SENATE, No. 1254

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

Co-Sponsored by:
Senator Brown

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

As introduced.

(Sponsorship Updated As Of: 5/14/2020)

AN ACT concerning State aid to municipalities and amending P.L.1997, c.167 and P.L.2007, c.62

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

1. Section 9 of P.L.2007, c.62 (C.40A:4-45.44) is amended to read as follows:

9. For the purposes of sections 9 through 13 of P.L.2007, c.62 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e):

"Adjusted tax levy" means an amount not greater than the amount to be raised by taxation of the previous fiscal year, less **[**any waivers from a prior fiscal year required to be deducted by the Local Finance Board pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46)**]** the difference between any amount distributed to, or anticipated by a local unit pursuant to paragraph (2) of subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439) in its current fiscal year and its previous fiscal year, that result multiplied by 1.02, to which the sum of exclusions defined in subsection b. of section 10 of P.L.2007, c.62 (C.40A:4-45.45) shall be added.

"Amount to be raised by taxation" means the property tax levy set in the annual budget of a local unit.

"Local unit" means a municipality, county, fire district, or solid waste collection district, but shall not include a municipality that had a municipal purposes tax rate of $0.10 or less per $100 for the previous tax year.

"New ratables" means the product of the taxable value of any new construction or improvements times the tax rate of a local unit for its previous tax year.

"County entity budget authority" means the county tax administrator, county superintendent of election, county board of election, county register of deeds and mortgages, county clerk, county surrogate, county prosecutor, and county sheriff, in their role as the appointing authority of their respective offices.

"County entity" means a county board of taxation, office of the county superintendent of election, office of the county board of election, office of the county register of deeds and mortgages, office of the county clerk, office of the county surrogate, office of the county prosecutor, and county sheriff's department.

(cf: P.L.2015, c.249, s.2)

2. Section 2 of P.L.1997, c.167 (C52:27D-439) is amended to read as follows:

2. a. **[**Commencing July 1, 1997 there**]** There is established 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.

dedicated fund in the State Treasury into which there shall be credited annually, commencing in State fiscal year 1998, the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section from the following: net payments under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use of energy or utility services, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from gas, electric, and gas and electric public utilities, whether municipal or otherwise, that were subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from telecommunications public utilities that were subject to tax pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49 et seq.) from sewerage and water corporations, net payments under the "Transitional Energy Facility Assessment Act," P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113), and such sums from the General Fund as may be necessary to provide that the annual amount credited to the fund shall equal $740,000,000 or the amount determined pursuant to subsection e. of this section.

b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other provision of law concerning the apportionment and distribution by the State of taxes paid by public utilities,

(1) There shall be paid during the State fiscal year 1998 and during each fiscal year thereafter from the "Energy Tax Receipts Property Tax Relief Fund" to the municipalities of the State the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section.

(2) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides that each municipality shall receive an amount not less than the largest annual amount received or to be received by the municipality from:

(a) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) in calendar year 1994, 1995 or 1996; or

(b) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) or from taxes and assessments collected in replacement of such taxes as released by the Division of Local Government Services in the Department of Community Affairs as fiscal year 1998 estimated franchise and gross receipts taxes State aid distributions by municipality prior to the certification of apportionment of such

funds by the Director of the Division of Taxation and the amounts required pursuant to subsection d. of this section.

(3) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides that each municipality shall receive an amount equal to the difference, if any, between the amount it received pursuant to paragraph (2) of this subsection and the sum of the amounts that the municipality received pursuant to the certification made in the 1997 calendar year released by the Division of Local Government Services in the Department of Community Affairs as the fiscal year 1998 estimated franchise and gross receipts taxes State aid distribution of $685,000,000 and the certification of the 1997 fiscal year distribution of $45,000,000.

