 instrumentality, public corporation, body corporate and politic or
6 political subdivision of this State; (2) the provisions of article 9 of
7 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
8 municipality to the intermunicipal account; (3) any lease of a
9 facility owned by a county improvement authority when the lease
10 payment represents the proportionate amount necessary to amortize
11 the debt incurred by the authority in providing the facility which is
12 leased, in whole or in part; and (4) any repayments under a loan
13 agreement entered into in accordance with the provisions of section
14 5 of P.L.1992, c.89;

15 k. (Deleted by amendment, P.L.1987, c.74.)

16 l. Appropriations of federal, county, independent authority or
17 State funds, or by grants from private parties or nonprofit
18 organizations for a specific purpose, and amounts received or to be
19 received from such sources in reimbursement for local
20 expenditures. If a municipality provides matching funds in order to
21 receive the federal, county, independent authority or State funds, or
22 the grants from private parties or nonprofit organizations for a
23 specific purpose, the amount of the match which is required by law
24 or agreement to be provided by the municipality shall be excepted;

25 m. (Deleted by amendment, P.L.1987, c.74.)

26 n. (Deleted by amendment, P.L.1987, c.74.)

27 o. (Deleted by amendment, P.L.1990, c.89.)

28 p. (Deleted by amendment, P.L.1987, c.74.)

29 q. (Deleted by amendment, P.L.1990, c.89.)

30 r. Amounts expended to fund a free public library established
31 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
32 inclusive;

33 s. (Deleted by amendment, P.L.1990, c.89.)

34 t. Amounts expended in preparing and implementing a housing
35 element and fair share plan pursuant to the provisions of P.L.1985,
36 c.222 (C.52:27D-301 et al.) and any amounts received by a
37 municipality under a regional contribution agreement pursuant to
38 section 12 of that act;

39 u. (Deleted by amendment, P.L.2004, c.74.)

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

41 w. (Deleted by amendment, P.L.2004, c.74.)

42 x. Amounts expended to aid privately owned libraries and
43 reading rooms, pursuant to R.S.40:54-35;

44 y. (Deleted by amendment, P.L.1990, c.89.)

45 z. (Deleted by amendment, P.L.1990, c.89.)

46 aa. Extraordinary expenses, approved by the Local Finance
47 Board, required for the implementation of an interlocal services
48 agreement;

- 1 bb. Any expenditure mandated as a result of a natural disaster,
2 civil disturbance or other emergency that is specifically authorized
3 pursuant to a declaration of an emergency by the President of the
4 United States or by the Governor;
- 5 cc. Expenditures for the cost of services mandated by any order
6 of court, by any federal or State statute, or by administrative rule,
7 directive, order, or other legally binding device issued by a State
8 agency which has identified such cost as mandated expenditures on
9 certification to the Local Finance Board by the State agency;
- 10 dd. Expenditures of amounts actually realized in the local
11 budget year from the sale of municipal assets in extraordinary cases
12 and with the permission of the Local Finance Board;
- 13 ee. Any local unit which is determined to be experiencing fiscal
14 distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-
15 118.24 et seq.), whether or not a local unit is an "eligible
16 municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-
17 118.26), and which has available surplus pursuant to the spending
18 limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may
19 appropriate and expend an amount of that surplus approved by the
20 director and the Local Finance Board as an exception to the
21 spending limitation. Any determination approving the
22 appropriation and expenditure of surplus as an exception to the
23 spending limitations shall be based upon:
- 24 1) the local unit's revenue needs for the current local budget
25 year and its revenue raising capacity;
- 26 2) the intended actions of the governing body of the local unit
27 to meet the local unit's revenue needs;
- 28 3) the intended actions of the governing body of the local unit
29 to expand its revenue generating capacity for subsequent local
30 budget years;
- 31 4) the local unit's ability to demonstrate the source and
32 existence of sufficient surplus as would be prudent to appropriate as
33 an exception to the spending limitations to meet the operating
34 expenses for the local unit's current budget year; and
- 35 5) the impact of utilization of surplus upon succeeding budgets
36 of the local unit;
- 37 ff. Newly authorized operating appropriations for the municipal
38 court or violation's bureau when approved by the vicinage Presiding
39 Judge of the Municipal Court after consultation with the mayor and
40 governing body of the municipality;
- 41 gg. (Deleted by amendment, P.L.2004, c.74.)
- 42 hh. (Deleted by amendment, P.L.2004, c.74.)
- 43 ii. Subject to the approval of the Local Finance Board,
44 expenditures related to the cost of conducting and implementing a
45 total property tax levy sale pursuant to section 16 of P.L.1997,
46 c.99 (C.54:5-113.5);
- 47 jj. Amounts expended for a length of service award program
48 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

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

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

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

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

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

29 pp. 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 costs of
31 domestic security preparedness and responses to incidents and
32 threats to domestic security;

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

35 rr. Increases in school security costs equal to that portion of
36 actual school security costs for the budget year that is in excess of
37 2.0% of the total school security costs in the prior year that are
38 added to the calculation of the adjusted tax levy pursuant to
39 subsection b. of section 10 of P.L.2007, c.62 (C.40A:4-45.45) .

40 In the first full year when an existing appropriation or
41 expenditure that is subject to budget limitations is made an
42 exception to budget limitations, a municipality shall deduct from its
43 final appropriations upon which its permissible expenditures are
44 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
45 the amount which the municipality expended for that purpose
46 during the last full budget year, or portion thereof, in which the
47 purpose so excepted was funded from appropriations in the
48 municipal budget.

