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Local Finance Notice

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2019 Fire District Budget & Elections Guidance

This Notice discusses the fire district budget process for 2019 along with the implementation of [P.L. 2017, c.206](#), signed into law on August 7, 2017, which permits fire districts to shift their elections to the November general among other key changes.

2019 Fire District Budget Preparation & Submission

The following fire district budget documents for calendar year 2019 are now available for download on the [Division of Local Government Services website](#):

- Fire District Budget Excel Workbook (financial pages and informational schedules)
- Fire District Budget Word Documents (certifications, resolutions, informational questionnaires)
- 2019 Fire Budget Instructions and Budget Calendar

The complete Fire District Budget Package includes all related forms and numbered pages that constitute the complete budget document. Please download both the Excel and Word document files. All pages and schedules are numbered and must be assembled in the order set forth in the 2019 Fire Budget Instructions.

Each fire district is required to submit its budget on the forms provided by the Division. Any fire district that submits a budget for calendar year 2019 on an outdated form will be required to re-submit the budget on the correct form.

All preparers should make a detailed review of the forms and instructions before attempting to complete them. Input is only permitted in yellow highlighted cells of the Excel budget workbook; data entered into these cells will carry through to the remainder of the workbook. Do not attempt to enter any data into cells that are not highlighted, attempt to change any formulas in the workbook, or attempt to override the protection in the workbook. This will interfere with the function of the workbook and will result in an incomplete and/or incorrectly prepared budget.

Compliance with 2010 Levy Cap Law

A fire district's introduced budget must be balanced as well as at or under the levy cap established pursuant to the 2010 levy cap law (N.J.S.A. 40A:4-45.45). The budget message on Page N-1 must indicate if the district plans to put a levy cap increase question before the voters. An introduced budget requiring referendum questions must include separate line item appropriations to be funded by the tax levy increase proposed by the referendum. **For the health insurance cost increase exception, the State Health Benefits Program (SHBP) rate increase in 2019 is 4%.**

Please note that any cancelled or unexpended referendum line items (if a levy cap referendum was successful in the prior budget year), as well as unexpended line items relating to levy cap exclusions, will be deducted from the adjusted levy based on the audit report or as noted in the budget message. Any referendum line item funds left unexpended at the end of the fiscal year must be cancelled at year end, unless reserves are justified to the Division. If balances are found during review of the following year's budget, the Division will order cancellation of said balances and the levy cap will be adjusted accordingly.

Appendices A through C contain detailed information on complying with the 2010 levy cap law.

Capital Appropriations

Non-financed capital appropriations must be approved at a 2018 special meeting to be included in the 2019 introduced budget. Financed capital appropriations must first be put before voters as a public question either at the annual election or a special election, and subsequent to the vote the district must apply to the Local Finance Board for issuance of positive findings. Forms are available on our web page to certify the results of a special meeting or public question.

Please note that capital appropriations listed on Page F-5 of the Excel Budget Workbook requires:

- The date of the voter election;
- The percentage of affirmative votes for each capital item;
- The date of Local Finance Board issuance of findings (if financing required); and
- Restricted, unrestricted and/or grant revenue utilized for capital purposes (all are considered in calculating the levy cap).

The District must state in the budget message whether it plans to utilize unrestricted or grant revenue to purchase capital items.

Grants

For grants awarded prior to budget introduction, include the anticipated grant revenue in the budget along with the corresponding grant appropriation. Grants awarded subsequent to budget introduction will be processed as a budget amendment either at the public hearing or at any time after final adoption as allowed by N.J.S.A. 40A:14-78.5(e).

