

ASSEMBLY, No. 1227

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Co-Sponsored by:

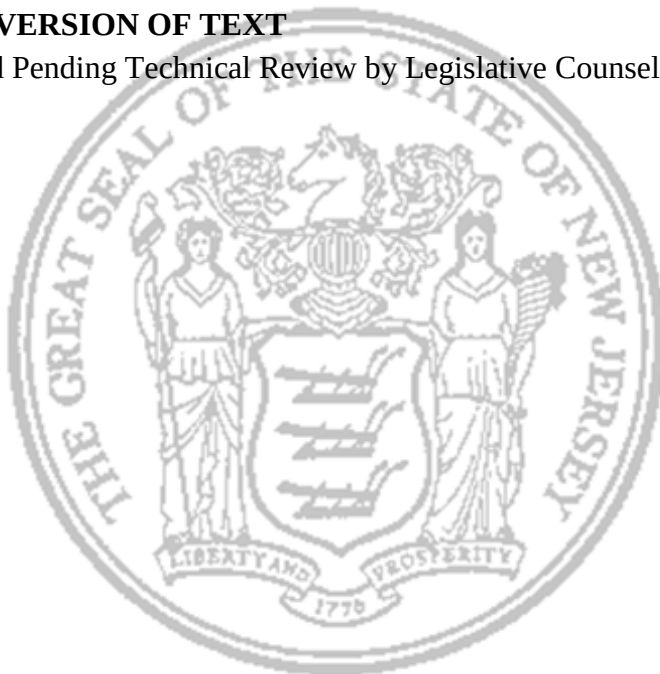
Assemblymen Wirths and Space

SYNOPSIS

Establishes a joint legislative and executive branch New Jersey Revenue Advisory Board to provide consensus revenue forecasting advice for State budget purposes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** establishing a joint legislative and executive branch New
2 Jersey Revenue Advisory Board to provide consensus revenue
3 forecasting advice for State budget purposes, amending
4 P.L.1944, c.112, P.L.1995, c.23, and supplementing Title 52 of
5 the Revised Statutes.

6

7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*

9

10 1. (New section) a. The State Treasurer, ex officio, and the
11 Legislative Budget and Finance Officer, ex officio, shall, together
12 with a third public member who shall be jointly selected thereby,
13 constitute a New Jersey Revenue Advisory Board that shall provide
14 the Governor and the Legislature with advisory consensus forecasts
15 of State revenues anticipated to be received by the State during the
16 present and next commencing fiscal year to support annual State
17 appropriations.

18 b. The public member shall be qualified by education, training
19 or experience related to State tax policy and revenue analysis. The
20 public member selected shall not be an individual who is holding
21 elective office. The public member selected shall serve for a term
22 of four years and may be reappointed for successive terms. A
23 vacancy in the public member position of the group shall be filled
24 by the joint selection of the other members. For purposes of board
25 membership, any vacancy in the Office of the State Treasurer shall
26 be filled by the acting State Treasurer as designated by law by the
27 Governor, and any vacancy in the position of Legislative Budget
28 and Finance Officer shall be filled by the Executive Director of the
29 Office of Legislative Services.

30 c. The New Jersey Revenue Advisory Board shall organize as
31 soon as practicable, but no later than the 10th day after the selection
32 of its public member. The board chairperson shall be designated
33 from among its ex officio members to serve as chairperson on a
34 rotating basis with the State Treasurer serving during the fiscal year
35 commencing July 1, 2020 and during each fiscal year commencing
36 in odd-numbered years and the Legislative Budget and Finance
37 Officer serving as chairperson during fiscal years commencing in
38 even-numbered years. The chairperson shall appoint a secretary
39 who need not be a member of the board.

40 d. The New Jersey Revenue Advisory Board shall convene one
41 or more public hearings at the place or places it designates during
42 the second quarter of each State fiscal year. The board shall receive
43 public testimony and may invite such other participants who, in the
44 judgment of the board, may provide guidance on the current
45 conditions in, and probable outlook for, the performance of the

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 economy of the State, as well as the effect of such conditions and
2 such performance on State revenues.

3 e. The New Jersey Revenue Advisory Board shall conduct
4 public meetings at the place or places it designates, (1) one of
5 which shall be on or before January 15 of each State fiscal year to
6 adopt the advisory consensus forecasts required pursuant to
7 subsection a. of this section, and (2) one of which shall be on or
8 before May 15 of each State fiscal year to readopt or revise the
9 advisory consensus forecasts required pursuant to subsection a. of
10 this section. The board may meet and hold additional public
11 meetings at the times and in the places as the chairperson deems
12 necessary and appropriate to fulfill the duties of the board including
13 but not limited to providing periodic revisions to previous advisory
14 consensus State revenue estimates. The board shall be entitled to
15 call to its assistance, and avail itself of the services of, the
16 employees of any State department, board, bureau, commission, or
17 agency as it may require and as may be available for its purposes.

