

SENATE, No. 2546

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Requires cost-benefit analyses for long term tax exemption; requires DCA to create database of these exemptions; requires new distribution of annual service charges; requires five-year tax exemption and abatement agreements be filed with certain county officials.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning long term property tax exemptions and five-
2 year property tax exemptions and abatements, amending and
3 supplementing P.L.1991, c.431, and amending P.L.1991, c.441.

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

7
8 1. Section 8 of P.L.1991, c.431 (C.40A:20-8) is amended to read
9 as follows:

10 8. Every urban renewal entity qualifying under **[this act]**
11 P.L.1991, c.431 (C.40A:20-1 et seq.), before proceeding with any
12 projects, shall make written application to the municipality for
13 approval thereof. The application shall be in a form, and shall certify
14 to those facts and data, as shall be required by the municipality, and
15 shall include but not be limited to:

16 a. A general statement of the nature of the proposed project, that
17 the undertaking conforms to all applicable municipal ordinances, and
18 that the project accords with the redevelopment plan and master plan
19 of the municipality, or, in the case of a redevelopment relocation
20 housing project, provides for the relocation of residents displaced or to
21 be displaced from a redevelopment area, or, in the case of a low and
22 moderate income housing project, the housing units are restricted to
23 occupation by low and moderate income households.

24 b. A description of the proposed project outlining the area
25 included and a description of each unit thereof if the project is to be
26 undertaken in units and setting forth architectural and site plans as
27 required.

28 c. A statement prepared by a qualified architect or engineer of the
29 estimated cost of the proposed project in the detail required, including
30 the estimated cost of each unit to be undertaken.

31 d. The source, method, and amount of money to be subscribed
32 through the investment of private capital, setting forth the amount of
33 stock or other securities to be issued therefor or the extent of capital
34 invested and the proprietary or ownership interest obtained in
35 consideration therefor.

36 e. A fiscal plan for the project outlining a schedule of annual
37 gross revenue, the estimated expenditures for operation and
38 maintenance, payments for interest, amortization of debt and reserves,
39 and payments to the municipality to be made pursuant to a financial
40 agreement to be entered into with the municipality.

41 f. A proposed financial agreement conforming to the provisions
42 of section 9 of **[this act]** P.L.1991, c.431 (C.40A:20-9).

43 g. A cost-benefit analysis of the project's impact on the finances
44 of the municipality, county, school district and other taxing districts,
45 within which the project is located, outlining, at a minimum: (1) the

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 net financial impact on the municipality based on the estimated
2 payments to the municipality to be made pursuant to a financial
3 agreement to be entered into with the municipality and the estimated
4 additional one-time and periodic expenditures to be incurred by the
5 municipality as a result of the project; (2) the municipal revenues to be
6 gained or lost based on this estimated net financial impact and the
7 estimated net financial impact of the property on the municipality if
8 the project is not approved and the current use and condition of the
9 property is continued; (3) the property tax revenues to be foregone by
10 the county and taxing districts in which the project is located if a tax
11 exemption is approved pursuant to P.L.1991, c.431 (C.40A:20-1 et
12 seq.); (4) the impact on the equalization aid component of the school
13 funding formula; and (5) any other information relevant to determining
14 the impact of the project on the finances of the municipality, county,
15 school district and other taxing districts, within which the project is
16 located, as shall be required by the municipality or as may be required
17 by administrative rules adopted by the Commissioner of Community
18 Affairs or the Local Finance Board. Within 30 days of receipt of the
19 application, the municipality shall post the cost-benefit analysis
20 required by this subsection on its Internet website, or, if one does not
21 exist, the cost-benefit analysis shall be provided for public inspection
22 on the Internet website of the Department of Community Affairs.

23 The application shall be addressed and submitted to the mayor or
24 other chief executive officer of the municipality. The mayor or other
25 chief executive officer shall, within 60 days of his receipt of the
26 application thereafter, submit the application with his
27 recommendations, and an independent cost-benefit analysis of the
28 project's impact on the finances of the municipality, county, school
29 district and other taxing districts, within which the project is located,
30 conducted by the office, or other designee, of the mayor or other chief
31 executive officer, to the municipal governing body. The independent
32 cost-benefit analysis shall include, at a minimum, the information
33 required in subsection g. of this section. Within 30 days of submission
34 to the municipal governing body, the municipality shall post the
35 independent cost-benefit analysis on its Internet website, or, if one
36 does not exist, the independent cost-benefit analysis shall be provided
37 for public inspection on the Internet website of the Department of
38 Community Affairs.

