

**SENATE, No. 1577**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**  
**Senator JAMES BEACH**  
**District 6 (Burlington and Camden)**

**SYNOPSIS**

Increases flexibility, clarity, and available tools of certain municipal consolidation processes.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning municipal consolidation, and amending  
2 P.L.2007, c.63 and P.L.1995, c.376.

3

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

6

7 1. Section 25 of P.L.2007, c.63 (C.40A:65-25) is amended to  
8 read as follows:

9 25. a. The Legislature finds and declares that in order to  
10 encourage municipalities to increase efficiency through municipal  
11 consolidation for the purpose of reducing expenses borne by their  
12 property taxpayers, more flexible options need to be available to the  
13 elected municipal officials and voters than are available through the  
14 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et  
15 al.).

16 b. (1) In lieu of the procedures set forth in the "Municipal  
17 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), the  
18 governing bodies from two or more **【contiguous】** municipalities  
19 situated in the same county may apply to the board for either:

20 (a) approval of a plan to consolidate their municipalities; or

21 (b) creation of a Municipal Consolidation Study Commission, as  
22 described in subsection c. of this section.

23 (2) A representative committee of registered voters from two or  
24 more **【contiguous】** municipalities, which committee shall contain at  
25 least one registered voter from each participating municipality, may  
26 petition the board for the creation of a Municipal Consolidation  
27 Study Commission, as described in subsection c. of this section.  
28 The petition, or each petition paper, as the case may be, shall state  
29 the purpose of the petition, and shall name the municipalities for  
30 which a Municipal Consolidation Study Commission is proposed.  
31 The petition, to be sufficient, shall be signed by the registered and  
32 qualified voters of **【the municipalities】** each municipality in a  
33 number at least equal to 10% of the total votes cast in **【those**  
34 **municipalities】** each municipality at the last preceding general  
35 election at which members of the General Assembly were elected.  
36 The signatures for a petition shall be obtained within two years of  
37 the date of the last preceding general election at which members of  
38 the General Assembly were elected. The petition shall be filed with  
39 the clerk of each municipality who shall, within 30 days, ascertain  
40 and certify the number and validity of the signatures affixed thereto  
41 with respect to the municipality served by the clerk.

42 If the petition is determined to be insufficient, notice shall,  
43 within 30 days, be provided to the registered voters constituting the  
44 representative committee that filed the petition, which committee  
45 shall have 10 days from receipt of the notification of insufficiency

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 to file a supplementary petition designed to rectify such  
2 insufficiency, which shall be in the same form and shall be filed in  
3 the same manner as the original petition. If no supplementary  
4 petition is filed within 10 days after such notification of  
5 insufficiency, or if the clerk shall, within five days after such a  
6 supplementary petition is filed, examine it and determine it to be  
7 still insufficient, the clerk shall execute a certificate of insufficiency  
8 and notify the representative committee of the insufficiency. A  
9 finding of insufficiency shall not prejudice the filing of a new  
10 petition for the same purpose, provided that such new petition  
11 otherwise conforms to the requirements of this paragraph.

12 If the petition is determined to be sufficient, the clerk of each  
13 municipality shall so certify, and shall forthwith provide the  
14 petition and proposed consolidation plan for public inspection on  
15 the Internet website of each participating municipality, if one exists,  
16 or, if one does not exist, on the Internet website of the Department  
17 of Community Affairs, transmit certified copies to the governing  
18 body of the municipality served by the clerk, to the clerk of each of  
19 the other municipalities named in the petition, and to the board.

20 The board shall also accept a combination of applications from  
21 **【local】** municipal governing bodies, pursuant to subparagraph (b)  
22 of paragraph (1) of this subsection, and petitions from  
23 representative committees of registered voters, pursuant to this  
24 paragraph, from two or more **【contiguous】** municipalities,  
25 requesting the creation of a Municipal Consolidation Study  
26 Commission **【**; however, if each municipality submits an  
27 application from its governing body, any proposed consolidation  
28 plan shall be approved by voter referendum in each of the  
29 municipalities**】**.

30 (3) The board shall provide application forms, model petitions,  
31 and technical assistance to any governing bodies or voters desiring  
32 to apply to the board for approval of a consolidation plan or the  
33 creation of a Municipal Consolidation Study Commission.

34 (4) **【A consolidation commission established pursuant to**  
35 **P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to**  
36 **enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.)**  
37 **may apply to the Local Finance Board for approval to use the**  
38 **provisions of sections 25 through 29 of P.L.2007, c.63 (C.40A:65-**  
39 **25 through C.40A:65-29).】** (Deleted by amendment, P.L. \_\_, c. \_\_)  
40 (pending before the Legislature as this bill)

41 (5) Municipalities that are not contiguous may be consolidated  
42 if located within a reasonable distance from each other and situated  
43 in the same county. The applicant shall have the burden of proving  
44 that a non-contiguous consolidation is reasonable as such.

45 (6) Upon the approval by the board of a consolidation plan  
46 submitted by municipalities or the issuance of a final report by a  
47 Municipal Consolidation Study Commission recommending

1 consolidation, the clerk of each participating municipality shall  
2 cause the question of consolidation to be submitted to the registered  
3 voters of each municipality on the date of the next general or  
4 municipal election, whichever shall occur sooner and allows  
5 sufficient time to publish all required notices. At that election, the  
6 question shall be submitted in the same manner as other public  
7 questions in each such municipality, and in the following form or  
8 such part thereof as shall be applicable:

9 "Shall (insert the names of the participating municipalities) be  
10 consolidated into a single new municipality to be known as (insert  
11 name and type of municipality) and governed under (insert the plan  
12 or form of government of the new municipality)?"