18 f. The members of the New Jersey Revenue Advisory Board
19 shall serve without compensation, but may be reimbursed for travel
20 and other miscellaneous expenses necessary to perform their duties,
21 within the limits of the funds appropriated or otherwise made
22 available to the board for its purposes or as may be reimbursed by
23 the agency in which the members may serve.

24
25 2. Section 11 of article 3 of P.L.1944, c.112 (C.52:27B-20) is
26 amended to read as follows:

27 11. The Governor shall examine and consider all requests for
28 appropriations, together with the findings and recommendations of
29 the Director of the Division of Budget and Accounting, and shall
30 formulate the Governor's budget recommendations, which shall be
31 presented as a budget message by the Governor during an
32 appearance before a joint session of the Legislature which shall be
33 convened at 12 noon on a date on or before the fourth Tuesday in
34 February in each year.

35 The budget message shall include the proposed complete
36 financial program of the State Government for the next ensuing
37 fiscal year, and shall set forth in columnar form detailed as to each
38 source of anticipated revenue and the purposes to which the
39 recommended appropriations and permissions to spend shall apply
40 for each spending agency in substantially the following form:

41 A. Revenues for the General Fund, other budgeted State
42 revenues, all other dedicated funds, Federal aid funds, and trust
43 funds:

44 (1) An estimate of all balances to be on hand on the first of July
45 next ensuing which are to be available for appropriations, supported
46 by the calculations used in arriving at the estimated figures;

(2) An estimate of the anticipated revenues from all sources applicable to the budget period, together with the actual amount earned from each source during the last completed fiscal year, and the estimate of revenues expected to be earned from each source for the current fiscal year.

(3) An explanation of any variance of the estimates with respect to item (2) above compared to the advisory consensus forecasts of State revenues prepared by the New Jersey Revenue Advisory Board pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill).

B. (Deleted by amendment, P.L.2003, c.275).

C. Appropriations. The total of the appropriations recommended for the ensuing fiscal year in substantially the following form:

Detailed Budget:

(1) An itemized statement of all appropriation requests and requests for permission to spend from the General State Fund, other budgeted State revenues, other dedicated funds and Federal aid and trust funds;

(2) An itemized statement of the amounts recommended by the Governor with respect to item (1) above;

(3) An itemized statement of all amounts appropriated and permissions granted for the current fiscal year with respect to item "1" above;

(4) An itemized statement of all amounts appropriated and permissions granted for the last preceding fiscal year with respect to item (1) above detailed as to annual and supplemental appropriations, transfers of appropriations, State Emergency Fund allotments, and permission to spend, as the case may be, and showing also total expenditures, reserves, lapses and unencumbered balances;

(5) In addition, such other statistical information as may more fully show comparisons and costs of the several departments.

(cf: P.L.2003, c.275, s.1)

3. (New section) If the certification of revenue by the Governor made upon enactment of the annual appropriations act under the Governor's responsibility under Article VIII, Section II, paragraph 2 of the New Jersey Constitution varies from the latest advisory consensus forecast of State revenues prepared by the New Jersey Revenue Advisory Board pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) for the next commencing fiscal year to support annual State appropriations, the Governor shall include with the Governor's certification of revenue an explanation of the reason for any difference.

1 4. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to
2 read as follows:

3 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended
4 and supplemented:

5 "Biotechnology" means any technique that uses living
6 organisms, or parts of living organisms, to make or modify
7 products, to improve plants or animals, or to develop micro-
8 organisms for specific uses; including the industrial use of
9 recombinant DNA, cell fusion, and novel bioprocessing techniques.

10 "Custodian of a government record" or "custodian" means in the
11 case of a municipality, the municipal clerk and in the case of any
12 other public agency, the officer officially designated by formal
13 action of that agency's director or governing body, as the case may
14 be.

15 "Government record" or "record" means any paper, written or
16 printed book, document, drawing, map, plan, photograph,
17 microfilm, data processed or image processed document,
18 information stored or maintained electronically or by sound-
19 recording or in a similar device, or any copy thereof, that has been
20 made, maintained or kept on file in the course of his or its official
21 business by any officer, commission, agency or authority of the
22 State or of any political subdivision thereof, including subordinate
23 boards thereof, or that has been received in the course of his or its
24 official business by any such officer, commission, agency, or
25 authority of the State or of any political subdivision thereof,
26 including subordinate boards thereof. The terms shall not include
27 inter-agency or intra-agency advisory, consultative, or deliberative
28 material.