39 The governing body shall by resolution approve or disapprove the
40 application, but in the event of disapproval, changes may be suggested
41 to secure approval. The resolution shall include specific findings
42 about the project's estimated net impact on the finances of the
43 municipality, county, school district and other taxing districts, within
44 which the project is located. Within 30 days of adoption of the
45 resolution, the municipality shall post the resolution on its Internet
46 website, or, if one does not exist, the resolution shall be provided for
47 public inspection on the Internet website of the Department of
48 Community Affairs. An application may be revised and resubmitted.
49 (cf: P.L.1991, c.431, s.8)

1 2. (New section) a. A municipality shall notify the Department
2 of Community Affairs within 30 days after approving a financial
3 agreement pursuant to section 9 of P.L.1991, c.431 (C.40A:20-9).
4 The notice shall include the same information required to be
5 included in a plain language budget summary for long term tax
6 exemptions pursuant to subsection b. of section 39 of P.L.2007,
7 c.63 (C.40A:5-48).

8 b. The Department of Community Affairs, in consultation with
9 the Office of Information Technology, shall design, develop, and
10 maintain a database on its Internet website that contains and
11 displays: (1) the information provided to the department pursuant to
12 subsection a. of this section, and (2) the information included in
13 plain language budget summaries for long term tax exemptions
14 pursuant to subsection b. of section 39 of P.L.2007, c.63 (C.40A:5-
15 48), which were approved prior to the effective date of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), sorted by
17 municipality.

18

19 3. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
20 read as follows:

21 12. The rehabilitation or improvements made in the development
22 or redevelopment of a redevelopment area or area appurtenant thereto
23 or for a redevelopment relocation housing project, pursuant to
24 P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation
25 for a limited period as hereinafter provided. When housing is to be
26 constructed, acquired or rehabilitated by an urban renewal entity, the
27 land upon which that housing is situated shall be exempt from taxation
28 for a limited period as hereinafter provided. The exemption shall be
29 allowed when the clerk of the municipality wherein the property is
30 situated shall certify to the municipal tax assessor that a financial
31 agreement with an urban renewal entity for the development or the
32 redevelopment of the property, or the provision of a redevelopment
33 relocation housing project, or the provision of a low and moderate
34 income housing project has been entered into and is in effect as
35 required by P.L.1991, c.431 (C.40A:20-1 et seq.).

36 Delivery by the municipal clerk to the municipal tax assessor of a
37 certified copy of the ordinance of the governing body approving the
38 tax exemption and financial agreement with the urban renewal entity
39 shall constitute the required certification. For each exemption granted
40 pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.), upon certification
41 as required hereunder, the tax assessor shall implement the exemption
42 and continue to enforce that exemption without further certification by
43 the clerk until the expiration of the entitlement to exemption by the
44 terms of the financial agreement or until the tax assessor has been duly
45 notified by the clerk that the exemption has been terminated.

46 Within 10 calendar days following the later of the effective date of
47 an ordinance following its final adoption by the governing body
48 approving the tax exemption or the execution of the financial
49 agreement by the urban renewal entity, the municipal clerk shall

1 transmit a certified copy of the ordinance and financial agreement to
2 the chief financial officer of the county and to the county counsel for
3 informational purposes.

4 Whenever an exemption status changes during a tax year, the
5 procedure for the apportionment of the taxes for the year shall be the
6 same as in the case of other changes in tax exemption status during the
7 tax year. Tax exemptions granted pursuant to P.L.2003, c.125
8 (C.40A:12A-4.1 et al.) represent long term financial agreements
9 between the municipality and the urban renewal entity and as such
10 constitute a single continuing exemption from local property taxation
11 for the duration of the financial agreement. The validity of a financial
12 agreement or any exemption granted pursuant thereto may be
13 challenged only by filing an action in lieu of prerogative writ within 20
14 days from the publication of a notice of the adoption of an ordinance
15 by the governing body granting the exemption and approving the
16 financial agreement. Such notice shall be published in a newspaper of
17 general circulation in the municipality and in a newspaper of general
18 circulation in the county if different from the municipal newspaper.