13 (7) A proposal to consolidate municipalities into a single new  
14 municipality shall be deemed approved and adopted only if a  
15 majority of those voting on the question of consolidation in each of  
16 the participating municipalities votes in favor of the question at  
17 such referendum.

18 c. An application to create a Municipal Consolidation Study  
19 Commission shall propose a process to study the feasibility of  
20 consolidating the participating municipalities into a single new  
21 municipality or merging one into the other. The application shall  
22 include provisions for:

23 (1) the means of selection, number, and qualifications of study  
24 commissioners;

25 (2) the timeframe for the study, which shall be no more than  
26 three years, along with key events and deadlines, including time for  
27 review of the report by State agencies, which review shall be no  
28 less than three months;

29 (3) whether a preliminary report shall be issued in addition to  
30 the final report;

31 (4) whether the development of a consolidation implementation  
32 plan will be a part of the study;

33 (5) **【the means for any proposed consolidation plan to be**  
34 **approved; either by voter referendum, by the governing bodies, or**  
35 **both;】** (Deleted by amendment, P.L. , c. ) (pending before the  
36 Legislature as this bill) 【and】

37 (6) if proposed by a representative group of voters, justification  
38 of that group's standing to serve as the community advocate for the  
39 consolidation proposal;

40 (7) the designation of an administrative support entity, if any,  
41 and;

42 (8) the proposed means of funding the study.

43 At any time, the board may require the submission of any other  
44 information that it may deem helpful to its review of an application  
45 to create a Municipal Consolidation Study Commission.

46 For the purposes of this subsection, "administrative support  
47 entity" means a government agency, an institution of higher  
48 education, or a not-for-profit entity that will provide funds or other

1 resources or administer contracts and finances for a Municipal  
2 Consolidation Study Commission. An administrative support entity  
3 shall be subject to the government records provisions of  
4 P.L.1963, c.73 (C.47:1A-1 et seq.). An administrative support  
5 entity designated by a commission shall not be eligible for a public  
6 contract with the single new municipality created by a consolidation  
7 recommended by the commission except for a contract for the study  
8 of, or the administration of contracts and finances for another  
9 commission with regard to, any other potential consolidation.

10 (9) The commission shall prepare and publish a final report  
11 containing its findings and recommendations. The final report may  
12 include a statement, if any, by any commissioner dissenting from  
13 the findings and recommendations set forth in the final report and  
14 the findings of the Department of Community Affairs on the fiscal  
15 aspects of the proposed consolidation. The commission shall file its  
16 final report with the clerk of each participating municipality, the  
17 county clerk, the division, and the Secretary of State. The clerk of  
18 each participating municipality shall deliver a copy of the final  
19 report to each member of the municipal governing body. The  
20 commission shall cause a reasonable number of copies of the final  
21 report to be printed and made available to the general public, and  
22 shall provide additional copies upon request. Upon its filing, the  
23 final report shall be provided for public inspection on the Internet  
24 website of each participating municipality, if one exists, or, if one  
25 does not exist, the final report shall be posted on the Internet  
26 website of the Department of Community Affairs.

27 (10) If the commission recommends the consolidation of the  
28 participating municipalities into a single new municipality in its  
29 final report, the commission shall prepare an official abstract of the  
30 final report, which abstract shall consist of a concise statement that  
31 is objective in content and presentation, and that is descriptive of  
32 the substance of the plan. At the time the commission files its final  
33 report, and again on a date not less than 30 days preceding the date  
34 fixed for the referendum on the consolidation question, the  
35 commission shall cause the official abstract to be published at least  
36 once in a newspaper of general circulation in the participating  
37 municipalities, together with notice of:

38 (a) The time, place, and purpose of the election;

39 (b) The manner in which copies of the commission's final report  
40 may be obtained; and

41 (c) A statement that, if the voters favor consolidation by a  
42 majority vote in each of the participating municipalities, the  
43 consolidation plan, if any, shall become binding and legally  
44 enforceable between or among such municipalities.

45 Upon the filing of the final report, the official abstract and notice  
46 required by this paragraph shall be provided for public inspection  
47 on the Internet website of each participating municipality within 30  
48 days, if one exists, or, if one does not exist, the official abstract and

1 notice shall be posted on the Internet website of the Department of  
2 Community Affairs.

3 d. (1) An application to the board for consideration of a  
4 consolidation plan or to create a Municipal Consolidation Study  
5 Commission shall be subject to a public hearing within each  
6 municipality to be studied **】, and a joint public hearing in a place**  
7 **that is easily accessible to the residents of both or all of the**  
8 **municipalities】.**

9 (2) The public hearings shall be facilitated by the board and  
10 conducted in accordance with the provisions of the "Senator Byron  
11 M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et  
12 seq.).

13 (3) The board may, as a condition of approval, require that a  
14 consolidation implementation plan be amended. After approval of a  
15 plan by the board, it may be amended upon petition to the board by  
16 the applicant, subject to the approval of the board either prior or  
17 subsequent to a referendum. Based on the nature of the  
18 amendment, the board may decide to hold a public hearing in any of  
19 the municipalities affected by the plan, or at a regular meeting, or  
20 both.

21 e. **【Every】** (1) A Municipal Consolidation Study  
22 Commission shall include a representative of the Department of  
23 Community Affairs as a non-voting representative on the  
24 commission. The representative shall not be a resident of a  
25 municipality participating in the study. The department shall  
26 prepare an objective fiscal study of the fiscal aspects of a  
27 consolidation and shall provide it to the commission in a timely  
28 manner.

29 (2) A commission shall include a member of the governing body  
30 of each participating municipality.