Transmittal of Budget to Director; Budget Adoption

Each fire district shall transmit two certified copies of the introduced annual budget to the Director of the Division of Local Government Services at least sixty (60) days prior to February 16, 2019 (the

third Saturday in February). All required budget documentation must be consistent with the introduced budget. **Due to the high volume of fire district budgets, the Division strongly recommends that fire districts submit their introduced budgets as early as possible rather than waiting until the statutory due date.**

Pursuant to N.J.S.A. 40A:5A-15, all fire district annual audit reports were to be submitted the Division no later than May 7, 2018. The chairperson of the board of fire commissioners is required to prepare a synopsis of the audit and publish same at least once in a newspaper circulating in the fire district; the District must file a copy of the synopsis (and proof of publication) with the Division within 10 days after publication. N.J.S.A. 40A:5A-16. Within 45 days of receiving the annual audit, the board of fire commissioners shall certify by resolution that each member has personally reviewed the audit report, with a majority of the board's full membership signing a group affidavit accepting the audit. A corrective action plan is also required if the audit report includes findings. The resolution, group affidavit, and any corrective action plan shall be submitted to the Division within 45 days after receipt of the audit. Please verify that all of these documents related to the audit were filed with the Division before submitting the 2019 Introduced Budget, as budgets cannot be examined and approved without these documents. Please review [Local Finance Notice 2014-13](#) for further information on fire district annual audit requirements.

No fire district budget shall be finally adopted until the Director approves same. The budget shall be adopted no later than twenty-five (25) days prior to February 16, 2019. Two certified copies of the budget as adopted, including Pages C-7 and C-8, must be transmitted to the Director within seven (7) days after adoption. In addition, each fire district must submit a pdf copy of the complete adopted budget package to both authoritiesunit@dca.nj.gov and melissa.ford@dca.nj.gov with the name of the fire district in the subject line of both emails.

Election results, along with a copy of the ballot, shall be submitted to the Director within five (5) days after an annual election held on the third Saturday in February. Failure to submit the election results and sample ballot will delay the certification of the tax levy to the municipal assessor. When a discrepancy exists between the levy in the adopted budget and the levy approved by the voters on the ballot, the Division will certify the lesser amount.

Implementation of FAST Solution for Fire Districts

The new web-based Financial Automation Submission Tracking solution (FAST) will eventually facilitate wholly electronic budget submission for all local unit budgets. In order to further pilot the FAST fire district platform, the full rollout of FAST for fire districts is being scheduled for the 2020 budget cycle rather than the upcoming 2019 budget cycle.

How P.L. 2017, c.206 Impacts Fire Districts

In summary, P.L. 2017, c.206 impacts fire districts in the following ways:

- Commencing with the 2019 general election, fire districts may now move their annual fire commissioners election to coincide with the November general;

- For fire districts moving their annual elections to the November general:
 - the fire district's budget will no longer require voter approval, but the budget adoption timeline remains unchanged;
 - referendums to exceed the two percent (2%) levy cap and release restricted fund balance will continue be held on the third Saturday in February of the budget year in which the levy increase would apply, and shall notify the County Clerk of the need to conduct the referendum(s) at least 60 days prior to the third Saturday in February;
 - starting in 2019, special meetings to approve capital appropriations for inclusion in the next succeeding annual budget (N.J.S.A. 40A:14-84) will have more stringent notice requirements, but will only require a two-thirds (2/3) majority vote of the board of fire commissioners' full membership in lieu of a public vote by registered voters attending the meeting.
- For fire districts whose annual elections remain on the third Saturday in February:
 - the voters must still approve the fire district budget;
 - special meetings to approve capital appropriations for inclusion in the next succeeding annual budget (N.J.S.A. 40A:14-84) would still require public vote, but starting in 2019 voting must be by secret ballot and open from the hours of 6PM to at least 9PM (or a later closing hour on the same day).
- Starting in 2019, a fire district may conduct a special meeting or hold a special election to authorize capital appropriations for buildings other than firehouses, such as those for administrative, communications, training, and fire apparatus maintenance purposes.
- The law clarifies that a debt or liability other than a bond issue, including but not limited to a lease-purchase agreement, is subject to voter approval under N.J.S.A. 40A:14-85.

