

ASSEMBLY, No. 476

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Co-Sponsored by:

Assemblywoman Lampitt, Assemblymen Houghtaling, DiMaio,

Assemblywoman Mosquera, Assemblyman Wirths and Assemblywoman Reynolds-Jackson

SYNOPSIS

Increases distribution to municipalities from Energy Tax Receipts Property Tax Relief Fund over five years to restore municipal aid reductions; requires additional aid to be subtracted from municipal property tax levy.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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 or anticipated by a local unit pursuant to paragraph (2) of
17 subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439) in its
18 current fiscal year and its previous fiscal year, that result multiplied
19 by 1.02, to which the sum of exclusions defined in subsection b. of
20 section 10 of P.L.2007, 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 (C52:27D-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 additional 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 2017 an amount equal to 20% of the difference between the
28 sum of Consolidated Municipal Property Tax Relief Aid and Energy
29 Tax Receipts Property Tax Relief Aid paid to that municipality in
30 fiscal year 2008 and the sum of Consolidated Municipal Property
31 Tax Relief Aid and Energy Tax Receipts Property Tax Relief Aid
32 paid to that municipality in fiscal year 2012; 40% of that difference
33 amount shall be paid in fiscal year 2018, 60% of that difference
34 amount shall be paid fiscal year 2019; 80% of that difference
35 amount shall be paid in fiscal year 2020; and 100% of that
36 difference amount shall be paid in fiscal year 2021 and in each
37 fiscal year thereafter. The amounts determined herein shall be
38 distributed to municipalities annually pursuant to the schedule
39 under paragraph (1) of subsection c. of this section.

40 f. Notwithstanding any other provision of this section or any
41 other provision of law to the contrary, if any municipality paid a
42 county for an amount for county purposes from the amount it
43 received from its apportionment of taxes according to the
44 limitations on the municipalities apportionment under section 4 of
45 P.L.1980, c.11 (C.54:30A-61.1), the highest amount of that
46 payment during calendar years 1994, 1995, and 1996 shall be paid
47 annually directly to that county by the State Treasurer and be

1 deducted from that municipality's distribution otherwise determined
2 pursuant to paragraph (2) of subsection b. of this section.
3 (cf: P.L.2002, c.3, s.1)
4

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

7 4. a. (1) The annual appropriations act for each State fiscal
8 year commencing with fiscal year 1998 shall appropriate and
9 distribute during the fiscal year an amount not less than
10 \$740,000,000 or the amount determined pursuant to subsection e. of
11 section 2 of P.L.1997, c.167 (C.52:27D-439) from the "Energy Tax
12 Receipts Property Tax Relief Fund" pursuant to the provisions of
13 that section **2** of P.L.1997, c.167 (C.52:27D-439), for the purposes
14 of that fund**】**.

15 (2) The annual appropriations act for each State fiscal year
16 commencing with fiscal year 2017 shall appropriate and distribute
17 to each municipality an amount not less than (a) the sum of
18 Consolidated Municipal Property Tax Relief Aid and Energy Tax
19 Receipts Property Tax Relief Aid paid to that municipality in fiscal
20 year 2012 and (b) the amount distributed to each municipality
21 pursuant to paragraph (2) of subsection e. of section 2 of P.L.1997,
22 c.167 (C.52:27D-439).

23 b. If the provisions of subsection a. of this section are not met
24 on the effective date of an annual appropriations act for the State
25 fiscal year, or if an amendment or supplement to an annual
26 appropriations act for the State fiscal year should violate the
27 provisions of subsection a. of this section, the Director of the
28 Division of Budget and Accounting in the Department of the
29 Treasury shall, not later than five days after the enactment of the
30 annual appropriations act, or an amendment or supplement thereto,
31 that violates the provisions of subsection a. of this section, certify to
32 the Director of the Division of Taxation that the requirements of
33 subsection a. of this section have not been met.

34 c. The Director of the Division of Taxation shall, no later than
35 five days after certification by the Director of the Division of
36 Budget and Accounting in the Department of the Treasury pursuant
37 to subsection b. of this section that the provisions of subsection a.
38 of this section have not been met or have been violated by an
39 amendment or supplement to the annual appropriations act, notify
40 all taxpayers that have filed a return under the Corporation Business
41 Tax (1946), P.L.1945, c.162 (C.54:10A-1 et seq.) during the
42 previous calendar year, other than taxpayers that are gas, electric,
43 and gas and electric, or telecommunications public utilities as
44 defined pursuant to subsection (q) of section 4 of P.L.1945, c.162
45 (C.54:10A-4) pursuant to the amendment to that section 4 made in
46 section 2 of P.L.1997, c.162, that the taxpayer shall have no
47 liability pursuant to the provisions of P.L.1945, c.162 for any

1 corporation business tax for the taxpayer's current privilege period,
2 notwithstanding any other provision of law to the contrary.
3 (cf: P.L.1997, c.167, s.4)

4
5 4. This act shall take effect immediately.

6
7
8 STATEMENT

9
10 This bill requires the distribution of additional State aid to
11 municipalities under the “Energy Tax Receipts Property Tax Relief
12 Act.” Budget constraints required reductions in the amount of
13 Consolidated Municipal Property Tax Relief Aid (CMPTRA)
14 distributed to all municipalities in Fiscal Years 2009, 2010, and
15 2011. Some municipalities also experienced reductions in their
16 Energy Tax Receipts Property Tax Relief Aid (ETR Aid)
17 distribution during that period. This supplemental funding would
18 restore, over a five-year period, approximately \$331 million in
19 reductions to CMPTRA and ETR Aid.

20 In Fiscal Year 2017, municipalities would receive an aid increase
21 equal to 20% of the difference between their total payment of
22 CMPTRA and ETR Aid in Fiscal Year 2008 and Fiscal Year 2012.
23 Municipalities would receive equal increases in each of the
24 following four fiscal years. The fully restored amount would be
25 distributed beginning in State Fiscal Year 2021 and in each fiscal
26 year thereafter. The total amount of aid to be restored to each
27 municipality would be in addition to the total amount of CMPTRA
28 and ETR Aid distributed to each municipality in Fiscal Year 2012.
29 This legislation also extends the existing ETR Aid “poison pill”
30 protection to ensure that each municipality received an aid amount
31 not less than the combined payment of CMPTRA and ETR Aid to
32 municipalities in Fiscal Year 2012 and the additional aid distributed
33 under the bill.

34 This bill also amends current law to require a municipality to
35 subtract any additional amount of ETR aid it receives, pursuant to
36 the bill, from its adjusted tax levy when computing that amount for
37 its next fiscal year. By deducting the additional amount of ETR Aid
38 from the previous year’s levy, municipalities would be permitted to
39 raise a lower amount of taxes through the levy for municipal
40 purposes, thereby benefitting property taxpayers.