31 (3) The majority of the commissioners shall be registered voters  
32 of the participating municipalities. The participating municipalities  
33 shall be represented by equal numbers of commissioners.

34 (4) If there is a vacancy in the membership of the commission,  
35 the commissioners of the participating municipality in which the  
36 vacancy occurred shall, within 10 days after notification of such  
37 vacancy, fill the vacancy by appointment of a registered voter of the  
38 municipality.

39 (5) A commission shall organize and hold its first meeting as  
40 soon as may be practicable after the petition for its creation is  
41 approved by the board, but no later than 90 days after such  
42 approval. The commission shall elect from its membership a chair  
43 and a vice-chair. The commission shall fix its hours and places of  
44 meeting, adopt such rules for the conduct of its business as it may  
45 deem necessary and advisable, and appoint a secretary, who need  
46 not be a member of the commission. A majority of the total  
47 membership of the commission shall constitute a quorum for the  
48 transaction of business, but a recommendation of the commission

1 shall require a concurring vote by a majority of the commissioners  
2 from each of the participating municipalities. At its first meeting,  
3 or as soon thereafter as may be practicable, the commission shall  
4 establish a schedule for the conduct of its business. A copy of such  
5 schedule shall be filed with the clerk of each of the participating  
6 municipalities and with the Commissioner of Community Affairs  
7 within 90 days of the first meeting.

8 (6) The commissioners shall serve without compensation.

9 (7) The commission shall hold its meetings and hearings in  
10 accordance with the "Senator Byron M. Baer Open Public Meetings  
11 Act," P.L.1975, c.231 (C.10:4-6 et seq.), and shall generally  
12 provide for the widest possible public information and discussion  
13 with regard to the purposes and progress of its work.

14 (8) The commission shall have the power to take testimony and  
15 issue subpoenas; to compel the attendance of officers and  
16 employees of the participating municipalities; to compel the  
17 production of all books, documents, and other papers of the  
18 participating municipalities; and to administer oaths to persons  
19 appearing before it to testify. Any such subpoena shall be  
20 enforceable, and misconduct of a witness may be dealt with, in the  
21 manner provided by the "County and Municipal Investigations  
22 Law," P.L.1953, c.38 (C.2A:67A-1 et seq.).

23 (9) The commission shall prepare and publish a final report  
24 containing its findings and recommendations. The commission  
25 shall publish the final report on the Internet website of each  
26 participating municipality, within thirty days, if one exists, or, if  
27 one does not exist, the official abstract and notice shall be posted on  
28 the Internet website of the Department of Community Affairs. The  
29 final report may include a statement, if any, by any commissioner  
30 dissenting from the findings and recommendations set forth in the  
31 final report and the findings of the Department of Community  
32 Affairs on the fiscal aspects of the proposed consolidation. The  
33 commission shall file its final report with the clerk of each  
34 participating municipality, the county clerk, the division, and the  
35 Secretary of State. The clerk of each participating municipality  
36 shall deliver a copy of the final report to each member of the  
37 municipal governing body. The commission shall cause a  
38 reasonable number of copies of the final report to be printed and  
39 made available to the general public, and shall provide additional  
40 copies upon request. Upon its filing, the final report shall be  
41 provided for public inspection on the Internet website of each  
42 participating municipality, if one exists, or, if one does not exist,  
43 the final report shall be posted on the Internet website of the  
44 Department of Community Affairs.

45 (10) If the commission recommends the consolidation of the  
46 participating municipalities into a single new municipality in its  
47 final report, the commission shall prepare an official abstract of the  
48 final report, which abstract shall consist of a concise statement that

1 is objective in content and presentation, and that is descriptive of  
2 the substance of the plan. At the time the commission files its final  
3 report, and again on a date not less than 30 days preceding the date  
4 fixed for the referendum on the consolidation question, the  
5 commission shall cause the official abstract to be published at least  
6 once in a newspaper of general circulation in the participating  
7 municipalities, together with notice of:

8 (a) The time, place, and purpose of the election;

9 (b) The manner in which copies of the commission's final report  
10 may be obtained; and

11 (c) A statement that, if the voters favor consolidation by a  
12 majority vote in each of the participating municipalities, the  
13 consolidation plan, if any, shall become binding and legally  
14 enforceable between or among such municipalities.

15 Upon the filing of the final report, the official abstract and notice  
16 required by this paragraph shall be provided for public inspection  
17 on the Internet website of each participating municipality within  
18 thirty days, if one exists, or, if one does not exist, the official  
19 abstract and notice shall be posted on the Internet website of the  
20 Department of Community Affairs.

21 (11) The commission shall be discharged:

22 (a) on the 30th day following the filing of its final report, if such  
23 report recommends against the consolidation of the participating  
24 municipalities;

25 (b) on the date of the certification of the results of the  
26 referendum, if such certification establishes that the consolidation  
27 recommended by the commission has not been approved by the  
28 voters of each of the participating municipalities; or

29 (c) upon the creation of the task force pursuant to subsection a.  
30 of section 27 of P.L.2007, c.63 (C.40A:65-27), if the certification of  
31 the results of the referendum establishes that the consolidation  
32 recommended by the commission has been approved by the voters  
33 of each of the participating municipalities.

34 f. If the consolidation would include the consolidation of  
35 boards of education, a person appointed by the Commissioner of  
36 Education shall serve as a non-voting member of that Municipal  
37 Consolidation Study Commission. The representative of the  
38 Commissioner of Education shall not be a resident of a community  
39 participating in the study. The county superintendent of schools  
40 shall conduct a study on the impact of consolidation on the  
41 educational system and its finances. The report shall be provided to  
42 the commission in a timely manner.