In order for a fire district to shift its board of fire commissioners election to coincide with the November 2019 general election, and thus avoid holding a vote on the budget and fire commissioners on February 16, 2019: 1) the fire district must encompass the entire municipality; and 2) the board of fire commissioners must adopt a resolution by no later than the submission of their approved budget or sixty (60) days prior to February 16, 2019, whichever is earlier. A copy of the resolution shall be submitted to the Division, the municipal clerk, and to the board of elections of the county in which the fire district is situated. **Pursuant to N.J.S.A. 40A:14-72, a fire district whose annual election coincides with the November general cannot hold a levy cap referendum or restricted fund balance referendum unless the district notifies the county clerk at least 60 days prior to the third Saturday in February.**

Where a municipality has multiple fire districts, and one or more districts seek to shift their annual election to the November general, the district or districts must notify the county board of elections, who must then determine whether the boundaries of the fire district(s) coincide with existing

election district boundaries. If the boundaries of the fire district do **not** coincide with existing election districts, either:

- the county board of elections may revise or adjust the boundary lines of any election district to coincide with the fire district's boundaries; or
- subject to the adoption of an authorizing municipal ordinance, the Board of Fire Commissioners may also revise or adjust the boundaries of the fire district to coincide with election district boundaries.
 - Any fire district whose boundaries have been adjusted to facilitate November elections shall notify the Division of Local Government Services of the boundary change.
 - The subdivision of a single fire district into multiple districts, or the consolidation of multiple fire districts into a single district, to facilitate a November fire district election is permitted but requires prior Local Finance Board approval.

If the annual fire district election has been shifted to November, the terms of the fire commissioners then in office would be extended to until 12 Noon on the first Tuesday in December of the years in which their terms expire. Annual fire district elections held in November would be generally conducted in accordance with the procedures provided for the general election in Title 19, as would the nomination of candidates for the Board of Fire Commissioners. Any borrowing subject to voter approval pursuant to N.J.S.A. 40A:14-85 also may be voted on at the November election, with the question placed on the ballot in accordance with Title 19.

A number of the [Fire District Budget Word Documents](#) have been amended to facilitate November fire district elections. Please review this Notice in conjunction with pages 6 through 9 and Appendix of [Local Finance Notice 2017-23](#) for further details on the implementation of [P.L. 2017, c.206](#).

Post-Budget Adoption – Successful Levy Cap Referendum

Once a levy cap referendum is approved by the voters, transfers to or from referendum line item appropriations are not permitted at any time. Referendum line items are only expended after the base line item amount is depleted. Any referendum line item funds left unexpended at the end of the fiscal year must be cancelled at year end, unless reserves are justified to the Division. The Division will order the cancellations if balances are found during review of the following year's budget, and the levy cap will be adjusted accordingly.

Post-Adoption Budget Amendments – Special Items of Revenue

N.J.S.A. 40A:14-78.5 establishes a process for fire districts, similar to that of municipalities and counties, to seek Director approval to insert special items of revenue into their budgets after the budget is adopted. While the new revenue item may have been made available by any private or public funding source, the amount of the corresponding appropriation cannot exceed the amount of

revenue received. See [Local Finance Notice 2012-11](#) for a detailed explanation of this process.

Accounting for Use of Municipal Appropriations to Fire District

Effective for CY2017/SFY2018 and CY2018/SFY2019 municipal budgets, a COLA adjustment of **one-half percent (.5%)** has been applied to adjust the annual maximum municipal appropriation to a board of fire commissioners to **\$150,750**. In any municipality where there are more than three fire districts, the municipality may appropriate an additional \$50,000 annually for each fire district. As discussed in [Local Finance Notice 2017-6R](#), N.J.S.A. 40A:14-34 requires a fire district to use at least 50% of the municipality's contribution for the purchase of fire equipment, materials and supplies. N.J.S.A. 40A:14-34 further requires the fire district to provide the municipal governing body, on an annual basis, an accounting of the use of all funds so appropriated.

