ASSEMBLY, No. 1546

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman ROBERT D. CLIFTON
District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Permits counties to charge a fee to fund infrastructure through voter approval.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the imposition of a fee at the county level to fund infrastructure construction projects and amending P.L.1976, c.68 and supplementing Title 40 of the Revised Statutes.

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

1. (New section) This act shall be known and may be cited as the "County Self-Help Infrastructure Act."

2. (New section) The Legislature finds and declares that:

a. Infrastructure construction projects are vital to maintaining the quality of life that the residents of this State enjoy and ensuring the health, safety, and welfare of its residents and visitors.

b. The State's aged infrastructure is crumbling and the investment gap grows each day.

c. Local aid provided by the New Jersey Department of Transportation, the main source of funding for infrastructure construction projects at the county level, has proven to be woefully inadequate to address even basic needs, and greater funding is required.

d. With State funds stretched to the limit, the residents of a county may desire a new funding mechanism that would allow important infrastructure construction projects to move forward, benefitting the economy and overall well-being of that region.

e. New Jersey should follow the actions of other states that have permitted a self-help fee at the local level, including Alabama, Arkansas, California, Florida, Hawaii, Illinois, Mississippi, Montana, Nevada, New Mexico, Oregon, South Dakota, Tennessee, and Washington.

f. Residents of each county deserve the flexibility to choose whether or not to impose, based on voter approval, an infrastructure construction fee in order to address their crumbling infrastructure, stimulate local economies, and create jobs.

3. (New section) As used in this act:

"Infrastructure construction fee" means a county-wide fee established with voter approval, in a manner determined by the county's governing body within the parameters of P.L. , c. (C.) (pending before the Legislature as this bill), and to be used expressly for the purpose of funding infrastructure construction projects within that county's jurisdiction.

"Infrastructure construction project" means the construction, reconstruction, alteration, addition, physical betterment, or improvement of any public infrastructure within a county,

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 <u>thus</u> is new matter.

including, but not limited to public highways, bridges, utilities, water and sewer systems.

4. (New section) An infrastructure construction fee may be imposed by a county under the following procedures:

a. Prior to the imposition and collection of any fee under this section, the governing body of the county shall request approval, through a public question submitted in a general or special election to the legal voters residing in its territory, to allow the county to establish an infrastructure construction fee. Approval shall be by an affirmative vote of in excess of 50 percent of the people voting on the question at the election. A county ordinance or resolution, as applicable to the form of government, proposing an infrastructure construction fee shall be introduced and approved in the manner otherwise provided for ordinances or resolutions of that county, as the case may be, at least 20 days prior to the date on which the referendum is to be held, and shall be published in the manner otherwise provided for ordinances or resolutions of the county at least 12 days prior to the referendum date, unless otherwise directed by the Director of the Division of Local Government Services in the Department of Community Affairs.

b. The public question to be submitted to the voters at the referendum shall state the maximum fee to be established, and may specify the period for which the fee will be implemented and the projects to be funded. The public question shall include an accompanying explanatory statement that identifies the infrastructure needs that warranted the governing body's decision to ask the public question.

c. The infrastructure construction fee may take any reasonable form so long as that form is stated in the public question and in the accompanying explanatory statement.

5. (New section) In consultation with the State Treasurer and the Commissioner of Community Affairs, the collection and allocation of a voter-approved infrastructure construction fee shall be administered by the governing body of the county or its designee. So long as it complies with the county ordinance or resolution establishing the infrastructure construction fee, and with P.L. , c. (C.) (pending before the Legislature as this bill) and its associated regulations, the governing body of the county or its designee may adopt any necessary ordinances, resolutions, rules, or regulations relative to the collection and allocation of funds generated, along with any procedures and penalties that may be assessed to address violations.

6. (New section) The proceeds from an infrastructure construction fee shall be used by the county solely for the purpose

of funding infrastructure construction projects within the county that established the fee.

7. (New section) The State Treasurer, in consultation with the Director of the Division of Local Government Services in the Department of Community Affairs, shall promulgate rules and regulations necessary to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) not later than the first day of the third month next following enactment.

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

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

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

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

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

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

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

d. All debt service;

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

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

housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

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

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

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

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

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

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

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

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

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;

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

u. Expenditures for the administration of general public assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

v. Amounts in a separate line item of a county budget that are expended on tick-borne disease vector management activities undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

w. Amounts expended by a county under **[**an interlocal services agreement**]** a joint contract entered into pursuant to the **[**"Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et al.)**]** “Uniform Shared

Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended under a joint contract pursuant to the [("Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.)] "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

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

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

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

aa. Any amount approved by referendum under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

9. This act shall take effect immediately, but its provisions shall remain inoperative until the first day of the fourth month next following enactment.

STATEMENT

This bill would create the "County Self-Help Infrastructure Act," permitting the governing body of any county to impose a county-wide fee for the purpose of funding infrastructure construction within the county after first obtaining voter approval.

Like many states, New Jersey's infrastructure needs are growing increasingly critical. Various other states have created a self-help fee at the local level to address these needs. Because local aid for these projects from the New Jersey Department of Transportation and other State agencies is woefully inadequate, New Jersey's counties could benefit tremendously from following other states' examples. The infrastructure construction fee created through this bill could take any reasonable form so long as it is presented to the voters through a public question that clearly states the maximum fee to be established.