

SENATE, No. 3003

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 18, 2024

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Increases flexibility, clarity, and available tools of certain municipal consolidation processes.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning municipal consolidation, and amending
2 P.L.2007, c.63 and P.L.1995, c.376.

3

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

6

7 1. Section 25 of P.L.2007, c.63 (C.40A:65-25) is amended to
8 read as follows:

9 25. a. The Legislature finds and declares that in order to
10 encourage municipalities to increase efficiency through municipal
11 consolidation for the purpose of reducing expenses borne by their
12 property taxpayers, more flexible options need to be available to the
13 elected municipal officials and voters than are available through the
14 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et
15 al.).

16 b. (1) In lieu of the procedures set forth in the "Municipal
17 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), the
18 governing bodies from two or more **contiguous** municipalities
19 situated in the same county may apply to the board for either:

20 (a) approval of a plan to consolidate their municipalities; or

21 (b) creation of a Municipal Consolidation Study Commission, as
22 described in subsection c. of this section.

23 (2) A representative committee of registered voters from two or
24 more **contiguous** municipalities, which committee shall contain at
25 least one registered voter from each participating municipality, may
26 petition the board for the creation of a Municipal Consolidation
27 Study Commission, as described in subsection c. of this section.
28 The petition, or each petition paper, as the case may be, shall state
29 the purpose of the petition, and shall name the municipalities for
30 which a Municipal Consolidation Study Commission is proposed.
31 The petition, to be sufficient, shall be signed by the registered and
32 qualified voters of **the municipalities** each municipality in a
33 number at least equal to 10% of the total votes cast in **those**
34 **municipalities** each municipality at the last preceding general
35 election at which members of the General Assembly were elected.
36 The signatures for a petition shall be obtained within two years of
37 the date of the last preceding general election at which members of
38 the General Assembly were elected. The petition shall be filed with
39 the clerk of each municipality who shall, within 30 days, ascertain
40 and certify the number and validity of the signatures affixed thereto
41 with respect to the municipality served by the clerk.

42 If the petition is determined to be insufficient, notice shall,
43 within 30 days, be provided to the registered voters constituting the
44 representative committee that filed the petition, which committee

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.

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1 shall have 10 days from receipt of the notification of insufficiency
2 to file a supplementary petition designed to rectify such
3 insufficiency, which shall be in the same form and shall be filed in
4 the same manner as the original petition. If no supplementary
5 petition is filed within 10 days after such notification of
6 insufficiency, or if the clerk shall, within five days after such a
7 supplementary petition is filed, examine it and determine it to be
8 still insufficient, the clerk shall execute a certificate of insufficiency
9 and notify the representative committee of the insufficiency. A
10 finding of insufficiency shall not prejudice the filing of a new
11 petition for the same purpose, provided that such new petition
12 otherwise conforms to the requirements of this paragraph.

13 If the petition is determined to be sufficient, the clerk of each
14 municipality shall so certify, and shall forthwith provide the
15 petition and proposed consolidation plan for public inspection on
16 the Internet website of each participating municipality, if one exists,
17 or, if one does not exist, on the Internet website of the Department
18 of Community Affairs, transmit certified copies to the governing
19 body of the municipality served by the clerk, to the clerk of each of
20 the other municipalities named in the petition, and to the board.

21 The board shall also accept a combination of applications from
22 **【local】** municipal governing bodies, pursuant to subparagraph (b)
23 of paragraph (1) of this subsection, and petitions from
24 representative committees of registered voters, pursuant to this
25 paragraph, from two or more **【contiguous】** municipalities,
26 requesting the creation of a Municipal Consolidation Study
27 Commission **【**; however, if each municipality submits an
28 application from its governing body, any proposed consolidation
29 plan shall be approved by voter referendum in each of the
30 municipalities**】**.

31 (3) The board shall provide application forms, model petitions,
32 and technical assistance to any governing bodies or voters desiring
33 to apply to the board for approval of a consolidation plan or the
34 creation of a Municipal Consolidation Study Commission.

35 (4) **【A consolidation commission established pursuant to**
36 **P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to**
37 **enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.)**
38 **may apply to the Local Finance Board for approval to use the**
39 **provisions of sections 25 through 29 of P.L.2007, c.63 (C.40A:65-**
40 **25 through C.40A:65-29).】** (Deleted by amendment, P.L. , c.)
41 (pending before the Legislature as this bill)

42 (5) Municipalities that are not contiguous may be consolidated
43 if located within a reasonable distance from each other and situated
44 in the same county. The applicant shall have the burden of proving
45 that a non-contiguous consolidation is reasonable as such.

46 (6) Upon the approval by the board of a consolidation plan
47 submitted by municipalities or the issuance of a final report by a

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1 Municipal Consolidation Study Commission recommending
2 consolidation, the clerk of each participating municipality shall
3 cause the question of consolidation to be submitted to the registered
4 voters of each municipality on the date of the next general or
5 municipal election, whichever shall occur sooner and allows
6 sufficient time to publish all required notices. At that election, the
7 question shall be submitted in the same manner as other public
8 questions in each such municipality, and in the following form or
9 such part thereof as shall be applicable:

10 "Shall (insert the names of the participating municipalities) be
11 consolidated into a single new municipality to be known as (insert
12 name and type of municipality) and governed under (insert the plan
13 or form of government of the new municipality)?"

14 (7) A proposal to consolidate municipalities into a single new
15 municipality shall be deemed approved and adopted only if a
16 majority of those voting on the question of consolidation in each of
17 the participating municipalities votes in favor of the question at
18 such referendum.