43 g. There shall be no more than one of either a consolidation  
44 plan study, a Municipal Consolidation Study Commission, or a joint  
45 municipal consolidation created under the "Municipal  
46 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active  
47 in a single municipality at the same time. In the event that more  
48 than one application is filed with the board or is being considered

1 by the governing bodies while another action affecting the same  
2 municipality or municipalities is under consideration, the board  
3 shall consider the applications and shall join any proposed creation  
4 of a joint municipal consolidation together and approve only one  
5 action as the board deems to be in the public interest. Prior to  
6 approving a single action, the board shall hold a public hearing  
7 permitting all parties to present testimony on the merits of their  
8 action in relation to the other proposals. Once **an action is**  
9 **approved by the board** a referendum is held, another action from  
10 the same combination of municipalities shall not be approved for at  
11 least five years.

12 h. In considering its decisions concerning consolidation under  
13 sections 1 **to** through 37 of P.L.2007, c.63 (C.40A:65-1 et al.),  
14 the **Local Finance Board** board and any other State agency shall  
15 take into account local conditions, the reasonableness of proposed  
16 decisions, and the facilitation of the consolidation process **in**  
17 **making decisions concerning consolidation**. In considering such  
18 decisions, the board may pursue a waiver of a law, rule, or  
19 regulation that may not have anticipated a phase-in or consolidation  
20 of services through referral of the matter to the appropriate agency  
21 pursuant to paragraph (3) of subsection b. of section 26 of  
22 P.L.2007, c.63 (C.40A:65-26).  
23 (cf: P.L.2011, c.55, s.1)

24  
25 2. Section 26 of P.L.2007, c.63 (C.40A:65-26) is amended to  
26 read as follows:

27 26. a. A consolidation plan or report of a Municipal  
28 Consolidation Study Commission shall include the provisions of  
29 sections 16 and 24 of P.L.1977, c.435 (C.40:43-66.50 and 40:43-  
30 66.58), insofar as they are consistent with the provisions of sections  
31 1 **to** through 37 of P.L.2007, c.63 (C.40A:65-1 et al.). In  
32 addition, a consolidation plan or report of a Municipal  
33 Consolidation Study Commission shall address the following  
34 implementation issues:

35 (1) a timetable for implementing the consolidation plan;  
36 (2) duplicate positions, including those held by tenured,  
37 certified officers, listing those positions proposed to be abolished  
38 for reasons of economy, efficiency or other good cause and listing  
39 those positions proposed to be merged; **and**

40 (3) applicability of the provisions of Title 11A, Civil Service, of  
41 the New Jersey Statutes, if Title 11A has been adopted by one or  
42 more consolidating municipalities ;

43 (4) a process for the efficient and economical equalization of the  
44 assessment on the properties of the new municipality for the  
45 apportionment of taxes in accordance with Article VIII, Section I,  
46 paragraph 1 of the New Jersey Constitution. Such process shall be  
47 subject to the review and approval of the Director of the Division of

1 Taxation in the Department of the Treasury, in consultation with the  
2 assessors of the municipalities, the governing bodies of the  
3 municipalities, the Municipal Consolidation Study Commission, the  
4 county tax board, and the director. Such approval shall be obtained  
5 before an application for approval of a consolidation plan is  
6 submitted to the board or before a Municipal Consolidation Study  
7 Commission votes on its final report, as the case may be. The  
8 Director of the Division of Taxation may, after due consideration,  
9 waive any law, rule, or regulation concerning the assessment of  
10 property that may not have anticipated a phase-in or consolidation  
11 of services if a waiver is found reasonable to further the process of  
12 consolidation; and

13 (5) the projected property tax impact resulting from  
14 consolidation.

15 b. The following policies may be considered and implemented  
16 under an application for approval of a consolidation plan, and may  
17 be included as part of a study under the "Municipal Consolidation  
18 Act," P.L.1977, c.435 (C.40:43-66.35 et al.), or as part of a study  
19 conducted by a Municipal Consolidation Study Commission  
20 pursuant to sections 1 **【to】** through 37 of P.L.2007, c.63 (C.40A:65-  
21 1 et al.):

22 (1) creation of a consolidation implementation plan to establish  
23 a timetable of significant events and goals to be achieved as part of  
24 a consolidation study;

25 (2) a phase-in of a consolidation over a fixed period of time.  
26 Such a plan shall be subject to review and approval of the **【Local**  
27 **Finance Board】** board prior to it being **【approved by the governing**  
28 **bodies or】** subject to voter referendum;

29 (3) variations from **【existing State law or State department**  
30 **rules】** any law, rule, or regulation that may not have anticipated a  
31 phase-in or consolidation of services. **【When】** If variations are  
32 proposed, they shall be submitted to the board which shall refer it to  
33 the agency with oversight responsibility. After due consideration,  
34 the referee agency is empowered to waive such law **【or rules】** ,  
35 rule, or regulation if a waiver is found reasonable to further the  
36 process of consolidation. **【Where】** If no such agency exists, the  
37 Commissioner of Community Affairs shall act on behalf of the  
38 State. These requests shall be acted on within 45 days of their  
39 receipt by an agency, and they shall be deemed approved, subject to  
40 approval of a consolidation proposal by the municipalities, by the  
41 end of that time unless the agency has responded with a denial,  
42 conditions that must be met in order for it to be approved, or an  
43 alternative approach to resolving the matter;

44 (4) the use of advisory planning districts, comprised of residents  
45 living in the former territories of each former municipality to  
46 provide advice to the planning board and the zoning board of  
47 adjustment on applications and master plan changes affecting those

1 areas. A consolidation study plan shall specify the types and nature  
2 of the development and zoning applications that the advisory  
3 planning districts shall review and the official boards shall be  
4 required to respond, at a public meeting, to each suggestion made  
5 by an advisory planning district;

