

SENATE, No. 2564

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 11, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Allows local units to finance deficits in operation and emergency appropriations attributable to COVID-19.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** authorizing local units to finance deficits in operation and
2 emergency appropriations attributable to COVID-19 and
3 supplementing chapter 4 of Title 40A of the New Jersey Statutes.

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

7
8 1. a. (1) (a) Notwithstanding any provision of law to the
9 contrary, if, after adoption of the annual budget and prior to filing
10 an annual financial statement pursuant to N.J.S.40A:5-12 for a
11 fiscal year during the pendency of a state of emergency or public
12 health emergency declared by the Governor because of the COVID-
13 19 pandemic, the chief financial officer of a local unit anticipates a
14 deficit in operations, the chief financial officer shall deliver to the
15 governing body a certification of the amount of the anticipated
16 deficit in operations.

17 (b) Notwithstanding any provision of law to the contrary, if an
18 annual financial statement, filed pursuant to N.J.S.40A:5-12 for a
19 fiscal year during the pendency of a state of emergency or public
20 health emergency declared by the Governor because of the COVID-
21 19 pandemic, indicates a deficit in operations for that fiscal year in
22 an amount different than the amount of the anticipated deficit in
23 operations certified pursuant to subparagraph (a) of this paragraph,
24 the chief financial officer shall deliver to the governing body a
25 certification of the adjusted amount of the deficit in operations.

26 (2) Notwithstanding any provision of law to the contrary, if an
27 annual financial statement, filed pursuant to N.J.S.40A:5-12 for a
28 fiscal year during the pendency of a state of emergency or public
29 health emergency declared by the Governor because of the COVID-
30 19 pandemic, indicates a deficit in operations for that fiscal year,
31 the chief financial officer shall deliver to the governing body a
32 certification of the amount of the deficit in operations.

33 b. After receipt of a certification pursuant to subsection a. of
34 this section, the governing body of a local unit may, by 2/3 vote of
35 the full authorized membership of the governing body, adopt an
36 ordinance, in the case of a municipality, or resolution, in the case of
37 a county, authorizing funding of a COVID-19 anticipated deficit in
38 operations or deficit in operations, in whole or part.

39 c. The governing body of a local unit may, by 2/3 vote of the
40 full authorized membership of the governing body, adopt an
41 ordinance, in the case of a municipality, or resolution, in the case of
42 a county, authorizing COVID-19 emergency appropriations for
43 immediate preparation, response, recovery, and restoration of public
44 services during the pendency of a state of emergency or public
45 health emergency declared by the Governor because of the COVID-
46 19 pandemic.

1 d. After the adoption of an ordinance or resolution, as
2 appropriate, authorizing funding of a COVID-19 deficit in
3 operations, COVID-19 emergency appropriations, or both, the local
4 unit may, by 2/3 vote of the full authorized membership of the
5 governing body, adopt a resolution setting forth:

6 (1) the total amount to fund a COVID-19 deficit in operations,
7 COVID-19 emergency appropriations, or both.

8 (2) provision for the borrowing of money and the issuance of
9 COVID-19 emergency notes, which may be renewed from time to
10 time, but at least 1/7 of all such notes, and the renewals thereof,
11 shall mature and be paid in each year, so that all notes and renewals
12 shall have matured and have been paid not later than the last day of
13 the seventh year following the later date of the deficit in operations
14 determination or emergency resolution. The provisions of chapter 4
15 of Title 40A of the New Jersey Statutes relating to tax anticipation
16 notes shall apply to COVID-19 emergency notes.

17 e. A local unit may finance a COVID-19 deficit in operations,
18 COVID-19 emergency appropriations, or both, from surplus funds
19 available, or borrow money in the manner prescribed above. If any
20 COVID-19 deficit in operations or COVID-19 emergency
21 appropriation is financed from surplus funds available, at least 1/7
22 of the amount thereof shall be included in each annual budget until
23 the deficit in operations, emergency appropriations, or both, has
24 been fully provided for.

25 f. Notwithstanding the provisions of N.J.S.40A:4-47 to the
26 contrary, at least 1/7 of the total amount of a COVID-19 deficit in
27 operations, COVID-19 emergency appropriations, or both, shall be
28 provided in full by the governing body as a deferred charge in each
29 budget over the next seven succeeding fiscal years, except to the
30 extent, if any, that provision for paying, funding or refunding the
31 COVID-19 deficit in operations, COVID-19 emergency
32 appropriations, or both, shall previously have been made by
33 authorization of bonds pursuant to N.J.S.40A:2-3.

34 g. A local unit shall not borrow moneys under this section that
35 may be considered duplicative of financial assistance provided to
36 the local unit from the federal government, the State, or other
37 sources, to address the COVID-19 deficit in operations or COVID-
38 19 emergency appropriations.

39 h. (1) Notwithstanding the provisions of this section or of any
40 other provision of law to the contrary, after the filing of the annual
41 financial statement for the fiscal year pursuant to N.J.S.40A:5-12,
42 the governing body of a local unit may, by 2/3 vote of the full
43 authorized membership of the governing body, adopt a COVID-19
44 refunding bond ordinance to fund the COVID-19 deficit in
45 operations, the COVID-19 emergency appropriations, or both, in
46 accordance with the provisions governing refunding bonds under
47 the "Local Bond Law," N.J.S.40A:2-1 et seq.