19 c. An application to create a Municipal Consolidation Study
20 Commission shall propose a process to study the feasibility of
21 consolidating the participating municipalities into a single new
22 municipality or merging one into the other. The application shall
23 include provisions for:

24 (1) the means of selection, number, and qualifications of study
25 commissioners;

26 (2) the timeframe for the study, which shall be no more than
27 three years, along with key events and deadlines, including time for
28 review of the report by State agencies, which review shall be no
29 less than three months;

30 (3) whether a preliminary report shall be issued in addition to
31 the final report;

32 (4) whether the development of a consolidation implementation
33 plan will be a part of the study;

34 (5) **the means for any proposed consolidation plan to be**
35 **approved; either by voter referendum, by the governing bodies, or**
36 **both;** (Deleted by amendment, P.L. , c.) (pending before the
37 Legislature as this bill) **[and]**

38 (6) if proposed by a representative group of voters, justification
39 of that group's standing to serve as the community advocate for the
40 consolidation proposal;

41 (7) the designation of an administrative support entity, if any,
42 and;

43 (8) the proposed means of funding the study.

44 At any time, the board may require the submission of any other
45 information that it may deem helpful to its review of an application
46 to create a Municipal Consolidation Study Commission.

47 For the purposes of this subsection, "administrative support
48 entity" means a government agency, an institution of higher

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1 education, or a not-for-profit entity that will provide funds or other
2 resources or administer contracts and finances for a Municipal
3 Consolidation Study Commission. An administrative support entity
4 shall be subject to the government records provisions of
5 P.L.1963, c.73 (C.47:1A-1 et seq.). An administrative support
6 entity designated by a commission shall not be eligible for a public
7 contract with the single new municipality created by a consolidation
8 recommended by the commission except for a contract for the study
9 of, or the administration of contracts and finances for another
10 commission with regard to, any other potential consolidation.

11 (9) The commission shall prepare and publish a final report
12 containing its findings and recommendations. The final report may
13 include a statement, if any, by any commissioner dissenting from
14 the findings and recommendations set forth in the final report and
15 the findings of the Department of Community Affairs on the fiscal
16 aspects of the proposed consolidation. The commission shall file its
17 final report with the clerk of each participating municipality, the
18 county clerk, the division, and the Secretary of State. The clerk of
19 each participating municipality shall deliver a copy of the final
20 report to each member of the municipal governing body. The
21 commission shall cause a reasonable number of copies of the final
22 report to be printed and made available to the general public, and
23 shall provide additional copies upon request. Upon its filing, the
24 final report shall be provided for public inspection on the Internet
25 website of each participating municipality, if one exists, or, if one
26 does not exist, the final report shall be posted on the Internet
27 website of the Department of Community Affairs.

28 (10) If the commission recommends the consolidation of the
29 participating municipalities into a single new municipality in its
30 final report, the commission shall prepare an official abstract of the
31 final report, which abstract shall consist of a concise statement that
32 is objective in content and presentation, and that is descriptive of
33 the substance of the plan. At the time the commission files its final
34 report, and again on a date not less than 30 days preceding the date
35 fixed for the referendum on the consolidation question, the
36 commission shall cause the official abstract to be published at least
37 once in a newspaper of general circulation in the participating
38 municipalities, together with notice of:

39 (a) The time, place, and purpose of the election;

40 (b) The manner in which copies of the commission's final report
41 may be obtained; and

42 (c) A statement that, if the voters favor consolidation by a
43 majority vote in each of the participating municipalities, the
44 consolidation plan, if any, shall become binding and legally
45 enforceable between or among such municipalities.

46 Upon the filing of the final report, the official abstract and notice
47 required by this paragraph shall be provided for public inspection
48 on the Internet website of each participating municipality within 30

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1 days, if one exists, or, if one does not exist, the official abstract and
2 notice shall be posted on the Internet website of the Department of
3 Community Affairs.

4 d. (1) An application to the board for consideration of a
5 consolidation plan or to create a Municipal Consolidation Study
6 Commission shall be subject to a public hearing within each
7 municipality to be studied **】, and a joint public hearing in a place**
8 **that is easily accessible to the residents of both or all of the**
9 **municipalities】.**

10 (2) The public hearings shall be facilitated by the board and
11 conducted in accordance with the provisions of the "Senator Byron
12 M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et
13 seq.).

14 (3) The board may, as a condition of approval, require that a
15 consolidation implementation plan be amended. After approval of a
16 plan by the board, it may be amended upon petition to the board by
17 the applicant, subject to the approval of the board either prior or
18 subsequent to a referendum. Based on the nature of the
19 amendment, the board may decide to hold a public hearing in any of
20 the municipalities affected by the plan, or at a regular meeting, or
21 both.

22 e. **【Every】** (1) A Municipal Consolidation Study
23 Commission shall include a representative of the Department of
24 Community Affairs as a non-voting representative on the
25 commission. The representative shall not be a resident of a
26 municipality participating in the study. The department shall
27 prepare an objective fiscal study of the fiscal aspects of a
28 consolidation and shall provide it to the commission in a timely
29 manner.

30 (2) A commission shall include a member of the governing body
31 of each participating municipality.

32 (3) The majority of the commissioners shall be registered voters
33 of the participating municipalities. The participating municipalities
34 shall be represented by equal numbers of commissioners.