(4) The portion of the $740,000,000 or the amount, not more than $755,000,000, determined pursuant to subsection e. of this section remaining after the allocations pursuant to paragraphs (2) and (3) of this subsection shall be distributed in proportion to the amounts distributed pursuant to paragraph (2) of this subsection.

c. (1) The funds distributed pursuant to paragraphs (2) and (4) of subsection b. of this section shall be distributed annually to municipalities on the following schedule: July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

(2) The funds distributed pursuant to paragraph (3) of subsection b. of this section, prior to January 1, 2002 for all municipalities, and distributed after January 1, 2002 for municipalities operating on a State fiscal year basis, shall be distributed annually to those municipalities on or before June 30. The funds distributed after January 1, 2002 pursuant to paragraph (3) of subsection b. of this section to calendar year municipalities shall be distributed annually on or before July 15.

d. The allocation set forth in paragraph (2) of subsection b. of this section shall be adjusted to increase each appropriate municipal distribution by the amount necessary to:

(1) make corrections to apportionment valuations or distribution values made by the Director of the Division of Taxation in the Department of the Treasury pursuant to R.S.54:30-2; and

(2) correct equitable distortions, as determined by the State Treasurer, resulting from the application of section 2 of P.L.1980, c.10 (C.54:30A-24.1) and section 4 of P.L.1980, c.11 (C.54:30A-61.1).

The director shall report to the Legislature, on or before July 15, 1997, the amount and distribution of the corrections pursuant to paragraphs (1) and (2) of this subsection.

e. (1) The amount credited to the "Energy Tax Receipts Property Tax Relief Fund" shall be $745,000,000 for State fiscal

year 1999, $750,000,000 for each of State fiscal years 2000 and 2001, $755,000,000 for State fiscal year 2002, and for each fiscal year thereafter the amount equal to the amount credited in the prior fiscal year multiplied by the sum of 1.0 and the index rate or zero, whichever is greater. As used in this section, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second calendar quarter which occurred in the next preceding State fiscal year. The Director of the Division of Local Government Services shall promulgate annually the index rate to apply in the next following State fiscal year which shall be the same as the index rate determined pursuant to section 4 of P.L.1983, c.49 (C.40A:4-45.1a). Any amount of aid distributed to a municipality in excess of the amount distributed to the municipality from the "Energy Tax Receipts Property Tax Relief Fund" during the State fiscal year 2002 shall be used solely and exclusively by each municipality for the purpose of reducing the amount the municipality is required to raise by local property tax levy for municipal purposes.

(2) In additional to the amount credited in paragraph (1) of this subsection, there shall be an amount sufficient to provide to each municipality from the “Energy Tax Receipts Property Tax Relief Fund” an additional amount to be determined as follows: in fiscal year 2017 an amount equal to 20% of the difference between the sum of Consolidated Municipal Property Tax Relief Aid and Energy Tax Receipts Property Tax Relief Aid paid to that municipality in fiscal year 2008 and the sum of Consolidated Municipal Property Tax Relief Aid and Energy Tax Receipts Property Tax Relief Aid paid to that municipality in fiscal year 2012; 40% of that difference amount shall be paid in fiscal year 2018, 60% of that difference amount shall be paid fiscal year 2019; 80% of that difference amount shall be paid in fiscal year 2020; and 100% of that difference amount shall be paid in fiscal year 2021 and in each fiscal year thereafter. The amounts determined herein shall be distributed to municipalities annually pursuant to the schedule under paragraph (1) of subsection c. of this section.

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

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

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

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

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

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

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

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

4. This act shall take effect immediately.

STATEMENT

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

In Fiscal Year 2021, municipalities would receive an aid increase equal to 20% of the difference between the distribution of CMPTRA and ETR Aid they received in Fiscal Year 2008 and Fiscal Year 2012. Municipalities would receive equal increases in each of the following four fiscal years. The fully restored amount would be distributed beginning in Fiscal Year 2025 and in each fiscal year thereafter. The total amount of aid to be restored to each municipality would be in addition to the total amount of CMPTRA and ETR Aid distributed to each municipality in Fiscal Year 2012. This legislation also extends the existing ETR Aid "poison pill" protection to ensure that each municipality received an aid amount not less than the combined payment of CMPTRA and ETR Aid to municipalities in Fiscal Year 2012 and the additional aid distributed under the bill.

This bill also amends current law to require a municipality to subtract any additional amount of ETR aid it receives, pursuant to the bill, from its adjusted tax levy when computing that amount for its next fiscal year. By deducting the additional amount of ETR Aid from the previous year's levy, municipalities would be permitted to raise a lower amount of taxes through the levy for municipal purposes.