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

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

11
12 2. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
13 read as follows:

14 4. In the preparation of its budget, a county may not increase
15 the county tax levy to be apportioned among its constituent
16 municipalities in excess of 2.5% or the cost-of-living adjustment,
17 whichever is less, of the previous year's county tax levy, subject to
18 the following exceptions:

19 a. The amount of revenue generated by the increase in
20 valuations within the county, based solely on applying the
21 preceding year's county tax rate to the apportionment valuation of
22 new construction or improvements within the county, and such
23 increase shall be levied in direct proportion to said valuation;

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

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

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

41 The approval procedure in this subsection shall not apply to
42 appropriations adopted for a purpose referred to in subsection d. or
43 f. below;

44 d. All debt service;

45 e. (Deleted by amendment, P.L.1990, c.89.)

46 f. Amounts required to be paid pursuant to (1) any contract
47 with respect to use, service or provision of any project, facility or
48 public improvement for water, sewerage, parking, senior citizen

- 1 housing or any similar purpose, or payments on account of debt
2 service therefor, between a county and any other county,
3 municipality, school or other district, agency, authority,
4 commission, instrumentality, public corporation, body corporate
5 and politic or political subdivision of this State; and (2) any lease of
6 a facility owned by a county improvement authority when the lease
7 payment represents the proportionate amount necessary to amortize
8 the debt incurred by the authority in providing the facility which is
9 leased, in whole or in part;
- 10 g. That portion of the county tax levy which represents funding
11 to participate in any federal or State aid program and amounts
12 received or to be received from federal, State or other funds in
13 reimbursement for local expenditures. If a county provides
14 matching funds in order to receive the federal or State or other
15 funds, only the amount of the match which is required by law or
16 agreement to be provided by the county shall be excepted;
- 17 h. (Deleted by amendment, P.L.1987, c.74.)
- 18 i. (Deleted by amendment, P.L.1990, c.89.)
- 19 j. (Deleted by amendment, P.L.1990, c.89.)
- 20 k. (Deleted by amendment, P.L.1990, c.89.)
- 21 l. (Deleted by amendment, P.L.2004, c.74.)
- 22 m. (Deleted by amendment, P.L.1990, c.89.)
- 23 n. (Deleted by amendment, P.L.1990, c.89.)
- 24 o. (Deleted by amendment, P.L.1990, c.89.)
- 25 p. Extraordinary expenses, approved by the Local Finance
26 Board, required for the implementation of an interlocal services
27 agreement;
- 28 q. Any expenditure mandated as a result of a natural disaster,
29 civil disturbance or other emergency that is specifically authorized
30 pursuant to a declaration of an emergency by the President of the
31 United States or by the Governor;
- 32 r. Expenditures for the cost of services mandated by any order
33 of court, by any federal or State statute, or by administrative rule,
34 directive, order, or other legally binding device issued by a State
35 agency which has identified such cost as mandated expenditures on
36 certification to the Local Finance Board by the State agency;
- 37 s. That portion of the county tax levy which represents funding
38 to a county college in excess of the county tax levy required to fund
39 the county college in local budget year 1992;
- 40 t. (Deleted by amendment, P.L.2004, c.74.)
- 41 u. Expenditures for the administration of general public
42 assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- 43 v. Amounts in a separate line item of a county budget that are
44 expended on tick-borne disease vector management activities
45 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);
- 46 w. Amounts expended by a county under an interlocal services
47 agreement entered into pursuant to the "Interlocal Services Act,"
48 P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the effective

1 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended
2 under a joint contract pursuant to the "Consolidated Municipal
3 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after
4 the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

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

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

13 z. Expenditures of amounts received pursuant to section 5 of
14 P.L.1981, c.278 (C.13:1E-96) ; and

15 aa. Increases in school security costs equal to that portion of
16 actual school security costs for the budget year that is in excess of
17 2.0% of the total school security costs in the prior year that are
18 added to the calculation of the adjusted tax levy pursuant to
19 subsection b. of section 10 of P.L.2007, c.62 (C.40A:4-45.45) .

20 In the first full year where an existing appropriation or
21 expenditure that is subject to budget limitations is made an
22 exception to budget limitations, a county shall deduct from its final
23 appropriations upon which its permissible expenditures are
24 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2)
25 the amount which the county expended for that purpose during the
26 last full budget year, or portion thereof, in which the purpose so
27 excepted was funded from appropriations in the county budget.

28 In the first full year where an existing appropriation or
29 expenditure that is not subject to budget limitations is made subject
30 to budget limitations, a county shall add to its final appropriations
31 upon which its permissible expenditures are calculated pursuant to
32 section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the
33 county expended for that purpose during the last full budget year, or
34 portion thereof, in which the purpose so excepted was funded from
35 appropriations in the county budget.

36 (cf: P.L.2007, c.311, s.18)

37

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

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

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

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

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

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

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

38
39 4. This act shall take effect immediately and shall first be
40 applicable to the next local budget year following enactment.

41 42 43 STATEMENT

44
45 Under current law, municipalities may increase their tax levies,
46 with certain exceptions, by no more than two percent relative to the
47 prior budget year. Similarly, municipalities may not increase their
48 total appropriations, and counties may not increase their tax levies,

1 by more than the lesser of 2.5 percent or the cost of living
2 adjustment relative to the prior year. This bill provides that any
3 annual increase in expenditures on school security costs in excess of
4 two percent incurred by either of these entities will be excluded
5 from the applicable limit.