Fire District Website/Webpage Requirement

N.J.S.A. 40A:14-70.2 requires all fire districts to maintain an internet website or a webpage on their municipality's website that contains certain information as described in the statute. Please review the statute to determine that all required content is displayed on the fire district's website or webpage. An authorized officer of the fire district must certify on the budget form that the fire district's website or webpage complies with the minimum statutory requirements of N.J.S.A. 40A:14-70.2. **No fire district budget will be approved unless its website is certified to be fully compliant with N.J.S.A. 40A:14-70.2.**

GovConnect

The Division requires all fire districts to have at least one official enrolled in the internet-based GovConnect network (through the State's "My New Jersey" portal) to receive Division and other state government information via e-mail on a timely basis. District leadership should make sure an appropriate individual is enrolled. District leadership can contact the GovConnect Help Desk at egg@dca.state.nj.us to register for GovConnect if not already registered.

Approved: Melanie R. Walter, Acting Director

Document	Internet Address
Fire District Budget Forms	http://www.nj.gov/dca/divisions/dlgs/programs/au_budgets.html
P.L. 2017, c.206	https://www.njleg.state.nj.us/2016/Bills/PL17/206_.PDF
Local Finance Notice 2017-23	https://www.nj.gov/dca/divisions/dlgs/lfns/17/2017-23.pdf
Local Finance Notice 2011-36	http://www.nj.gov/dca/divisions/dlgs/lfns/11/2011-36.doc
Local Finance Notice 2012-11	http://www.nj.gov/dca/divisions/dlgs/lfns/12/2012-11.doc
Local Finance Notice 2013-7	http://www.nj.gov/dca/divisions/dlgs/lfns/13/2013-7.pdf
Local Finance Notice 2014-13	http://www.nj.gov/dca/divisions/dlgs/lfns/14/2014-13.pdf
Local Finance Notice 2017-6R	https://www.nj.gov/dca/divisions/dlgs/lfns/17/2017-6R.pdf

APPENDIX A

1. Fire District Property Tax Levy Cap

N.J.S.A. 40A:4-45.44 through 45.47 establishes a formula that limits increases to the amount to be raised by taxation (tax levy) in all local units that raise property taxes (municipal, county and fire districts) to no more than two percent (2%), subject to certain exclusions.

Levy Cap Formula

Starting with the prior year Fire District Tax Levy:

- **Deduct** any one-year exclusions.
- **Add/deduct** the net cost increase or decrease if service delivery is transferred from one government agency to another (service transfer). Please consult with the Division for additional guidance if this provision will be used.
- **Add** two percent (2%) of the sum of the previous steps.
- **Add** to the tax levy the district tax value of added assessments as certified by the Tax Assessor based on the October 1 added assessment tax billing.
 - The Municipal Tax Assessor will prepare a certification based on the boundary of each fire district in a municipality.
- **Add General Exclusions** – General exclusions, which are described in further detail in Appendix “B”, are as follows:
 - Increases in debt service and capital expenditures
 - Appropriation increases for capital improvements are permanent levy cap exclusions regardless of funding method. This includes year-to-year increases in debt service, capital leases, down payments, and Reserve for Future Capital Outlay.
 - Extraordinary costs incurred by a local unit directly related to an emergency declared by the Governor.
 - Increases in pension contributions and accrued liability for pension contributions in excess of two percent (2%).
 - Health benefit cost increases in excess of two percent (2%) but limited by the increase in the State Health Benefit Program rate as annually determined by the Division of Pension and Benefits. **For 2019, the SHBP increase percent is 4%.**

While some levy cap exclusions are treated as permanent add-ons, others will only be exclusions for the life of the specific appropriation.

Shared Service Agreements: The Division has determined that recipients of shared services may exclude from their levy cap calculation increases the provider elects to pass on to the recipient fire district for the above-referenced general exclusions. If such cases, the provider must certify to their recipients the specific increases in service charges in their budget, the amount passed along to their recipients who must budget the increases. The fire district receiving the service **may** incorporate such certified costs as levy cap exclusions on Page F-11 on the Excel budget workbook.

