

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

COMMUNITY AFFAIRS

(a)

LOCAL FINANCE BOARD

Local Authorities

Reproposed Readoption with Amendments: N.J.A.C. 5:31

Reproposed New Rules: N.J.A.C. 5:31-2.11 through 2.22, 5:31-2 Appendices A through J, and 6.2

Authorized By: Local Finance Board, Melanie R. Walter, Chair.

Authority: N.J.S.A. 40:14A-4.2, 40A:4-45.45, 40A:5-16, 40A:5-16.5, 40A:5-50, 40A:5A-10, 40A:5A-15, 40A:5A-26, 40A:14-72.2, 52:27BB-10, 52:27BB-28, 52:27BB-32, and 52:27BB-34.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-071.

Please submit written comments by October 2, 2020, via email to digs@dca.nj.gov or by regular mail to:

Patricia Parkin McNamara, Executive Secretary
Local Finance Board
Department of Community Affairs
PO Box 803
Trenton, NJ 08625-0803

For comments submitted via email, please include the subject heading "N.J.A.C. 5:31 Reproposed Chapter Readoption."

The agency proposal follows:

Summary

The Local Finance Board (Board) originally proposed to readopt N.J.A.C. 5:31 with amendments and new rules on December 17, 2018 (see 50 N.J.R. 2447(a)). Pursuant to N.J.S.A. 52:14B-5.1.d(1), Governor Murphy ordered that the expiration date for N.J.A.C. 5:31 be extended by 12 months from July 18, 2018 to July 18, 2019 (see 50 N.J.R. 1714(b)). The chapter expiration date was then extended 180 days from July 18, 2019 to January 14, 2020, pursuant to N.J.S.A. 52:14B-5.1.c(2), upon the filing of the original notice of proposal with the Office of Administrative Law. Pursuant to N.J.S.A. 52:14B-5.1.d(1), Governor Murphy again ordered that the expiration date for N.J.A.C. 5:31 be extended by 12 months from January 14, 2020 to January 14, 2021 (see 52 N.J.R. 199(a)).

N.J.A.C. 5:31 establishes a regulatory framework through which the Division of Local Government Services and its Local Finance Board exercise fiscal and operational oversight for 439 local authorities (180 fire districts and 259 other authorities). A number of amendments and new rules were proposed with the readoption, so as to bring the chapter up to date with various statutory and/or technological changes. Several

organizations offered comment on the initial notice of proposal. Those comments are summarized below along with the Board's responses:

Summary of Public Comments on Proposed Readoption and Agency Responses:

The commenters listed below submitted comments, which are summarized and responded to by the Board.

Peggy Gallos, Executive Director of the Association of Environmental Authorities (AEA)

1. COMMENT: The AEA is concerned that the authority budget form updates proposed for codification seek information only tangentially related to an authority's budget impacting the Local Finance Board's review of said budget. Specifically, the requirement at proposed N.J.A.C. 5:31-2.1(d)3 that an authority's "Budget Message and Analysis" include "a description of how the state of the local and regional economy may impact the proposed budget, including the capital budget and capital program" requires an authority to perform an economic analysis unrelated to the authority's spending and one that the authority is not qualified to perform. This requirement implies that there is a direct relationship between the condition of a local economy and the capital needs of a water, wastewater, or solid waste system. Rather, capital needs arise out of the normal aging of infrastructure, public health needs, as well as statutory, regulatory, and permit requirements. Infrastructure improvements being made during a stagnant economy could be misinterpreted by the public as unneeded wasteful spending.

RESPONSE: The Local Finance Board's rules concerning authority budget content aim to elicit information necessary to ascertain whether an authority's budget complies with laws governing authority budgeting and financial administration and an authority is fiscally sound. In addition, the rules seek to facilitate public understanding of an authority's fiscal condition.

The Board does not agree with the commenter's argument that the public would be misled by a discussion of the local and regional economy's impact on the authority's operations and capital program. The question of how the local and regional economy may impact an authority's proposed budget has been long-standing, with the proposed amendment codifying the added phrase "capital budget and capital program" to provide added clarity. Contrary to commenter's argument, the condition of the local and regional economy can have a direct impact on the authority's operating and capital budgets. In the context of a municipal utilities authority or sewerage authority, a faltering economy could negatively impact on the number or scale of ratepayers in a community (for example, a major business closing or moving away), as well as existing ratepayers' ability to keep current on rates; such economic events could negatively impact an authority's revenue and, thus, the authority's ability to sustain operations and key infrastructure. Economic growth in the form of increased development or redevelopment could increase the number of ratepayers and require added connections to the system.

N.J.A.C. 5:31-2.2(g)3 requires an authority to discuss its long-term infrastructure needs assessment, which can be used to summarize where capital improvements are necessary. In order to further enhance an authority's ability to explain the necessity of proposed capital projects, the Board will repropose N.J.A.C. 5:31-2.2(g)5 with an amendment that would allow an authority to explain other impacts in addition to those on rates, fees, and charges; this change would conform with the present wording of the authority capital budget message form.

The clarifying reference to "capital budget and capital program" at N.J.A.C. 5:31-2.1(d)3, and the amendment to paragraph (g)5 to permit a more global explanation of capital project impacts, enhance an authority's ability to explain its capital needs.

2. COMMENT: The commenter believes that the statute instituting revenue and appropriations caps on regional sewerage authorities (N.J.S.A. 40:14A-4.2) is flawed because the statute places regional sewerage authorities in the position of potentially violating wholesale service contracts, and further believes that the proposed regulations fail to remedy that flaw. Notwithstanding the above-referenced objection, the commenter recommends that in the definition of "regional sewerage authority," set forth at N.J.A.C. 5:31-1.2, delete the second redundant "regional" in the definition.

RESPONSE: The regional sewerage authority cap rules proposed by the Board are meant to promote responsible budgeting and help protect ratepayers from significant rate increases. The Board finds that the second "regional" in the definition of "regional sewerage authority" is needed for purposes of clarity.

Ryan R. Krause, Executive Director of the Southern Monmouth Regional Sewerage Authority

3. COMMENT: The stated rule changes are voluminous in nature, time consuming to accumulate and really have no relevance to the budget itself. Neither the preparer of the budget nor the chief executive officer of an authority have the necessary knowledge to certify whether an authority's governing body members, key and highly compensated employees, as well as independent contractors have not had a family or business relationship amongst one another; such certifications should come from the individuals themselves. Further, the Authority Informational Questionnaire is a document that, by accounting standards and audit protocol, is currently being prepared by an authority's auditors with additional questions proposed while reviewing the Authority's internal control system. The repeated preparation of this document has the potential to result in additional Authority administrative costs and/or costs associated with the preparation of the Authority's annual audit. Therefore, this questionnaire should be included in either the budget approval process or the audit, not both.

RESPONSE: The Board finds that the authority informational questionnaire codified at N.J.A.C. 5:31-2.1(m) is highly relevant to pinpointing authority expenses that may be vulnerable to waste, fraud, and abuse. However, upon further consideration the Board finds valid, the commenter's concerns about certain information sought in the questionnaire and its relevance to the budget process.

The Board acknowledges as valid, the commenter's concern about N.J.A.C. 5:31-2.1(m)3, which solicits from an authority "whether any individual listed on the schedule detailing public entity compensation for authority governing body members, key employees, highest compensated employees, and independent contractors had, or has, a family or business relationship with any other person listed on said schedule, along with a description of the relationship and their respective positions with the authority." Therefore, the Board will repropose N.J.A.C. 5:31 to exclude the initial notice of proposal's N.J.A.C. 5:31-2.1(m)3, as well as N.J.A.C. 5:31-2.4(k)1 (the equivalent provision for fire district budgets). The notice of reproposal will also exclude the initial notice of proposal's N.J.A.C. 5:31-2.1(m)13 and 2.4(k)10, which ask authorities and fire districts, respectively, to state their compliance with all continuing disclosure obligations pertaining to outstanding debt issuances, as a similar question is also proposed for inclusion in the audit questionnaire set forth at Subchapter 7 Appendix A.

N.J.A.C. 5:31-2.1(m)4 and 2.4(k)2, as proposed, ask whether all local government officers in authorities and fire districts, respectively, have filed Financial Disclosure Statements pursuant to the Local Government

Ethics Law, N.J.S.A. 40A:9-22.1 et seq. The Board will repropose N.J.A.C. 5:31-2.1 and 2.4 to limit this required disclosure to regional authorities, as regional authorities administer the Financial Disclosure Statement filing process directly. By contrast, the municipal clerk administers the filing process for municipal authorities (including fire districts) while either the freeholder board clerk or elected county clerk administers the process for county authorities. Therefore, N.J.A.C. 5:31-2.1(m)4 and 2.4(k)2 as proposed in the initial notice of proposal will not be included in this notice of reproposal. Instead, the Board will propose a new subsection (n) requiring regional authorities to disclose whether all local government officers have filed Financial Disclosure Statements. N.J.A.C. 5:31-2.1(m)16 as proposed in the initial notice of proposal, which pertains to housing authority disclosures connected to a HUD "troubled" classification, would be recodified as subsection (o) in the notice of reproposal. Subsection (n) (as codified in the original notice of proposal), which requires authorities to certify their compliance with the requirements of N.J.S.A. 40A:5A-17.1 concerning internet presence, would be recodified in the notice of reproposal to new subsection (p).

Finally, the Board will repropose N.J.A.C. 5:31-2.1(l) and 2.4(j) without the originally proposed N.J.A.C. 5:31-2.1(l)2 and 2.4(j)5, requiring authority and fire district budgets to display information on compensation paid to governing body members, key employees, highest compensated employees, and independent contractors from public entity employment outside of the authority. Upon further consideration, the Board has determined that only information concerning compensation from the authority itself is germane to the budget review process.

4. COMMENT: N.J.A.C. 5:31-2.19(a)4, which establishes as an exception to the regional sewerage authority appropriations cap energy cost expenditures in excess of two percent over those expenditures for the previous budget year, should be expanded to include similar increases in the cost of energy intensive items, such as treatment chemicals and sludge disposal.

RESPONSE: The Board has determined that limiting the term "energy costs" to the cost of energy itself, rather than the cost of energy inputs, is consistent with the legislative intent of N.J.S.A. 40:14A-4.2. Further, extending the definition to apply to energy-intensive materials used by a regional sewerage authority would pose a significant administrative burden on the Division of Local Government Services' examination of a regional sewerage authority budget. Requiring the Division to parse out the increased cost of energy inputs on various materials would be unreasonable given the finite staff resources available for examining authority budgets.

5. COMMENT: Subsection (a) appears to be missing from N.J.A.C. 5:31-2.19(a)7.

RESPONSE: N.J.A.C. 5:31-2.19(a)7 is not divided into subparts. Subsection (b) listed underneath this paragraph is actually N.J.A.C. 5:31-2.19(b).

6. COMMENT: N.J.A.C. 5:31-2.21 should be amended, such that the exceptions to the appropriations cap for regional sewerage authorities are mirrored for the revenue cap.

RESPONSE: N.J.S.A. 40:14A-4.2 does not give the Board authority to promulgate additional revenue cap exceptions solely for the purpose of mirroring the statutory appropriations cap exceptions. The Board has promulgated revenue cap exceptions for regional sewerage authorities that do not expressly appear in the statute; however, the authority to promulgate such exceptions is discussed elsewhere in the responses to comments.

Diane Alexander, Esq. of Maraziti Falcon, LLP, on behalf of the Rockaway Valley Regional Sewerage Authority (RVRSA)

7. COMMENT: Requiring a capital program to be provided in addition to a capital budget will require additional expenditures related to annual engineering costs. Not only will authorities face increased costs to prepare the required documents, but also the Local Finance Board will incur additional costs in reviewing and commenting on the documents. The proposed legislation may have an impact on housing affordability due to the increased cost of compliance and limited resources of public entities. Further, the regulations fail to provide a definition for the term "capital program," as well as provide standards for the proper form of a capital program. Finally, the term "life cycle costs" as used at N.J.A.C. 5:31-

2.2(g)2 should be defined and must consider the replacement of prematurely failing equipment.

RESPONSE: The mandatory inclusion of an authority's capital program with its capital budget is a long-standing preexisting requirement, and one that is necessary for the Division of Local Government Services to ensure that planned capital projects are being adequately funded in the capital budget. The term "capital program" is already defined at N.J.A.C. 5:31-1.2 as "a projected, multi-year plan and schedule for capital projects, which shall set forth among other things all prospective financing sources including, but not limited to, proceeds of bond sales, grants and budget appropriations." This pre-existing definition will carry over unchanged into the readopted chapter. N.J.A.C. 5:31-2.2(g)4 states that the capital program period "shall include the budget year and the next five succeeding years," and the instructions accompanying the authority budget document specify the format in which the capital program shall be presented.

With respect to life cycle costs, the Cambridge Business English Dictionary defines the term "life cycle cost" as "the total money that has to be spent on a product, process, activity, etc. during its existence." The Board finds that historic use of this term in the authority capital budgeting context is consistent with this definition, and, therefore, declines to promulgate a definition for the term at this time. As the commenter does not explain the Authority's view of how premature equipment failure should be incorporated into the definition of "life cycle cost," the Board cannot respond further on that specific topic.

8. COMMENT: A regional authority cannot know if its capital program is consistent with its members' or customers' master plans and other plans. Municipal master plans do not consider the needs or obligations of a regional authority. The Rockaway Valley Regional Sewerage Authority serves all or part of 10 municipalities whose plans are not prepared on a consistent basis. The RVRSA holds a public hearing of its budget and also notifies its members and the public of its Five-Year Capital Plan. Once the Five-Year Capital Plan is adopted, the obligation should be placed on the authority's member municipalities to update their master plan and other plans as may be necessary to be consistent with the RVRSA's capital plan and other rules and regulations, as is consistent with the requirements of the underlying service contract to which the system participants are subject.

RESPONSE: When planning capital projects, regional authorities should communicate with the jurisdictions they serve. New construction and redevelopment in the service area could impact what capital projects may be needed along with project timing. Prime examples of such impacts include a sizeable residential, commercial, or other project that could substantially increase the number of individuals utilizing a water or sewer system. Even though the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., does not grant the Board regulatory authority to compel a municipality to craft or amend its master plan or affordable housing plan to comport with a regional sewerage authority's capital plan, the authority still has the responsibility to plan in relation to the areas it serves.

