

[First Reprint]

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 five-year tax exemption and abatement agreements be filed with certain county officials.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on November 15, 2021, with amendments.



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).

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹**Senate SCU committee amendments adopted November 15, 2021.**

1 g. A cost-benefit analysis of the project's impact on the finances
2 of the municipality, county, school district and other taxing districts,
3 within which the project is located, outlining, at a minimum: (1) the
4 net financial impact on the municipality based on the estimated
5 payments to the municipality to be made pursuant to a financial
6 agreement to be entered into with the municipality and the estimated
7 additional one-time and periodic expenditures to be incurred by the
8 municipality as a result of the project; (2) the municipal revenues to be
9 gained or lost based on this estimated net financial impact and the
10 estimated net financial impact of the property on the municipality if
11 the project is not approved and the current use and condition of the
12 property is continued; (3) the property tax revenues to be foregone by
13 the county and taxing districts in which the project is located if a tax
14 exemption is approved pursuant to P.L.1991, c.431 (C.40A:20-1 et
15 seq.); (4) the impact on the equalization aid component of the school
16 funding formula; and (5) any other information relevant to determining
17 the impact of the project on the finances of the municipality, county,
18 school district and other taxing districts, within which the project is
19 located, as shall be required by the municipality or as may be required
20 by administrative rules adopted by the Commissioner of Community
21 Affairs or the Local Finance Board. Within 30 days of receipt of the
22 application, the municipality shall post the cost-benefit analysis
23 required by this subsection on its Internet website ¹, excluding project
24 specific information deemed to be proprietary by the parties involved¹,
25 or, if one does not exist, the cost-benefit analysis shall be provided for
26 public inspection on the Internet website of the Department of
27 Community Affairs.

28 The application shall be addressed and submitted to the mayor or
29 other chief executive officer of the municipality. The mayor or other
30 chief executive officer shall, within 60 days of his receipt of the
31 application thereafter, submit the application with his
32 recommendations, and an independent cost-benefit analysis of the
33 project's impact on the finances of the municipality, county, school
34 district and other taxing districts, within which the project is located,
35 conducted by the office, or other designee, of the mayor or other chief
36 executive officer, to the municipal governing body. The independent
37 cost-benefit analysis shall include, at a minimum, the information
38 required in subsection g. of this section. Within 30 days of submission
39 to the municipal governing body, the municipality shall post the
40 independent cost-benefit analysis on its Internet website ¹, excluding
41 project specific information deemed to be proprietary by the parties
42 involved¹, or, if one does not exist, the independent cost-benefit
43 analysis shall be provided for public inspection on the Internet website
44 of the Department of Community Affairs.

45 The governing body shall by resolution approve or disapprove the
46 application, but in the event of disapproval, changes may be suggested
47 to secure approval. The resolution shall include specific findings

1 about the project's estimated net impact on the finances of the
2 municipality, county, school district and other taxing districts, within
3 which the project is located. Within 30 days of adoption of the
4 resolution, the municipality shall post the resolution on its Internet
5 website, or, if one does not exist, the resolution shall be provided for
6 public inspection on the Internet website of the Department of
7 Community Affairs. An application may be revised and resubmitted.
8 (cf: P.L.1991, c.431, s.8)

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

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

27
28 ¹3. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
29 read as follows:

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

45 Delivery by the municipal clerk to the municipal tax assessor of a
46 certified copy of the ordinance of the governing body approving the
47 tax exemption and financial agreement with the urban renewal entity
48 shall constitute the required certification. For each exemption granted

1 pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.), upon certification
2 as required hereunder, the tax assessor shall implement the exemption
3 and continue to enforce that exemption without further certification by
4 the clerk until the expiration of the entitlement to exemption by the
5 terms of the financial agreement or until the tax assessor has been duly
6 notified by the clerk that the exemption has been terminated.

7 Within 10 calendar days following the later of the effective date of
8 an ordinance following its final adoption by the governing body
9 approving the tax exemption or the execution of the financial
10 agreement by the urban renewal entity, the municipal clerk shall
11 transmit a certified copy of the ordinance and financial agreement to
12 the chief financial officer of the county and to the county counsel for
13 informational purposes.

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

29 a. The financial agreement shall specify the duration of the
30 exemption for urban renewal entities in accordance with the
31 parameters of either paragraph (1) or paragraph (2) of this
32 subsection:

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

38 (2) for each project undertaken pursuant to a redevelopment
39 agreement which allows the redeveloper to undertake two or more
40 projects sequentially, the financial agreement may specify a
41 duration of not more than 30 years from the completion of a project,
42 or unit of the project if the project is undertaken in units, or not
43 more than 50 years from the execution of the first financial
44 agreement implementing a project under the redevelopment
45 agreement. As used in this subsection, "redevelopment agreement"
46 means an agreement entered into pursuant to subsection f. of section
47 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
48 redevelopment entity and a redeveloper.