35 (4) If there is a vacancy in the membership of the commission,
36 the commissioners of the participating municipality in which the
37 vacancy occurred shall, within 10 days after notification of such
38 vacancy, fill the vacancy by appointment of a registered voter of the
39 municipality.

40 (5) A commission shall organize and hold its first meeting as
41 soon as may be practicable after the petition for its creation is
42 approved by the board, but no later than 90 days after such
43 approval. The commission shall elect from its membership a chair
44 and a vice-chair. The commission shall fix its hours and places of
45 meeting, adopt such rules for the conduct of its business as it may
46 deem necessary and advisable, and appoint a secretary, who need
47 not be a member of the commission. A majority of the total
48 membership of the commission shall constitute a quorum for the

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1 transaction of business, but a recommendation of the commission
2 shall require a concurring vote by a majority of the commissioners
3 from each of the participating municipalities. At its first meeting,
4 or as soon thereafter as may be practicable, the commission shall
5 establish a schedule for the conduct of its business. A copy of such
6 schedule shall be filed with the clerk of each of the participating
7 municipalities and with the Commissioner of Community Affairs
8 within 90 days of the first meeting.

9 (6) The commissioners shall serve without compensation.

10 (7) The commission shall hold its meetings and hearings in
11 accordance with the "Senator Byron M. Baer Open Public Meetings
12 Act," P.L.1975, c.231 (C.10:4-6 et seq.), and shall generally
13 provide for the widest possible public information and discussion
14 with regard to the purposes and progress of its work.

15 (8) The commission shall have the power to take testimony and
16 issue subpoenas; to compel the attendance of officers and
17 employees of the participating municipalities; to compel the
18 production of all books, documents, and other papers of the
19 participating municipalities; and to administer oaths to persons
20 appearing before it to testify. Any such subpoena shall be
21 enforceable, and misconduct of a witness may be dealt with, in the
22 manner provided by the "County and Municipal Investigations
23 Law," P.L.1953, c.38 (C.2A:67A-1 et seq.).

24 (9) The commission shall prepare and publish a final report
25 containing its findings and recommendations. The commission
26 shall publish the final report on the Internet website of each
27 participating municipality, within thirty days, if one exists, or, if
28 one does not exist, the official abstract and notice shall be posted on
29 the Internet website of the Department of Community Affairs. The
30 final report may include a statement, if any, by any commissioner
31 dissenting from the findings and recommendations set forth in the
32 final report and the findings of the Department of Community
33 Affairs on the fiscal aspects of the proposed consolidation. The
34 commission shall file its final report with the clerk of each
35 participating municipality, the county clerk, the division, and the
36 Secretary of State. The clerk of each participating municipality
37 shall deliver a copy of the final report to each member of the
38 municipal governing body. The commission shall cause a
39 reasonable number of copies of the final report to be printed and
40 made available to the general public, and shall provide additional
41 copies upon request. Upon its filing, the final report shall be
42 provided for public inspection on the Internet website of each
43 participating municipality, if one exists, or, if one does not exist,
44 the final report shall be posted on the Internet website of the
45 Department of Community Affairs.

46 (10) If the commission recommends the consolidation of the
47 participating municipalities into a single new municipality in its
48 final report, the commission shall prepare an official abstract of the

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1 final report, which abstract shall consist of a concise statement that
2 is objective in content and presentation, and that is descriptive of
3 the substance of the plan. At the time the commission files its final
4 report, and again on a date not less than 30 days preceding the date
5 fixed for the referendum on the consolidation question, the
6 commission shall cause the official abstract to be published at least
7 once in a newspaper of general circulation in the participating
8 municipalities, together with notice of:

- 9 (a) The time, place, and purpose of the election;
10 (b) The manner in which copies of the commission's final report
11 may be obtained; and
12 (c) A statement that, if the voters favor consolidation by a
13 majority vote in each of the participating municipalities, the
14 consolidation plan, if any, shall become binding and legally
15 enforceable between or among such municipalities.

16 Upon the filing of the final report, the official abstract and notice
17 required by this paragraph shall be provided for public inspection
18 on the Internet website of each participating municipality within 30
19 days, if one exists, or, if one does not exist, the official abstract and
20 notice shall be posted on the Internet website of the Department of
21 Community Affairs.

- 22 (11) The commission shall be discharged:
23 (a) on the 30th day following the filing of its final report, if such
24 report recommends against the consolidation of the participating
25 municipalities;
26 (b) on the date of the certification of the results of the
27 referendum, if such certification establishes that the consolidation
28 recommended by the commission has not been approved by the
29 voters of each of the participating municipalities; or
30 (c) upon the creation of the task force pursuant to subsection a.
31 of section 27 of P.L.2007, c.63 (C.40A:65-27), if the certification of
32 the results of the referendum establishes that the consolidation
33 recommended by the commission has been approved by the voters
34 of each of the participating municipalities.

35 f. If the consolidation would include the consolidation of
36 boards of education, a person appointed by the Commissioner of
37 Education shall serve as a non-voting member of that Municipal
38 Consolidation Study Commission. The representative of the
39 Commissioner of Education shall not be a resident of a community
40 participating in the study. The county superintendent of schools
41 shall conduct a study on the impact of consolidation on the
42 educational system and its finances. The report shall be provided to
43 the commission in a timely manner.