9. COMMENT: Will N.J.A.C. 5:31-2.19(a)1, which implements an exception to the regional sewerage authority appropriations cap for capital expenditures, apply to debt service reserve or other capital reserve accounts? Additionally, the regional sewerage authority revenue and appropriations caps are very arbitrary and should be indexed to inflation. Regional sewerage authorities will be hard pressed to find qualified employees when other fields of employment receive higher percentage pay increases. The cap also does not take into account increases in costs that are beyond the control of a regional sewerage authority, such as chemical and sludge disposal costs, both of which are subject to market conditions and essential to proper operation.

RESPONSE: With respect to capital expenditures, this rulemaking will clarify the changes at N.J.A.C. 5:31-2.19(a)1 and 2.21(b)1 to qualify the phrase "capital expenditures" with the phrase "included in the regional sewerage authority capital budget." The debt service exclusion will also be broken out from the capital expenditure exclusion and set forth individually at N.J.A.C. 5:31-2.19(a)2 and 2.21(b)2, respectively. Although N.J.S.A. 40:14A-4.2 of the Sewerage Authorities Law does not contain revenue cap exclusions for capital expenditures and debt service, the Board finds that these exclusions are consistent with the intent of the Sewerage Authorities Law and the Local Authorities Fiscal Control Law,

N.J.S.A. 40A:5A-1 et seq., to ensure that debt service is satisfied and capital projects can be funded to further the authority's purpose.

10. COMMENT: N.J.A.C. 5:31-2.21, which exempts from the revenue cap "billing calculated on the total budget multiplied by the ratio of the local unit's annual metered sewage volume to the total sewage volume" should also be incorporated into N.J.A.C. 5:31-2.20. This exception should also apply to customers with mixed billing (that is, metered and unmetered connections). The method by which RVRSA bills its members and customers is established by service contract, the terms of which have been the subject of good faith negotiations and have been approved by the court. The terms of the service contracts relevant to RVRSA billing procedures may not be in all instances consistent with the proposed legislation.

RESPONSE: The Board will not include N.J.A.C. 5:31-2.21 in this rulemaking, as contained in the initial notice of proposals. As originally proposed, N.J.A.C. 5:31-2.21 dealt with amounts billed to a local unit for proportional share of authority expenses. Because P.L. 2019, c. 42, effectively circumscribed the regional sewerage authority cap to only those regional sewerage authorities located in Hudson County, and the only regional sewerage authority located in Hudson County bills customers directly, N.J.A.C. 5:31-2.20(d) and 2.21 as originally proposed have become moot.

11. COMMENT: The entirety of the regional sewerage authority appropriations cap exceptions set forth at N.J.A.C. 5:31-2.19(a)1 through 7 should likewise be mirrored for the revenue cap exceptions at N.J.A.C. 5:31-2.22(b) and (c). This is necessary to ensure sufficient funds to pay the cost of mandated treatment and residuals disposal. Currently, the only exceptions the appropriations cap shares with the revenue cap are the ones set forth at N.J.A.C. 5:31-2.19(a)1 and 6. The RVRSA provides an essential government service and is required to operate in compliance with law and government-issued permits. It is essential that the regulations contain the flexibility necessary to advance RVRSA's financing, operations, repair, maintenance, and replacement needs.

RESPONSE: N.J.S.A. 40:14A-4.2 does not give the Board authority to promulgate additional revenue cap exceptions solely for the purpose of mirroring the statutory appropriations cap exceptions. However, N.J.A.C. 5:31-2.21(c), as changed in this rulemaking, contains a revenue cap exception for the cost of services mandated under State and Federal law, court order, or an agency directive that the agency certifies to the Director of the Division of Local Government Services. The Board finds that this revenue cap exclusion, although not expressly set forth at N.J.S.A. 40:14A-4.2, is consistent with the intent of the Sewerage Authorities Law and the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq., to ensure that mandatory requirements for wastewater treatment remain funded for purposes of preserving the health, safety, and welfare.

Dennis A. Estis, Esq. of Greenbaum, Rowe, Smith and Davis, LLP, on behalf of the Rahway Valley Sewerage Authority (RVSA)

12. COMMENT: N.J.A.C. 5:31-2.1(m)1 should be clarified to the extent that the employee and compensation information sought does not include any individual employee or individual compensation information, except as to commissioners, officers, key employees, highest compensated employees, and independent contractors.

RESPONSE: The individual detail for the compensation received from the authority by commissioners, officers, key employees, highest compensated employees, and independent contractors is addressed at N.J.A.C. 5:31-2.1(l)2. However, for purposes of clarification, the Board agrees to change N.J.A.C. 5:31-2.1(m)1 in this rulemaking to expressly state that only the number of employees and their total salaries and wages (as reported in the W-3 form) need be reported.

13. COMMENT: RVSA respectfully suggests that the Local Finance Board postpone the adoption of any rulemaking until it is determined whether Senate Bill 1073 amends the regional sewerage authority cap law (N.J.S.A. 40:14A-4.2). With respect to the proposed regulations themselves, the Board should create a regulatory exemption in the regional sewerage authority cap for the costs of chemicals, due to the fact that regional sewerage authorities have no control over such costs and are often limited as to where these chemicals may be purchased, as well as the hiring of additional full-time and part-time staff when such hiring is necessitated by directives received from the Federal Environmental

Protection Agency, State Department of Environmental Protection, or any other governmental entity. N.J.A.C. 5:31-2.1(k) should also be amended to exempt the purchase and/or sale of flow rights, as well as connection fees from the two percent revenue and appropriations caps for regional sewerage authorities. The aforementioned costs are subject to specific statutory and/or contractual provisions governing such rights and fees.

RESPONSE: N.J.A.C. 5:31 as changed in this rulemaking takes into account the enactment of P.L. 2019, c. 42 by: 1) creating appropriations and revenue cap exceptions at N.J.A.C. 5:31-2.19(a)6 and 2.21(b)4, respectively, for the cost of establishing a stormwater utility operation; 2) revising the definition of regional sewerage authority at N.J.A.C. 5:31-2.2 to define “regional sewerage authority” as one located “in a county of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest Federal decennial census”; and 3) not including the originally proposed N.J.A.C. 5:31-2.21, which pertains to amounts billed to a local unit for proportional share of authority expenses, in this rulemaking. Because P.L. 2019, c. 42 effectively circumscribed the regional sewerage authority cap to only those regional sewerage authorities located in Hudson County, and the only regional sewerage authority in Hudson County bills customers directly, N.J.A.C. 5:31-2.20(d) and 2.21, as originally proposed have become moot.

14. COMMENT: The definition of “energy cost” set forth at N.J.A.C. 5:31-1.2 should be amended to include solar energy, wind energy, and propane gas.

RESPONSE: The Board determined that commenter’s proposed revision is unnecessary and the phrase “other source of energy” sufficiently covers all sources of energy other than electricity, fuel oil, gasoline, or natural gas.

15. COMMENT: N.J.A.C. 5:31-2.20(b) fails to take into consideration the realities of situations in which flow amounts, Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), etcetera are subject to frequent and significant changes. As drafted, the provision is far too static and fails to reflect the realities of regional sewerage authorities.

RESPONSE: N.J.A.C. 5:31-2.20(b) addresses the billing rate charged to individual customers, which is set by resolution of the regional sewerage authority. The commenter may be confusing this provision with N.J.A.C. 5:31-2.21 as contained in the original notice of proposal, which the enactment of P.L. 2019, c. 42 effectively made moot and is not included in this rulemaking.

16. COMMENT: The regulations should define, clarify, and explain the phrase “similar amount of use or service of the sewerage system” as contained at N.J.S.A. 40:14A-4.2.a(1)(a). Further, the following sentence at N.J.A.C. 5:31-2.21 is very unclear: “This provision shall not apply to billing calculated based on the total budget multiplied by the ratio of the local unit’s annual metered sewage volume to the total sewage volume.” The aforementioned sentence should be clarified not only as to its meaning, but also as to which entities it would apply to. Moreover, this section does not recognize that more than one factor can be considered in billing member municipalities. For example, RVSA’s computations for its billing of municipalities takes into consideration BOD and TSS.

RESPONSE: Because P.L. 2019, c. 42, effectively circumscribed the regional sewerage authority cap to only those regional sewerage authorities located in Hudson County, and the only regional sewerage authority in Hudson County bills customers directly, N.J.A.C. 5:31-2.20(d) and 2.21, as originally proposed have become moot and are not included in this rulemaking.

17. COMMENT: N.J.A.C. 5:31-2.19(b), as written, is incomprehensible and should be revised and clarified. If this provision is intended to clarify the act, it accomplishes exactly the opposite; rendering the act more confusing and leaving the courts to interpret its meaning. Further, N.J.A.C. 5:31-2.22(a) is confusing and does not provide any clarification or explanation of the act. It should be revised to produce such clarification.

RESPONSE: The Board cannot effectively address this comment because the commenter does not articulate specific concerns about the text.

Brian J. Brach, P.E., Executive Director of the Manasquan River Regional Sewerage Authority (MRRSA)

18. COMMENT: N.J.A.C. 5:31-2.1 codifies several “user-friendly budget” elements of the authority budget document. Does the enabling legislation permit these provisions to become rule, and does the Department have the legal right to codify these “user-friendly budget” provisions?

RESPONSE: N.J.S.A. 40A:5-48 requires the Local Finance Board to promulgate a user-friendly plain language budget form incorporating such information as the Board determines to be useful for public understanding of a local unit’s fiscal matters and condition. This law applies to authorities and fire districts, as well as to municipalities and counties. The statute requires authority budgets to include, at minimum, the following elements, all of which are incorporated into the chapter, as amended: the amount of bonded indebtedness, revenues by major category, a description of unusual revenues or appropriations and the circumstances thereof, and a list of shared services agreements in which the authority is participating. The Board has determined that the budget information required of authorities pursuant to this chapter is necessary for both the Division of Local Government Services and the public to properly ascertain an authority’s fiscal condition. The Board has promulgated this chapter pursuant to its authority at N.J.S.A. 40A:5-50 to implement the user-friendly budget statute; along with its authority under the Local Authorities Fiscal Control Law to promulgate the authority budget.

19. COMMENT: The Board should confirm whether the text of S1073[1R] [since signed into law as P.L. 2019, c. 42] would exempt the MRRSA from the two percent revenue and appropriations cap imposed by that law. The law limits the applications of said caps only to those regional sewerage authorities located within counties of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest Federal census.

RESPONSE: Pursuant to P.L. 2019, c. 42, the Manasquan River Regional Sewerage Authority, located in Monmouth County, is not subject to the two percent revenue and appropriations caps set forth at N.J.S.A. 40:14A-4.2. The only New Jersey county that fits within the population criteria set forth at Section 19 of P.L. 2019, c. 42 is Hudson County.

20. COMMENT: The proposed regulations do not address bond covenants requiring a regional sewerage authority to set rates at levels sufficient to cover: 1) reasonable and necessary operating expenses; plus 2) a stated percentage (over 100 percent) of annual or maximum annual debt service; plus 3) replenishment of any required reserves. In other words, the exemption for debt service does not, by its terms, cover these other covenant-imposed items. The United States and New Jersey constitutional commerce clauses mandate adherence to the above-noted covenants. The Board should recognize that these covenants are recognized by either means of a new exclusion (possibly along the lines of the “contract of a specific duration”) or as a listed example of what would be covered by “services mandated by Federal/State statute.”

MRRSA’s sole outstanding bonds were issued under a general bond resolution adopted by the Authority on April 17, 2013. Sections 501 and 609 of the Bond Resolution requires MRRSA to fix rates and collect rents and other charges at a level sufficient to pay Operating Expenses and provide in each fiscal year not less than 110 percent of the net Debt Service Requirement for such fiscal year. Section 603 of the Bond Resolution imposes an Operation and Maintenance Covenant requiring proper operation and maintenance of the system and its infrastructure. Under Section 102 all bondholders are beneficiaries of the Bond Resolution, and Section 615 requires MRRSA at all times, to the extent permitted by law, to defend, preserve, and protect the rights of bondholders under the Bond Resolution against all claims and demands.

Finally, pursuant to N.J.S.A. 40:14A-32 the State pledges to the holders of any bonds issued by a sewerage authority that the State will not limit or alter the rights hereby vested in a sewerage authority to maintain, reconstruct, and operate its sewerage system, and to fix, establish, charge, and collect its services charges and to fulfill the terms of any agreement made with the holders of such bonds.

RESPONSE: N.J.A.C. 5:31-2.21(b)3 as changed in this rulemaking would create a revenue cap exclusion for “increases in net position required to be held in reserve with respect to any debt covenants.”

Although not expressly set forth as a revenue cap exclusion at N.J.S.A. 40:14A-4.2 of the Sewerage Authorities Law, the Board concludes that the above-referenced exclusion is consistent with the intent and purposes of the Sewerage Authorities Law and the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

21. COMMENT: The proposed regulations do not address intergovernmental payments and whether or not they can be exempted from the law. Will intergovernmental payments, through either shared services or existing contracts, be eligible for exemption from the two-percent cap on regional sewerage authority revenues and appropriations? All wastewater flow is conveyed by MRRSA to the Ocean County Utilities Authority (OCUA), an entity that is not subject to the above-referenced cap. MRRSA is considered a conveyance authority and close to 70 percent of the MRRSA's budget is dedicated to a straight pass-through of charges for OCUA's services. The possibility exists that OCUA bulk rate increases, if not exempted, could result in drastic cuts to other appropriations or pose a risk to MRRSA's solvency.

RESPONSE: The Board does not find that N.J.S.A. 40:14A-4.2 grants authority to promulgate exceptions to the appropriations and revenue caps for intergovernmental payments in and of themselves, and likewise does not find authority under any other law for doing so. The Board will not opine on MRRSA's payment to the OCUA as P.L. 2019, c. 42 has exempted MRRSA from the law.

22. COMMENT: Please clarify that the prohibition set forth at proposed N.J.A.C. 5:31-2.21 on increasing rents, rates, fees, and charges by greater than two percent would not apply to connection fees. N.J.S.A. 40:14A-8(b)1, 2, and 3 set forth how connection fees are to be calculated. MRRSA recalculates its connection fees annually pursuant to the statutory formula, which many times results in an increase of greater than two percent. Because connection fees are assessed to individual property owners connecting to the regional system, rather than the local unit, is it reasonable to assume that connection fees are not subject to the two percent cap?

RESPONSE: The Board interprets N.J.S.A. 40:14A-4.2 as not applicable to one-time connection fees, and will change N.J.A.C. 5:31-2.20(c) in this rulemaking to state as such.