19 a. The financial agreement shall specify the duration of the
20 exemption for urban renewal entities in accordance with the
21 parameters of either paragraph (1) or paragraph (2) of this
22 subsection:

23 (1) the financial agreement may specify a duration of not more
24 than 30 years from the completion of the entire project, or unit of
25 the project if the project is undertaken in units, or not more than 35
26 years from the execution of the financial agreement between the
27 municipality and the urban renewal entity; or

28 (2) for each project undertaken pursuant to a redevelopment
29 agreement which allows the redeveloper to undertake two or more
30 projects sequentially, the financial agreement may specify a
31 duration of not more than 30 years from the completion of a project,
32 or unit of the project if the project is undertaken in units, or not
33 more than 50 years from the execution of the first financial
34 agreement implementing a project under the redevelopment
35 agreement. As used in this subsection, "redevelopment agreement"
36 means an agreement entered into pursuant to subsection f. of section
37 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
38 redevelopment entity and a redeveloper.

39 A financial agreement may provide for an exemption period of
40 less than 30 years from the completion of the entire project, less
41 than 35 years from the execution of the financial agreement, or less
42 than 50 years from the execution of the first financial agreement
43 implementing a project under the redevelopment agreement.
44 Nothing in this subsection shall be construed as requiring a
45 financial agreement for a project undertaken pursuant to a
46 redevelopment agreement which allows the redeveloper to
47 undertake two or more projects sequentially to specify a duration
48 within the parameters of paragraph (2) of this subsection.

1 b. During the term of any exemption, in lieu of any taxes to be
2 paid on the buildings and improvements of the project and, to the
3 extent authorized pursuant to this section, on the land, the urban
4 renewal entity shall make payment to the municipality of an annual
5 service charge, which shall remit a portion of that revenue to the
6 county as provided hereinafter. In addition, the municipality may
7 assess an administrative fee, not to exceed two percent of the annual
8 service charge, for the processing of the application. The annual
9 service charge for municipal services supplied to the project to be paid
10 by the urban renewal entity for any period of exemption, shall be
11 determined as follows:

12 (1) An annual amount equal to a percentage determined pursuant
13 to this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), of
14 the annual gross revenue from each unit of the project, if the project is
15 undertaken in units, or from the total project, if the project is not
16 undertaken in units. The percentage of the annual gross revenue shall
17 not be more than ~~【15%】~~ 15 percent in the case of a low and moderate
18 income housing project, nor less than ~~【10%】~~ 10 percent in the case of
19 all other projects.

20 At the option of the municipality, or where because of the nature of
21 the development, ownership, use or occupancy of the project or any
22 unit thereof, if the project is to be undertaken in units, the total annual
23 gross rental or gross shelter rent or annual gross revenue cannot be
24 reasonably ascertained, the governing body shall provide in the
25 financial agreement that the annual service charge shall be a sum equal
26 to a percentage determined pursuant to this subsection and section 11
27 of P.L.1991, c.431 (C.40A:20-11), of the total project cost or total
28 project unit cost determined pursuant to P.L.1991, c.431 (C.40A:20-1
29 et seq.) calculated from the first day of the month following the
30 substantial completion of the project or any unit thereof, if the project
31 is undertaken in units. The percentage of the total project cost or total
32 project unit cost shall not be more than ~~【2%】~~ two percent in the case
33 of a low and moderate income housing project, and shall not be less
34 than ~~【2%】~~ two percent in the case of all other projects.

35 (2) In either case, the financial agreement shall establish a
36 schedule of annual service charges to be paid over the term of the
37 exemption period, which shall be in stages as follows:

38 (a) For the first stage of the exemption period, which shall
39 commence with the date of completion of the unit or of the project, as
40 the case may be, and continue for a time of not less than six years nor
41 more than 15 years, as specified in the financial agreement, the urban
42 renewal entity shall pay the municipality an annual service charge for
43 municipal services supplied to the project in an annual amount equal to
44 the amount determined pursuant to paragraph (1) of this subsection
45 and section 11 of P.L.1991, c.431 (C.40A:20-11). For the remainder
46 of the period of the exemption, if any, the annual service charge shall
47 be determined as follows:

48 (b) For the second stage of the exemption period, which shall not
49 be less than one year nor more than six years, as specified in the

1 financial agreement, an amount equal to either the amount determined
2 pursuant to paragraph (1) of this subsection and section 11 of
3 P.L.1991, c.431 (C.40A:20-11), or **【20%】** 20 percent of the amount of
4 taxes otherwise due on the value of the land and improvements,
5 whichever shall be greater;

6 (c) For the third stage of the exemption period, which shall not be
7 less than one year nor more than six years, as specified in the financial
8 agreement, an amount equal to either the amount determined pursuant
9 to paragraph (1) of this subsection and section 11 of P.L.1991, c.431
10 (C.40A:20-11), or **【40%】** 40 percent of the amount of taxes otherwise
11 due on the value of the land and improvements, whichever shall be
12 greater;

