

SENATE, No. 444

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 23 (Hunterdon, Somerset and Warren)

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SYNOPSIS

Requires public referendum prior to issuance of general obligation bonds by local units.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the issuance of general obligation bonds by
2 local governments and amending various parts of the statutory
3 law.

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

7
8 1. N.J.S.40A:2-12 is amended to read as follows:

9 40A:2-12. A bond ordinance shall contain in substance the
10 following:

11 a. (1) an authorization for the issuance of obligations, stating
12 in brief and general terms sufficient for reasonable identification the
13 purpose or purposes for which the obligations are to be issued, a
14 statement of the estimated maximum amount of bonds or notes to be
15 issued, and the estimated cost of such purpose or purposes, but
16 related improvements or properties may be treated as one
17 improvement or property; or

18 (2) an authorization for the assumption by the local unit of the
19 obligations of the authority sought to be dissolved pursuant to
20 section 20 of P.L.1983, c.313 (C.40A:5A-20) for which the local
21 unit is not a guarantor;

22 b. a determination of the period of usefulness of the purpose
23 within the limitations of this chapter or, if issued for several
24 purposes, a determination of the average period of usefulness,
25 taking into consideration the respective amounts of obligations
26 authorized for the said several purposes;

27 c. a determination that (1) the supplemental debt statement has
28 been filed in the office of the clerk, (2) such statement shows that
29 the gross debt as defined in this chapter is increased by
30 authorization of such obligations by \$ or is not increased, and (3)
31 the obligations authorized by the bond ordinance will be within debt
32 limitations prescribed by this chapter, or the issuance thereof is
33 permitted by an exception to said limitations naming the particular
34 section, paragraph or law providing such exception;

35 d. a statement of the aggregate amount for items of expense
36 permitted under 40A:2-20;

37 e. a statement of the ways and means, exclusive of loans, by
38 which the local unit shall pay the interest on the bonds as it falls
39 due, and pay and discharge the principal amount of the bonds.

40 (cf: P.L.2001, c.29, s.2)

41

42 2. N.J.S.40A:2-17 is amended to read as follows:

43 40A:2-17. a. Introduction.

44 A bond ordinance shall be introduced in writing at a meeting of

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 the governing body and shall be passed upon first reading, which
2 may be by title.

3 b. Publication, hearing and adoption.

4 The bond ordinance, or a summary thereof, in a form prescribed
5 by the Local Finance Board, shall be published after first reading,
6 together with notice of the introduction thereof and of the date,
7 which shall be at least 10 days after introduction and first reading,
8 and the time and place of further consideration for final passage,
9 which may be at an adjournment of such meeting or another
10 meeting. If a summary is published, the summary shall contain a
11 clear and concise statement prepared by the clerk of the governing
12 body setting forth the purpose of the ordinance, the amount of
13 indebtedness being authorized and the time and place when and
14 where a copy of the ordinance can be obtained, without cost, by any
15 member of the general public residing in the local unit.

16 Such publication shall be at least one week prior to the date for
17 further consideration. At the time and place so advertised, or at any
18 time and place to which such meeting or further consideration shall
19 from time to time be adjourned, such bond ordinance may be read
20 by its title, if,

21 (1) at least one week prior to such date or further consideration,
22 there shall have been posted, on the bulletin board or other place
23 upon which public notices are customarily posted in the principal
24 municipal building of the municipality,

25 (a) a copy of such bond ordinance or summary, and

26 (b) a notice that copies of such bond ordinance will be made
27 available during such week and up to and including the date of such
28 meeting or further consideration to the members of the general
29 public of the municipality who shall request such copies, naming
30 the place at which such copies will be so made available, and

31 (2) such copies of said bond ordinance shall have been made
32 available accordingly, but otherwise such bond ordinance shall be
33 read in full. All persons interested shall then be given an
34 opportunity to be heard.

35 After the duplicate of the supplemental debt statement has been
36 filed in the office of the director, and after such hearing, the
37 governing body may proceed to amend the bond ordinance and
38 thereupon finally adopt or reject it, with or without amendments.