23. COMMENT: N.J.A.C. 5:31-2.20(d), as originally proposed, states that the regional sewerage authority two percent cap shall not take effect until the expiration, renegotiation, reopening, or renewal of a contract of a specific duration that contains provisions setting rates, fees, rents, or charges, to the extent the two percent cap contradicts said provisions. Would an existing bond obligation qualify as such a contract pursuant to this provision? Sewer revenue bonds issued by MRRSA in 2013 for a 15-year term contain both a rate covenant and an O&M covenant that contradict the limitations imposed by the regional sewerage authority cap law. Further, existing service contracts that are perpetual with no defined termination date should be considered grandfathered.

RESPONSE: As originally proposed, N.J.A.C. 5:31-2.20(d) was meant to address situations where a contract with an investor-owned utility dictated a certain schedule or formula for rate increases. This provision will not be included in this rulemaking. The rate covenant concern expressed by the commenter is addressed by the language at N.J.A.C. 5:31-2.19(b)2 and 2.21(b)2 in this rulemaking. The Board will not opine on the impact of the changes on MRRSA's O&M covenant as the regional sewerage authority cap will not apply to MRRSA.

24. COMMENT: N.J.A.C. 5:31-2.19 and 2.22(b), as proposed, state that "capital expenditures" may be exempted from the regional sewerage authority cap. Is the term "capital expenditures" solely restricted to debt service, or does the term also encompass capital outlays made as part of the operating budget?

RESPONSE: Any activity or undertaking referenced under the definition of "capital project" set forth at N.J.A.C. 5:31-1.2 would be considered a "capital expenditure" for purposes of the regional sewerage authority cap law, so long as the expenditure is included in the regional sewerage authority's capital budget. N.J.A.C. 5:31-2.19(b)1 and 2.21(b)1, as proposed in this rulemaking, will clarify that appropriations and revenue cap exceptions apply to capital expenditures including in the capital budget of a regional sewerage authority.

25. COMMENT: The regulation should establish a mechanism such that the exceptions to the appropriations cap set forth in N.J.A.C. 5:31-2.22 are mirrored on the revenue side at N.J.A.C. 5:31-2.19.

RESPONSE: N.J.S.A. 40:14A-4.2 does not give the Board authority to promulgate additional revenue cap exceptions solely for the purpose of mirroring the statutory appropriations cap exceptions.

Robert N. Bongiovanni, P.E., Executive Director of the Pequannock, Lincoln Park, and Fairfield Sewerage Authority (also known as the Two Bridges Sewerage Authority (TBSA))

26. COMMENT: The proposed amendments at N.J.A.C. 5:31 codified items already required to be included in authority budget documents. These items are both voluminous and time consuming to accumulate, resulting in additional costs to authorities.

RESPONSE: In response to specific concerns raised by the Southern Monmouth Regional Sewerage Authority (SMRSA), the Board will refrain from adopting certain provisions that it deems to lack substantial relevance to authority budget review. The relevant provisions, along with the reasoning for not adopting the same, are set forth in the Board's response to the SMRSA's comments above. However, the Board deems the balance of the authority budget requirements set forth at N.J.A.C. 5:31-2 as necessary for the Division of Local Government Services and the public to effectively ascertain the fiscal condition of an authority.

27. COMMENT: Although TBSA commends the Department of Community Affairs' attempt to craft regulations that limit the detrimental effects of the regional sewerage authority cap law, the law will violate many service contracts and covenants, hinder recruitment and retention of qualified employees, as well as ultimately limit regional sewerage authorities' ability to address environmental concerns. Wastewater authorities are subject to numerous Federal and State laws and regulations, including the discharge requirements of their New Jersey Pollutant Discharge Elimination System (NJPDES) permits. Wastewater authority budgets are developed to meet those specific discharge requirements, nothing more. With few exceptions all expenditures are mandated to meet Federal and State law.

The two percent appropriations cap is arbitrary and at the very least N.J.A.C. 5:31-2.19(a) should be amended to index the appropriations cap to the rate of inflation. Further, N.J.A.C. 5:31-2.2 should be amended such that the revenue cap exceptions match those for the appropriations cap, thus making available sufficient funds to pay for the allowable appropriations.

RESPONSE: N.J.S.A. 40:14A-4.2 does not give the Board authority to promulgate additional revenue cap exceptions solely for the purpose of mirroring the statutory appropriations cap exceptions. Further, without express statutory authorization, the Board cannot authorize indexing either cap to the rate of inflation. Finally, unless costs of service are specifically mandated by State or Federal law, court order, or agency directive certified to the Director of the Division of Local Government Services, operations costs, in and of themselves, cannot serve as cap exclusions.

28. COMMENT: How will the Department of Community Affairs view the application of net position for purposes of reducing annual charges to an authority's municipal members? Can net position be used to reduce the annual appropriations to comply with the regional sewerage authority cap?

If the answer is no, the proposed regional sewerage authority cap regulations will cause TBSA to violate a provision in its existing service agreements, which require TBSA to "true-up" the projected budgeted flows from the member municipalities at the end of each fiscal year. This "true-up" results in a redistribution of costs amongst the member municipalities and, thus user charge adjustments for that fiscal year applied in the next fiscal year. Typically, TBSA uses net position (that is, fund balance) to address costs associated with user charge adjustments, so no member municipality is required to make an additional payment due to exceeding the TBSA's budget flow, and these adjustments alone can exceed two percent of TBSA's budget. Requiring a member municipality to make this extra payment could cause the municipality to violate its own cap limitations.

RESPONSE: Because P.L. 2019, c. 42 effectively circumscribed the regional sewerage authority cap to only those regional sewerage

authorities located in Hudson County, and the only regional sewerage authority in Hudson County bills customers directly, N.J.A.C. 5:31-2.20(d) and 2.21, as originally proposed have become moot and are not included in this rulemaking.

The Local Finance Board (Board) has reviewed the rules proposed for re-adoption with amendments and new rules and has determined them to be necessary, reasonable, and proper for purposes for which they were originally promulgated. The rules serve to clarify and standardize the budgetary practices and financial reporting procedures for local authorities, including fire districts, pursuant to the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq., and are essential to protecting the fiscal integrity of these independent agencies and in safeguarding the use of public funds. The rules also set guidelines for regulating the budgetary practices of fire district-sponsored length of service award programs (LOSAP). LOSAP programs serve as an incentive to recruit and retain volunteer firefighters and emergency service personnel.

In its review, the Board has determined that amendments to N.J.A.C. 5:31-1, 2, 3.1, 4.1, 5.1, 6.1, and 7.6 and 5:31-7 Appendices A, B, and C are necessary. The Board has also determined that proposed new rules are necessary at Subchapters 2 and 6, along with several newly promulgated appendices to Subchapter 2.

A summary of the rules re-proposed for re-adoption at N.J.A.C. 5:31, along with proposed amendments and new rules, follows. References to "authorities" or "local authorities" encompass fire districts, unless a provision expressly excludes fire districts or is limited in application to fire districts.

N.J.A.C. 5:31-1 sets forth the general provisions of the chapter and provides definitions for the key words and terms used therein. Subchapter 1 also provides information on how to obtain the forms, documents, and instructions for the filing of annual authority budgets and audit reports with the Director of the Division of Local Government Services (Division).

The Board proposes to amend N.J.A.C. 5:31-1.1, to reflect the expansion of the chapter's scope to implement statutory requirements other than those contained in the Local Authorities Fiscal Control Law, including, but not limited to, the User Friendly Budget Law, N.J.S.A. 40A:5-48, the two-percent tax levy cap for fire districts, N.J.S.A. 40A:4-45.45 et seq., and P.L. 2017, c. 206, pertaining to fire district elections, referenda, and capital expenditures, as well as the regional sewerage authority appropriation and revenue caps established by N.J.S.A. 40:14A-4.2.

N.J.A.C. 5:31-1.2 is proposed for amendment to define the terms "energy cost" and "regional sewerage authority" for purposes of implementing N.J.S.A. 40:14A-4.2; define the terms "chief financial officer," "restricted fund balance," and "service transfer"; and changing the term "unreserved retained earnings" to "unrestricted net position" in order to reflect updates made in the information collected from, and displayed in, authority budgets. The definition of "capital project" would be modified to apply to undertakings with a cumulative cost in any year of less than \$25,000.

N.J.A.C. 5:31-1.3 is proposed for amendment to facilitate electronic submission of authority budgets and other financial documents to the Division.

N.J.A.C. 5:31-2 explains the procedures that must be followed by authorities and fire districts in preparing their annual budgets and capital-spending programs. The subchapter establishes the required contents of the budget and capital program and the procedures for introducing and adopting them. Subchapter 2 also sets the scope of the Director's review and provides a process for appealing the Director's decision and for amending an approved budget. Lastly, the subchapter provides the requirements that fire districts must follow in appropriating funds for a LOSAP.

The Board proposes substantial amendments, along with the addition of new rules, to Subchapter 2, that would improve the ability of the State, the entity or entities creating the authority, and the authority itself to monitor spending and prevent waste, fraud, and abuse. Proposed amendments to N.J.A.C. 5:31-2.1, 2.2, 2.3, 2.4, and 2.6 codify various updates made to authority and fire district budget forms starting in 2015, including additional required information, reflecting current budget

submission and review practices. These amendments are proposed to bring said budgets into compliance with the content and disclosure requirements of the User-Friendly Budget law, N.J.S.A. 40A:5-48, and, for fire districts, the two-percent levy cap law, N.J.S.A. 40A:4-45.45. They also add provisions reflecting the statutory ability to amend budgets post-adoption and to anticipate certain revenues not known at the time the budget was approved.

Proposed amendments at N.J.A.C. 5:31-2.1, which addresses annual budget preparation and content for authority budgets other than fire districts, include an expanded authority budget message requiring detailed support for increases or decreases in appropriations or revenues exceeding 10 percent, information on any proposed changes to the authority's rate, fee, or charge structure along with the authorization for such changes (excluding housing authorities), reasons for any accumulated deficit along with a deficit reduction plan, identification and explanation of sources of any funds transferred to a county or municipality under a shared service or budget subsidy, a description of how the local and regional economy would specifically impact the proposed capital budget and capital program, and a statement concerning the authority's reasons for utilization of unrestricted net position. N.J.A.C. 5:31-2.1(e) would permit electronic signatures for electronically generated documents. For non-operating appropriations, subsection (i) would require the itemization of any municipal and county appropriations. Subsection (j) would update the itemization of housing authority non-operating appropriations to add renewal and replacement reserves and clarify that operation reserves also encompass maintenance, as well as eliminate the specialized revenues referenced in existing paragraph (j)4, instead referencing "other reserves." Subsection (k) would clarify that each authority operation requires a separate budget column rather than a separate budget. In addition to such other information as the Director may require for authority budget approval or to otherwise comply with the User-Friendly Budget Law, N.J.S.A. 40A:5-48, proposed new subsection (l) would codify the requirement that budgets contain schedules detailing employee health benefit costs, accumulated liability for compensated absences, the authority's shared services agreements, and compensation for independent contractors, governing body members, and key and highest compensated employees.

Proposed new N.J.A.C. 5:31-2.1(m) requires each budget to include the following: employee and compensation information listed on the authority's W-3 form; the number of regular voting and alternate members of the governing body; and an explanation of discretionary bonuses, severance, termination payments, meals, catering, and personal benefit contracts, along with an explanation of the written policy governing reimbursement of expenses incurred by authority employees and governing body members. With respect to governing body members, key employees, highest compensated employees, and independent contractors, subsection (m) would codify the requirement to provide detailed disclosure of the process for determining compensation; any family, business, and financial relationships with respect to the authority and various supplemental expenses paid for by the authority, such as, but not limited to, travel, housing allowances, and vehicle allowances. In addition, subsection (m) would codify the requirement that an authority explain any notices received from a State or Federal agency concerning maintenance and repairs for facilities, systems, and other infrastructure, along with any notices related to fines, penalties, or assessments issued by any State or Federal agency.

Proposed new subsection (n) would require regional authorities to confirm that all local government officers have filed financial disclosure statements pursuant to N.J.S.A. 40A:9-22.6 of the Local Government Ethics Law.

Proposed new subsection (o) would codify the requirement that housing authorities disclose whether the Federal Department of Housing and Urban Development (HUD) has deemed them "troubled" and describe the authority's plan to address the identified conditions.

Proposed new N.J.A.C. 5:31-2.1(p) would codify the requirement that an authority certify compliance with the provisions of N.J.S.A. 40A:5A-17.1 pertaining to maintenance of an Internet website or webpage.

N.J.A.C. 5:31-2.2(c) is proposed for amendment to eliminate the \$25,000 minimum threshold from the requirement to have a capital program. N.J.A.C. 5:31-2.2(e) is proposed for amendment to reference the

female gender. N.J.A.C. 5:31-2.2(g) is proposed for amendment to require disclosure of whether necessary approvals by affected agencies, governmental agencies, and jurisdictions served by the authority have been obtained, as well as whether each capital project or project financing is consistent with the master plans of each jurisdiction the authority serves. Other amendments to subsection (g) would clarify references to “plan,” “program,” and “report.” Finally, subsection (j) would be amended to facilitate electronic budget submission.

N.J.A.C. 5:31-2.3, dealing with the introduction and adoption of non-fire district authority budgets, would be amended to codify the requirement that revenue and appropriations shall be set forth for the current and prior years, include updated references to unrestricted net position, facilitate electronic budget submission, and clarify that the authority shall be the entity to transmit the adopted budget to each local unit served by the authority. Subsection (d) would be amended to codify that personnel salary, wage, and fringe benefits be shown in the appropriations along with the operations and maintenance reserves and to delete the reference to LOSAP. Subsection (f) would be amended to codify that an authority’s debt service schedule must show principal and interest for the prior adopted budget year, current proposed budget year, and at least the following five years.

N.J.A.C. 5:31-2.4, which sets forth specific requirements for fire district budgets and the adoption of same, is proposed for amendment and reorganization. Subsection (b) would be amended to codify that a fire district’s anticipated revenues must specifically delineate proceeds from sale of assets, interest on investments and deposits, operating grant revenues, revenues offset with appropriations, other revenue, and any other specialized revenues the Director deems necessary for specific disclosure based on a fire district’s individual circumstances.

N.J.A.C. 5:31-2.4(c) would be amended to codify that a fire district’s operating budget enumerate appropriations offset with revenue, appropriations toward duly incorporated first aid and rescue squads, emergency appropriations, deferred charges, and amounts necessary to fund any actual or anticipated deficit from the preceding budget year; personnel costs would be broken out, where applicable. Proposed amendments to subsection (c) would also require a fire district’s capital budget to include amounts reserved for future capital outlays, appropriations offset with grants, appropriations offset with restricted fund balance, and appropriations offset with unrestricted fund balance. For financed capital purchases, a fire district’s capital budget would need to set forth principal and interest on notes and capital leases (including operating leases, as well as lease purchase agreements), along with information regarding Local Finance Board approval and voter approval of financing. Subsection (c) would also require information regarding special meetings authorizing purchases of non-financed capital items.