29 A government record shall not include the following information
30 which is deemed to be confidential for the purposes of P.L.1963,
31 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

32 information received by a member of the Legislature from a
33 constituent or information held by a member of the Legislature
34 concerning a constituent, including but not limited to information in
35 written form or contained in any e-mail or computer data base, or in
36 any telephone record whatsoever, unless it is information the
37 constituent is required by law to transmit;

38 any memorandum, correspondence, notes, report or other
39 communication prepared by, or for, the specific use of a member of
40 the Legislature in the course of the member's official duties, except
41 that this provision shall not apply to an otherwise publicly-
42 accessible report which is required by law to be submitted to the
43 Legislature or its members;

44 any copy, reproduction or facsimile of any photograph, negative
45 or print, including instant photographs and videotapes of the body,
46 or any portion of the body, of a deceased person, taken by or for the
47 medical examiner at the scene of death or in the course of a post

1 mortem examination or autopsy made by or caused to be made by
2 the medical examiner except:
3 when used in a criminal action or proceeding in this State which
4 relates to the death of that person,
5 for the use as a court of this State permits, by order after good
6 cause has been shown and after written notification of the request
7 for the court order has been served at least five days before the
8 order is made upon the county prosecutor for the county in which
9 the post mortem examination or autopsy occurred,
10 for use in the field of forensic pathology or for use in medical or
11 scientific education or research, or
12 for use by any law enforcement agency in this State or any other
13 state or federal law enforcement agency;
14 criminal investigatory records;
15 victims' records, except that a victim of a crime shall have access
16 to the victim's own records;
17 any written request by a crime victim for a record to which the
18 victim is entitled to access as provided in this section, including,
19 but not limited to, any law enforcement agency report, domestic
20 violence offense report, and temporary or permanent restraining
21 order;
22 personal firearms records, except for use by any person
23 authorized by law to have access to these records or for use by any
24 government agency, including any court or law enforcement
25 agency, for purposes of the administration of justice;
26 personal identifying information received by the Division of Fish
27 and Wildlife in the Department of Environmental Protection in
28 connection with the issuance of any license authorizing hunting
29 with a firearm. For the purposes of this paragraph, personal
30 identifying information shall include, but not be limited to, identity,
31 name, address, social security number, telephone number, fax
32 number, driver's license number, email address, or social media
33 address of any applicant or licensee;
34 trade secrets and proprietary commercial or financial information
35 obtained from any source. For the purposes of this paragraph, trade
36 secrets shall include data processing software obtained by a public
37 body under a licensing agreement which prohibits its disclosure;
38 any record within the attorney-client privilege. This paragraph
39 shall not be construed as exempting from access attorney or
40 consultant bills or invoices except that such bills or invoices may be
41 redacted to remove any information protected by the attorney-client
42 privilege;
43 administrative or technical information regarding computer
44 hardware, software and networks which, if disclosed, would
45 jeopardize computer security;

1 emergency or security information or procedures for any
2 buildings or facility which, if disclosed, would jeopardize security
3 of the building or facility or persons therein;
4 security measures and surveillance techniques which, if
5 disclosed, would create a risk to the safety of persons, property,
6 electronic data or software;
7 information which, if disclosed, would give an advantage to
8 competitors or bidders;
9 information generated by or on behalf of public employers or
10 public employees in connection with any sexual harassment
11 complaint filed with a public employer or with any grievance filed
12 by or against an individual or in connection with collective
13 negotiations, including documents and statements of strategy or
14 negotiating position;
15 information which is a communication between a public agency
16 and its insurance carrier, administrative service organization or risk
17 management office;
18 information which is to be kept confidential pursuant to court
19 order;
20 any copy of form DD-214, NGB-22 or that form, issued by the
21 United States Government, or any other certificate of honorable
22 discharge, or copy thereof, from active service or the reserves of a
23 branch of the Armed Forces of the United States, or from service in
24 the organized militia of the State, that has been filed by an
25 individual with a public agency, except that a veteran or the
26 veteran's spouse or surviving spouse shall have access to the
27 veteran's own records;
28 any copy of an oath of allegiance, oath of office or any
29 affirmation taken upon assuming the duties of any public office, or
30 that oath or affirmation, taken by a current or former officer or
31 employee in any public office or position in this State or in any
32 county or municipality of this State, including members of the
33 Legislative Branch, Executive Branch, Judicial Branch, and all law
34 enforcement entities, except that the full name, title, and oath date
35 of that person contained therein shall not be deemed confidential;
36 any memorandum, correspondence, notes, report or other
37 communication prepared by, or for the specific use of, a member of
38 the New Jersey Revenue Advisory Board in the course of the
39 board's or board member's consultations, deliberations or official
40 duties as a board member, except that this provision shall not apply
41 to an otherwise publicly accessible report submitted to the New
42 Jersey Revenue Advisory Board or its members, or the advisory
43 consensus State revenue forecasts required by section 1 of
44 P.L. , c. (C.) (pending before the Legislature as this bill)
45 to be prepared and adopted by the board;
46 that portion of any document which discloses the social security
47 number, credit card number, unlisted telephone number or driver

