



LFN 2017-25

December 8, 2017

Local Finance Notice

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Implementation of County Entity Budget Request Cap: 2018 Update

[P.L. 2015, c. 249](#), signed into law on January 19, 2016, limits to 2% the annual increase in the portion of budget requests from the following county entities that are funded by the county property tax levy:

- Prosecutor
- Sheriff
- Clerk
- Surrogate
- Register of Deeds and Mortgages
- Superintendent of Elections
- Board of Elections
- Board of Taxation

This Notice repeals and replaces Local Finance Notice 2017-03, providing updated guidance on implementing the county entity budget request cap for 2018 county budgets and beyond.

Baseline for Measuring the 2% County Entity Budget Request Cap

The increase in the portion of a county entity's budget request funded by the county tax levy shall be limited to two percent (2%) of the previous year's county entity budget request, subject to certain limited exceptions. The law does not give any county entity the ability to submit a budget request to a county governing body that exceeds the cap.

Starting with 2018 county budgets, the cap shall be applied by measuring current year anticipated revenue against the prior year adopted budget appropriations, rather than against prior year appropriations paid/charged plus encumbrances and reserve amounts. The limitation on transfers established by [N.J.S.A. 40A:4-45.38](#) does not apply to the county entity budget request cap.

In those situations where non-property tax based revenues fully funded a county entity's prior year budget request, but are not expected to fully fund the county entity's upcoming year's budget request, the county entity can certify a base amount to be signed off on by the County's Chief Finance Officer and approved by the governing body.

Budget Request Cap Exceptions

There are five exceptions to the county entity budget request cap as described below.

Limited Collective Bargaining Agreement Exception

Increases in a county entity's budget request attributable to the county's obligations under a collective bargaining agreement in effect on January 19, 2016 (the effective date of P.L. 2015, c. 249) may be excluded from the budget request. Increases as a result of collective bargaining agreements entered into after January 19, 2016 do not fall within this exception and must be taken into account in the budget request cap.

Applicability of 2% Property Tax Levy Cap Exceptions

The exceptions to the 2% property tax levy cap set forth in N.J.S.A. 40A:4-45.45(b) apply to the budget request cap as well. These exceptions are as follows:

- Capital expenditures, including debt service
- Increases in pension contributions, and accrued liability for same, in excess of 2%
 - Increases over 2% in pension costs attributable to early retirement, prepayment of deferred pension obligations, and LOSAP appropriations fall within this exception.
 - Increased costs to a shared service agreement, pursuant to certifications by service provider, can be included under this exception.
- Health benefit coverage cost increases in excess of 2 percent, but no greater than the average percentage increase in the State Health Benefit Program (SHBP)
 - Increased costs to a shared service agreement, pursuant to certifications by service provider, can be included under this exception.
 - Increases in costs attributable to health insurance waiver payments shall not be treated as exclusions.
- Extraordinary costs directly related to a declared emergency, as defined by N.J.A.C. 5:30-3.9, included in the county office budget request under the temporary budget and temporary emergency (N.J.S.A. 40A:4-19, N.J.S.A. 40A:4-20).

These exceptions as well as the limited collective bargaining agreement exception identified above will not be relevant for a county entity's budget request if the costs that fall within those exceptions are budgeted under the county's central budget.

Specific Cap Exception for "Election Expenses"

The budget request cap law also creates an exception for "election expenses" incurred by the following county entities: County Clerk, Superintendent of Elections and Board of Elections.

Election expenses are defined as all necessary expenses related to election costs and the administration, preparation and implementation of all elections, including:

All vendor-related contract services	Printing and supplies
Voting machine maintenance, repairs, parts and equipment, certification and technical coding	Advertising costs certified by the county clerk, superintendent of elections and board of elections
Transportation of voting machines and election supplies	Poll workers, machine technicians and other temporary workers
Staff overtime related to election duty	Postage
Food services during election	Office equipment

Staff salaries are excluded from the definition of “election expenses” for purposes of this cap exception.