N.J.A.C. 5:31-2.4(e) is proposed for amendment to codify the procedure for unrestricting fund balance that had been restricted to funding a capital expenditure, for use in a fire district’s operating budget to maintain essential services. Where the voters previously approved using financing to make a capital purchase, a restricted fund balance referendum must be held by a fire district on the third Saturday in February. In cases where a capital expenditure was approved at a special meeting, the fund balance must be unrestricted at a special meeting held by the fire district pursuant to N.J.S.A. 40A:14-84. Subsection (f) is proposed for amendment to codify the requirement that a levy cap referendum or restricted fund balance referendum be authorized by a resolution of the majority of the full membership of the board of fire commissioners, with subsection (g) requiring such resolutions to adhere to either Subchapter 2 Appendix A, levy cap referendum, or Appendix B, restricted fund balance referendum. Subsection (h) would codify requirements concerning adoption of resolutions authorizing levy cap and restricted fund balance referendums as they relate to fire district budget introduction and adoption. Recodified subsection (i) would facilitate electronic submission of fire district budgets to the Division.

Recodified N.J.A.C. 5:31-2.4(j) is proposed for amendment to require that a fire district’s debt service schedule extend for five, rather than four, years beyond the budget year as well as codify the requirement that fire districts include a reconciliation of fund balance for the current year, along with a computation of the estimated fund balance or deficit from the preceding fiscal year. N.J.A.C. 5:31-2.4(j) would codify the requirement

that the fire district budget include the following information in addition to such other information as the Director may require pursuant to law for fire district budget approval: levy cap calculation pursuant to N.J.S.A. 40A:4-45.45, information concerning any levy cap referendum or restricted fund balance referendum, a compensation schedule for commissioners and officers, an employee health benefit cost analysis, accumulated absence liability, a listing of all fire district shared services agreements, and any contract for a sale of assets.

N.J.A.C. 5:31-2.4(k) is proposed for amendment to codify the requirement that fire district budgets include a completed questionnaire with respect to the following: information concerning the fire district’s vehicles and any LOSAP program; information concerning any agreements with another entity for provision of fire protection or emergency medical services; an explanation of payments for discretionary bonuses, severance, and termination, meals, catering, and personal benefit contracts; and an explanation of the written policy governing reimbursement of expenses incurred by fire district employees and commissioners. With respect to fire district commissioners, key employees, highest compensated employees, and independent contractors, subsection (k) would codify the requirements to explain the process for determining compensation provide detailed disclosure of any family, business, and financial relationships with respect to the fire district and detail any supplemental expenses paid for by the fire district such as, but not limited to, travel, housing allowances, and vehicle allowances. Under subsection (k), the Director would be able to request additional information as he or she may require for budget approval pursuant to law.

Recodified N.J.A.C. 5:31-2.4(l) is proposed for amendment to facilitate electronic submission of fire district budgets, as well as to give the Division 45 days from date of receipt to review fire district budgets in accordance with the time permitted under N.J.S.A. 40A:5A-10. The existing deadline is 21 days. Existing N.J.A.C. 5:31-2.4(h), (i), (j), and (k) would be recodified with amendments as subsections (m) and (n) to facilitate electronic fire district budget submission and implement P.L. 2017, c. 206, as further discussed below. Existing subsections (l), (m), and (n) would be recodified with amendments as subsections (o), (p), (q), and (r) to implement P.L. 2017, c. 206 and codify the implementation of the property tax levy cap law, N.J.S.A. 40A:4-45.45 et seq. New subsection (p) would extend from three days to 10 days, the deadline for a fire district to certify to the Director the results of an election or referendum held on the third Saturday in February; any further extension would require Director approval. Proposed new subsection (s) sets forth a similar timeline for fire districts with November fire commissioner elections to certify the results of a levy cap referendum or restricted fund balance referendum held on the third Saturday in February, and for the Director to afterwards certify to the municipal tax assessor the amount to be raised by taxation to support the year’s fire district budget.

Recodified N.J.A.C. 5:31-2.4(t) adds the following required content to a fire district’s budget message: detailed support for increases or decreases in appropriations or revenues exceeding 10 percent; an explanation for reductions in unrestricted fund balance exceeding 10 percent; an explanation of the reasons for any deficit; a statement detailing the fire district’s compliance with the property tax levy cap law and reasons for exceeding the levy cap; and a listing of any service transfers to which the fire district is a party, including any levy cap base adjustment attributable to the service transfer. Subsection (u) would codify the requirement that a fire district certify to its compliance with the Internet website or webpage requirement set forth at N.J.S.A. 40A:14-70.2.g.

Proposed amendments at N.J.A.C. 5:31-2.6 would expressly require timely annual audit submission as a precondition for approving all authority budgets. Proposed amendments to N.J.A.C. 5:31-2.8 would facilitate the electronic submission of authority budgets to the Division. N.J.A.C. 5:31-2.11 would codify the requirement that an introduced fire district budget requiring a levy cap referendum shall specify the line item appropriations to be funded by the proposed tax levy increase, restrict transfers to and from referendum line items, and require any cancelled or unexpended appropriations tied to a levy cap referendum or levy cap exclusions permitted under N.J.S.A. 40A:45.45 be deducted from the adjusted property tax levy based on the fire district’s audit report or as noted in the fire district’s budget message.

Proposed new N.J.A.C. 5:31-2.12 would codify the ability of fire districts to exclude from their levy cap calculation costs passed on to the fire district by the provider of a service pursuant to a shared services agreement, so long as the cost is a permissible exclusion set forth at N.J.S.A. 40A:4-45.45.b. Proposed new N.J.A.C. 5:31-2.13 would codify various requirements for holding a levy cap referendum or fund balance referendum, including date, time, and format; the public questions for both referendums would be required to adhere to the content and format set forth in proposed new N.J.A.C. 5:31-2 Appendices F and G, respectively. Proposed new N.J.A.C. 5:31-2.14 codifies various requirements for fire district special meetings to approve capital expenditures not requiring financing, including notice publication, date, time, the manner of conducting the meeting, and the manner of voting. Proposed new N.J.A.C. 5:31-2 Appendix C would require the fire district to certify compliance with notice posting and publication requirements for special meetings. Fire districts would need to submit the affidavit set forth as proposed new N.J.A.C. 5:31-2 Appendix D to certify the results of the meeting along with the special meeting being held in compliance with law. Proposed new N.J.A.C. 5:31-2.15 would codify various requirements for fire district special elections to approve financing for capital expenditures, including capital items eligible for voter approval, requiring issuance of Local Finance Board findings prior to adoption of a resolution authorizing the special election, and the certification of election results. The certification of the special election results as well as the special election's compliance with applicable law (with documentation in support thereof) would be required to adhere to the content and format set forth in proposed new N.J.A.C. 5:31-2 Appendix H. As proposed, N.J.A.C. 5:31-2.15 would also establish that operational leases for fire engines are to be considered a capital expenditure requiring Local Finance Board issuance of findings, as well as approval at a special election held pursuant to N.J.S.A. 40A:14-85.

Proposed new N.J.A.C. 5:31-2.16 and 2.17 would codify the requirements at N.J.S.A. 40A:14-78.3 and 78.5 for fire district budget amendments related to notice and public hearings made either prior to, or after, budget adoption, including contents of the resolution authorizing the budget amendments and applications for Director approval.

P.L. 2017, c. 206 permits fire districts to switch their annual elections for board of fire commissioners from the third Saturday in February to the November general election. When a fire district election has been moved to the November general election, the fire district budget would be adopted not later than 25 days prior to the third Saturday in February upon a two-thirds vote of the full membership of the board of fire commissioners without being subject to voter approval. However, any referendums to exceed the levy cap and release restricted capital reserves would be still be held on the third Saturday in February. P.L. 2017, c. 206 also amends N.J.S.A. 40A:14-84 concerning the "special meeting" process for authorizing capital purchases made without financing. Votes to authorize capital purchases without borrowing in fire districts with November fire commissioner elections would only require a two-thirds vote of the board of fire commissioners in lieu of a vote of members of the public in attendance. P.L. 2017, c. 206 also expands the categories of capital expenditures that fire districts are authorized to either finance or pay for entirely out of the budget. Proposed amendments to N.J.A.C. 5:31-2.4, along with proposed new N.J.A.C. 5:31-2.13, 2.14, and 2.15, would serve to implement the new law. Proposed new N.J.A.C. 5:31-2 Appendices A through J would codify many model public notices, ballot questions, and results reporting that are applicable to fire districts, thereby incorporating the provisions of P.L. 2017, c. 206.

Proposed new N.J.A.C. 5:31-2.18 would prohibit any authority from amending an operational lease agreement after execution to become a lease-purchase agreement.

As amended by P.L. 2019, c. 42, N.J.S.A. 40:14A-4.2 imposes a two percent appropriations cap and a two percent revenue cap on regional sewerage authorities established under the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq., in counties fitting within specific population criteria. N.J.S.A. 40:14A-4.2 bars the Director from approving a regional sewerage authority budget for adoption unless said budget does not increase revenue or fee-funded appropriations beyond two percent over the prior budget year, subject to certain exceptions. Proposed new N.J.A.C. 5:31-2.19 through 2.22 implement the caps and statutory

exceptions in a manner consistent with the Sewerage Authorities Law and the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

N.J.A.C. 5:31-3 establishes rules that local authorities must follow in adopting a cash management plan and in depositing funds received. The subchapter also sets requirements for filing with the municipal tax collector, at least once a year or as otherwise requested by the tax collector, a certification of all unpaid service charges that are due and owing to the authority at the time of the filing.

The Board proposes to amend N.J.A.C. 5:31-3.1 to bring certain authority funds management requirements into line with those for municipalities and counties under the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq., and at N.J.A.C. 5:30-8.5. First, N.J.A.C. 5:31-3.1 would be amended to expressly authorize local authorities to invest in the securities and other instruments permitted under N.J.S.A. 40A:5-14. Further, the proposed amendments would permit local authorities up to 96 hours from the time of initial receipt to deposit funds into the authority's depository, so long as the funds are paid over to the officer charged with the custody of the authority's general funds within 48 hours after the initial receipt thereof. Finally, N.J.A.C. 5:31-3.1 is proposed for amendment to state that no officer of an authority shall accept, in receipt of the payment of any fee or other charge, a check in excess of the amount actually due.

N.J.A.C. 5:31-4 details the procedures that must be followed by local authorities in approving and processing payment claims. The Board proposes to amend N.J.A.C. 5:31-4.1 to prohibit authorities from reimbursing an employee for purchases of alcohol or other recreational intoxicating substances.

N.J.A.C. 5:31-5 contains the provisions that must be followed by local authorities when using electronic data processing systems or services for financial, payroll, and revenue accounting. The Board proposes to amend N.J.A.C. 5:31-5.1 to require authorities to utilize electronic systems or services for such purposes, as well as to remove the obsolete requirement that such systems be "Y2K" compliant.

N.J.A.C. 5:31-6 requires surety bonding for local authority employees who are directly involved in handling authority funds. The Board proposes changing the heading of this subchapter from "surety bonding" to "financial administration." The Board proposes to amend N.J.A.C. 5:31-6.1 to encourage authorities to provide a fidelity bond with faithful performance coverage for the chief financial officer separate from the local unit's blanket fidelity bond. The Board proposes that the schedule set forth at N.J.A.C. 5:30-8.2 serve as the basis for the bond amount. Proposed new N.J.A.C. 5:31-6.2, Notices of occurrences, would require the individual holding overall management responsibility for an authority's finances to notify the Director of the Division of Local Government Services in any case where an authority might default, or has defaulted, in paying principal or interest on any of the authority's debt obligations.

N.J.A.C. 5:31-7 establishes requirements for accounting and financial reporting systems and auditing procedures. The subchapter also contains four appendices. Subchapter 7 Appendices A and B are questionnaires that must be filed with the Director as part of the annual audit. N.J.A.C. 5:31-7 Appendix C contains the resolution that an authority's governing body must approve and submit to the Director, attesting that each member has personally reviewed the annual audit, auditor's comments and auditor's recommendations. N.J.A.C. 5:31-7 Appendix D provides a confidential reporting form that must be filed with the Director in the event that an independent auditor suspects that irregularities or other illegal acts have occurred with respect to the handling of an authority's funds.

The Board proposes to amend N.J.A.C. 5:31-7.6 to update the address for the American Institute of Certified Public Accountants (AICPA), as well as to amend N.J.A.C. 5:31-7 Appendices A and B to add questions pertaining to timely debt service payment and compliance with bond covenants, incorporate updates to rules impacting authority financial administration and the use of electronic funds transfer technologies, and eliminate a question pertaining to sinking funds. Finally, N.J.A.C. 5:31-7 Appendix C would be amended to require that the governing body of an authority certify to having reviewed the "Schedule of Findings and Questioned Costs" set forth in the authority's audit.

N.J.A.C. 5:31-8 permits, under certain conditions, local authorities to issue refunding bonds without seeking Local Finance Board approval.

Summary of Agency-Initiated Changes from the December 17, 2018, Notice of Proposal:

1. The Board proposes amending N.J.A.C. 5:31-1.3, 2.3(e) and (h), and 2.4(i), (l), and (m) to not only expressly authorize electronic submission of authority budgets and other financial documents through the Division of Local Government Services' Financial Automation Submission Tracking (FAST) system or a successor system, but also to clarify that the current paper-based procedure for authority budget submission remains in place pending full implementation of FAST. The Board also proposes amending N.J.A.C. 5:31-2.3(e) and (h) and 2.4(i), (l), and (m) to authorize the Director to require submission of paper budgets and other financial documents in parallel to electronic submission.

2. As initially proposed, N.J.A.C. 5:31-2.4(p) and (s) extended the time period for fire districts to certify the results of elections and referendums held on the third Saturday in February from three days to five days. In the interest of allowing sufficient time for county boards of election to count mail-in and provisional ballots and certify results, the Board repropose N.J.A.C. 5:31-2.4(p) and (s) to establish a certification deadline of 10 days after the third Saturday in February with the Director having authority to grant a further extension.

3. The Board repropose N.J.A.C. 5:31-1.2 and 2.19, 2.20, 2.21, and 2.22 to reflect amendments made to N.J.S.A. 40:14A-4.2 by P.L. 2019, c. 42; specifically excluding from the regional sewerage authority revenue and appropriations caps the cost of establishing a stormwater utility operation; and limiting application of the regional sewerage authority cap to regional sewerage authorities located in counties of the first class with a population of greater than 600,000 and a population density of over 10,000 persons per square mile.