13 (d) For the fourth stage of the exemption period, which shall not
14 be less than one year nor more than six years, as specified in the
15 financial agreement, an amount equal to either the amount determined
16 pursuant to paragraph (1) of this subsection and section 11 of
17 P.L.1991, c.431 (C.40A:20-11), or **【60%】** 60 percent of the amount of
18 taxes otherwise due on the value of the land and improvements,
19 whichever shall be greater; and

20 (e) For the final stage of the exemption period, the duration of
21 which shall not be less than one year and shall be specified in the
22 financial agreement, an amount equal to either the amount determined
23 pursuant to paragraph (1) of this subsection and section 11 of
24 P.L.1991, c.431 (C.40A:20-11), or **【80%】** 80 percent of the amount of
25 taxes otherwise due on the value of the land and improvements,
26 whichever shall be greater.

27 If the financial agreement provides for an exemption period of
28 less than 30 years from the completion of the entire project, less
29 than 35 years from the execution of the financial agreement, or less
30 than 50 years from the execution of the first financial agreement
31 implementing a project under the redevelopment agreement, the
32 financial agreement shall set forth a schedule of annual service
33 charges for the exemption period which shall be based upon the
34 minimum service charges and staged adjustments set forth in this
35 section.

36 The annual service charge shall be paid to the municipality on a
37 quarterly basis in a manner consistent with the municipality's tax
38 collection schedule.

39 Each municipality which enters into a financial agreement on or
40 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.), and
41 before the effective date of P.L. , c. (pending before the Legislature
42 as this bill), shall remit **【5】** five percent of the annual service charge
43 collected by the municipality to the county in accordance with the
44 provisions of R.S.54:4-74.

45 Each municipality that enters into a financial agreement on or after
46 the effective date of P.L. , c. (pending before the Legislature as this
47 bill) shall remit a portion of the annual service charge collected by the
48 municipality to the county, school district, and any other taxing
49 district, within which the project is located, in direct proportion to the

1 distribution of the amount raised by taxation in the prior tax year to the
2 county, school district, and any other taxing district, as displayed on
3 the property tax bill for that year pursuant to paragraph (1) of
4 subsection b. of R.S.54:4-65. The annual service charge portion shall
5 be remitted to the county, school district, or other taxing district in the
6 same manner as property taxes.

7 Against the annual service charge the urban renewal entity shall be
8 entitled to credit for the amount, without interest, of the real estate
9 taxes on land paid by it in the last four preceding quarterly
10 installments.

11 Notwithstanding the provisions of this section or of the financial
12 agreement, the minimum annual service charge shall be the amount of
13 the total taxes levied against all real property in the area covered by
14 the project in the last full tax year in which the area was subject to
15 taxation, and the minimum annual service charge shall be paid in each
16 year in which the annual service charge calculated pursuant to this
17 section or the financial agreement would be less than the minimum
18 annual service charge.

19 c. All exemptions granted pursuant to the provisions of P.L.1991,
20 c.431 (C.40A:20-1 et seq.) shall terminate at the time prescribed in the
21 financial agreement.

22 Upon the termination of the exemption granted pursuant to the
23 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
24 affected parcels, land and all improvements made thereto shall be
25 assessed and subject to taxation as are other taxable properties in the
26 municipality. After the date of termination, all restrictions and
27 limitations upon the urban renewal entity shall terminate and be at an
28 end upon the entity's rendering its final accounting to and with the
29 municipality.

30 (cf: P.L.2018, c.97, s.17)

31
32 4. Section 11 of P.L.1991, c.441 (C.40A:21-11) is amended to
33 read as follows:

34 11. a. All tax agreements entered into by municipalities pursuant
35 to sections 9 through 12 of P.L.1991, c.441 (C.40A:21-9 through
36 C.40A:21-12) shall be in effect for no more than the five full years
37 next following the date of completion of the project.

38 b. All projects subject to tax agreement as provided herein shall
39 be subject to all applicable federal, State and local laws and
40 regulations on pollution control, worker safety, discrimination in
41 employment, housing provision, zoning, planning and building code
42 requirements.

43 c. That percentage which the payment in lieu of taxes for a
44 property bears to the property tax which would have been paid had an
45 exemption and abatement not been granted for the property under the
46 agreement shall be applied to the valuation of the property to
47 determine the reduced valuation of the property to be included in the
48 valuation of the municipality for determining equalization for county
49 tax apportionment and school aid during the term of the tax

1 agreements covering the properties, and at the termination of an
2 agreement for a property the reduced valuation procedure required
3 under this section shall no longer apply.