6 (5) the establishment of service districts **【**comprised of the  
7 boundaries of any or all of the former municipalities**】** which may be  
8 used to allocate resources and used for official geographic  
9 references in the new municipality;

10 (6) the continued use of boundary lines of any or all of the  
11 former municipalities to continue local ordinances that existed prior  
12 to consolidation or the establishment of special districts which may  
13 be subject to different ordinances than the remainder of the new  
14 municipality that the governing body deems necessary and  
15 appropriate. The need for any such differentiation shall be  
16 reviewed by the governing body at least every five years and shall  
17 only be continued upon the affirmative vote of the full membership  
18 of the governing body, and if such continuance fails, the governing  
19 body shall then adopt uniform policies for the entire area; **【and】**

20 (7) the apportionment of existing debt , or debt newly created in  
21 accordance with any financial arrangement between any or all of the  
22 former municipalities in furtherance of any aspect of a  
23 consolidation plan, between the taxpayers of the consolidating  
24 municipalities, including whether **【existing】** such debt should be  
25 apportioned **【in the same manner as debt】** within special taxing  
26 districts **【so that the taxpayers of each consolidating municipality**  
27 **will continue to be responsible for their own pre-consolidation**  
28 **debts】 ; and**

29 (8) the execution of any financial or other agreement between  
30 any or all of the former municipalities to adjust benefits between  
31 the municipalities, provide indemnification from legal actions  
32 stemming from a consolidation, or provide incentives or other acts  
33 to facilitate municipal consolidation. Such agreement shall be  
34 subject to the review and approval of the director. Such approval  
35 shall be obtained before an application for approval of a  
36 consolidation plan is submitted to the board or before a Municipal  
37 Consolidation Study Commission votes on its final report, as the  
38 case may be.

39 c. **【When】** If one of the municipalities is subject to the  
40 provisions of Title 11A, Civil Service, of the New Jersey Statutes,  
41 the question of whether the new municipality shall be subject to the  
42 provisions of that Title shall be the subject of a public referendum  
43 before all of the voters of the consolidating municipalities. Upon  
44 the approval by a majority of those voting, regardless of their  
45 municipality of residence, the new municipality shall be subject to  
46 the provisions of that Title.

1       d. If one or more of the municipalities has adopted an annual  
2 levy pursuant to section 7 of P.L.1997, c.24 (C.40:12-15.7), the  
3 question of whether the new municipality shall impose such levy  
4 and the amount or rate of the levy shall be the subject of a public  
5 referendum before all the voters of the consolidating municipalities  
6 pursuant to subsection a. of section 7 of P.L.1997, c.24 (C.40:12-  
7 15.7), which shall be held at the same time of the first election of  
8 officers for the new municipality.

9 (cf: P.L.2007, c.63, s.26)

10  
11       3. Section 27 of P.L.2007, c.63 (C.40A:65-27) is amended to  
12 read as follows:

13       27. a. Once a consolidation has been approved by the **【affected**  
14 **municipal governing bodies or】** voters, the division shall create a  
15 task force consisting of officers of State departments, offices, and  
16 agencies, commissioners of a Municipal Consolidation Study  
17 Commission, if any, or other individuals, as it deems appropriate,  
18 and representatives of affected collective negotiations units, to  
19 facilitate the consolidation and provide technical assistance. The  
20 task force shall be created no later than 60 days after the date the  
21 results of the referendum are certified. The consolidation shall be  
22 implemented under the oversight of the board in accordance with  
23 the consolidation plan approved by the board, unless an alternate  
24 plan is approved by the board.

25       b. **【When】** If a consolidation plan provides that the  
26 consolidated municipality will be subject to the provisions of Title  
27 11A, Civil Service, of the New Jersey Statutes, the Civil Service  
28 Commission is specifically authorized to create a consolidation  
29 implementation plan to vest non-civil service employees, based on  
30 the education and experience of the individuals, in appropriate titles  
31 and tenure.

32       c. Whenever a referendum question to decide if a consolidated  
33 municipality shall be subject to the provisions of Title 11A, Civil  
34 Service, of the New Jersey Statutes, fails, the employees of a  
35 municipality already subject to that Title shall be given non-civil  
36 service titles in the new entity and previously held tenure shall be  
37 vacated.

38       d. The Public Employment Relations Commission is authorized  
39 to provide technical advice, pursuant to section 12 of  
40 P.L.1968, c.303 (C.34:13A-8.3), to assist a new municipality and  
41 existing labor unions to integrate separate labor agreements into  
42 consolidated agreements and to adjust the structure of collective  
43 negotiations units, as the commission determines appropriate for the  
44 consolidated municipality.

45       e. If a consolidation has been approved by the voters, the  
46 consolidated municipality shall recognize and preserve the

1 seniority, tenure, and pension rights of every full-time law  
2 enforcement officer and firefighter who is employed by each  
3 participating municipality and who is in good standing at the time  
4 the consolidation is adopted, and none of those law enforcement  
5 officers or firefighters shall be terminated, except for cause;  
6 provided, however, this provision shall not be construed to prevent  
7 or prohibit a consolidated municipality from reducing the police or  
8 firefighter force as provided by law for reasons of economy and  
9 efficiency.

10 f. A consolidated municipality may provide for the  
11 appointment of a chief of police or other chief law enforcement  
12 officer, or a chief or other superior officer of any paid or part-paid  
13 fire department. If such officer is appointed, the consolidated  
14 municipality shall provide that any other person who served as the  
15 chief of police or other chief law enforcement officer, or chief or  
16 other superior officer of any paid or part-paid fire department, in  
17 one of the participating municipalities at the time the consolidation  
18 is adopted may elect either:

19 (1) to accept a demotion of no more than one rank without any  
20 loss of seniority rights, or any impairment of tenure or pension  
21 rights; or

22 (2) to retire from service.