4. The Board repropose N.J.A.C. 5:31-2.19(a)8 and 2.21(c) to create references in both the appropriations and revenue cap exceptions services that are required by final court judgements, New Jersey Department of Environmental Protection permits, and project financing agreements with a State or Federal agency.

5. The Board repropose N.J.A.C. 5:31-2.20 with the word "established" inserted before the word "rate," in order to clarify that the regional sewerage authority revenue cap is on the rate established by the authority, rather than on individual customer bills.

6. The text of N.J.A.C. 5:31-7 Appendix A, specifically Question 8 under the heading titled "Accounts Payable and Purchasing," will not include the bracketed word "cash" as this word was intended to be removed from the Appendix as initially proposed.

As the Board has provided a 60-day comment period for this notice of proposal, the notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments and new rules will both continue and enhance State oversight over local authorities, enhancing their credibility as viable public entities by ensuring their operation in accordance with sound financial and operational principles. As proposed for amendment, N.J.A.C. 5:31 also provides the general public with assurance that public funds are being properly managed and safeguarded. The proposed new rules concerning authority budget and audit documents serve to improve transparency and better protect against waste, fraud, and abuse. By facilitating electronic submission of authority budget and audit documents, the rules proposed for readoption with amendments and new rules would allow the Division of Local Government Services and the municipalities or counties that have created these authorities, along with authority governing body members, to better monitor authority finances and identify potential savings. The implementation of P.L. 2017, c. 206, which permits fire district elections to be shifted to the same date as the November general election, codify provisions promoting greater voter participation in fire district commissioner elections and, thus, enhance accountability on the fire district level. Codification of fire district budgetary and election requirements also promotes standardization and transparency.

Economic Impact

The rules proposed for readoption with amendments and new rules do not impose new fees onto local authorities. Failure to readopt N.J.A.C. 5:31 would remove many of the procedures that now protect New Jersey

taxpayers against the mismanagement of local tax dollars. Additional items proposed for inclusion on the authority and fire district audit questionnaires (N.J.A.C. 5:31-7 Appendices A and B, respectively) could have an indeterminate increase in the cost of completing an authority or fire district audit; however, the proposed questions are necessary to ensure that authorities maintain proper financial and operational controls in today's environment, better safeguarding public funds against waste, fraud, and abuse. This is particularly the case for the use of electronic funds transfers, where proper controls are necessary to mitigate misappropriation and cybersecurity risks. Implementation of the regional sewerage authority appropriations and revenue caps, as amended by P.L. 2019, c. 42, will restrict the ability of the one impacted regional sewerage authority to fund increases in operational expenses. By facilitating the shift of fire district commissioner elections from the third Saturday in February to the November general election, the rules repropose for readoption with amendments and new rules would provide a fire district with estimated savings of up to \$7,500 due to the county picking up election-related costs, such as, but not limited to, notice publication, ballot printing, and polling machines.

Federal Standards Statement

With the limited exception of exceptions to the regional sewerage authority appropriations and revenue caps, the rules proposed for readoption with amendments and new rules are not being readopted under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or a State law that incorporates or refers to Federal law, standards, or requirements. Proposed new N.J.A.C. 5:31-2.19 and 2.21 implement an exception to the regional sewerage authority appropriations and revenue caps, respectively, for the cost of services mandated by Federal statute or by order of a Federal court. These rules do not exceed the Federal standards, and, therefore, no Federal standards analysis is required.

Jobs Impact

The Local Finance Board does not anticipate that the rules proposed for readoption with amendments and new rules will result in the creation or loss of any jobs, except that the proposed rules implementing the appropriations cap and revenue cap for regional sewerage authorities could potentially constrain the impacted authority's ability to fund the full number of their current positions.

Agriculture Industry Impact

The Local Finance Board does not anticipate that the rules proposed for readoption with amendments and new rules will have an impact on the State's agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments and new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act (N.J.S.A. 52:14B-16 et seq.). The rules are applicable to local authorities created pursuant to the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and new rules are not expected to evoke a change in housing production costs nor will they affect the affordability of housing in New Jersey. The rules are applicable to local authorities created pursuant to the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and new rules are not expected to evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan. The rules are applicable to local authorities created pursuant to the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for readoption with amendments and new rules will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the rules pertain to local authority budgeting and financial administration.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:31.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:31-1.1 Scope

This chapter shall constitute the rules governing the preparation, introduction, approval, adoption, and execution after adoption of any budget by a local authority, the accounting principles and policies for such authorities, the administration of financial affairs of such authorities, the annual audit of the financial statements of such authorities, **claims payment and financial reporting practices of such authorities under statutes such as, but not limited to, the Local Authorities Fiscal Control Law, P.L. 1983, [c.313] c. 313, the User-Friendly Budget Law, N.J.S.A. 40A:5-48, and, for fire districts, the property tax levy cap law, N.J.S.A. 40A:4-45.45 et seq. Additionally, this chapter implements requirements for fire district elections, referenda, and capital expenditures contained in P.L. 2017, c. 206, and implements the appropriation and revenue caps established at N.J.S.A. 40:14A-4.2 for regional sewerage authorities established under the Sewerage Authorities Law.** This chapter also contains rules for implementing length of service award programs that are sponsored by fire districts for the purpose of maintaining and attracting volunteer firefighter and emergency medical personnel.

5:31-1.2 Definitions

The following words and terms as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...
 "Capital project" means any of the following activities or undertakings [which] that an authority is empowered to bond for, with an estimated useful life of five years or more [and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$25,000 or more], regardless of the financing sources:

1.-4. (No change.)

"Chief financial officer" means the individual holding overall management responsibility for the authority's finances.

...
 "Energy cost" means the cost of electricity, fuel oil, gasoline, heating oil, natural gas, or other source of energy connected to the operation of a regional sewerage authority.

...
 "Regional sewerage authority" means a regional authority established by two or more municipalities or counties pursuant to the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq., located in a county of the first class with a population of over 600,000 and a population density of over 10,000 persons per square mile according to the latest Federal decennial census.

"Restricted fund balance" means the accumulation of funds reserved for use as capital improvements or as down payments for a fixed asset acquisition, that must be used exclusively for its intended purpose.

...
 "Service transfer" means the transfer to another local unit of the responsibility for funding the cost of a service. Shared service agreements shall not be considered service transfers.

...
 ["Unreserved retained earnings"] "Unrestricted net position" means the equity account that represents accumulated net earnings [which] over expenditures that have been retained from an authority operation[, and are not [reserved] restricted for any special purpose, thereby making such

funds available as a reduction to total [Operating and non-Operating Appropriations] **operating and non-operating appropriations.**

5:31-1.3 Forms and appendices

All forms, documents, and instructions for completion of [these] forms[, and electronic spreadsheet versions on diskette.] referenced in this chapter can be obtained from the [Bureau of Authority Regulations,] **website of the Division of Local Government Services**[, PO Box 803, Trenton, New Jersey 08625-0803, and at the Division's web site] at [<http://www.state.nj.us/dca/lgspages/dcadlgs.htm>] <https://www.nj.gov/dca/divisions/dlgs/>. [Users may reproduce forms individually or create facsimiles, if content, wording, formatting, and any coding remain consistent with these appendices.] **All budgets, audits, and accompanying documents and information shall be submitted to the Division electronically through the Financial Automation Submission Tracking (FAST) system upon its implementation, or through such other automated system as may be implemented by the Director. The Director shall have the discretion to require the submission of one or more paper copies of budgets, audits, and accompanying documents and information parallel to electronic submission.**

SUBCHAPTER 2. BUDGETS

5:31-2.1 Annual budget preparation and content for authorities other than fire districts

(a) Every authority [as herein defined] shall prepare an annual budget for each fiscal year in which an expenditure of money is expected. Each budget shall include an operations section, capital budget and capital program section, and supplemental schedule and necessary certifications relating thereto.

(b)-(c) (No change.)

(d) Every budget shall be prefaced by a narrative explanation of its contents, entitled "[budget message] **Budget Message & Analysis,**" which shall consist of [brief statements as to] the following:

1. [The] **A brief statement on the proposed year's budget compared to the current year's adopted budget for each operation, including reasons and supporting documentation for any increase or decrease in the budgeted line item by greater than 10 percent;**

2. [The] **A brief statement on the impact the proposed budget will have on anticipated revenues, especially service charges, and on the general purpose financial statements and any component unit financial statements as described by N.J.A.C. 5:31-7.8, including an explanation for any increase or decrease greater than 10 percent from the current year's adopted budget;**

3. [How] **A description of how the state of the local and regional economy may impact the proposed budget, including the capital budget and capital program;**

4. The reasons for [unreserved retained earnings or fund balance] utilization of **unrestricted net position funds;** [and]

5. **Identification of any sources of funds transferred to the county or municipality under a shared service or as a budget subsidy, with an explanation of the reason for the transfer;**

6. **Excluding housing authorities, if the authority's rate structure has changed since the prior budget year submission, the authority's existing rate schedule along with a schedule of the proposed rate, fee, or charge structure for the upcoming fiscal year, with an explanation of any proposed changes in said structure and the resolution from the authority's governing body approving the change in the rate, fee, or charge structure; and**

[5.] 7. The reasons for an accumulated deficit, existing or anticipated, subject to the provisions of N.J.S.A. 40A:5-12, **along with a deficit reduction plan and an explanation of how the funding plan would eliminate the deficit.**

(e) Signatures required on all budget documents, budget amendments, and information supporting the budget shall be hand-written signatures **or, for electronically generated documents, electronic signatures.**

(f)-(h) (No change.)

(i) For every budget, except for housing authorities, non-operating appropriations shall be itemized to include the following:

1.-2. (No change.)

3. Renewal and replacement reserve; [and]

4. Municipal/county appropriation; and

[4.] 5. (No change in text.)

(j) For every housing authority budget, non-operating appropriations shall be itemized to include the following:

1. (No change.)

2. [Operating] **Operations and maintenance** reserve[s];

[3. Other non-operating appropriations; and

4. Amounts for operating grant revenues, miscellaneous revenues offset with appropriations, and any other specialized revenues that the Director may determine necessary based on circumstances affecting an individual authority so that revenues of the fire district are properly disclosed to the public.]

3. Renewal and replacement reserve; and

4. Other reserves.

(k) For every authority, revenues generated by the imposition of service charges or fees upon users of one type of operation shall be accounted for, kept, and utilized separately from the revenues generated by the imposition of service charges or fees imposed upon the users of other operations administered by the authority. Accordingly, each authority shall [file] **complete** a separate authority budget **column** for each type of operation being provided, pursuant to the provisions of N.J.S.A. 40:14B-1 et seq., [N.J.S.A.] 40A:5A-1 et seq., and [N.J.S.A.] 52:27BB-1 et seq. Once it is determined that an operation should be accounted for in this way, a separate enterprise fund shall be established for each operation provided by the authority, consistent with accounting and financial reporting systems requirements specified in N.J.A.C. 5:31-7.1.

(l) Every authority budget shall contain schedules, in a format prescribed by the Director, for the following items:

1. A cost analysis of employee health benefits comparing the prior and current years, including, but not limited to, the:

i. Number of covered members;

ii. Total annual cost;

iii. Annual cost, broken down by active employees, retirees, and governing body members; and

iv. Cost sharing by benefit recipients;

2. Compensation paid by the authority to the authority's governing body members, key employees, highest compensated employees, and independent contractors. Individual detail shall be provided on, at a minimum, compensation and hours worked per week;

3. Accumulated liability for compensated absences, which shall, at a minimum, provide gross days of accumulated absences at the beginning of the current year, dollar value of compensated absence liability, and the legal basis for the benefit;

4. A listing of all shared service agreements to which the authority is a party; and

5. Such other information as the Director may require in order to approve authority budgets pursuant to N.J.S.A. 40A:5A-11 or otherwise comply with the user-friendly budget provisions of N.J.S.A. 40A:5-48 relevant to authorities.

(m) Every authority budget shall provide the following information:

1. The number of employees and total compensation information listed on the authority's W-3 Form;

2. The number of regular voting and alternate members of the governing body;

3. Whether the authority has any amounts receivable from current or former commissioners, officers, key employees, or highest compensated employees and, if so, a list of said individuals, their position, the amount receivable, and a description of the amount due to the authority;

4. Whether the authority was party to a business transaction with a current or former commissioner, officer, key employee, or highest compensated employee, or a family member of any of the commissioners, officers, key employees, or highest compensated employees. The authority shall also disclose whether it was a party to any business transactions with an entity in which a current or former commissioner, officer, key employee, or highest compensated employee, or a family member of any of the commissioners, officers,

key employees, or highest compensated employees were an officer, direct owner, or indirect owner. If the answer is "yes," a description of the transactions shall be provided along with the name of the individual(s), the name of the entity and its relationship to the individual(s) (if applicable), the amount paid, and whether the transaction was subject to a competitive procurement process;

5. Whether the authority, during the most recent fiscal year, directly or indirectly, was responsible for paying premiums on a personal benefit contract, such as a life insurance, annuity, or endowment contract. If so, a description of the arrangement, the premiums paid, and the beneficiary of the contract shall be provided;

6. An explanation of the authority's process for determining compensation for all persons listed on the schedule detailing public entity compensation for authority governing body members, key employees, highest compensated employees, and independent contractors, including whether the process includes:

i. A study or survey of compensation data for comparable positions in similarly sized entities;

ii. Prior review by an independent compensation consultant;

iii. Review and approval by the governing body or a committee thereof;

iv. A written contract; and

v. Annual or periodic performance evaluation;

7. A detailed list of meals and catering invoices for the current fiscal year, with an explanation for each expenditure listed;

8. A detailed list of any of the following expenses paid by the authority for authority governing body members, key employees, highest compensated employees, and independent contractors, including:

i. Travel;

ii. Tax indemnification and "gross-up" payments;

iii. Discretionary spending;

iv. Housing and vehicle allowances;

v. Payments for business use of personal residence;

vi. Health or social club dues, including initiation fees; and

vii. Personal services including, but not limited to, maids, chefs, and chauffeurs;

9. Whether the authority has, and follows, a written policy regarding payment and reimbursement of expenses incurred by employees and/or governing body members during the course of authority business and an explanation of the policy, including whether the policy requires substantiation of expenses through receipts or invoices prior to reimbursement;

10. An explanation regarding any payments to employees or governing body members for discretionary bonuses, severance, or termination;

11. All notices received from any State or Federal agency concerning maintenance and repairs for facilities, systems, and other infrastructure that the authority has not yet remediated, along with an explanation as to each;

12. All notices of fines, penalties, or assessments issued by any State or Federal agency, along with the amount and a description of the underlying event(s); and

13. Such other information as the Director may require in order to approve authority budgets pursuant to N.J.S.A. 40A:5A-11, and in the case of regional sewerage authorities, N.J.S.A. 40:14A-4.2, or otherwise comply with the user-friendly budget provisions of N.J.S.A. 40A:5-48 relevant to authorities.