1 license number of any person; except for use by any government
2 agency, including any court or law enforcement agency, in carrying
3 out its functions, or any private person or entity acting on behalf
4 thereof, or any private person or entity seeking to enforce payment
5 of court-ordered child support; except with respect to the disclosure
6 of driver information by the New Jersey Motor Vehicle
7 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
8 3.4); and except that a social security number contained in a record
9 required by law to be made, maintained or kept on file by a public
10 agency shall be disclosed when access to the document or
11 disclosure of that information is not otherwise prohibited by State
12 or federal law, regulation or order or by State statute, resolution of
13 either or both houses of the Legislature, Executive Order of the
14 Governor, rule of court or regulation promulgated under the
15 authority of any statute or executive order of the Governor;

16 **【A】** a list of persons identifying themselves as being in need of
17 special assistance in the event of an emergency maintained by a
18 municipality for public safety purposes pursuant to section 1 of
19 P.L.2017, c.266 (C.40:48-2.67); and

20 **【A】** a list of persons identifying themselves as being in need of
21 special assistance in the event of an emergency maintained by a
22 county for public safety purposes pursuant to section 6 of P.L.2011,
23 c.178 (C.App.A:9-43.13).

24 A government record shall not include, with regard to any public
25 institution of higher education, the following information which is
26 deemed to be privileged and confidential:

27 pedagogical, scholarly and/or academic research records and/or
28 the specific details of any research project conducted under the
29 auspices of a public higher education institution in New Jersey,
30 including, but not limited to research, development information,
31 testing procedures, or information regarding test participants,
32 related to the development or testing of any pharmaceutical or
33 pharmaceutical delivery system, except that a custodian may not
34 deny inspection of a government record or part thereof that gives
35 the name, title, expenditures, source and amounts of funding and
36 date when the final project summary of any research will be
37 available;

38 test questions, scoring keys and other examination data
39 pertaining to the administration of an examination for employment
40 or academic examination;

41 records of pursuit of charitable contributions or records
42 containing the identity of a donor of a gift if the donor requires non-
43 disclosure of the donor's identity as a condition of making the gift
44 provided that the donor has not received any benefits of or from the
45 institution of higher education in connection with such gift other
46 than a request for memorialization or dedication;

1 valuable or rare collections of books and/or documents obtained
2 by gift, grant, bequest or devise conditioned upon limited public
3 access;

4 information contained on individual admission applications; and
5 information concerning student records or grievance or
6 disciplinary proceedings against a student to the extent disclosure
7 would reveal the identity of the student.

8 "Personal firearms record" means any information contained in a
9 background investigation conducted by the chief of police, the
10 county prosecutor, or the Superintendent of State Police, of any
11 applicant for a permit to purchase a handgun, firearms identification
12 card license, or firearms registration; any application for a permit to
13 purchase a handgun, firearms identification card license, or firearms
14 registration; any document reflecting the issuance or denial of a
15 permit to purchase a handgun, firearms identification card license,
16 or firearms registration; and any permit to purchase a handgun,
17 firearms identification card license, or any firearms license,
18 certification, certificate, form of register, or registration statement.
19 For the purposes of this paragraph, information contained in a
20 background investigation shall include, but not be limited to,
21 identity, name, address, social security number, phone number, fax
22 number, driver's license number, email address, social media
23 address of any applicant, licensee, registrant or permit holder.