44 g. There shall be no more than one of either a consolidation
45 plan study, a Municipal Consolidation Study Commission, or a joint
46 municipal consolidation created under the "Municipal
47 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active
48 in a single municipality at the same time. In the event that more

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1 than one application is filed with the board or is being considered
2 by the governing bodies while another action affecting the same
3 municipality or municipalities is under consideration, the board
4 shall consider the applications and shall join any proposed creation
5 of a joint municipal consolidation together and approve only one
6 action as the board deems to be in the public interest. Prior to
7 approving a single action, the board shall hold a public hearing
8 permitting all parties to present testimony on the merits of their
9 action in relation to the other proposals. Once **【an action is**
10 **approved by the board】** a referendum is held, another action from
11 the same combination of municipalities shall not be approved for at
12 least five years.

13 h. In considering its decisions concerning consolidation under
14 sections 1 **【to】** through 37 of P.L.2007, c.63 (C.40A:65-1 et al.),
15 the **【Local Finance Board】** board and any other State agency shall
16 take into account local conditions, the reasonableness of proposed
17 decisions, and the facilitation of the consolidation process **【in**
18 **making decisions concerning consolidation】**. In considering such
19 decisions, the board may pursue a waiver of a law, rule, or
20 regulation that may not have anticipated a phase-in or consolidation
21 of services through referral of the matter to the appropriate agency
22 pursuant to paragraph (3) of subsection b. of section 26 of
23 P.L.2007, c.63 (C.40A:65-26).
24 (cf: P.L.2011, c.55, s.1)
25

26 2. Section 26 of P.L.2007, c.63 (C.40A:65-26) is amended to
27 read as follows:

28 26. a. A consolidation plan or report of a Municipal
29 Consolidation Study Commission shall include the provisions of
30 sections 16 and 24 of P.L.1977, c.435 (C.40:43-66.50 and 40:43-
31 66.58), insofar as they are consistent with the provisions of sections
32 1 **【to】** through 37 of P.L.2007, c.63 (C.40A:65-1 et al.). In
33 addition, a consolidation plan or report of a Municipal
34 Consolidation Study Commission shall address the following
35 implementation issues:

36 (1) a timetable for implementing the consolidation plan;

37 (2) duplicate positions, including those held by tenured,
38 certified officers, listing those positions proposed to be abolished
39 for reasons of economy, efficiency or other good cause and listing
40 those positions proposed to be merged; **【and】**

41 (3) applicability of the provisions of Title 11A, Civil Service, of
42 the New Jersey Statutes, if Title 11A has been adopted by one or
43 more consolidating municipalities;

44 (4) a process for the efficient and economical equalization of the
45 assessment on the properties of the new municipality for the
46 apportionment of taxes in accordance with Article VIII, Section I,
47 paragraph 1 of the New Jersey Constitution. Such process shall be

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1 subject to the review and approval of the Director of the Division of
2 Taxation in the Department of the Treasury, in consultation with the
3 assessors of the municipalities, the governing bodies of the
4 municipalities, the Municipal Consolidation Study Commission, the
5 county tax board, and the director. Such approval shall be obtained
6 before an application for approval of a consolidation plan is
7 submitted to the board or before a Municipal Consolidation Study
8 Commission votes on its final report, as the case may be. The
9 Director of the Division of Taxation may, after due consideration,
10 wave any law, rule, or regulation concerning the assessment of
11 property that may not have anticipated a phase-in or consolidation
12 of services if a waiver is found reasonable to further the process of
13 consolidation; and

14 (5) the projected property tax impact resulting from
15 consolidation.

16 b. The following policies may be considered and implemented
17 under an application for approval of a consolidation plan, and may
18 be included as part of a study under the "Municipal Consolidation
19 Act," P.L.1977, c.435 (C.40:43-66.35 et al.), or as part of a study
20 conducted by a Municipal Consolidation Study Commission
21 pursuant to sections 1 **【to】** through 37 of P.L.2007, c.63 (C.40A:65-
22 1 et al.):

23 (1) creation of a consolidation implementation plan to establish
24 a timetable of significant events and goals to be achieved as part of
25 a consolidation study;

26 (2) a phase-in of a consolidation over a fixed period of time.
27 Such a plan shall be subject to review and approval of the **【Local**
28 **Finance Board】** board prior to it being **【approved by the governing**
29 **bodies or】** subject to voter referendum;

30 (3) variations from **【existing State law or State department**
31 **rules】** any law, rule, or regulation that may not have anticipated a
32 phase-in or consolidation of services. **【When】** If variations are
33 proposed, they shall be submitted to the board which shall refer it to
34 the agency with oversight responsibility. After due consideration,
35 the referee agency is empowered to waive such law **【or rules】**, rule,
36 or regulation if a waiver is found reasonable to further the process
37 of consolidation. **【Where】** If no such agency exists, the
38 Commissioner of Community Affairs shall act on behalf of the
39 State. These requests shall be acted on within 45 days of their
40 receipt by an agency, and they shall be deemed approved, subject to
41 approval of a consolidation proposal by the municipalities, by the
42 end of that time unless the agency has responded with a denial,
43 conditions that must be met in order for it to be approved, or an
44 alternative approach to resolving the matter;

45 (4) the use of advisory planning districts, comprised of residents
46 living in the former territories of each former municipality to
47 provide advice to the planning board and the zoning board of

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1 adjustment on applications and master plan changes affecting those
2 areas. A consolidation study plan shall specify the types and nature
3 of the development and zoning applications that the advisory
4 planning districts shall review and the official boards shall be
5 required to respond, at a public meeting, to each suggestion made
6 by an advisory planning district;