(n) Regional authorities shall state whether all individuals classified as local government officers pursuant to the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq., have filed financial disclosure statements, as required pursuant to N.J.S.A. 40A:9-22.6.

(o) A housing authority shall disclose whether the authority has been deemed "troubled" by the United States Department of Housing and Urban Development, and, if so, a description of the authority's plan to address the identified conditions.

(p) A budget submission shall contain a certification of compliance, by the authority, with the provisions of N.J.S.A. 40A:5A-17.1, pertaining to the maintenance of an Internet website or webpage.

5:31-2.2 Capital budget and capital program **for authorities other than fire districts**

(a)-(b) (No change.)

(c) Every authority [which] **that** adopts a capital budget shall also adopt a capital program or modify or add a year to an existing capital program[, provided that no capital program shall be required if the authority has not expended more than \$25,000 annually for capital projects for the immediate previous three years]. The capital program shall be submitted to the Director with the capital budget. In any budget year when an authority's governing body decides not to adopt a capital budget or program, the Secretary shall certify to such intent and give the reasons therefor.

(d) (No change.)

(e) The Director shall, as part of his **or her** review of each authority annual budget, determine whether a capital budget and program are required, and if so, whether it has been included in proper form. The review shall not extend to any determination as to the sufficiency or wisdom of its content. Failure to properly submit the capital budget and program may delay approval of the entire annual budget.

(f) (No change.)

(g) Every capital budget and **capital** program submitted to the Division shall include a budget message, which shall consist of brief statements addressing the following matters:

1. Whether prior consultation, [and] review, **and, if required, approval** by affected agencies, governmental entities, and jurisdictions served by the authority has been obtained;

2. Whether a specific **capital improvement** plan or report has been developed with respect to each capital project or project financing [and whether] **with full life cycle costs [have] having** been calculated for same, **and whether each capital project or project financing is consistent with appropriate elements of master plans or other plans in the jurisdiction(s) served by the authority;**

3.-4. (No change.)

5. The **projected impact of proposed capital projects**, impact on current and future **rates, fees**, service charges, or user charges, if the proposed capital improvement plan is undertaken; and

6. (No change.)

(h)-(i) (No change.)

(j) All amendments to a capital budget or program shall be approved and adopted by the governing body, at an open public meeting, setting forth the reasons therefor, and passed by not less than a majority of the full membership thereof. [Two] **The** certified [copies thereof] **budget**, together with all relevant information, shall be transmitted to the Division for Director approval **in such a manner as may be required by the Director**, within 10 days after adoption. One certified copy of the amendment shall be transmitted to each affected local unit within 10 days after adoption.

5:31-2.3 Budget introduction and adoption for authorities other than fire districts

(a)-(b) (No change.)

(c) The budget shall set forth all the anticipated revenues of the authority, including the following, where applicable **in comparison to the prior year**:

1. [Retained earnings (fund balance) which] **Unrestricted net position that** shall not exceed the amount of working capital reduced by unrestricted assets not ordinarily convertible into cash; or the estimated [year end] **year-end** balance of [unreserved retained earnings;] **unrestricted net position**, whichever is the lower[.];

2. Rents, fees, and other charges [which] **that** are reasonably expected to be realized from users of facilities and/or services provided by the authority;

3. Amounts expected to be received from local unit or units pursuant to financing agreements with respect to use, services, or provisions of a project, facility, or public improvement of an authority or payments for debt service therefor;

4.-5. (No change.)

6. Amounts reasonably expected to be collected from unrestricted grants [which] **that** may be used to finance budget appropriations; **and**

7. (No change.)

(d) The budget shall set forth all of the appropriations of the authority including the following, where applicable[.] **for the current and prior year**:

1. Administrative and operating expenses, including **personnel salary and wage and fringe benefits, as well as** maintenance and repair of facilities and improvements;

2.-7. (No change.)

8. Addition to the Renewal and Replacement [Account] **and Operations and Maintenance Reserves;**

9.-12. (No change.)

13. Capital outlay for property, plant, and equipment acquisitions expected to be paid from the operating budget;

[14. Contributions to a LOSAP; and]

14. Unrestricted net position utilized; and

15. (No change.)

(e) The authority shall transmit three certified copies of the budget[,] to the Director at least 60 days prior to the end of the current fiscal year, together with all relevant information and documentation as prescribed in [these regulations] **this section** or as otherwise may be required by the Director. **Upon implementation of the Financial Automation Submission Tracking (FAST) system, or such other automated system as may be implemented by the Director, the authority shall electronically submit the certified budget to the Director at least 60 days prior to the end of the current fiscal year, together with all relevant information and documentation as prescribed in this section or as otherwise may be required by the Director. The Director shall have the discretion to require the submission of one or more certified paper copies of the budget, together with all relevant information and documentation as prescribed in this section or as otherwise may be required by the Director, parallel to electronic submission.**

(f) The following information and documentation shall accompany the budget:

1. A computation of the projected balance of [retained earnings] **unrestricted net position;**

2. The schedule of rates, fees, and charges in effect or proposed and computation of revenue reasonably expected to be realized;

3.-6. (No change.)

7. Schedule of debt service (principal and interest) for the **prior adopted budget year, current proposed** budget year, and **at least the next succeeding [four] five years; and**

8. (No change.)

(g) (No change.)

(h) The budget shall be adopted not later than the beginning of the authority's fiscal year, except that the governing body may adopt or amend the budget at any time after the Director shall have approved the same.

1. Two certified copies of the budget as adopted[,] shall be transmitted **by the authority** to the Director within three days after adoption. **Upon implementation of the FAST system, or such other automated system as may be implemented by the Director, the authority shall electronically submit the certified budget, as adopted, to the Director within three days after adoption. The Director shall have the discretion to require the submission of one or more certified paper copies of the adopted budget, together with all relevant information and documentation as prescribed in this section or as otherwise may be required by the Director, parallel to electronic submission.**

2. One certified copy of the budget as adopted shall be transmitted **by the authority** to each local unit within three days after adoption.

(i) (No change.)

5:31-2.4 [Budget] **Preparation and content of fire district annual budget; budget** introduction and adoption for fire districts

(a) (No change.)

(b) The budget shall set forth all anticipated revenues and other financing sources of the district, including the following, where applicable:

1. (No change.)

2. Miscellaneous **anticipated** revenues, which shall not be such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably

capable of anticipating, including amounts expected to be received from municipalities appropriating money for district purposes, but not including revenues from taxes to be levied to support the district budget;

3. Amount to be raised by taxation to support the district budget, which shall be the amount to be certified to the assessor of the municipality to be assessed against the taxable property in the district. Such amount shall be equal to the amount of the total appropriations set forth in the budget minus the total amount of surplus (fund balance) and miscellaneous revenues set forth in the budget[.];

[4. Operating grant revenues and miscellaneous revenues offset with appropriations, and any other specialized revenues that the Director may determine necessary based on circumstances affecting an individual authority so that revenues of the fire district are properly disclosed to the public.]

4. Sale of assets;

5. Interest on investments and deposits;

6. Operating grant revenues;

7. Revenues offset with appropriations;

8. Other revenue; and

9. Any other specialized revenues that the Director may determine necessary based on circumstances affecting an individual fire district, so that revenues of the fire district are properly disclosed to the public.

(c) The budget shall set forth all of the appropriations of the district, including the following, where applicable:

1. For operating appropriations, the following shall be included, **with personnel costs broken out**, where applicable:

i-iv. (No change.)

[v. Amounts necessary to fund any deficit, or anticipated deficit, from the preceding budget year.]

v. Appropriations offset with revenue;

vi. Appropriations for duly incorporated first aid/rescue squad;

vii. Emergency appropriations and deferred charges; and

viii. Amounts necessary to fund any deficit, or anticipated deficit, from the preceding budget year;

2. Capital appropriations, **which** shall include the following:

i. Amounts necessary in the current budget year to fund or meet obligations incurred for capital purposes, including principal and interest on bonds, **notes, capital leases, and intergovernmental loans**, itemized according to purpose. **For fire trucks, the term "capital lease" shall encompass not only lease-purchase agreements but also operational leases;**

ii. For capital appropriations not paid for through borrowing:

(1) The date of the special meeting conducted pursuant to N.J.S.A. 40A:14-84;

(2) An affidavit of compliance with N.J.S.A. 40A:14-84 adhering to the content and format set forth at N.J.A.C. 5:31-2 Appendix C; and

(3) A certification of special meeting results adhering to the content and format set forth at N.J.A.C. 5:31-2 Appendix D;

iii. For debt service, which shall include bond issuances, lease-purchase agreements, and the creation of any other debt or liability for permitted purposes, as applicable:

(1) The date of voter approval and percentages;

(2) The date of Local Finance Board approval; and

(3) A certification of special elections results adhering to the content and format set forth at N.J.A.C. 5:31-2 Appendix E;

iv. Amounts reserved for future capital outlays;

v. Appropriations offset with grants;

vi. Appropriations offset with restricted fund balance; and

vii. Appropriations offset with unrestricted fund balance;

3. Length of service award programs, once approved by referendum pursuant to P.L. 1997, [c.388.] **c. 388; and**

4. Total appropriations shall be the sum of [items 1] **(c)1** through 3 above.

(d) (No change.)

[e) The district shall transmit two certified copies of its budget to the Director at least 60 days prior to the annual election, together with all relevant information as prescribed in these rules or as otherwise required by the Director.

(f) The following information and documentation shall accompany the budget:

1. A computation of the estimated fund balance or deficit from the preceding fiscal year;

2. Schedule of debt service (principal and interest) for the budget year and next succeeding four years;

(g) The budget and all relevant information shall be reviewed by the Director. If the Director finds that all requirements of law and the rules and regulations of the Local Finance Board have been met, the Director shall, within 21 days of his receipt of the budget, approve it; otherwise the Director shall within that time refuse to approve it. No district budget shall be adopted by the Commissioners until the Director shall have approved same, provided, however, that if the Director has not notified the Commissioners of his or her approval or refusal to approve the budget and the conditions on which approval will be granted at the end of the 21-day period, the budget will be deemed to have been approved. Budget adoption shall be by resolution passed by a majority of the full membership of the commission.

1. Two certified copies of the budget as adopted shall be transmitted to the Director within seven days after adoption.

2. One certified copy of the budget as adopted shall be transmitted to the local unit within seven days after adoption.

(h) In the event that the adopted budget is rejected at the annual election of the district, the governing body of the local unit shall, within 30 days after the annual election prepare and adopt, by resolution passed by a majority vote of the full membership of the governing body of the local unit, the budget for the fiscal year of the district. The budget adopted by the governing body of the local unit shall be in the same line item and detail as that rejected at the annual election of the district.

(i) Within three days after its adoption the local unit shall transmit two certified copies of the budget, as adopted by the local unit, to the Director and one certified copy of the budget, as adopted by the local unit, to the commissioners of the district.

(j) No district budget adopted by a local unit shall become effective prior to approval by the Director.

(k) When the annual budget is approved at the annual election of the district or finally adopted by the local unit, as the case may be, it provides legal authorization for general fund spending. Adopted budgetary accounts shall be formally integrated in the general fund ledger.

(l) The Board of Commissioners shall certify to the Director no later than three days after the passage of the budget referendum:

1. The amount to be raised by taxation, together with the tax rate per hundred dollars of assessed value, pursuant to N.J.S.A. 54:4-35, and the total "Yes" votes and total "No" votes;

2. The amount of any capital project subject to referendum and the total "Yes" votes and total "No" votes; and

3. The appropriated LOSAP amount subject to referendum and the total "Yes" votes and total "No" votes.

(m) Upon receipt of the certifications required in (l) above, the Director shall certify to the tax assessor of the municipality in which the fire district is located the amount to be raised by taxation to support the year's fire district budget.

(n) In the event the question of finally adopting the budget is voted in the negative by a majority of the legal voters voting in the district, the Board of Commissioners shall certify to the Director its intent to comply with N.J.S.A. 40A:14-78.5(b) relating to the governing body of the municipality in which the district is located holding a hearing and setting the budget for the district. In considering the budget, the governing body shall not reduce any debt service amount or any appropriated LOSAP amount affirmatively approved by the voters of the fire district.

(o) Every budget submitted to the Division shall include a budget message, which shall consist of the following brief statements:

1. The proposed year's budget compared to the current year's adopted budget;

2. The impact the proposed year's budget will have on the amount to be raised by taxation to support the district and upon unrestricted or restricted fund balances;

3. The impact the proposed year's budget will have on capital appropriations, pursuant to N.J.S.A. 40A:14-78.6b;

4. Disclosure of any proposed amount provided for any cash deficit of the preceding year, pursuant to N.J.S.A. 40A:14-78.6a;

5. Disclosure of any proposed amount to be provided to purchase first aid, ambulance, rescue or other emergency vehicles equipment, supplies and materials, pursuant to N.J.S.A. 40A:14-85.1;

6. Disclosure of the total assessed valuation of the district and the property tax rate per \$100 of assessed value;

7. If the fire district is providing for a first-year funding appropriation to establish a LOSAP, disclosure of that action, the amount, and the fact that a public referendum is required in order to ratify the LOSAP, but if defeated that the Board of Commissioners will amend its budget to remove the first year's appropriation and reduce the amount to be raised by taxation by a like amount.

(p) The secretary, or other official having been duly designated with those responsibilities, shall attest to the actions taken by the Board of Commissioners of a fire district with respect to approval, adoption and amendment of the budget, including the recorded vote of the full membership thereof, by signature on all required certifications and resolutions.]

(e) Where the intended purpose of restricted fund balance is no longer essential, the board of fire commissioners may authorize a referendum seeking voter approval to release the restricted fund balance to be appropriated for other unrestricted purposes that provide and maintain essential services.

1. If the fund balance was restricted by a ballot question voted upon pursuant to N.J.S.A. 40A:14-85, the fund balance shall only be unrestricted by a referendum to be held on the third Saturday in February.

2. If the fund balance was restricted by voter approval at a special meeting held by a fire district that holds its annual election for board of fire commissioners on the third Saturday in February, the fund balance shall only be unrestricted with voter approval during a special meeting held pursuant to N.J.S.A. 40A:14-84.