Freeholder Board Resolution to Exceed the County Entity Budget Request Cap

Once the county governing body receives the cap-compliant budget request, the governing body at that point has the discretion to determine whether to allow a county entity to exceed the limit imposed by the cap. However, the governing body’s discretion is limited by the levy cap laws set forth in the 1977 and 2010 levy cap laws ([N.J.S.A. 40A:4-45.4](#) and [40A:4-45.45](#), respectively). These levy cap laws still apply and limit the county’s tax levy.

If a county governing body allows a county entity budget request to exceed the limit imposed by the cap, then the governing body shall adopt a [resolution](#) to that effect stating the amount of the increase, the extent to which the increase exceeds the budget request cap, and a statement that the governing body has determined that the increase in the budget request cap shall not cause the county to exceed the levy caps set forth in the 1977 and 2010 levy cap laws. **If the governing body intends the increase to become the base from which subsequent county entity budget request increases are to be measured, the resolution must expressly state that; otherwise the maximum statutorily permitted budget request increase for the prior year shall serve as the base.** The county entity budget request cap workbook must display both the percentage and dollar amounts by which the property tax-funded budget request has increased as a result of the base year adjustment.

If a county entity was permitted by resolution to exceed the budget request cap in 2017, such an increase can be incorporated into the 2018 base upon the governing body adopting a resolution stating as much.

County Entity Budget Request Cap Workbook

The Division is incorporating an updated county entity budget request cap workbook into its upcoming Financial Automation Submission Tracking (FAST) solution for county budgets. This means that the workbook will be incorporated as part of the electronic county budget submission, rather than attaching the former workbook; however, an [Excel version](#) of the new workbook is provided for budget preparation purposes. **The Division will not authorize the adoption of a county budget unless the cap workbook for each county entity is completed and demonstrates compliance with the budget request cap law.**

Impact of a County Prosecutor “Bigley Action” on the County Entity Budget Cap Law

N.J.S.A. 2A:158-7 permits a County Prosecutor to seek approval from their County’s Assignment Judge to exceed the budget request approved by the freeholders, commonly known as a “Bigley Action”. The budget request cap law does not abolish the Bigley Action; however, the law now requires an Assignment Judge to weigh the financial impact of the request on the county’s governing body, taxpayers and residents, along with the impact on the limitations imposed upon the county’s property tax levy by the 1977 and 2010 levy cap laws (N.J.S.A. 40A:4-45.4 and N.J.S.A. 40A:4-45.45, respectively) in determining whether to grant the Prosecutor’s request.

Frequently Asked Questions

What is the impact on collective bargaining units that had contracts in effect as of January 19, 2016, the effective date of the budget request cap law?

Any increases resulting from a collective bargaining agreement that was in effect as of January 19, 2016, and remains in effect during the 2018 budget year, are subject to the budget request cap exception. Any increases attributable to collective bargaining agreements ratified after January 19, 2016 are **not** exceptions and must be accounted for in ensuring that the budget request cap is not exceeded.

Does the budget request cap law apply to centralized expenses not included in the individual budget requests of the county entities impacted by the cap law?

No. The budget request cap law does not apply to expenses not included in the property-tax funded portion of the county entity budget request presented to the governing body. However, keep in mind that the 1977 and 2010 levy cap laws (N.J.S.A. 40A:4-45.4 and N.J.S.A. 40A:4-45.45 respectively) still apply and serve to limit the county’s property tax levy.

How does the budget request cap law apply when a county entity’s revenue completely covers their individual operating budget?

The budget request cap law applies only to that portion of a county entity’s budget request funded by the county’s property tax levy. If the entirety of a county entity’s budget request is funded by revenue other than the county levy (e.g. fees, federal or State funds), that county entity’s budget request would not be subject to the budget cap law.

Can a county entity “bank” any unused portion of their budget request cap for use in future years?

No. The county entity budget request cap law does not permit the “cap banking” mechanism set forth in the 2010 levy cap law (N.J.S.A. 40A:4-45.45(a)).

Approved: Timothy J. Cunningham, Director

Document	Internet Address
Budget Request Cap Workbook (Excel)	http://www.nj.gov/dca/divisions/dlgs/programs/mc_budgets.html
Resolution Authorizing County Entity to Exceed Budget Request Cap	http://www.nj.gov/dca/divisions/dlgs/programs/mc_budgets.html