Service Transfers: A service transfer occurs when one local unit transfers the responsibility and the cost of funding a service to another local unit or to a subordinate agency of the local unit, such as a utility or authority. The transferring local unit no longer has the responsibility of funding the cost of the service, and as such there will be a levy cap base adjustment for both government entities (pro-rated as necessary for the period of time the transfer is in effect).

- Local unit transferring the service – the adjustment will be based on the prior year’s expenditure less offsetting revenues.
- Local unit now providing the service - the adjustment will be the current year appropriation less offsetting revenues the provider will receive.

Please note that the impact of service transfers on the levy cap calculation must also be described in the local unit’s budget message. **Shared services are not considered transferred services and will not result in levy cap base adjustments.**

Cap Bank: If a fire district’s actual amount to be raised by taxation is lower than the maximum allowable amount to be raised by taxation, the 2010 levy cap law’s “cap banking” provision permits a fire district to add the “banked” difference to its adjusted tax levy in any one of the three succeeding budget years. Levy cap bank certifications are available for the Districts to download from the GovConnect Portal’s Document Library section.

2. Levy Cap Referendum Questions

General Information

A fire district may increase their tax levy beyond the two percent (2%) levy cap, inclusive of all statutory exclusions, only if the question is placed before the voters in a referendum held on the third Saturday in February. The levy cap can be exceeded only if at least 50% + 1 of the voters approve the amount that would be added to the tax levy, in which case the added amount becomes an immediate addition to the district’s property tax levy and is part of the base amount for the following year.

To place a property tax levy cap referendum on the budget:

1. The introduced and approved budget submitted to the Division must include and identify the specific amounts and budget line items for which funds approved at referendum would be used.
2. A budget amendment may include items to be part of a referendum question.
3. The adopted budget contains all amounts to be put out for public vote.
4. At budget adoption, the board of fire commissioners must pass a resolution authorizing the referendum question. The resolution must be in the form of the model resolution included in this Notice.
5. The ballot must include the referendum question and explanatory statement in the form of the samples included in this Notice.

Public Question (N.J.S.A. 40A:4-45.46(b))

The public question for a cap levy referendum shall reference only the "Amount Proposed for Cap Levy Referendum that is part of the calculation of the Maximum Allowable Amount to be Raised by Taxation" as shown on the Levy Cap Summary (Page F-10 of the Fire District Budget Excel Workbook). The Public Question and Interpretative Statement to be placed on the ballot shall be as follows:

Public Question

"Shall the Board of Commissioners of *(name and number of fire district)* be authorized to adopt the *(insert year)* Fire District Budget, notwithstanding that its property tax levy will exceed the Property Tax Levy Cap Maximum Allowable Amount to be Raised by Taxation increase limitation by *(insert percent)* or *(insert dollar amount)* as provided by N.J.S.A. 40A:4-45.46b?

A "yes" vote will authorize the Board of Commissioners of the fire district to adopt the budget that was introduced and published. N.J.S.A. 40A:4-45.2 provides a property tax levy cap of two percent (2%) on the amount of increase. This amount can be exceeded when approved by referendum of the voters.

The following are those line items to which the increases apply:

(List line items)

...

If referendum is approved (a "yes" vote) by greater than 50 percent of the voters casting a vote at the referendum, the budget will be deemed adopted.

A "no" vote means that the District Board of Commissioners must adopt the budget within the increase limits set forth by the law.

(Insert here "any other such relevant information as the Board may wish to include" in the Statement.)"

Conduct of Election

For fire districts holding their annual election on the third Saturday in February, the Director of the Division of Local Government Services has determined pursuant to N.J.S.A. 40A:4-45.47 that the polling places and election shall be handled as part of the annual fire district election pursuant to N.J.S.A. 40A:14-72 et seq.

Those fire districts whose annual election has been shifted to coincide with the November general must hold a levy cap referendum on the third Saturday in February of the budget year in which the levy increase would apply. If the fire district fails to notify the County Clerk of the need to conduct a levy cap referendum at least 60 days of the third Saturday in February, the levy cap referendum cannot be held.