3. If the fund balance was restricted by voter approval at a special meeting held by a fire district that holds its annual election for the board of fire commissioners in conjunction with the November general election, the fund balance shall only be unrestricted by a two-thirds vote of the full membership of the board of fire commissioners during a special meeting held pursuant to N.J.S.A. 40A:14-84.

(f) If a levy cap referendum is to be held pursuant to N.J.S.A. 40A:4-45.45, or a referendum to release restricted fund balance, an enabling resolution must be adopted by the majority of the full membership of the board of fire commissioners.

(g) Any resolution authorizing a levy cap referendum shall adhere to the content and format set forth in N.J.A.C. 5:31-2 Appendix A. Any resolution authorizing a referendum on the release of restricted fund balance shall adhere to the content and format set forth at N.J.A.C. 5:31-2 Appendix B.

(h) If either a levy cap or restricted fund balance referendum is planned at the time of introduction of the budget, the resolution shall be adopted prior to the budget introduction, with a certified copy of the resolution being filed with the Director alongside the introduced budget. If the budget is amended prior to adoption, and the amendment either requires a levy cap or restricted fund balance referendum to take place or would change the question or questions to be brought before the voters, the resolution shall be adopted or amended, as appropriate, and filed with the Director.

(i) The district shall transmit two certified copies of its budget to the Director at least 60 days prior to the third Saturday in February, together with all relevant information as prescribed in this chapter, or as otherwise required by the Director. Upon implementation of the Financial Automation Submission Tracking (FAST) system, or such other automated system as may be implemented by the Director, the district shall electronically submit the certified budget to the Director at least 60 days prior to the third Saturday in February, together with all relevant information and documentation as prescribed in this chapter, or as otherwise required by the Director. The Director shall have the discretion to require the submission of one or more certified paper copies of the budget, together with all relevant information and

documentation as prescribed in this section or as otherwise may be required by the Director, parallel to electronic submission.

(j) The following information and documentation shall accompany the budget:

1. A computation of the estimated fund balance or deficit from the preceding fiscal year, along with a reconciliation of fund balance for the current year;

2. A schedule of debt service (principal and interest) for the budget year and next succeeding five years;

3. The levy cap calculation pursuant to N.J.S.A. 40A:4-45.45;

4. If a levy cap referendum is to be held pursuant to N.J.S.A. 40A:4-45.45 and 40A:4-45.46 and/or a referendum is to be held on the release of restricted fund balance:

i. A listing of the specific amounts and budget line items for which funds approved at referendum would be utilized;

ii. A certified copy of the enabling resolution or resolutions adopted by the board of fire commissioners authorizing a referendum; and

iii. The proposed referendum question or questions;

5. Compensation paid by the fire district to commissioners and officers. The schedule shall, at a minimum, provide individual detail on compensation and hours worked per week;

6. A cost analysis of employee health benefits comparing the prior and current years, including, but not limited to:

i. The number of covered members;

ii. Total annual cost;

iii. Annual cost broken down by active employees, retirees, and governing body members; and

iv. Cost sharing by benefit recipients;

7. The accumulated liability for compensated absences that shall, at a minimum, provide gross days of accumulated absences at the beginning of the current year, dollar value of compensated absence liability, and the legal basis for the benefit;

8. A listing of all shared service agreements to which the fire district is a party;

9. Any contract for the sale of assets; and

10. Such other information as the Director may require in order to approve fire district budgets pursuant to N.J.S.A. 40A:5A-11 or otherwise comply with the user-friendly budget provisions of N.J.S.A. 40A:5-48 relevant to fire districts.

(k) Every fire district budget shall contain a completed questionnaire with answers for the following questions:

1. Whether the fire district has any amounts receivable from current or former commissioners, officers, key employees, or highest compensated employees and, if so, a list of said individuals, their positions, the amount receivable, and a description of the amount due to the authority;

2. Whether the fire district was party to a business transaction with a current or former commissioner, officer, or employee. The fire district shall also disclose whether it was a party to any business transactions with an entity in which any such individuals, or a family member thereof, was an officer, direct owner, or indirect owner. If the answer is "yes," a description of the transactions shall be provided, along with the name of the individual(s), the name of the entity and its relationship to the individual(s), if applicable, the amount paid, and whether the transaction was subject to a competitive procurement process;

3. A detailed list of any of the following expenses paid by the fire district for fire district commissioners, key employees, highest compensated employees, and independent contractors, including:

i. Travel;

ii. Tax indemnification and "gross-up" payments;

iii. Discretionary spending;

iv. Housing and vehicle allowances;

v. Payments for business use of personal residence;

vi. Health or social club dues, including initiation fees; and

vii. Personal services including, but not limited to, maids, chefs, and chauffeurs;

4. An explanation regarding any payments to employees or commissioners for discretionary bonuses, severance, or termination;

5. A list of the fire district's vehicles, including make, model, and year, indicating to whom the vehicles are assigned and their positions;

6. If the fire district contracts with another entity to provide fire protection or emergency medical services within the district, whether there is a written agreement detailing the services the entity shall provide along with the amount to be paid by the fire district and, if there is no written agreement, the reason for not having a written agreement in place, the services provided, and the basis for the amount paid by the district;

7. Whether the fire district has a Length of Awards Service Program (LOSAP) plan and, if so:

- i. The year in which the LOSAP was implemented;
- ii. The total number of volunteers presently eligible to participate;
- iii. The total number of vested volunteers;
- iv. Whether the annual contribution for each vested member is fixed or based on an automatic increase;
- v. The total amount budgeted for LOSAP for the current year; and
- vi. Whether the fire district has required the plan contractor to submit its annual financial statement to the Director of the Division of Local Government Services pursuant to N.J.A.C. 5:30-14.49;

8. Such other information as the Director may require in order to approve fire district budgets pursuant to N.J.S.A. 40A:5A-11 or otherwise comply with the user-friendly budget provisions of N.J.S.A. 40A:5-48 relevant to fire districts.

(l) The budget and all relevant information shall be reviewed by the Director. If the Director finds that all requirements of law and the rules of the Local Finance Board have been met, the Director shall, within 45 days of his or her receipt of the budget, approve it; otherwise the Director shall, within that time, refuse to approve it. No district budget shall be adopted by the commissioners until the Director shall have approved the same, provided, however, that if the Director has not notified the commissioners of his or her approval or refusal to approve the budget and the conditions on which approval will be granted at the end of the 45-day period, the budget will be deemed to have been approved. Budget adoption shall be by a resolution passed by a majority of the full membership of the commission.

1. Two certified copies of the budget, as adopted, shall be transmitted to the Director within three days after adoption. Upon implementation of the FAST system, or such other automated system as may be implemented by the Director, the district shall electronically submit the certified adopted budget to the Director within three days after adoption. The Director shall have the discretion to require the submission of one or more certified paper copies of the adopted budget, together with all relevant information and documentation as prescribed in this section or as otherwise may be required by the Director, parallel to electronic submission.

2. One certified copy of the budget, as adopted, shall be transmitted by the fire district to the municipality within three days after adoption.

(m) In the event that the adopted budget is rejected at an annual election of the district held on the third Saturday in February, the governing body of the municipality shall, within 30 days after the annual election, prepare and adopt, by resolution passed by a majority vote of the full membership of the governing body of the local unit, the budget for the fiscal year of the district. The budget adopted by the governing body of the local unit shall be in the same line item and detail as that rejected at the annual election of the district held on the third Saturday in February.

1. Within three days after its adoption, the municipality shall transmit two certified copies of the budget, as adopted by the municipality, to the Director and one certified copy of the budget, as adopted by the municipality, to the commissioners of the district. Upon implementation of the FAST system, or such other automated system as may be implemented by the Director, the certified budget as adopted by the local unit shall be electronically submitted to the Director within three days after adoption. The Director shall have the discretion to require the submission of one or more certified paper copies of the adopted budget, together with all relevant information

and documentation as prescribed in this section or as otherwise may be required by the Director, parallel to electronic submission.

2. No district budget adopted by a municipality shall become effective prior to approval by the Director.

(n) When the annual budget is approved at an annual election of the district held on the third Saturday in February or, for fire districts holding their annual election at the November general election, finally adopted by the board of fire commissioners of a fire district, or finally adopted by the local unit, as the case may be, it provides legal authorization for general fund spending. Adopted budgetary accounts shall be formally integrated in the general fund ledger.

(o) For fire districts whose annual elections coincide with the November general election and whose tax levies do not exceed the permissible property tax levy increase as determined pursuant to section 10 of P.L. 2007, c. 62 (N.J.S.A. 40A:4-45.45), the Director shall certify to the tax assessor of the municipality or municipalities in which the fire district is located the amount to be raised by taxation to support the year's fire district budget upon receipt of the budget adopted by the board of fire commissioners.

(p) For fire districts whose annual elections are held on the third Saturday in February, the board of commissioners shall certify to the Director no later than 10 days after the passage of the budget referendum, unless the Director grants an extension:

1. The amount to be raised by taxation, together with the tax rate per 100 dollars of assessed value, pursuant to N.J.S.A. 54:4-35, and the total "Yes" votes and total "No" votes;

2. The amount of any capital project subject to referendum and the total "Yes" votes and total "No" votes;

3. The results of any levy cap referendum held pursuant to N.J.S.A. 40A:4-45.45;

4. The results of any referendum to release restricted fund balance; and

5. The appropriated LOSAP amount subject to referendum and the total "Yes" votes and total "No" votes.

(q) Upon receipt of the certifications required at (p) above, along with the election results and a copy of the ballot, the Director shall certify to the tax assessor of the municipality or municipalities in which the fire district is located the amount to be raised by taxation to support the year's fire district budget. In the event 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.

(r) In the event the adopted budget is rejected by a majority of the legal voters voting in the district at an annual election held on the third Saturday in February, the board of commissioners shall certify to the Director its intent to comply with N.J.S.A. 40A:14-78.5(b) relating to required actions by the governing body of the municipality in which the district is located, including holding a hearing and the setting of a budget for the district. In considering the budget, the governing body shall not reduce any debt service amount or any appropriated LOSAP amount affirmatively approved by the voters of the fire district.

(s) For fire districts whose annual elections coincide with the date of the November general election, in the event a levy cap or restricted fund balance referendum is held on the third Saturday in February of the budget year in which the levy increase would apply, the results of said referendum or referendums shall be submitted to the Director no later than 10 days after the referendum takes place, unless the Director grants an extension. Upon receipt of the referendum results, the Director shall certify to the tax assessor of the municipality or municipalities in which the fire district is located the amount to be raised by taxation to support the year's fire district budget.

(t) Every budget submitted to the Division shall include a budget message, which shall consist of the following brief statements:

1. The proposed year's budget compared to the current year's adopted budget, with a description of the reason for the increase or decrease over 10 percent in any line item along with any supporting documentation;

2. The impact the proposed year's budget will have on the amount to be raised by taxation to support the district and upon unrestricted or restricted fund balances, along with an explanation of the

projected impact on the following year's budget if unrestricted fund balance is reduced by more than 10 percent;

3. A statement explaining how the fire district is complying with the property tax levy cap set forth at N.J.S.A. 40A:4-45.45, accompanied by an explanation of any reasons for exceeding the levy cap that identifies the appropriations causing the fire district to exceed the levy cap;

4. Any service transfers to which the fire district is a party. If the district is party to a service transfer, the district shall set forth the levy cap base adjustment attributable to the service transfer;

5. If the fire district plans to adopt a resolution for the release of restricted fund balance, an explanation of the reason and purposes for the appropriation;

6. The impact the proposed year's budget will have on capital appropriations, pursuant to N.J.S.A. 40A:14-78.6.b;

7. Disclosure of any proposed amount provided for any cash deficit of the preceding year, pursuant to N.J.S.A. 40A:14-78.6.a, along with an explanation of why the deficit occurred;

8. Disclosure of any proposed amount to be provided to purchase first aid, ambulance, rescue, or other emergency vehicle equipment, supplies, and materials, pursuant to N.J.S.A. 40A:14-85.1;

9. Disclosure of the total assessed valuation of the district and the property tax rate per \$100.00 of assessed value; and

10. If the fire district is providing for a first-year funding appropriation to establish a LOSAP, disclosure of that action, the amount, and the fact that a public referendum is required in order to ratify the LOSAP, but if defeated that the board of commissioners will amend its budget to remove the first year's appropriation and reduce the amount to be raised by taxation by a like amount.

(u) The budget submission shall contain a certification of compliance by the fire district with the provisions of N.J.S.A. 40A:14-70.2, pertaining to the maintenance of an internet website or webpage.

(v) The secretary, or other official having been duly designated with those responsibilities, shall attest to the actions taken by the board of commissioners of a fire district with respect to approval, adoption, and amendment of the budget, including the recorded vote of the full membership thereof, by signature on all required certifications and resolutions.

5:31-2.6 Budget review by Director

(a) Upon receipt of an introduced budget, the Director shall review the budget to determine the following:

1.-3. (No change.)

4. The schedule of rates, fees, and charges then in effect will produce sufficient revenues, together with all other anticipated revenues, to satisfy all obligations to the holders of bonds of the authority, to meet operating expenses, capital outlays, debt service requirements, and to provide for such reserves, all as may be required by law, [regulations] rules, or terms of contracts or agreements[.]; and

5. That the most recent audit report required to be filed with the Director of the Division of Local Government Services has been filed in accordance with N.J.S.A. 40A:5A-15.

(b)-(d) (No change.)

5:31-2.8 Budget amendments; all authority budgets except for fire districts

(a)-(b) (No change.)

(c) Two certified copies of the amendment and certified copies of all relevant resolutions shall be transmitted to the Director within three days after adoption. Upon implementation of the Financial Automation Submission Tracking (FAST) system, or such other automated system as may be implemented by the Director, the certified amendment and certified copies of all relevant resolutions shall be electronically transmitted to the Director within three days after adoption. The Director shall have the discretion to require the submission of one or more certified paper copies of the certified amendment and accompanying resolutions, together with all relevant information and documentation as prescribed in this section or as otherwise may be required by the Director, parallel to electronic submission. One certified copy of the amendment shall be transmitted to each local unit within three days after adoption.

(d) (No change.)

5:31-2.11 Fire district line item appropriations; levy cap referendums

(a) An introduced fire district budget requiring a levy cap referendum pursuant to N.J.S.A. 40A:4-45.45 and 40A:4-45.46 shall specify the separate line item appropriations that would be funded by the tax levy increase proposed by the referendum.

(b) Transfers to or from referendum line items are not permitted at any time. Referendum line items shall not be expended, unless the base line item amount is depleted.