7 (5) the establishment of service districts **【**comprised of the
8 boundaries of any or all of the former municipalities**】** which may be
9 used to allocate resources and used for official geographic
10 references in the new municipality;

11 (6) the continued use of boundary lines of any or all of the
12 former municipalities to continue local ordinances that existed prior
13 to consolidation or the establishment of special districts which may
14 be subject to different ordinances than the remainder of the new
15 municipality that the governing body deems necessary and
16 appropriate. The need for any such differentiation shall be
17 reviewed by the governing body at least every five years and shall
18 only be continued upon the affirmative vote of the full membership
19 of the governing body, and if such continuance fails, the governing
20 body shall then adopt uniform policies for the entire area; **【and】**

21 (7) the apportionment of existing debt , or debt newly created in
22 accordance with any financial arrangement between any or all of the
23 former municipalities in furtherance of any aspect of a
24 consolidation plan, between the taxpayers of the consolidating
25 municipalities, including whether **【existing】** such debt should be
26 apportioned **【in the same manner as debt】** within special taxing
27 districts **【so that the taxpayers of each consolidating municipality**
28 **will continue to be responsible for their own pre-consolidation**
29 **debts】 ; and**

30 (8) the execution of any financial or other agreement between
31 any or all of the former municipalities to adjust benefits between
32 the municipalities, provide indemnification from legal actions
33 stemming from a consolidation, or provide incentives or other acts
34 to facilitate municipal consolidation. Such agreement shall be
35 subject to the review and approval of the director. Such approval
36 shall be obtained before an application for approval of a
37 consolidation plan is submitted to the board or before a Municipal
38 Consolidation Study Commission votes on its final report, as the
39 case may be.

40 c. **【When】** If one of the municipalities is subject to the
41 provisions of Title 11A, Civil Service, of the New Jersey Statutes,
42 the question of whether the new municipality shall be subject to the
43 provisions of that Title shall be the subject of a public referendum
44 before all of the voters of the consolidating municipalities. Upon
45 the approval by a majority of those voting, regardless of their
46 municipality of residence, the new municipality shall be subject to
47 the provisions of that Title.

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1 d. If one or more of the municipalities has adopted an annual
2 levy pursuant to section 7 of P.L.1997, c.24 (C.40:12-15.7), the
3 question of whether the new municipality shall impose such levy
4 and the amount or rate of the levy shall be the subject of a public
5 referendum before all the voters of the consolidating municipalities
6 pursuant to subsection a. of section 7 of P.L.1997, c.24 (C.40:12-
7 15.7), which shall be held at the same time of the first election of
8 officers for the new municipality.

9 (cf: P.L.2007, c.63, s.26)

10
11 3. Section 27 of P.L.2007, c.63 (C.40A:65-27) is amended to
12 read as follows:

13 27. a. Once a consolidation has been approved by the **【affected**
14 **municipal governing bodies or】** voters, the division shall create a
15 task force consisting of officers of State departments, offices, and
16 agencies, commissioners of a Municipal Consolidation Study
17 Commission, if any, or other individuals, as it deems appropriate,
18 and representatives of affected collective negotiations units, to
19 facilitate the consolidation and provide technical assistance. The
20 task force shall be created no later than 60 days after the date the
21 results of the referendum are certified. The consolidation shall be
22 implemented under the oversight of the board in accordance with
23 the consolidation plan approved by the board, unless an alternate
24 plan is approved by the board.

25 b. **【When】** If a consolidation plan provides that the
26 consolidated municipality will be subject to the provisions of Title
27 11A, Civil Service, of the New Jersey Statutes, the Civil Service
28 Commission is specifically authorized to create a consolidation
29 implementation plan to vest non-civil service employees, based on
30 the education and experience of the individuals, in appropriate titles
31 and tenure.

32 c. Whenever a referendum question to decide if a consolidated
33 municipality shall be subject to the provisions of Title 11A, Civil
34 Service, of the New Jersey Statutes, fails, the employees of a
35 municipality already subject to that Title shall be given non-civil
36 service titles in the new entity and previously held tenure shall be
37 vacated.

38 d. The Public Employment Relations Commission is authorized
39 to provide technical advice, pursuant to section 12 of
40 P.L.1968, c.303 (C.34:13A-8.3), to assist a new municipality and
41 existing labor unions to integrate separate labor agreements into
42 consolidated agreements and to adjust the structure of collective
43 negotiations units, as the commission determines appropriate for the
44 consolidated municipality.

45 e. If a consolidation has been approved by the voters, the
46 consolidated municipality shall recognize and preserve the
47 seniority, tenure, and pension rights of every full-time law
48 enforcement officer and firefighter who is employed by each

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1 participating municipality and who is in good standing at the time
2 the consolidation is adopted, and none of those law enforcement
3 officers or firefighters shall be terminated, except for cause;
4 provided, however, this provision shall not be construed to prevent
5 or prohibit a consolidated municipality from reducing the police or
6 firefighter force as provided by law for reasons of economy and
7 efficiency.

8 f. A consolidated municipality may provide for the
9 appointment of a chief of police or other chief law enforcement
10 officer, or a chief or other superior officer of any paid or part-paid
11 fire department. If such officer is appointed, the consolidated
12 municipality shall provide that any other person who served as the
13 chief of police or other chief law enforcement officer, or chief or
14 other superior officer of any paid or part-paid fire department, in
15 one of the participating municipalities at the time the consolidation
16 is adopted may elect either:

17 (1) to accept a demotion of no more than one rank without any
18 loss of seniority rights, or any impairment of tenure or pension
19 rights; or

20 (2) to retire from service.