Enabling Resolution

The referendum must be authorized by Board of Commissioners resolution, a model of which is on the [Division's website](#). The resolution must include the following elements:

- A declaration of the amount of the increase above the maximum allowable amount to be raised by taxation otherwise permitted and the percentage increase over the maximum allowable amount the amount represents.
- The appropriation line items and the amount to be appropriated for each appropriation item if the voters approve the question and if the voters disapprove the question
- The language of the ballot question
- The interpretative statement for the ballot question
- Any other information the Board of Commissioners chooses to include

If planned at the time of introduction, the resolution must be approved by a majority of the full membership of the Board of Commissioners prior to introduction of the budget. A certified copy of the resolution is to be filed with the Division as part of the introduced budget. If the budget is amended prior to adoption and a referendum created or amended, the resolution must be adopted or amended as appropriate and filed with the Division.

The resolution must reflect a good faith effort on the part of the Board of Commissioners on its estimate of where the added spending will take place. The Attorney General's Office has provided the Division advice with regard to the amount to be appropriated in context of the amounts in the resolution if the voters disapprove the question; concluding that the information set forth in good faith in a resolution is designed to more fully inform the voters as to the question before them and not to limit the discretion of the Board of Commissioners in finally formulating its budget if the referendum is rejected. This provides the Board of Commissioners the flexibility to amend the budget to meet current needs if the referendum is rejected.

Release of Restricted Fund Balance – Referendum Resolution:

Restricted Fund Balance is the accumulation of funds that are reserved for use as capital improvements or as down payments for fixed asset acquisition. The amount is shown on Page F-9 of the Fire District Budget Excel Workbook. Restricted Fund Balance shall be used exclusively for its intended purpose so as to prevent circumvention of the 2010 levy cap law.

For certain unique circumstances, a Fire District could have a Restricted Reserve where the intended purpose is no longer essential. If so, a District that previously appropriated funds for restricted purposes, but now finds it advisable and necessary to release these funds for other unrestricted purposes may choose to release those funds from restriction. In that event, a public referendum is required.

This referendum question will ask the voters to approve the release of Restricted Fund Balance as General Unrestricted Revenue and will further request that those funds be appropriated in the proposed budget as a way to provide and maintain essential services for the District. The District must identify the appropriations for which this amount will be used. The vote will take place in the same manner as a Levy Cap Referendum.

APPENDIX B – 2010 LEVY CAP EXCLUSIONS

Statutory Exclusion	Application and Interpretation Notes
Capital expenditure increases	<ul style="list-style-type: none"> • Improvements financed under Local Bond Law provisions meeting the definition in the law – non-operating expenses with useful life of more than 5 years • All appropriations in the capital improvement section of the budget, including, but not limited to: <ul style="list-style-type: none"> ○ Capital leases, regardless of when entered into. ○ Capital cash appropriation in budget but excluding any appropriations that are offset with grant revenues ○ Deferred charges to future taxation unfunded (where an improvement is authorized and funding is provided from a budget appropriation in lieu of issuing debt service) • Increases in capital expenditure costs that are part of a shared service agreement; pursuant to service provider certification. • Capital expenditure exclusions are treated as permanent exclusions
Debt service increases	<ul style="list-style-type: none"> • All appropriations in the debt service section of the budget, including, but not limited to: <ul style="list-style-type: none"> ○ General Obligation, full faith and credit debt ○ Refunding bonds, regardless of purpose ○ Bond Anticipation Notes ○ Interest on Tax Anticipation Notes • Local Budget Law protected notes (N.J.S.A. 40A:4-75) <ul style="list-style-type: none"> ○ Emergency Notes as authorized under Local Budget Law ○ Special Emergency Notes • Debt service emergencies and down-payment emergencies • Increases in debt service that is part of a shared service agreement; pursuant to certifications by service provider. • Increases in debt service are treated as permanent exclusions (no reduction of base when debt is reduced, i.e., claw-back). • Any amounts that may be required to be paid to an authority, pursuant to a service agreement entered into between the authority and the fire district, and that is necessary for the authority to meet its debt service obligations (See Local Finance Notice 2011-36 for further details). • Local Budget Law protected notes will only be excluded for the time the emergency is funded.