39 If any amendment is adopted substantially altering matters
40 required by this chapter to be contained in the bond ordinance, such
41 amended bond ordinance shall not be finally adopted until at least
42 one week thereafter and until the bond ordinance or a summary of it
43 shall have been published once at least two days prior to the date
44 for further consideration, together with notice of the date, time and
45 place at which it will be further considered for final adoption. At
46 the time and place so advertised, or at any time and place to which
47 such meeting or further consideration shall from time to time be

1 adjourned, such amended bond ordinance may be read by its title,
2 if,

3 (1) at least one week prior to such date or further consideration,
4 there shall have been posted, on the bulletin board or other place
5 upon which public notices are customarily posted in the principal
6 municipal building of the municipality,

7 (a) a copy of such bond ordinance or summary, and

8 (b) a notice that copies of such bond ordinance will be made
9 available during such week and up to and including the date of such
10 meeting or further consideration to the members of the general
11 public of the municipality who shall request such copies, naming
12 the place at which such copies will be so made available, and

13 (2) such copies of said bond ordinance shall have been made
14 available accordingly, but otherwise such bond ordinance shall be
15 read in full. All persons interested shall again be given an
16 opportunity to be heard. After such hearing, the governing body
17 may proceed to reject, finally adopt or further amend such bond
18 ordinance.

19 A bond ordinance shall be finally adopted by the recorded
20 affirmative votes of at least 2/3 of the full membership of the
21 governing body. In a local unit in which the approval of any officer
22 is required to make an ordinance or resolution effective, such bond
23 ordinance shall be so approved, or passed over veto before it shall
24 be published after final adoption.

25 c. Final publication with statement.

26 Every bond ordinance shall be published either in full or in
27 summary form after final adoption, together with a statement in
28 substantially the following form:

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STATEMENT

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33 The bond ordinance published herewith has been finally adopted
34 and the 20-day period of limitation within which a suit, action or
35 proceeding questioning the validity of such ordinance can be
36 commenced, as provided in the Local Bond Law has begun to run
37 from the date of the first publication of this statement. The bond
38 ordinance contains a statement of the ways and means, exclusive of
39 loans, by which (name of county or municipality, as
40 appropriate) shall pay the interest on the bonds as it falls due, and
41 pay and discharge the principal amount of the bonds. This bond
42 ordinance will not take effect unless approved by a majority of the
43 voters at the general election occurring at least 70 days next
44 following the date of final adoption by the governing body.

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Clerk

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d. Referendum before taking effect.

1 The bond ordinance shall not take effect until it has been
2 submitted to the voters of the local unit, at the general election
3 occurring at least 70 days next following its final adoption by the
4 governing body. Approval shall be by a majority of the legally
5 qualified voters of the local unit voting thereon.

6 (cf: P.L.2000, c.126, s.14)

7
8 3. (New section) The bond referendum question submitted to
9 the voters pursuant to the requirements of N.J.S.40A:2-17 shall be
10 submitted in the following form:

11 “Shall the bond ordinance, approved by the governing body,
12 which authorizes the governing body to issue bonds in the amount
13 of \$ to provide moneys for (insert purpose of bonds), and
14 providing the ways and means to pay the interest on the debt and
15 also to pay and discharge the principal of the bonds, which ways
16 and means shall be (insert funding sources to be used to pay
17 principal and interest on bonds), be approved?”

18
19 4. N.J.S.40A:2-18 is amended to read as follows:

20 40A:2-18. A bond ordinance shall **take effect 20 days after the**
21 first publication of the ordinance or of a summary thereof after final
22 adoption. A bond ordinance which authorizes obligations to fund,
23 refund, renew, extend or retire obligations issued or authorized
24 pursuant to this chapter, or notes or bonds issued or authorized
25 pursuant to any act of which this chapter is a revision shall not be
26 subject to referendum **be submitted to the voters of the local unit at**
27 the general election next following by at least 70 days the final
28 adoption of the ordinance by the governing body. A bond
29 ordinance shall take effect upon its approval by a majority of the
30 legally qualified voters of the local unit voting thereon.

31 (cf: P.L.2000, c.126, s.15)

32
33 5. N.J.S.40A:2-49 is amended to read as follows:

34 40A:2-49. After 20 days after publication after final passage of a
35 bond ordinance, but subject to the referendum requirement of
36 subsection d. of N.J.S.40A:2-17, and N.J.S.40A:2-18, the following
37 shall be conclusively presumed:

38 a. the accuracy, correctness and sufficiency of any annual or
39 supplemental debt statement filed in connection therewith;

40 b. any recitals or statements of fact contained in such ordinance
41 or preamble or recital thereof;

42 c. determinations in said ordinance as to purposes for which
43 said obligations are authorized, the period or average period of
44 usefulness, the maturities of any obligations, and the validity of the
45 purpose or purposes for which authorized;

46 d. the due and regular introduction, publication and final
47 passage and adoption of such ordinance;

1 e. the compliance with the provisions of this chapter and every
2 other law of such ordinance and all matters in connection therewith,
3 and the issuance of obligations authorized thereby or pursuant
4 thereto by the local unit.