4 d. Within ~~30~~ 10 days after the execution of a tax agreement, a
5 municipality shall forward a copy of the agreement to the ~~Director of~~
6 the Division of Local Government Services in the Department of
7 Community Affairs, chief financial officer of the county, and the
8 county counsel.

9 (cf: P.L.2007, c.268, s.4)

10
11 5. Section 21 of P.L.1991, c.441 (C.40A:21-21) is amended to
12 read as follows:

13 21. The governing body of a municipality adopting an ordinance
14 pursuant to this act shall report, on or before October 1 of each year, to
15 the Director of the Division of Local Government Services in the
16 Department of Community Affairs and to the Director of the Division
17 of Taxation in the Department of the Treasury, the chief financial
18 officer of the county, and the county counsel the total amount of real
19 property taxes exempted and the total amount abated within the
20 municipality in the current tax year for each of the following:

- 21 a. improvements of dwellings;
22 b. construction of dwellings;
23 c. improvements and conversions of multiple dwellings;
24 d. improvements of commercial or industrial structures;
25 e. construction of multiple dwellings under tax agreements; and
26 f. construction of commercial or industrial structures under tax
27 agreements.

28 In the case of e. and f. above, the report shall state instead the total
29 amount of payments made in lieu of taxes according to each formula
30 utilized by the municipality, and the difference between that total
31 amount and the total amount of real property taxes which would have
32 been paid on the project had the tax agreement not been in effect, for
33 the current tax year.

34 The Director of the Division of Taxation shall include a summary
35 of the information provided in the annual reports in the annual report
36 of the division.

37 (cf: P.L.1991, c.441, s.21)

38
39 6. This act shall take effect on the first day of the ninth month next
40 following enactment.

41 42 43 STATEMENT

44
45 This bill would require the production of cost-benefit analyses
46 for long term tax exemptions and require the Department of
47 Community Affairs (DCA) to create a database of these
48 exemptions. The bill also would require a new distribution of
49 annual service charges for long term tax exemptions among local

1 governments. The bill also would require that five-year tax
2 exemption and abatement agreements be filed with certain county
3 officials.

4 This bill requires an application for a long term property tax
5 exemption to include a cost-benefit analysis and for the mayor or
6 other chief executive officer of the municipality to produce an
7 independent cost-benefit analysis to be submitted along with the
8 application to the municipal governing body before it can decide on
9 the exemption. The bill also requires a municipal governing body
10 to include specific findings in its resolution approving or
11 disapproving of a project for which a long term tax exemption is
12 sought. Those specific findings have to address the net impact of
13 the project on the finances of the affected local governments,
14 including the municipality, county, and school district.

15 This bill requires municipalities to consider and evaluate whether
16 an investment in a redevelopment project through the grant of a
17 long term property tax exemption will generate satisfactory revenue
18 returns to the municipality, as well as the financial impacts to
19 counties, school districts, and other local governments. Under the
20 bill, the cost-benefit analyses and financial impact findings required
21 for grants of long term property tax exemptions would have to be
22 posted on the Internet website of the granting municipality. If the
23 municipality does not have a website, this information would have
24 to be provided for public inspection on the Internet website of
25 DCA. This bill would also require the cost-benefit analyses and
26 findings to be part of the public record.

27 The bill requires municipalities that grant new long term
28 property tax exemptions to provide pertinent information about each
29 approved project to DCA. The bill directs DCA to post that
30 information, along with existing long term property tax exemption
31 information retrieved from plain language budget summaries
32 submitted to DCA, in a database, sorted by municipality, on its
33 Internet website.

34 The bill requires each municipality which enters into a financial
35 agreement on or after the effective date of the bill to remit a portion
36 of the annual service charge collected by the municipality to the
37 county, school district, and any other taxing district, within which a
38 redevelopment relocation housing project is located, in direct
39 proportion to the distribution of the amount raised by taxation in the
40 municipality in the prior tax year on behalf of the applicable county,
41 school district, or other taxing district, as displayed on the property
42 tax bill for that year. The annual service charge portion is required
43 to be remitted to the county, school district, or other taxing district
44 in the same manner as property taxes.

45 The bill requires municipalities to file a copy of the five-year
46 property tax exemption and abatement agreement with certain
47 county officials.