21 A person who elects retirement shall not be demoted, but shall
22 retain the rank of chief of police or other chief law enforcement
23 officer, or chief or other superior officer of any paid or part-paid
24 fire department, and shall be given terminal leave for a period of
25 one month for each five-year period of past service as a law
26 enforcement officer or firefighter with the participating
27 municipality. During the terminal leave, the person shall continue
28 to receive full compensation and shall be entitled to all benefits,
29 including any increases in compensation or benefits, that the person
30 may have been entitled to if the person had remained on active duty.

31 g. If one or more of the participating municipalities have
32 adopted Title 11A, Civil Service, of the New Jersey Statutes, any
33 employee terminated for reasons of economy or efficiency by the
34 consolidated municipality shall be given a terminal leave payment
35 of not less than a period of one month for each five-year period of
36 past service as an employee with the participating municipality, or
37 other enhanced benefits that may be provided or negotiated. For the
38 purposes of this subsection, "terminal leave payment" means a
39 single, lump sum payment, paid at termination, calculated using the
40 regular base salary at the time of termination. Unless otherwise
41 negotiated or provided by the employer, a terminal leave benefit
42 shall not include extended payment, or payment for retroactive
43 salary increases, bonuses, overtime, longevity, sick leave, accrued
44 vacation or other time benefit, or any other benefit.

45 (cf: P.L.2008, c.29, s.103)

46

47 4. Section 28 of P.L.2007, c.63 (C.40A:65-28) is amended to
48 read as follows:

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1 28. a. **【If a revaluation of property for the consolidated**
2 **municipality is not implemented for the first local budget year of**
3 **the consolidated municipality, then the assessments on the**
4 **properties owned by the taxpayers of the former municipalities shall**
5 **be equalized for the apportionment of taxes for the consolidated**
6 **municipality, in the same manner as assessments are equalized for**
7 **the apportionment of county taxes.】** (Deleted by amendment,
8 P.L. , c.) (pending before the Legislature as this bill)

9 b. The owners of any residential property or residential tenants
10 of any municipality consolidated under sections 1 **【to】** through 37
11 of P.L.2007, c.63 (C.40A:65-1 et al.), or the "Municipal
12 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), who
13 experience a municipal or school district purposes real property tax
14 increase in the first tax year following the municipal consolidation
15 shall be entitled to annual property tax relief until such time as they
16 sell or transfer their home or no longer reside as tenants in the rental
17 unit they occupied just prior to the municipal consolidation. In the
18 case of the owner of residential property, the property tax relief
19 shall be reflected as a credit on the property tax bill equal to the
20 difference between the municipal and school district purposes real
21 property tax payable by the taxpayer for the tax year, subject to any
22 adjustment as determined necessary by the Director of the Division
23 of Local Government Services in the Department of Community
24 Affairs to reflect operating budgets for a normal pre-consolidated
25 fiscal year, and the municipal and school district purposes real
26 property tax billed to that taxpayer for the tax year during which the
27 consolidation is effectuated, as may be adjusted by the Director of
28 the Division of Local Government Services in the Department of
29 Community Affairs to reflect normal post-consolidation operating
30 budgets for the municipalities and school districts. In the case of a
31 residential tenant, the tax credit applied to an apartment property
32 shall be distributed to eligible tenants pursuant to the provisions of
33 the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2
34 et seq.) and this section. The total of all such relief in the
35 municipality shall be paid by the State to the municipality on a
36 schedule determined by the Local Finance Board. For the purpose
37 of this subsection, a "normal" budget year shall be one that, in the
38 determination of the director, does not reflect expenses made in
39 anticipation of, or in implementation of, a municipal consolidation.
40 (cf: P.L.2007, c.63, s.28)

41
42 5. Section 29 of P.L.2007, c.63 (C.40A:65-29) is amended to
43 read as follows:

44 29. The provisions of sections 1 **【to】** through 37 of
45 P.L.2007, c.63 (C.40A:65-1 et al.) shall be liberally construed to
46 effectuate the intention of sections 25 through 28 of P.L.2007, c.63

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1 (C.40A:65-25 through C.40A:65-28). The board is empowered to
2 act to provide guidance, interpretation, make decisions, issue
3 orders, and to resolve disputes regarding these sections or the
4 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et
5 al.). **【Decisions】** Actions of the board may be appealed directly to
6 the Appellate Division of the Superior Court.
7 (cf: P.L.2007, c.63, s.29)

8
9 6. Section 1 of P.L.1995, c.376 (C.40:43-66.78) is amended to
10 read as follows:

11 1. The Legislature finds and declares that the consolidation of
12 sparsely populated municipalities into **【contiguous】** municipalities
13 having larger populations should be encouraged as a means to
14 reduce the costs of local government. The Legislature also finds
15 that there should be a simplified consolidation process when a
16 municipality seeking consolidation is sparsely populated and when
17 the resulting consolidated municipality will have the same form of
18 government as the municipality absorbing the sparsely populated
19 municipality.
20 (cf: P.L.1995, c.376, s.1)

21
22 7. Section 2 of P.L.1995, c.376 (C.40:43-66.79) is amended to
23 read as follows:

24 2. For the purposes of **【this act】** P.L.1995, c.376:
25 "Absorbing municipality" means a municipality into which a
26 **【contiguous】** sparsely populated municipality situate in the same
27 county intends to be consolidated pursuant to the provisions of
28 P.L.1995, c.376 (C.40:43-66.78 et seq.).
29 "Director" means the Director of the Division of Local
30 Government Services in the Department of Community Affairs.
31 "Consolidated municipality" means the single new municipality
32 that results from an affirmative consolidation effort pursuant to the
33 provisions of P.L.1995, c.376 (C.40:43-66.78 et seq.).
34 "Sparsely populated municipality" means a municipality with a
35 population of less than **【500】** 1,000 persons according to the most
36 recent federal decennial census.
37 (cf: P.L.1995, c.376, s.2)

38
39 8. Section 3 of P.L.1995, c.376 (C.40:43-66.80) is amended to
40 read as follows:

41 3. a. The governing body of a sparsely populated municipality
42 may adopt, by two-thirds vote of its full membership, an ordinance
43 **【proposing the municipality's consolidation into a contiguous**
44 **municipality】** authorizing the mayor to meet with the director, the
45 mayor of the absorbing municipality, and such municipal officials
46 as the director shall require from the sparsely populated

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1 municipality to formulate a plan to consolidate with an absorbing
2 municipality.

3 b. The clerk of a municipality that adopts an ordinance
4 pursuant to subsection a. of this section shall forward a copy of the
5 ordinance to the governing body of the absorbing municipality and
6 to the director within seven days of the effective date of the
7 ordinance.

8 c. **【If the】** The governing body of the absorbing municipality
9 **【consents to the consolidation it shall】** may, within 120 days after
10 receipt of the ordinance adopted by the governing body of the
11 sparsely populated municipality pursuant to subsection a. of this
12 section, adopt an ordinance **【consenting to consolidation】**
13 authorizing the mayor to meet with the director, the mayor of the
14 sparsely populated municipality, and such municipal officials as the
15 director shall require from the absorbing municipality to formulate
16 a plan to consolidate with the sparsely populated municipality by a
17 two-thirds vote of the full membership of the governing body and
18 shall forward a copy of the ordinance to the director and the clerk of
19 the sparsely populated municipality.

20 (cf: P.L.1995, c.376, s.3)

21

22 9. Section 4 of P.L.1995, c.376 (C.40:43-66.81) is amended to
23 read as follows:

24 4. a. Whenever the governing body of a sparsely populated
25 municipality **【with a population between 100 and 500 persons**
26 **according to the most recent federal decennial census】** and the
27 governing body of an absorbing municipality have both adopted
28 ordinances **【proposing and consenting to the consolidation of their**
29 **respective municipalities】** authorizing the formulation of a plan to
30 consolidate, the director shall meet with the mayors and such other
31 municipal officials as the director shall require from the sparsely
32 populated municipality and the absorbing municipality. In
33 consultation with the mayors, the director shall establish a timetable
34 for the completion of the plan to consolidate. Upon its completion,
35 the sparsely populated municipality and the absorbing municipality
36 shall publish a summary of the plan at least once in a newspaper of
37 general circulation in the municipalities and the complete plan on
38 the municipality's Internet website, if one exists, or, if one does not
39 exist, on the Internet website of the Department of Community
40 Affairs. Upon publication of the consolidation plan, the
41 **【municipal】** clerk of each municipality shall cause the question of
42 consolidation to be submitted to the registered voters of each
43 municipality on the date for the next general or regular municipal
44 election occurring not less than 60 days after the **【adoption of the**
45 **ordinance of the absorbing municipality】** publication of the
46 consolidation plan. At that election, the question shall be submitted

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1 in the same manner as other public questions in each such
2 municipality, and in the following form or such part thereof as shall
3 be applicable:

4 "Shall (insert the names of the municipalities) be consolidated
5 into a single municipality to be known as (insert name of absorbing
6 municipality) and governed under (insert the present plan or form of
7 government of the absorbing municipality) pursuant to the
8 consolidation plan?"

9 b. The question submitted pursuant to subsection a of this
10 section shall be deemed approved and adopted only if a majority of
11 those voting on the question in each of the municipalities votes in
12 favor of the question.

13 c. The results of the election in each municipality in which the
14 question was submitted shall be certified in accordance with Title
15 19 of the Revised Statutes, and the county clerk shall, in turn, not
16 more than five days after said certification, notify the director of the
17 election results.

18 (cf: P.L.1995, c.376, s.4)

19

20 10. Section 5 of P.L.1995, c.376 (C.40:43-66.82) is amended to
21 read as follows:

22 5. a. Within 20 days of [either: (1) receipt of an ordinance
23 consenting to consolidation pursuant to subsection c. of section 3 of
24 P.L.1995, c.376 (C.40:43-66.80), with regard to a consolidation
25 involving a sparsely populated municipality with a population of
26 less than 100 persons according to the most recent federal decennial
27 census, or (2)] the certification of the results of elections approving
28 a consolidation pursuant to section 4 of P.L.1995, c.376 (C.40:43-
29 66.81), the director shall meet with the mayors and such other
30 municipal officials as the director shall require from the sparsely
31 populated municipality and the absorbing municipality.

32 b. In consultation with the mayors, the director shall establish a
33 timetable for the consolidation to become effective and shall make
34 such budget, financial, and educational district adjustments as shall
35 be required to complete the consolidation. The Commissioner of
36 Education also shall be consulted with regard to the adjustment of
37 educational district matters. The director shall also establish a
38 timetable for the preparation of a new official map of the
39 consolidated municipality showing the new boundaries.

