SENATE CONCURRENT RESOLUTION No. 31

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator DAWN MARIE ADDIEGO
District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:
Senator Brown

SYNOPSIS

Amends Constitution to require Energy Tax Receipts Property Tax Relief Act aid and Consolidated Municipal Property Tax Relief Aid programs be fully funded each year, with dedicated amounts distributed to municipalities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section II of the Constitution of the State of New Jersey by adding a new paragraph thereto.

BE IT RESOLVED *by the Senate of the State of New Jersey (the General Assembly concurring):*

1. The following proposed amendment to the Constitution of the State of New Jersey is agreed to:

PROPOSED AMENDMENT

Amend Article VIII, Section II by adding a new paragraph 10 to read as follows:

10. a. (1) For the State fiscal year commencing on July 1, 2019, the amount credited to the "Energy Tax Receipts Property Tax Relief Fund," established by the "Energy Tax Receipts Property Tax Relief Act," P.L.1997, c.167 (C.52:27D-438 et seq.), as amended and supplemented, shall be no less than $1,136,000,000 multiplied by the sum of 1.0 and the index rate or zero, whichever is greater. For each State fiscal year thereafter, the amount credited to the "Energy Tax Receipts Property Tax Relief Fund," established by the "Energy Tax Receipts Property Tax Relief Act," P.L.1997, c.167 (C.52:27D-438 et seq.), as amended and supplemented, shall be no less than the amount credited in the prior State fiscal year multiplied by the sum of 1.0 and the index rate or zero, whichever is greater.

(2) For the State fiscal year commencing on July 1, 2019, and for each State fiscal year thereafter, the annual appropriations act for the State fiscal year shall appropriate and pay to, or on behalf of, the municipalities of the State an amount no less than the amount determined pursuant to subsubparagraph (1) of subparagraph a. of this paragraph. Each municipality shall receive the same proportionate share of the respective distribution made pursuant to this subsubparagraph as was allocated to the municipality in State fiscal year 2018.

b. For the State fiscal year commencing on July 1, 2019, the annual appropriations act for the State fiscal year shall appropriate and distribute to, or on behalf of, each municipality the amount of Consolidated Municipal Property Tax Relief Aid no less than the amount of Consolidated Municipal Property Tax Relief Aid distributed in State fiscal year 2009 multiplied by the sum of 1.0 and the index rate or zero, whichever is greater. For each State fiscal year thereafter, the annual appropriations act for the State fiscal year shall appropriate and distribute to, or on behalf of, each

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 <u>thus</u> is new matter.

municipality the amount of Consolidated Municipal Property Tax Relief Aid no less than the amount of Consolidated Municipal Property Tax Relief Aid distributed in the prior State fiscal year multiplied by the sum of 1.0 and the index rate or zero, whichever is greater.

c. As used in this paragraph, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second calendar quarter which occurred in the State fiscal year next preceding the appropriation. The Director of the Division of Local Government Services in the Department of Community Affairs, or its successor, shall promulgate annually the index rate to apply in the next following State fiscal year which shall be the same as the index rate determined pursuant to section 4 of P.L.1983, c.49 (C.40A:4-45.1a), as amended or supplemented, or a subsequent law of similar effect.

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (✔) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✔) in the square opposite the word "No."

b. In every municipality the following question:

	YES	CONSTITUTIONAL AMENDMENT FULLY FUNDING AND DEDICATING CERTAIN STATE AID MONIES TO MUNICIPALITIES Do you approve amending the Constitution to require the State to fully fund energy tax aid and Consolidated Municipal Property Tax Relief Aid? A required amount would have to be paid to municipalities as aid each year. The energy tax imposes a fee related to certain electric, gas, and other utilities. Consolidated Municipal Property Tax Relief Aid is the term for a group of taxes and fees collected by the State. In past years, some of these monies were used to fund State programs.

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	NO	INTERPRETIVE STATEMENT This amendment requires that the State fully fund the "Energy Tax Receipts Property Tax Relief Act" (the "energy tax") and Consolidated Municipal Property Tax Relief Aid ("local aid") programs. A set amount of these monies would have to be given to municipalities as aid each year. The State taxes certain gas, electric, sewerage, water, and other utility producers and consumers; the monies from these taxes are referred to as the energy tax. Local aid refers to monies collected by the State related to various taxes and fees. Current law requires an amount of energy tax and local aid monies be given by the State to municipalities each year. In some years, the State has not given municipalities the full amount as set by law. The monies were instead used to fund State programs. This amendment requires the State to fully fund the energy tax and local aid programs. The amount of energy tax monies to be distributed equals the amount set to be distributed in fiscal year 2018 and then adjusted for inflation each year. The amount of local aid monies to be distributed equals the amount distributed in fiscal year 2009 and then adjusted for inflation each year. The amount of energy tax and local aid collected as taxes would not change.

STATEMENT

This concurrent resolution proposes to amend the State Constitution to require that the Energy Tax Receipts Property Tax Relief Act aid and the Consolidated Municipal Property Tax Relief Aid programs be fully funded, and with constitutionally set amounts to be distributed to municipalities as State aid each year.

The State collects revenue pursuant to the "Energy Tax Receipts Property Tax Relief Act," P.L.1997, c.167 (C.52:27D-438 et seq.), (the "energy tax") through an assessment on certain producers and consumers of gas, electric, telecommunications, sewerage and water, and other utility services. These fees were formerly collected by municipalities as a gross receipts and franchise tax. However, a 1997 law, P.L.1997, c.162, revised the taxation of

energy-related public utilities and, henceforth, receipts collected by the State have been deposited into the "Energy Tax Receipts Property Tax Relief Fund," with a statutorily determined amount required to be distributed as aid to municipalities based on prior distribution amounts adjusted by an inflation index.

Consolidated Municipal Property Tax Relief Aid ("CMPTRA") was established by the fiscal year 1996 appropriations act, P.L.1995, c.164, as the consolidation of 14 separate municipal aid programs. Similar to the energy tax, a statutorily determined amount, based on prior distributions adjusted by an inflation index, N.J.S.A.52:27D-442, is required to be distributed as aid to municipalities each year.

In certain years, however, the State has not distributed to municipalities the amount of CMPTRA and energy tax aid that is required to be distributed pursuant to statute. Through the annual appropriations act, the statutory dedication for the energy tax, CMPTRA, or both, have been overridden and receipts therefrom have been used for general State funding purposes.

This concurrent resolution amends the Constitution to require that the full amount of CMPTRA and energy tax aid be appropriated and distributed to, or on behalf of, municipalities each year. The "full amount" of energy tax and CMPTRA aid means the formulas currently provided for by statute and reproduced in this concurrent resolution, N.J.S.A.52:27D-439(e) and 52:27D-442, respectively. Specifically, this concurrent resolution uses as the CMPTRA base year the amounts of CMPTRA distributed in fiscal year 2009. The energy tax base year is the amount of energy tax set to be distributed in fiscal year 2018. These amounts are then adjusted by an "index rate," for both the first fiscal year in which this concurrent resolution is effective and then readjusted for each fiscal year thereafter. The "index rate" is the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

The provisions of this concurrent resolution would begin on July 1, 2019, the first day of State fiscal year 2020.