Statutory Exclusion	Application and Interpretation Notes
Extraordinary costs relating to a declared emergency	<ul style="list-style-type: none"> • <u>N.J.A.C. 5:31-2.10</u> defines “extraordinary costs” as expenditures incurred for the immediate preparation, response, recovery, and restoration of public services due to extreme weather conditions or other catastrophic events that are the subject of a gubernatorial emergency declaration, and only for that portion of costs exceeding the cost of providing services under non-emergency conditions. • Such funds can be treated as one-time (non-permanent) property tax levy cap exclusions upon submission and review of certifications describing the expenditures to the Director of the Division of Local Government Services, and may be subject to adjustment to account for the receipt of any State or Federal reimbursements.
Pensions and Health Benefits	<ul style="list-style-type: none"> • All increases in PERS, PFRS, local system pension contributions, accrued liability, early retirement, prepayment of deferred pension obligations, and LOSAP appropriations over 2% are treated as permanent exclusions. Payments of deferred pension obligations are exclusions only for the life of the repayment; all other increases are permanent exclusions. • All increases in health insurance coverage over 2% and below the SHBP average increase are exclusions. • Increases in costs of health insurance waivers are not treated as exclusions. Beginning with FY 2011, costs related to health insurance waivers must be reflected as a separate line item in the budget. • Optionally, increases in pension and health benefits that are part of increased costs to a shared service agreement; pursuant to certifications by service provider.

APPENDIX C

2010 Local Unit Levy Cap Law

P.L. 2007, Chapter 62, as amended by P.L. 2008, Chapter 6 and as amended by P.L.2010, Chapter 44 (S-29 R1), approved July 13, 2010

(Additions from P.L. 2010, c.44 are underlined; deletions not shown)

40A:4-45.44 Definitions relative to property tax levy cap concerning local units.

For the purposes of sections 9 through 13 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.44 through 40A:4-45.47 and 40A:4-45.3e):

"Adjusted tax levy" means an amount not greater than the amount to be raised by taxation of the previous fiscal year, less any waivers from a prior fiscal year required to be deducted by the Local Finance Board pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46), that result multiplied by 1.02, to which the sum of exclusions defined in subsection b. of section 10 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.45) shall be added.

"Amount to be raised by taxation" means the property tax levy set in the annual budget of a local unit.

"Local unit" means a municipality, county, fire district, or solid waste collection district, but shall not include a municipality that had a municipal purposes tax rate of \$0.10 or less per \$100 for the previous tax year.

"New ratables" means the product of the taxable value of any new construction or improvements times the tax rate of a local unit for its previous tax year.

(cf: P.L. 2007, c.62, s.9)

40A:4-45.45 Cap on calculation of adjusted tax levy by local unit; exclusions.

10. a. (1) In the preparation of its budget the amount to be raised by taxation by a local unit shall not exceed, except as provided in paragraph (2) of this subsection, the sum of new ratables, the adjusted tax levy, and the total of waivers approved pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46); provided, however, that in the case of a county, the amount to be raised by taxation shall not exceed the amount permitted by section 4 of P.L. 1976, c.68 (N.J.S.A. 40A:4-45.4).

(2) A local unit that has not been granted approval for a waiver pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46), may add to its adjusted tax levy in any one of the next three succeeding years, the amount of the difference between the maximum allowable amount to be raised by taxation or county purposes tax, as applicable, for the current local budget year pursuant to paragraph (1) of this subsection and the actual amount to be raised by taxation or county purposes tax, as applicable, for the current local budget year.

- b. The following exclusions shall be added to the calculation of the adjusted tax levy:

increases in amounts required to be raised by taxation for capital expenditures, including debt service as defined by law;

increases in pension contributions and accrued liability for pension contributions in excess of 2.0%;

increases in health care costs equal to that portion of the actual increase in total health care costs for the budget year that is in excess of 2.0% of the total health care costs in the prior year, but is not in excess of the product of the total health care costs in the prior year and the average percentage increase of the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury; and

extraordinary costs incurred by a local unit directly related to a declared emergency, as defined by regulation promulgated by the Commissioner of the Department of Community Affairs, in consultation with the Commissioner of Education, as appropriate.