24 "Public agency" or "agency" means any of the principal
25 departments in the Executive Branch of State Government, and any
26 division, board, bureau, office, commission or other instrumentality
27 within or created by such department; the Legislature of the State
28 and any office, board, bureau or commission within or created by
29 the Legislative Branch; and any independent State authority,
30 commission, instrumentality or agency. The terms also mean any
31 political subdivision of the State or combination of political
32 subdivisions, and any division, board, bureau, office, commission or
33 other instrumentality within or created by a political subdivision of
34 the State or combination of political subdivisions, and any
35 independent authority, commission, instrumentality or agency
36 created by a political subdivision or combination of political
37 subdivisions.

38 "Law enforcement agency" means a public agency, or part
39 thereof, determined by the Attorney General to have law
40 enforcement responsibilities.

41 "Constituent" means any State resident or other person
42 communicating with a member of the Legislature.

43 "Member of the Legislature" means any person elected or
44 selected to serve in the New Jersey Senate or General Assembly.

45 "Criminal investigatory record" means a record which is not
46 required by law to be made, maintained or kept on file that is held

1 by a law enforcement agency which pertains to any criminal
2 investigation or related civil enforcement proceeding.

3 "Victim's record" means an individually-identifiable file or
4 document held by a victims' rights agency which pertains directly to
5 a victim of a crime except that a victim of a crime shall have access
6 to the victim's own records.

7 "Victim of a crime" means a person who has suffered personal or
8 psychological injury or death or incurs loss of or injury to personal
9 or real property as a result of a crime, or if such a person is
10 deceased or incapacitated, a member of that person's immediate
11 family.

12 "Victims' rights agency" means a public agency, or part thereof,
13 the primary responsibility of which is providing services, including
14 but not limited to food, shelter, or clothing, medical, psychiatric,
15 psychological or legal services or referrals, information and referral
16 services, counseling and support services, or financial services to
17 victims of crimes, including victims of sexual assault, domestic
18 violence, violent crime, child endangerment, child abuse or child
19 neglect, and the Victims of Crime Compensation Board, established
20 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
21 the Victims of Crime Compensation Office pursuant to P.L.2007,
22 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
23 (cf: P.L.2019, c.255, s.4)

24
25 5. This act shall take effect immediately and shall apply first to
26 the fiscal year commencing July 1, 2020.

27

28

29 STATEMENT

30

31 This bill establishes a joint legislative and executive branch New
32 Jersey Revenue Advisory Board to provide consensus revenue
33 forecasting advice for State budget purposes. About half of the
34 states successfully employ a "consensus" forecasting process. A
35 "consensus" process has the virtue of eliminating controversy and
36 allows the participants to focus more clearly on the underlying
37 budgetary issues each year. In addition, the process outlined in this
38 bill will provide greater public input and transparency to the
39 revenue forecast.

40 The New Jersey Revenue Advisory Board will consist of the
41 State Treasurer, ex officio, the Legislative Budget and Finance
42 Officer, ex officio, and a third public member jointly selected by
43 the two State officials. The third public member shall be qualified
44 by education, training or experience related to State tax policy and
45 revenue analysis. The bill requires that the advisory board hold at
46 least one public hearing during the second quarter of each State
47 fiscal year to receive public testimony and invite participants who

1 can provide guidance on the current conditions in, and probable
2 outlook for the performance of the economy of the State, as well as
3 the effect of such conditions and such performance on State
4 revenues. The board must adopt its advisory consensus forecast at a
5 public meeting held on or before January 15 of each State fiscal
6 year and readopt or revise the advisory consensus forecast at a
7 public meeting held on or before May 15 of each fiscal year.

8 While the bill does not change the State constitutional
9 responsibility given exclusively to the Governor to certify State
10 revenue available to support annual State appropriations, the bill
11 requires the Governor to explain in the Governor's annual Budget
12 Message any difference in revenue estimates made in the Budget
13 Message compared to the advisory consensus forecasts of State
14 revenues prepared by the board. The bill also requires the Governor
15 to provide with the Governor's certification of revenue an
16 explanation of any difference in the revenue certification from the
17 latest fiscal year advisory consensus forecast made by the board.

18 To ensure effective collaboration prior to the formulation of the
19 board's consensus forecasts, the State Open Public Records Act will
20 not apply to any memorandum, correspondence, notes, report or
21 other communication prepared by, or for the specific use of, a
22 member of the board in the course of the board's or board member's
23 consultations, deliberations or official duties except for otherwise
24 publicly accessible reports.

25 The existence of the board will encourage collaboration in
26 formulating the professional forecasting advice given by State
27 budget officials on State revenues. It is intended to promote
28 agreed-upon revenue estimates as a starting point for the budget-
29 making policy debates involving the executive and legislative
30 branch, and encourage a more thorough and regular public
31 discussion of State revenue estimates in advance of State budget
32 deadlines.