SENATE, No. 2449

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:
Senator DECLAN J. O'SCANLON, JR.
District 13 (Monmouth)

SYNOPSIS

Permits local governments to issue notes with extended terms during public health emergencies.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning local government borrowing during a public health emergency and amending various parts of the statutory law.

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

1. N.J.S.40A:4-67 is amended to read as follows:

40A:4-67. a. Tax anticipation notes may be renewed from time to time, but all such notes and any renewals thereof shall mature, in the case of municipalities within 120 days after the beginning of the succeeding fiscal year, and in the case of counties not later than June 30 of the succeeding fiscal year.

b. Notwithstanding the provisions of subsection a. of this section or any other law to the contrary, in a fiscal year in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), is declared and during the next following fiscal year, a local unit may, subject to the approval of the Local Finance Board, issue a tax anticipation note that matures, in the case of a municipality within 120 days after the beginning of up to the fifth succeeding fiscal year, and in the case of a county not later than June 30 of up to the fifth succeeding fiscal year.

(cf: P.L.1991, c.75, s.23)

2. N.J.S.40A:4-74 is amended to read as follows:

40A:4-74. a. Any local unit which operates or owns a municipal public utility may, pursuant to resolution of the governing body passed by a majority of the full membership thereof, borrow money and issue its negotiable notes to provide funds necessary to operate the utility or enterprise and meet the necessary payments for debt service. Such notes shall be designated as "Utility Revenue Notes of 19.... (stating the year)" . The amount of notes which may be issued in any fiscal year shall not exceed 50% of the revenue from Utility Rents and Miscellaneous Utility Revenues Anticipated in the annual utility budget.

b. (1) Notes may be renewed from time to time but shall mature not later than 90 days after the close of the fiscal year in which the notes were originally issued.

(2) Notwithstanding the provisions of paragraph (1) of this subsection or any other law to the contrary, in a fiscal year in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), is declared and during the next following fiscal year, a local unit may, subject to the approval of the Local Finance Board, issue a utility revenue

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.

note that matures not later than 90 days after the close of up to the fifth fiscal year following the fiscal year in which the note was originally issued.

c. Borrowing power provided in this section shall be exclusive of and in addition to the borrowing power provided for tax anticipation notes permitted by this chapter.

(cf: P.L.1991, c.75, s.24)

3. Section 13 of P.L.1983, c.313 (C.40A:5A-13) is amended to read as follows:

13. a. To the extent not otherwise provided for by law, an authority is authorized and shall have the power to issue obligations to be designated "Authority Temporary Funding Notes" in an amount not exceeding the realized deficit in revenues for the preceding fiscal year and an estimated deficit in revenues for the current fiscal year. The notes may be renewed from time to time. All notes and any renewals thereof shall mature not later than the close of the succeeding fiscal year and shall be payable in that fiscal year. Payment shall, however, be subordinate to the payment of principal and interest on, or sinking fund payments with respect to, bonds or other obligations (other than "Authority Temporary Funding Notes") of the authority.

b. Notwithstanding the provisions of subsection a. of this section or any other law to the contrary, in a fiscal year in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), is declared and during the next following fiscal year, an authority may, subject to the approval of the Local Finance Board, issue an authority temporary funding note that matures not later than the close of up to the fifth succeeding fiscal year and that is payable over those fiscal years.

c. The proceeds of the sale of "Authority Temporary Funding Notes" shall be deposited in the fund or funds in which a deficiency exists, or is expected to exist, as set forth in the resolution under which the notes are issued.

d. An authority shall notify the Local Finance Board in writing of its intention to issue "Authority Temporary Funding Notes" pursuant to this section, including therein a statement of the deficits which the proceeds of the notes are intended to fund, and a statement of the manner in which the authority plans to either retire or refinance the notes on or before the close of the succeeding fiscal year. The notification shall be made at least 30 days prior to issuance, or within such lesser time period as the Local Finance Board shall permit.

(cf: P.L.1983, c.313, s.13)

4. Section 14 of P.L.1983, c.313 (C.40A:5A-14) is amended to read as follows:

14. a. If the issuance of "Authority Temporary Funding Notes" is not permitted by the terms of a bond resolution, then the local unit or units, if obligated to make payments on account of a deficiency in revenues under the terms of a service contract, may issue emergency notes pursuant to the provisions of **[**sections 40A:4-46 through 40A:4-50 of the New Jersey Statutes**]** N.J.S.40A:4-46 through N.J.S.40A:4-50 to fund this payment or portions thereof. These obligations shall be general obligations of the issuer. Each note shall be authorized by resolution of the governing body and may be renewed from time to time. All notes and the renewals thereof shall mature not later than the last day of the fiscal year next succeeding the fiscal year in which these notes were issued and the emergency appropriations authorized.

b. Notwithstanding the provisions of subsection a. of this section or any other law to the contrary, in a fiscal year in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), is declared and during the next following fiscal year, a local unit may, subject to the approval of the Local Finance Board, issue an emergency note pursuant to that subsection that matures not later than the last day of up to the fifth fiscal year next succeeding the fiscal year in which the note was issued and the emergency appropriations authorized.

c. A local unit shall notify the Local Finance Board in writing of its intention to issue notes pursuant to this section at least 30 days prior to the issuance, or within such lesser time period as the Local Finance Board shall permit, including therein a statement of the deficit which the proceeds of the notes are intended to fund, and a statement of the manner in which the local unit plans to either retire or refinance the notes on or before the close of the succeeding fiscal year.

(cf: P.L.1987, c.319, s.7)

5. This act shall take effect immediately.

STATEMENT

This bill would permit local governments to issue notes with extended terms when there is a public health emergency. This bill would provide local governments with financial flexibility during, and in the aftermath of, a health crisis such as the current COVID-19 public health emergency.

This bill would permit municipalities and counties to issue tax anticipation notes with extended terms. Under current law, these notes, when issued by a municipality, have to mature within 120 days of the beginning of the next fiscal year, and those issued by a county have to mature no later than June 30 of the succeeding fiscal year. This bill would extend these terms to up to the fifth

succeeding fiscal year for the fiscal year in which a public health emergency is declared and the next following fiscal year.

The bill also would permit municipalities and counties operating a municipal utility to issue utility revenue notes with extended terms. Under current law, these notes have to mature no later than 90 days after the close of the fiscal year in which the notes were originally issued. This bill would extend this term to up to the fifth succeeding fiscal year for the fiscal year in which a public health emergency is declared and the next following fiscal year.

The bill also would permit local authorities to issue authority temporary funding notes with extended terms. Under current law, these notes have to mature no later than the close of the succeeding fiscal year. This bill would extend this term to up to the fifth succeeding fiscal year for the fiscal year in which a public health emergency is declared and the next following fiscal year.

The bill also would permit municipalities and counties to issue emergency notes if a local authority cannot issue authority temporary funding notes under the terms of a bond resolution and if the municipality or county is obligated to make payments on account of a deficiency in revenues under the terms of a service contract. Under current law, these notes have to mature no later than the last day of the fiscal year next succeeding the fiscal year in which the notes were issued and the emergency appropriations authorized. This bill would extend this term to up to the fifth succeeding fiscal year for the fiscal year in which a public health emergency is declared and the next following fiscal year.

The Local Finance Board would have to approve an extended term note under the bill.