23 A person who elects retirement shall not be demoted, but shall  
24 retain the rank of chief of police or other chief law enforcement  
25 officer, or chief or other superior officer of any paid or part-paid  
26 fire department, and shall be given terminal leave for a period of  
27 one month for each five-year period of past service as a law  
28 enforcement officer or firefighter with the participating  
29 municipality. During the terminal leave, the person shall continue  
30 to receive full compensation and shall be entitled to all benefits,  
31 including any increases in compensation or benefits, that the person  
32 may have been entitled to if the person had remained on active duty.

33 g. If one or more of the participating municipalities have  
34 adopted Title 11A, Civil Service, of the New Jersey Statutes, any  
35 employee terminated for reasons of economy or efficiency by the  
36 consolidated municipality shall be given a terminal leave payment  
37 of not less than a period of one month for each five-year period of  
38 past service as an employee with the participating municipality, or  
39 other enhanced benefits that may be provided or negotiated. For the  
40 purposes of this subsection, "terminal leave payment" means a  
41 single, lump sum payment, paid at termination, calculated using the  
42 regular base salary at the time of termination. Unless otherwise  
43 negotiated or provided by the employer, a terminal leave benefit  
44 shall not include extended payment, or payment for retroactive  
45 salary increases, bonuses, overtime, longevity, sick leave, accrued  
46 vacation or other time benefit, or any other benefit.

47 (cf: P.L.2008, c.29, s.103)

1       4. Section 28 of P.L.2007, c.63 (C.40A:65-28) is amended to  
2 read as follows:

3       28. a. **【If a revaluation of property for the consolidated**  
4 **municipality is not implemented for the first local budget year of**  
5 **the consolidated municipality, then the assessments on the**  
6 **properties owned by the taxpayers of the former municipalities shall**  
7 **be equalized for the apportionment of taxes for the consolidated**  
8 **municipality, in the same manner as assessments are equalized for**  
9 **the apportionment of county taxes.】** (Deleted by amendment,  
10 P.L. , c. ) (pending before the Legislature as this bill)

11       b. The owners of any residential property or residential tenants  
12 of any municipality consolidated under sections 1 **【to】** through 37  
13 of P.L.2007, c.63 (C.40A:65-1 et al.), or the "Municipal  
14 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), who  
15 experience a municipal or school district purposes real property tax  
16 increase in the first tax year following the municipal consolidation  
17 shall be entitled to annual property tax relief until such time as they  
18 sell or transfer their home or no longer reside as tenants in the rental  
19 unit they occupied just prior to the municipal consolidation. In the  
20 case of the owner of residential property, the property tax relief  
21 shall be reflected as a credit on the property tax bill equal to the  
22 difference between the municipal and school district purposes real  
23 property tax payable by the taxpayer for the tax year, subject to any  
24 adjustment as determined necessary by the Director of the Division  
25 of Local Government Services in the Department of Community  
26 Affairs to reflect operating budgets for a normal pre-consolidated  
27 fiscal year, and the municipal and school district purposes real  
28 property tax billed to that taxpayer for the tax year during which the  
29 consolidation is effectuated, as may be adjusted by the Director of  
30 the Division of Local Government Services in the Department of  
31 Community Affairs to reflect normal post-consolidation operating  
32 budgets for the municipalities and school districts. In the case of a  
33 residential tenant, the tax credit applied to an apartment property  
34 shall be distributed to eligible tenants pursuant to the provisions of  
35 the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2  
36 et seq.) and this section. The total of all such relief in the  
37 municipality shall be paid by the State to the municipality on a  
38 schedule determined by the Local Finance Board. For the purpose  
39 of this subsection, a "normal" budget year shall be one that, in the  
40 determination of the director, does not reflect expenses made in  
41 anticipation of, or in implementation of, a municipal consolidation.  
42 (cf: P.L.2007, c.63, s.28)

43

44       5. Section 29 of P.L.2007, c.63 (C.40A:65-29) is amended to  
45 read as follows:

46       29. The provisions of sections 1 **【to】** through 37 of  
47 P.L.2007, c.63 (C.40A:65-1 et al.) shall be liberally construed to

1 effectuate the intention of sections 25 through 28 of P.L.2007, c.63  
2 (C.40A:65-25 through C.40A:65-28). The board is empowered to  
3 act to provide guidance, interpretation, make decisions, issue  
4 orders, and to resolve disputes regarding these sections or the  
5 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et  
6 al.). **【Decisions】** Actions of the board may be appealed directly to  
7 the Appellate Division of the Superior Court.  
8 (cf: P.L.2007, c.63, s.29)

9  
10 6. Section 1 of P.L.1995, c.376 (C.40:43-66.78) is amended to  
11 read as follows:

12 1. The Legislature finds and declares that the consolidation of  
13 sparsely populated municipalities into **【contiguous】** municipalities  
14 having larger populations should be encouraged as a means to  
15 reduce the costs of local government. The Legislature also finds  
16 that there should be a simplified consolidation process when a  
17 municipality seeking consolidation is sparsely populated and when  
18 the resulting consolidated municipality will have the same form of  
19 government as the municipality absorbing the sparsely populated  
20 municipality.

21 (cf: P.L.1995, c.376, s.1)

22  
23 7. Section 2 of P.L.1995, c.376 (C.40:43-66.79) is amended to  
24 read as follows:

25 2. For the purposes of **【this act】** P.L.1995, c.376:

26 "Absorbing municipality" means a municipality into which a  
27 **【contiguous】** sparsely populated municipality situate in the same  
28 county intends to be consolidated pursuant to the provisions of  
29 P.L.1995, c.376 (C.40:43-66.78 et seq.).