5 The local unit and all other persons interested shall forever be
6 stopped from denying that such ordinance or its final adoption or
7 issuance of obligations thereunder do not comply with the
8 provisions of this and every other law, or from questioning in any
9 manner the validity of such ordinance or any obligations issued
10 thereunder in any action or proceeding commenced after 20 days
11 shall have elapsed from publication of such ordinance after final
12 passage.

13 (cf: N.J.S.40A:2-49)

14

15 6. N.J.S.40A:2-51 is amended to read as follows:

16 40A:2-51. Any local unit may incur indebtedness, borrow
17 money, authorize and issue refunding bonds, notwithstanding any
18 provision or limitation contained in this chapter or in any other law,
19 and in any amount determined to be necessary by the governing
20 body of the local unit and approved by the Local Finance Board,
21 except as provided in subsection c. of this section, to effect the
22 refunding for the purpose of:

23 a. Paying, funding or refunding outstanding bonds of the local
24 unit, including emergency appropriations, temporary emergency
25 appropriations, advance funding of pension obligations as part of an
26 early retirement program offered by the State, and amounts owing
27 to others for taxes levied in the local unit, or any renewals or
28 extensions thereof, or any bonds issued to fund or refund the same
29 and whether or not prior to the maturity or earliest redemption date
30 of the bonds to be refunded.

31 b. Paying the cost of the issuance of such refunding bonds,
32 including printing, advertising, accounting and financial and legal
33 expenses.

34 c. Issuance of refunding bonds to realize debt service savings
35 on outstanding obligations without the approval of the local finance
36 board when authorized by conditions set forth in rules and
37 regulations of the local finance board and upon a resolution adopted
38 by 2/3 vote of the full membership of the governing body.

39 d. The sale and award of bonds by a finance officer who has
40 been delegated that responsibility by resolution of the governing
41 body in accordance with the advertised terms of public sale. The
42 finance officer making any such sale shall report in writing to the
43 governing body at the next meeting thereof as to the principal
44 amount, interest rate and maturities of the bonds sold, along with
45 the price obtained and the name of the purchaser.

46 e. Bonds issued by a local unit pursuant to this section shall not

1 be subject to the referendum requirements of subsection d. of
2 N.J.S.40A:2-17 and N.J.S.40A:2-18.
3 (cf: P.L.2003, c.15, s.9)

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5 7. N.J.S.40A:2-52 is amended to read as follows:

6 40A:2-52. Refunding bonds shall be authorized by a refunding
7 bond ordinance which shall be adopted in the manner prescribed for
8 adoption of a bond ordinance, except that no down payment or voter
9 referendum shall be required. Bonds to be paid, funded or refunded
10 with respect to which a refunding bond ordinance has been adopted
11 pursuant to the provisions of this chapter and not otherwise
12 deductible shall be deducted from the gross debt of the local unit.
13 To the extent such refunding bonds are authorized for purposes
14 other than the refunding of outstanding bonds, such refunding
15 bonds shall be deductible from gross debt.

16 (cf: P.L.2003, c.15, s.10)

17
18 8. N.J.S.40A:4-51 is amended to read as follows:

19 40A:4-51. Any local unit may borrow money and issue its
20 negotiable notes to meet an emergency appropriation. Each such
21 note shall be authorized by resolution of the governing body, shall
22 be designated an "emergency note" , and may be renewed from
23 time to time. All such notes, and any renewals thereof, shall mature
24 not later than the last day of the fiscal year next succeeding the
25 fiscal year in which such notes were issued and the emergency
26 appropriation authorized. The provisions of this chapter relating to
27 tax anticipation notes shall apply to emergency notes except for
28 limitations as to maturity and renewals.

29 Bonds issued by a local unit pursuant to this section shall not be
30 subject to the referendum requirements of subsection d. of
31 N.J.S.40A:2-17 and N.J.S.40A:2-18.

32 (cf: P.L.2000, c.126, s.14)

33
34 9. Section 5 of P.L.1961, c.22 (C.40A:4-55.5) is amended to
35 read as follows:

36 5. No such ordinance or resolution shall be valid unless it is
37 approved by the Local **【Government】** Finance Board and a copy
38 thereof shall be filed forthwith after it is adopted with the Director
39 of the Division of Local Government Services in the Department of
40 **【the Treasury】** Community Affairs for that purpose. An ordinance
41 or resolution so approved by the director shall not be subject to the
42 referendum requirements of subsection d. of N.J.S.40A:2-17 and
43 N.J.S.40A:2-18.