1 A financial agreement may provide for an exemption period of
2 less than 30 years from the completion of the entire project, less
3 than 35 years from the execution of the financial agreement, or less
4 than 50 years from the execution of the first financial agreement
5 implementing a project under the redevelopment agreement.
6 Nothing in this subsection shall be construed as requiring a
7 financial agreement for a project undertaken pursuant to a
8 redevelopment agreement which allows the redeveloper to
9 undertake two or more projects sequentially to specify a duration
10 within the parameters of paragraph (2) of this subsection.

11 b. During the term of any exemption, in lieu of any taxes to be
12 paid on the buildings and improvements of the project and, to the
13 extent authorized pursuant to this section, on the land, the urban
14 renewal entity shall make payment to the municipality of an annual
15 service charge, which shall remit a portion of that revenue to the
16 county as provided hereinafter. In addition, the municipality may
17 assess an administrative fee, not to exceed two percent of the annual
18 service charge, for the processing of the application. The annual
19 service charge for municipal services supplied to the project to be paid
20 by the urban renewal entity for any period of exemption, shall be
21 determined as follows:

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

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

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

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

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

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

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

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

39 If the financial agreement provides 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, the
44 financial agreement shall set forth a schedule of annual service
45 charges for the exemption period which shall be based upon the
46 minimum service charges and staged adjustments set forth in this
47 section.

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

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

10 Each municipality that enters into a financial agreement on or after
11 the effective date of P.L. , c. (pending before the Legislature as this
12 bill) shall remit a portion of the annual service charge collected by the
13 municipality to the county, school district, and any other taxing
14 district, within which the project is located, in direct proportion to the
15 distribution of the amount raised by taxation in the prior tax year to the
16 county, school district, and any other taxing district, as displayed on
17 the property tax bill for that year pursuant to paragraph (1) of
18 subsection b. of R.S.54:4-65. The annual service charge portion shall
19 be remitted to the county, school district, or other taxing district in the
20 same manner as property taxes.

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

25 Notwithstanding the provisions of this section or of the financial
26 agreement, the minimum annual service charge shall be the amount of
27 the total taxes levied against all real property in the area covered by
28 the project in the last full tax year in which the area was subject to
29 taxation, and the minimum annual service charge shall be paid in each
30 year in which the annual service charge calculated pursuant to this
31 section or the financial agreement would be less than the minimum
32 annual service charge.

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

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

44 (cf: P.L.2018, c.97, s.17)**】**¹

45
46 ¹**[4.] 3.**¹ Section 11 of P.L.1991, c.441 (C.40A:21-11) is
47 amended to read as follows:

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

5 b. All projects subject to tax agreement as provided herein shall
6 be subject to all applicable federal, State and local laws and
7 regulations on pollution control, worker safety, discrimination in
8 employment, housing provision, zoning, planning and building code
9 requirements.

10 c. That percentage which the payment in lieu of taxes for a
11 property bears to the property tax which would have been paid had an
12 exemption and abatement not been granted for the property under the
13 agreement shall be applied to the valuation of the property to
14 determine the reduced valuation of the property to be included in the
15 valuation of the municipality for determining equalization for county
16 tax apportionment and school aid during the term of the tax
17 agreements covering the properties, and at the termination of an
18 agreement for a property the reduced valuation procedure required
19 under this section shall no longer apply.

20 d. Within **[30]** 10 days after the execution of a tax agreement, a
21 municipality shall forward a copy of the agreement to the **[Director of**
22 **the Division of Local Government Services in the Department of**
23 **Community Affairs,]** chief financial officer of the county, and the
24 county counsel.

25 (cf: P.L.2007, c.268, s.4)
26

27 ¹**[5.]** ^{4.} Section 21 of P.L.1991, c.441 (C.40A:21-21) is
28 amended to read as follows:

29 21. The governing body of a municipality adopting an ordinance
30 pursuant to this act shall report, on or before October 1 of each year, to
31 the Director of the Division of Local Government Services in the
32 Department of Community Affairs and to the Director of the Division
33 of Taxation in the Department of the Treasury, the chief financial
34 officer of the county, and the county counsel the total amount of real
35 property taxes exempted and the total amount abated within the
36 municipality in the current tax year for each of the following:

- 37 a. improvements of dwellings;
38 b. construction of dwellings;
39 c. improvements and conversions of multiple dwellings;
40 d. improvements of commercial or industrial structures;
41 e. construction of multiple dwellings under tax agreements; and
42 f. construction of commercial or industrial structures under tax
43 agreements.

44 In the case of e. and f. above, the report shall state instead the total
45 amount of payments made in lieu of taxes according to each formula
46 utilized by the municipality, and the difference between that total
47 amount and the total amount of real property taxes which would have

1 been paid on the project had the tax agreement not been in effect, for
2 the current tax year.

3 The Director of the Division of Taxation shall include a summary
4 of the information provided in the annual reports in the annual report
5 of the division.

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

7

8 ¹**6.** 5.¹ This act shall take effect on the first day of the ninth
9 month next following enactment.