30 "Director" means the Director of the Division of Local  
31 Government Services in the Department of Community Affairs.

32 "Consolidated municipality" means the single new municipality  
33 that results from an affirmative consolidation effort pursuant to the  
34 provisions of P.L.1995, c.376 (C.40:43-66.78 et seq.).

35 "Sparsely populated municipality" means a municipality with a  
36 population of less than **【500】** 1,000 persons according to the most  
37 recent federal decennial census.

38 (cf: P.L.1995, c.376, s.2)

39  
40 8. Section 3 of P.L.1995, c.376 (C.40:43-66.80) is amended to  
41 read as follows:

42 3. a. The governing body of a sparsely populated municipality  
43 may adopt, by two-thirds vote of its full membership, an ordinance  
44 **【proposing the municipality's consolidation into a contiguous**  
45 **municipality】** authorizing the mayor to meet with the director, the  
46 mayor of the absorbing municipality, and such municipal officials  
47 as the director shall require from the sparsely populated

1 municipality to formulate a plan to consolidate with an absorbing  
2 municipality.

3 b. The clerk of a municipality that adopts an ordinance  
4 pursuant to subsection a. of this section shall forward a copy of the  
5 ordinance to the governing body of the absorbing municipality and  
6 to the director within seven days of the effective date of the  
7 ordinance.

8 c. **【If the】** The governing body of the absorbing municipality  
9 **【consents to the consolidation it shall】** may, within 120 days after  
10 receipt of the ordinance adopted by the governing body of the  
11 sparsely populated municipality pursuant to subsection a. of this  
12 section, adopt an ordinance **【consenting to consolidation】**  
13 authorizing the mayor to meet with the director, the mayor of the  
14 sparsely populated municipality, and such municipal officials as the  
15 director shall require from the absorbing municipality to formulate  
16 a plan to consolidate with the sparsely populated municipality by a  
17 two-thirds vote of the full membership of the governing body and  
18 shall forward a copy of the ordinance to the director and the clerk of  
19 the sparsely populated municipality.  
20 (cf: P.L.1995, c.376, s.3)

21  
22 9. Section 4 of P.L.1995, c.376 (C.40:43-66.81) is amended to  
23 read as follows:

24 4. a. Whenever the governing body of a sparsely populated  
25 municipality **【with a population between 100 and 500 persons**  
26 **according to the most recent federal decennial census】** and the  
27 governing body of an absorbing municipality have both adopted  
28 ordinances **【proposing and consenting to the consolidation of their**  
29 **respective municipalities】** authorizing the formulation of a plan to  
30 consolidate, the director shall meet with the mayors and such other  
31 municipal officials as the director shall require from the sparsely  
32 populated municipality and the absorbing municipality. In  
33 consultation with the mayors, the director shall establish a timetable  
34 for the completion of the plan to consolidate. Upon its completion,  
35 the sparsely populated municipality and the absorbing municipality  
36 shall publish a summary of the plan at least once in a newspaper of  
37 general circulation in the municipalities and the complete plan on  
38 the municipality's Internet website, if one exists, or, if one does not  
39 exist, on the Internet website of the Department of Community  
40 Affairs. Upon publication of the consolidation plan, the  
41 **【municipal】** clerk of each municipality shall cause the question of  
42 consolidation to be submitted to the registered voters of each  
43 municipality on the date for the next general or regular municipal  
44 election occurring not less than 60 days after the **【adoption of the**  
45 **ordinance of the absorbing municipality】** publication of the  
46 consolidation plan. At that election, the question shall be submitted

1 in the same manner as other public questions in each such  
2 municipality, and in the following form or such part thereof as shall  
3 be applicable:

4 "Shall (insert the names of the municipalities) be consolidated  
5 into a single municipality to be known as (insert name of absorbing  
6 municipality) and governed under (insert the present plan or form of  
7 government of the absorbing municipality) pursuant to the  
8 consolidation plan?"

9 b. The question submitted pursuant to subsection a of this  
10 section shall be deemed approved and adopted only if a majority of  
11 those voting on the question in each of the municipalities votes in  
12 favor of the question.

13 c. The results of the election in each municipality in which the  
14 question was submitted shall be certified in accordance with Title  
15 19 of the Revised Statutes, and the county clerk shall, in turn, not  
16 more than five days after said certification, notify the director of the  
17 election results.

18 (cf: P.L.1995, c.376, s.4)

19

20 10. Section 5 of P.L.1995, c.376 (C.40:43-66.82) is amended to  
21 read as follows:

22 5. a. Within 20 days of [either: (1) receipt of an ordinance  
23 consenting to consolidation pursuant to subsection c. of section 3 of  
24 P.L.1995, c.376 (C.40:43-66.80), with regard to a consolidation  
25 involving a sparsely populated municipality with a population of  
26 less than 100 persons according to the most recent federal decennial  
27 census, or (2)] the certification of the results of elections approving  
28 a consolidation pursuant to section 4 of P.L.1995, c.376 (C.40:43-  
29 66.81), the director shall meet with the mayors and such other  
30 municipal officials as the director shall require from the sparsely  
31 populated municipality and the absorbing municipality.

32 b. In consultation with the mayors , the director shall establish  
33 a timetable for the consolidation to become effective and shall make  
34 such budget, financial , and educational district adjustments as shall  
35 be required to complete the consolidation. The Commissioner of  
36 Education also shall be consulted with regard to the adjustment of  
37 educational district matters. The director shall also establish a  
38 timetable for the preparation of a new official map of the  
39 consolidated municipality showing the new boundaries.