40 c. The director, in consultation with the mayors, shall have all
41 of the powers of a consolidation commission under the ["Municipal
42 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.)]
43 "Uniform Shared Services and Consolidation Act," P.L.2007, c.63
44 (C.40A:65-1 et seq.).

45 (cf: P.L.1995, c.376, s.5)

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47 11. This act shall take effect immediately.

STATEMENT

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This bill would create greater flexibility in the municipal consolidation process, set forth in sections 25 through 28 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-28), in the following ways:

- non-contiguous municipalities would be permitted to consolidate if located within a reasonable distance of one another;
- applicants for consolidation would be allowed to develop their own process for the equalization of property assessments in the new municipality, subject to the approval of the Director of the Division of Taxation in the Department of the Treasury;
- districts based on old or newly established boundaries with unique planning mechanisms, services, and ordinances would be permitted in the new municipality;
- existing debt, or debt newly created by any financial arrangement between any or all of the former municipalities in furtherance of any aspect of a consolidation plan, may be apportioned among the taxpayers of the consolidating municipalities as debt within special taxing districts in any manner that the parties mutually agree upon in the consolidation plan;
- consolidating municipalities would be permitted to enter into any financial or other agreement to adjust benefits between the municipalities, provide indemnification from legal actions stemming from a consolidation, or provide incentives or other acts to facilitate municipal consolidation; and
- a joint public hearing on applications for consideration of a consolidation plan or to create a Municipal Consolidation Study Commission would no longer be required.

The bill provides greater clarity with respect to the municipal consolidation process in the following ways:

- clarification of the petition process for the creation of a Municipal Consolidation Study Commission, by providing specifics as to the form of the petition, its filing, and its verification, consistent with requirements for a petition proposing the formation of a joint municipal consolidation study commission under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.);
- provision of specific requirements with regard to the composition, meetings, and responsibilities of a Municipal Consolidation Study Commission;
- clarification that a consolidation must be implemented in accordance with the consolidation plan under the oversight of the Local Finance Board;
- clarification that a Municipal Consolidation Study Commission report must address the implementation issues set forth in subsection a. of section 26 of P.L.2007, c. 63 (C.40A:65-26);

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- 1 • the Director of the Division of Taxation would be expressly
2 permitted to waive any law, rule, or regulation concerning the
3 assessment of property that may not have anticipated a phase-in or
4 consolidation of services if a waiver is found reasonable to further
5 the process of consolidation, as may already be pursued through a
6 referral to the agency pursuant to provisions of existing law;
- 7 • the Local Finance Board would be expressly permitted to, in
8 making decisions concerning consolidation, pursue a waiver of a
9 law, rule, or regulation that may not have anticipated a phase-in or
10 consolidation of services through referral of the matter to the
11 appropriate agency pursuant to provisions of existing law; and
- 12 • the Local Finance Board would be expressly authorized to
13 make decisions and issue orders regarding consolidation.

14 The bill permits the designation of an administrative support
15 entity to handle the administrative affairs of the Municipal
16 Consolidation Study Commission so that the commission can focus
17 on its work in creating a consolidation plan. An administrative
18 support entity would be subject to the provisions of P.L.1963, c.73
19 (C.47:1A-1 et seq.), more commonly known as the “Open Public
20 Records Act.”

21 The bill requires a referendum in a new municipality on whether
22 to have a municipal open space tax, and the amount or rate of such
23 tax, if one or more of the consolidating municipalities has an annual
24 open space tax levy, even if all the consolidating municipalities
25 have an open space tax at the same rate.

26 The bill requires that an application to create a Municipal
27 Consolidation Study Commission include the proposed means of
28 funding the study.

29 The bill requires that a consolidation plan and a Municipal
30 Consolidation Study Commission report address the projected
31 property tax impact resulting from consolidation.

32 The bill provides certain seniority, tenure, pension, and other
33 protections for law enforcement officers and chiefs of police and for
34 firefighters and fire chiefs in a consolidation, consistent with the
35 protections for law enforcement officers and police chiefs current
36 law provides in the case of shared services and joint contracts.

37 The bill requires that, whenever one or more of the participating
38 municipalities is subject to Civil Service, terminal leave payments
39 be made to employees who were terminated for reasons of economy
40 and efficiency as a result of a consolidation, consistent with the
41 existing terminal leave requirement for shared services and joint
42 contracts.

43 The bill requires the voters of each participating municipality to
44 approve of a proposed consolidation in order for it to be
45 implemented, regardless of whether it is proposed by the governing
46 bodies of the municipalities or a petition-created Municipal
47 Consolidation Study Commission. Current law only requires
48 approval of a consolidation by voter referendum if a consolidation

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1 is pursued by a Municipal Consolidation Study Commission created
2 by applications of the governing bodies of the municipalities.

3 Lastly, the bill also revises the procedures for the consolidation
4 of a sparsely populated municipality pursuant to P.L.1995, c.376
5 (C.40:43-66.78 et seq.). These revisions include changing the
6 definition of a "sparsely populated municipality" to include a
7 municipality with a population of less than 1,000. Current law
8 defines such municipality as one with a population of less than 500.
9 The revisions also include requiring voter approval for a sparsely
10 populated municipality with a population of less than 100. Current
11 law allows such municipality to consolidate by ordinances adopted
12 by the governing bodies of the participating municipalities. The
13 revisions also require the formulation of a plan to consolidate a
14 sparsely populated municipality with an absorbing municipality.