If there are no exclusions, then the amount of the difference shall reduce the adjusted tax levy by that amount. Any cancelled or unexpended appropriation for any exclusion pursuant to this subsection or waiver pursuant to section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46), also shall be deducted from the sum of the exclusions listed in paragraphs (1) through (6) or directly reduce

(cf: P.L.2009, c.19, s.4)

40A:4-45.45a Amounts raised to pay recycling tax treated as exclusion for calculation of adjusted tax levy.

4. Notwithstanding the provisions of section 10 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.45) to the contrary, amounts required to be raised to pay the recycling tax imposed by section 4 of P.L. 2007, c.311 (N.J.S.A. 13:1E-96.5) shall be treated as an exclusion that shall be added to the calculation of the adjusted tax levy.

L.2008, c.6, s.4.

40A:4-45.46 Public question submitted for approval to raise taxes above the limitation allowable.

11 a. (Deleted by amendment, P.L.2009, c.44)

b. (1) The governing body of a local unit may request approval, through a public question submitted to the legal voters residing in its territory to increase the amount to be raised by taxation by more than the allowable adjusted tax levy. Approval shall be by an affirmative vote of in excess of 50 percent of the people voting on the question at the election. The local unit budget proposing the increase shall be introduced and approved in the manner otherwise provided for budgets of that

local unit at least 20 days prior to the date on which the referendum is to be held, and shall be published in the manner otherwise provided for budgets of the local unit at least 12 days prior to the referendum date, unless otherwise directed by the Director of the Division of Local Government Services in the Department of Community Affairs.

(2) The public question to be submitted to the voters at the referendum shall state only the amount by which the adjusted tax levy shall be increased by more than the otherwise allowable adjusted tax levy, and the percentage rate of increase which that amount represents over the allowable adjusted tax levy. The public question shall include an accompanying explanatory statement that identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question; or, in the alternative and subject to the approval of the Director of the Division of Local Government Services in the Department of Community Affairs, a clear and concise narrative explanation of the circumstances for the increased adjusted tax levy being proposed.

(3) Unless otherwise provided pursuant to section 1 of P.L. 1989, c.31 (N.J.S.A. 40A:4-5.1), a referendum conducted pursuant to this subsection shall be held:

(a) for calendar year budgets only on the fourth Tuesday in January and the second Tuesday in March; and

(b) for fiscal year budgets, only the last Tuesday in September, or the second Tuesday in December.

(4) Any decision of the voters rejecting an increase to the tax levy cap under this subsection shall be final and conclusive, and no appeal or review shall be taken therefrom and no waiver application shall be made to the Local Finance Board.

(5) The director is authorized to act as necessary in order to consolidate ballot questions and procedures when a governing body elects to hold a referendum under both this section and section 9 of P.L.1983, c.49 (N.J.S.A. 40A:4-45.16).

c. (Deleted by amendment, P.L. 2010, c.44)

d. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of an activity performed by a local unit is transferred to or from a local unit, other government entity, or other service provider.

(cf: P.L. 2007, c.62, s.11); amended 2010, c.44, s.10; 2011, c.37, s.34; 2011, c.134, s.60.

40A:4-45.47 Actions taken by director to implement provisions concerning cap on the property tax levy; rules, regulations.

12. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall take such action as is deemed necessary and consistent with the intent of sections 9 through 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.44 through N.J.S.A 40A:4-45.46) to implement its provisions.

b. The director, in consultation with the Commissioner of Education regarding referendum dates, shall promulgate rules and regulations to effectuate the purposes of subsection b. of section 11 of P.L. 2007, c.62 (N.J.S.A. 40A:4-45.46).

L.2007, c.62, s.12.

13. This act shall take effect immediately and shall be applicable to the next local budget year following enactment.