44 (cf: P.L.1961, c.22, s.5)

45
46 10. Section 1 of P.L.1965, c.87 (C.40A:4-55.8) is amended to
47 read as follows:

1 1. Upon the receipt of a certification from the board of school
2 estimate of the board of trustees of a county college, a county may
3 by a 2/3 vote of its entire governing body, adopt a resolution
4 authorizing a special emergency appropriation to provide for funds
5 expected to be received as State or Federal aid for the establishment
6 of a county college. Such resolution shall:

7 (a) State the amount needed to provide for said State or Federal
8 share based upon the certification of the board of school estimate.

9 (b) Set forth the amount appropriated, which shall not be in
10 excess of the amount requested by the board of trustees.

11 (c) Provide for the borrowing of any amount required in
12 anticipation of the receipt of State or Federal aid which may
13 subsequently become available, said borrowing to be by "special
14 county college emergency notes." Emergency notes issued pursuant
15 to this section shall not be subject to the referendum requirements
16 of subsection d. of N.J.S.40A:2-17 and N.J.S.40A:2-18.

17 (cf: P.L.1965, c.87, s.1)

18
19 11. Section 4 of P.L.1968, c.194 (C.40A:4-55.16) is amended to
20 read as follows:

21 4. When any such appropriation is to be financed by borrowing
22 money, the governing body of the local unit shall, by a 2/3 vote of
23 the full membership thereof, adopt a resolution:

24 a. Setting forth the amount appropriated, and

25 b. Making provision for the borrowing of money by the
26 issuance of "special emergency notes" which may be renewed from
27 time to time, but at least 1/3 of all such notes, and the renewals
28 thereof, shall mature and be paid in each succeeding year so that all
29 notes and renewals shall have matured and have been paid not later
30 than the last day of the third year following the date of the special
31 emergency resolution.

32 The issuance of "special emergency notes" pursuant to this
33 section shall not be subject to the referendum requirements of
34 subsection d. of N.J.S.40A:2-17 and N.J.S.40A:2-18.

35 (cf: P.L.1968, c.194, s.4)

36
37 12. Section 2 of P.L.1982, c.66 (C.40A:4-55.19) is amended to
38 read as follows:

39 2. a. The governing body of a distressed municipality may by
40 resolution approved by not less than two-thirds vote of its full
41 membership provide for the payment of any judgment against it
42 resulting from an order of the court by providing an appropriation
43 therefor, and financing such from surplus funds or by borrowing
44 through issuance of notes or other obligations in the name of the
45 municipality.

46 b. Any resolution adopted under the provisions of this act shall
47 provide that in the case of any notes issued to finance
48 appropriations, at least one-fifth of all such notes, and any renewals

1 thereof, shall mature and be paid each year, so that all notes and
2 renewals shall have matured and have been paid not later than the
3 last day of the fifth year following the date of the resolution.

4 The issuance of notes or other obligations issued pursuant to this
5 section shall not be subject to the referendum requirements of
6 subsection d. of N.J.S.40A:2-17 and N.J.S.40A:2-18.

7 (cf: P.L.1982, c.66, s.2)

8
9 13. This act shall take effect immediately.

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12 STATEMENT

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14 This bill would amend current statutory provisions of the “Local
15 Bond Law,” N.J.S.40A:2-1 et seq., and the “Local Budget Law,”
16 N.J.S.40A:4-1 et seq., to require that prior to the issuance of general
17 obligation bonds by a county or municipality, the bond ordinance
18 authorizing the obligation must be submitted to the voters of the
19 county or municipality, as appropriate, at the general election next
20 following by at least 70 days the final adoption of the ordinance by
21 the local governing body. The bond ordinance must contain a
22 statement of the ways and means, exclusive of loans, by which the
23 local unit shall pay the principal and interest on the bonds, and
24 would take effect upon its approval by a majority of the legally
25 qualified voters voting on the ordinance. The provisions of the bill
26 would not apply to the issuance of “special emergency notes,”
27 refunding bonds, bonds issued by a distressed municipality to pay a
28 judgment resulting from a court order, or borrowing by a county in
29 anticipation of State or federal aid for the establishment of a county
30 college. The bill also contains the language for the bond
31 referendum question to be submitted to the voters.

32 Under current law, local voters do not have the right to vote on
33 the issuance of general obligation bonds, but are required to repay
34 those bonds through their property taxes. The provisions of this bill
35 would allow the voters of a municipality or county to vote to
36 approve, or disapprove, the issuance of bonds, and thereby exercise
37 some control over their local property taxes.