40 c. The director, in consultation with the mayors, shall have all  
41 of the powers of a consolidation commission under the ["Municipal  
42 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.)]  
43 "Uniform Shared Services and Consolidation Act," P.L.2007, c.63  
44 (C.40A:65-1 et seq.).

45 (cf: P.L.1995, c.376, s.5)

46

47 11. This act shall take effect immediately.

## STATEMENT

This bill would create greater flexibility in the municipal consolidation process, set forth in sections 25 through 28 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-28), in the following ways:

- Non-contiguous municipalities would be permitted to consolidate if located within a reasonable distance of one another.

- Applicants for consolidation would be allowed to develop their own process for the equalization of property assessments in the new municipality, subject to the approval of the Director of the Division of Taxation in the Department of the Treasury.

- Districts based on old or newly established boundaries with unique planning mechanisms, services, and ordinances would be permitted in the new municipality.

- Existing debt, or debt newly created by any financial arrangement between any or all of the former municipalities in furtherance of any aspect of a consolidation plan, may be apportioned among the taxpayers of the consolidating municipalities as debt within special taxing districts in any manner that the parties mutually agree upon in the consolidation plan.

- Consolidating municipalities would be permitted to enter into any financial or other agreement to adjust benefits between the municipalities, provide indemnification from legal actions stemming from a consolidation, or provide incentives or other acts to facilitate municipal consolidation.

- A joint public hearing on applications for consideration of a consolidation plan or to create a Municipal Consolidation Study Commission would no longer be required.

The bill provides greater clarity with respect to the municipal consolidation process in the following ways:

- Clarification of the petition process for the creation of a Municipal Consolidation Study Commission, by providing specifics as to the form of the petition, its filing, and its verification, consistent with requirements for a petition proposing the formation of a joint municipal consolidation study commission under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).

- Provision of specific requirements with regard to the composition, meetings, and responsibilities of a Municipal Consolidation Study Commission.

- Clarification that a consolidation must be implemented in accordance with the consolidation plan under the oversight of the Local Finance Board.

- Clarification that a Municipal Consolidation Study Commission report must address the implementation issues set forth in subsection a. of section 26 of P.L.2007, c. 63 (C.40A:65-26).

1       • The Director of the Division of Taxation would be expressly  
2 permitted to waive any law, rule, or regulation concerning the  
3 assessment of property that may not have anticipated a phase-in or  
4 consolidation of services if a waiver is found reasonable to further  
5 the process of consolidation, as may already be pursued through a  
6 referral to the agency pursuant to provisions of existing law.

7       • The Local Finance Board would be expressly permitted to, in  
8 making decisions concerning consolidation, pursue a waiver of a  
9 law, rule, or regulation that may not have anticipated a phase-in or  
10 consolidation of services through referral of the matter to the  
11 appropriate agency pursuant to provisions of existing law.

12       • The Local Finance Board would be expressly authorized to  
13 make decisions and issue orders regarding consolidation.

14       The bill permits the designation of an administrative support  
15 entity to handle the administrative affairs of the Municipal  
16 Consolidation Study Commission so that the commission can focus  
17 on its work in creating a consolidation plan. An administrative  
18 support entity would be subject to the provisions of P.L.1963, c.73  
19 (C.47:1A-1 et seq.), more commonly known as the “Open Public  
20 Records Act.”

21       The bill requires a referendum in a new municipality on whether  
22 to have a municipal open space tax, and the amount or rate of such  
23 tax, if one or more of the consolidating municipalities has an annual  
24 open space tax levy, even if all the consolidating municipalities  
25 have an open space tax at the same rate.

26       The bill requires that an application to create a Municipal  
27 Consolidation Study Commission include the proposed means of  
28 funding the study.

29       The bill requires that a consolidation plan and a Municipal  
30 Consolidation Study Commission report address the projected  
31 property tax impact resulting from consolidation.

32       The bill provides certain seniority, tenure, pension, and other  
33 protections for law enforcement officers and chiefs of police and for  
34 firefighters and fire chiefs in a consolidation, consistent with the  
35 protections for law enforcement officers and police chiefs current  
36 law provides in the case of shared services and joint contracts.

37       The bill requires that, whenever one or more of the participating  
38 municipalities is subject to Civil Service, terminal leave payments  
39 be made to employees who were terminated for reasons of economy  
40 and efficiency as a result of a consolidation, consistent with the  
41 existing terminal leave requirement for shared services and joint  
42 contracts.

43       The bill requires the voters of each participating municipality to  
44 approve of a proposed consolidation in order for it to be  
45 implemented, regardless of whether it is proposed by the governing  
46 bodies of the municipalities or a petition-created Municipal  
47 Consolidation Study Commission. Current law only requires  
48 approval of a consolidation by voter referendum if a consolidation

1 is pursued by a Municipal Consolidation Study Commission created  
2 by applications of the governing bodies of the municipalities.

3 Lastly, the bill also revises the procedures for the consolidation  
4 of a sparsely populated municipality pursuant to P.L.1995, c.376  
5 (C.40:43-66.78 et seq.). These revisions include changing the  
6 definition of a "sparsely populated municipality" to include a  
7 municipality with a population of less than 1,000. Current law  
8 defines such municipality as one with a population of less than 500.  
9 The revisions also include requiring voter approval for a sparsely  
10 populated municipality with a population of less than 100. Current  
11 law allows such municipality to consolidate by ordinances adopted  
12 by the governing bodies of the participating municipalities. The  
13 revisions also require the formulation of a plan to consolidate a  
14 sparsely populated municipality with an absorbing municipality