(2) A local unit may, in anticipation of the issuance of COVID-19 refunding bonds, borrow money and issue negotiable notes from time to time, at public or private sale and may, from time to time, renew these notes in accordance with the provisions of section 11 of P.L.2003, c.15 (C.40A:2-8.1), however, notwithstanding that provision of law, a note issued in anticipation of the issuance of COVID-19 refunding bonds may be issued for a period not exceeding two years.

i. Amounts borrowed pursuant to this section shall be applied only to purposes provided for in the budget of the local unit, or for which taxes are levied or to be levied, and shall not be applied to any other purpose.

j. The Division of Local Government Services shall issue guidelines necessary or appropriate to implement the provisions of this section.

k. As used in this section:

“COVID-19” means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020.

“Deficit in operations” means a deficit balance reported on a local unit’s “Results of Operation” schedule of the annual financial statement and shall be treated as a cash deficit pursuant to N.J.S.40A:4-42, except as otherwise provided in this section, and as an emergency for refunding bond purposes under N.J.S.40A:2-51.

“Full authorized membership of the governing body” means the number of members of the body when all the seats are filled.

“Public health emergency” means an emergency declared by the Governor pursuant to the “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.).

“State of emergency” means an emergency declared by the Governor, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.).

2. This act shall take effect immediately.

STATEMENT

This bill would authorize local units to borrow money to address deficits and appropriations related to the COVID-19 pandemic and to either spread out repayment of amounts borrowed over seven years or over longer periods of time.

Under the bill, for a fiscal year during a state of emergency or public health emergency declared by the Governor because of the COVID-19 pandemic, a chief financial officer of a local unit would deliver to the governing body a certification of the amount of an anticipated deficit in operations, an actual deficit in operations, or both. The bill defines the term “deficit in operations” as a deficit balance reported on a local unit’s “Results of Operation” schedule of its annual financial statement, to be treated as a “cash deficit”

1 under N.J.S.40A:4-42, except as otherwise provided in the bill, and
2 as an emergency for refunding bond purposes under N.J.S.40A:2-
3 51. After receipt of a chief financial officer's certification, the
4 governing body of a local unit may, by 2/3 vote of its full
5 authorized membership, authorize funding of a COVID-19
6 anticipated deficit in operations or deficit in operations, in whole or
7 part.

8 The bill also allows the governing body of a local unit, by 2/3
9 vote of its full authorized membership, to authorize COVID-19
10 emergency appropriations for immediate preparation, response,
11 recovery, and restoration of public services during the pendency of
12 a state of emergency or public health emergency declared by the
13 Governor because of the COVID-19 pandemic.

14 After the adoption of an ordinance or resolution authorizing
15 funding of a COVID-19 deficit in operations or COVID-19
16 emergency appropriations, or both, a local unit may, by 2/3 vote of
17 its full authorized membership of the governing body, adopt a
18 resolution setting forth:

- 19 • the total amount to fund a COVID-19 deficit in operations,
20 COVID-19 emergency appropriations, or both; and
- 21 • provision for the borrowing of money and the issuance of
22 COVID-19 emergency notes, which may be renewed from
23 time to time. Under the bill, at least 1/7 of all such notes,
24 and the renewals thereof, must mature and be paid in each
25 year, so that all notes and renewals will have matured and
26 have been paid by the last day of the seventh year following
27 the later date of the deficit in operations determination or
28 emergency resolution.

29 The bill allows a local unit to finance a COVID-19 deficit in
30 operations and COVID-19 emergency appropriations from surplus
31 funds available or to borrow money. If any deficit in operations or
32 emergency appropriation is financed from surplus funds available,
33 at least 1/7 of the amount of the deficit in operations or emergency
34 appropriations must be included in each annual budget until the
35 deficit in operations or emergency appropriation has been fully
36 provided for.

37 The bill would prohibit a local unit from borrowing moneys that
38 may be considered duplicative of financial assistance provided to
39 the local unit from the federal government, the State, or other
40 sources to address the COVID-19 deficit in operations or COVID-
41 19 emergency appropriations.

42 As an alternative to the seven-year funding mechanism described
43 above, the bill allows the governing body of a local unit that would
44 like to spread out repayment of amounts borrowed beyond seven
45 years to, by 2/3 vote of its full authorized membership, adopt a
46 COVID-19 refunding bond ordinance to fund the COVID-19 deficit
47 in operations, the COVID-19 emergency appropriations, or both, in
48 accordance with the provisions governing refunding bonds under

1 the “Local Bond Law,” N.J.S.40A:2-1 et seq. Under this
2 alternative, the bill allows a local unit, in anticipation of the
3 issuance of COVID-19 refunding bonds, to borrow money and issue
4 and renew negotiable notes in accordance with the provisions of
5 section 11 of P.L.2003, c.15 (C.40A:2-8.1), however,
6 notwithstanding that provision of law, a note issued in anticipation
7 of the issuance of COVID-19 refunding bonds may be issued for a
8 period not exceeding two years.

9 The bill specifies that amounts borrowed under the bill may be
10 applied only to purposes provided for in the budget of the local unit,
11 or for which taxes are levied or to be levied, and shall not be
12 applied to any other purpose.

13 The bill authorizes the Division of Local Government Services to
14 issue guidelines necessary or appropriate to implement the bill’s
15 provisions.