(c) Any cancelled or unexpended appropriations for exclusions or referendums will be deducted from the adjusted levy based on the audit report or as noted in the budget message.

5:31-2.12 Fire district levy cap exclusions; increase in certain shared services costs

A fire district may exclude from its levy cap calculation any costs falling within the general exclusions set forth in N.J.S.A. 40A:4-45.45 that are passed on by the provider of a shared service agreement to which the fire district is a party.

5:31-2.13 Fire district levy cap and restricted fund balance referendums; date and time to be held

(a) When a fire district holds its annual election for the board of fire commissioners on the third Saturday in February, a levy cap referendum pursuant to N.J.S.A. 40A:4-45.45 and/or a referendum to release restricted fund balance shall be held contemporaneously.

(b) When a fire district holds its annual election for the board of fire commissioners at the same time as the November general election, a levy cap referendum pursuant to N.J.S.A. 40A:4-45.46 and/or a referendum to release restricted fund balance shall be held on the third Saturday in February of the budget year in which the levy increase and/or release of restricted fund balance would apply. The referendum shall be approved by the majority of the voters at a special election held by secret ballot between the hours of 2:00 P.M. and 9:00 P.M.

(c) The public question for a levy cap referendum held pursuant to N.J.S.A. 40A:4-45.45 shall adhere to the content and format set forth at N.J.A.C. 5:31-2 Appendix F and, as applicable, such other requirements as may be set forth in Title 40A of the New Jersey Statutes Annotated.

(d) The public question for a referendum on the release of restricted fund balance shall adhere to the content and format set forth at N.J.A.C. 5:31-2 Appendix G and, as applicable, such other requirements as may be set forth in Title 40A of the New Jersey Statutes Annotated.

5:31-2.14 Fire district special meetings

(a) Before a fire district can raise money for a firehouse, fire engines, apparatus, ambulances, first-aid vehicles, rescue vehicles, and such other purposes as may be permitted under N.J.S.A. 40A:14-84, and include such amount in the next succeeding annual budget of the fire district under the section for capital appropriations, a special meeting shall be held by the board of fire commissioners to approve the same, so long as the amount to be raised does not exceed five mills on the dollar of the last assessed valuation of the property in the fire district.

(b) A special meeting may be held either on a stand-alone basis or during a regular meeting of the district's board of fire commissioners.

(c) Where a fire district holds its annual election for the board of fire commissioners during the third Saturday in February, legal voters registered to vote in the district shall approve by majority vote, the raising of money for the purposes permitted under N.J.S.A. 40A:14-84. Voting shall be conducted by secret ballot and shall be open between the hours of 6:00 P.M. and 9:00 P.M. or such later closing hour on the same day as may be designated by the board of fire commissioners.

(d) Where a fire district holds its annual election for the board of fire commissioners during the November general election, the amount to be raised for the purposes permitted under N.J.S.A. 40A:14-84

shall be approved by no less than a two-thirds majority vote of the full membership of the board of fire commissioners.

(e) Within seven calendar days of the date of the special meeting, the following shall be submitted to the Division of Local Government Services in such a manner as specified by the Director:

1. An affidavit pursuant to N.J.A.C. 5:31-2 Appendix C certifying compliance with the posting and publication requirements set forth at N.J.S.A. 40A:14-84 and N.J.A.C. 5:31-2 Appendix C;

2. An affidavit pursuant to N.J.A.C. 5:31-2 Appendix D, which:

i. Certifies the results of the special meeting; and
ii. Certifies that the special meeting was conducted in accordance with the provisions of N.J.S.A. 40A:14-84;

3. A copy of the notice posted in five public places within the district;

4. Proof of publication for the newspaper notices required pursuant to N.J.S.A. 40A:14-84; and

5. For fire districts whose annual election for board of fire commissioners is held on the third Saturday in February, a copy of the question(s) provided to voters.

(f) Any individual certifying to willfully false statements in an affidavit submitted pursuant to (e) above shall be subject to punishment pursuant to law.

5:31-2.15 Voter referendums on capital expenditures; fire districts

(a) The board of commissioners of a fire district may raise money by a bond issue or through the creation of any other debt or liability, including, but not limited to, through a lease purchase agreement, for any capital expenditure permitted under N.J.S.A. 40A:14-85, as well as for ambulances, first-aid vehicles, and rescue vehicles. Any such bond issue, debt, or liability shall be authorized by a resolution of the commissioners specifying the amount and the purpose thereof. No capital expenditure under N.J.S.A. 40A:14-85 may exceed \$60,000 or two percent of the assessed valuation of the taxable property in the fire district, whichever amount is larger. The resolution shall be inoperative unless and until it shall have been submitted to and approved by the legal voters within the fire district at either a special election or at the annual election for the board of fire commissioners.

(b) No resolution shall be adopted pursuant to N.J.S.A. 40A:14-85 prior to the issuance of findings by the Local Finance Board pursuant to N.J.S.A. 40A:5A-6 and 7.

(c) Within seven calendar days after the date of a voter referendum authorized pursuant to N.J.S.A. 40A:14-85 and 86, the district shall submit to the Division of Local Government Services, a certification of:

1. The results of the referendum; and

2. Compliance with N.J.S.A. 40A:14-85 and 86 and Title 19 of the New Jersey Statutes Annotated, if applicable.

(d) The certification at (c) above must be in the format set forth at N.J.A.C. 5:31-2 Appendix H and be submitted with the following in such a manner as specified by the Director:

1. A copy of the ballot on which the question appeared;

2. A copy of the notices posted pursuant to law; and

3. Proof of publication of the newspaper notices required pursuant to law.

(e) Any individual certifying to willfully false statements in a certification submitted pursuant to (c) above shall be subject to punishment pursuant to law.

(f) A multi-year operational lease for a fire engine shall be considered a capital expenditure to be approved at a special election held pursuant to N.J.S.A. 40A:14-85.

5:31-2.16 Budget amendments prior to adoption of fire district budget

(a) The board of fire commissioners may amend the budget during or after the public hearing. All amendments shall be read in full.

(b) No budget amendments that require a public hearing pursuant to N.J.S.A. 40A:14-78.3 shall be effective until the taxpayers of the district and all persons having an interest in the budget and the proposed budget amendments shall have been granted a public hearing thereon.

(c) A notice of hearing on any amendment for which a public hearing is required pursuant to N.J.S.A. 40A:14-78.3 shall be advertised at least three days before the date of the hearing in a newspaper having substantial circulation in the fire district.

5:31-2.17 Budget amendments following adoption of fire district budget

(a) Following the adoption of a fire district budget, or following voter approval of the budget if the fire district holds its board of fire commissioners election on the third Saturday in February, a majority of the full membership of the board of commissioners may adopt a resolution amending the budget to provide for the anticipation of revenue from a public or private funding source that was not known at the time the budget was approved, and to appropriate the funds, provided the amount of the appropriation does not exceed the amount of the revenue received. The resolution shall include, at a minimum:

1. A reference to N.J.S.A. 40A:14-78.5;

2. The dollar amount received or awarded;

3. The revenue and appropriation titles;

4. The amount and source of any local match, if a grant program or donation requires matching funds on the part of the fire district;

5. The roll call vote of the board of fire commissioners; and

6. The date the resolution was adopted.

(b) Any fire district budget amendments pursuant to N.J.S.A. 40A:14-78.5.c that provide for the anticipation of revenue from a Federal or State grant program are deemed approved. All other budget amendments pursuant to N.J.S.A. 40A:14-78.5.c are subject to Director approval. Any fire district seeking Director approval under this section must submit the following:

1. A certified copy of the adopted budget amendment resolution; and

2. A certification that the fire district is in receipt of a written notification from the funding source cited in the resolution, and that the identified revenue and appropriation meet all statutory requirements to be included in the budget.

(c) When a fire district amends its budget pursuant to N.J.S.A. 40A:14-78.5.c to provide for the anticipation of revenue from a Federal or State grant program, the Director shall be provided with a certification that the fire district is in receipt of a written notification from the funding source cited in the resolution, and that the identified revenue and appropriation meet all statutory requirements to be included in the budget.

5:31-2.18 Prohibition on authorities amending operational leases to become lease-purchase agreements

No authority may amend an operational lease agreement after its execution to become a lease-purchase agreement.

5:31-2.19 Regional sewerage authority appropriations cap

(a) The increase in appropriations in the annual budget of a regional sewerage authority shall not exceed two percent over the prior year adopted budget, except that the percentage of growth in the appropriations in the annual budget shall be determined without consideration of any amounts appropriated by the authority for:

1. Capital expenditures included in the regional sewerage authority capital budget;

2. Payment of principal or interest on debt authorized or issued pursuant to law;

3. Increases in pension contributions and accrued liability for pension contributions in excess of two percent over those expenditures for the previous budget year;

4. 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 two percent of total health care costs in the previous budget 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 (N.J.S.A. 52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury;

5. Increases in energy cost expenditures in excess of two percent over those expenditures for the previous budget year;

6. Costs associated with the establishment of a stormwater utility operation pursuant to P.L. 2019, c. 42;

7. Extraordinary costs that are directly related to an emergency, which shall mean any purpose that meets a pressing need for public expenditure to protect or promote the public health, safety, morals, or welfare, which could not be reasonably foreseen when the prior year budget was adopted and for which adequate provision was not made in the prior year budget;

8. Expenditures for the cost of services mandated by any final judgement or order of court, by any Federal or State statute, or by any administrative rule, directive, order, or other legally binding document issued by a State agency including, but not limited to, services required under any project financing agreement within any State or Federal agency, or services required under permits issued by the New Jersey Department of Environmental Protection for a Pollution Discharge Elimination System (NJPDDES) or a Combined Sewer Overflow (CSO) system. Any State agency mandating that a regional sewerage authority provide a service shall certify the mandate of such service to the Director of the Division of Local Government Services, unless a service is clearly mandated in the text of the above-referenced items; and

9. Appropriations offset in whole or in part by offsetting grants.

(b) A regional sewerage authority may add to the allowable growth in appropriations in any one of the next three succeeding years, the amount of the difference between the maximum allowable increase in appropriations for the current budget year and the actual amount of appropriations for the current budget year.

5:31-2.20 Regional sewerage authority revenue cap; charges to customers

(a) The established rate charged to customers of the regional sewerage authority based on metered consumption, measured by a specific number of gallons or cubic feet, shall not exceed the established rate charged in the previous budget year by more than two percent as measured against the same number of gallons or cubic feet.

(b) The number of cubic feet or gallons against which the established rate is measured shall not be reduced in such a fashion as to cause the amount billed to a customer of the regional sewerage authority to exceed two percent of the amount billed to the customer for the same usage in the previous budget year.

(c) The minimum charge, or the fixed charge for unmetered consumption, per unit, parcel, or fixture shall not increase by more than two percent versus the amount charged in the previous budget year. Fees charged for connection to a regional sewerage authority's system shall not be subject to this limitation; however, this subsection shall not be interpreted to override the limitations on connection fees set forth at N.J.S.A. 40:14A-8.b.

5:31-2.21 Regional sewerage authority revenue cap; exceptions

(a) Notwithstanding any limitations on increasing the amount billed, a regional sewerage authority may apply to the Local Finance Board for a waiver to increase rents, rates, fees, and charges to levels sufficient to compensate for loss of revenues due to reductions in the use or service of the sewerage system.

(b) Notwithstanding any limits on increasing the amount billed, a regional sewerage authority may increase its rents, rates, fees, and charges by more than two percent versus the amount charged in the previous budget year without consideration of any amounts required to be raised for:

1. Capital expenditures included in the regional sewerage authority capital budget;
2. Payment of principal or interest on debt authorized or issued pursuant to law;
3. Increases in net position required to be held in reserve with respect to any debt covenants; and
4. Any amounts required to be raised for the purposes of establishing a stormwater utility operation pursuant to P.L. 2019, c. 42.

(c) Notwithstanding any limits on increasing the amount billed, a regional sewerage authority may increase its rents, rates, fees, and

charges by more than two percent versus the amount charged in the previous budget year for expenditures for the cost of services mandated by any final judgement or order of court, by any Federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency including, but not limited to, services required under any project financing agreement within any State or Federal agency, or services required under permits issued by the New Jersey Department of Environmental Protection for a Pollution Discharge Elimination System (NJPDDES) or a Combined Sewer Overflow (CSO) system. Any State agency mandating that a regional sewerage authority provide a service shall certify the mandate of such service to the Director of the Division of Local Government Services, unless a service is clearly mandated in the text of the above-referenced items.

5:31-2.22 Director approval of regional sewerage authority annual budget

Once the governing body members of the regional sewerage authority introduce and approve its annual budget by a resolution passed by not less than a majority of the full membership, the budget shall be submitted to the Director for review and approval.

(OAL Note: The text of the proposed new N.J.A.C. 5:31-2 Appendices A through J appears without boldface symbolizing new text; those portions of the appendices appearing in boldface are proposed to be so permanently.)

APPENDIX A

FIRE DISTRICT LEVY CAP REFERENDUM RESOLUTION

RESOLUTION BY THE BOARD OF COMMISSIONERS OF FIRE DISTRICT (insert Dist. #) OF THE (name of municipality) IN THE COUNTY OF (name of county) AND STATE OF NEW JERSEY AUTHORIZING A PROPERTY TAX CAP LEVY REFERENDUM ON (date of referendum)

WHEREAS, N.J.S.A. 40A:4-45.45 provides that in preparation of its budget a fire district shall limit any increase in its property tax levy to two percent (2.0%) over the previous year's amount to be raised by taxation, subject to certain exceptions and additions; and,

WHEREAS, N.J.S.A. 40A:4-45.46(b), permits a fire district to increase amount to be raised by taxation by a percentage rate greater than two percent (2.0%) where said increase is approved by referendum; and,

WHEREAS, the Board of Commissioners of Fire District Number (District #) in the (name of municipality), in the County of (name of county) has called for a referendum question pursuant to N.J.S.A. 40A:4-45.46(b) to be held on the third Saturday in February because it finds it advisable and necessary to increase its (insert budget year) amount to be raised by taxation budget by more than two percent (2.0%) over the (insert previous year) amount to be raised by taxation, to provide and maintain essential district services for the residents of the district; and,

WHEREAS, the Board of Commissioners of Fire District Number (District #) in the (name of municipality), hereby determines that a (insert the additional percent increase) increase in the amount to be raised by taxation or (insert dollar increase over the permitted amount) in excess of the increase in the amount to be raised by taxation otherwise permitted by a two (2.0%) tax levy cap, will only become effective upon authorization by an affirmative vote of in excess of fifty percent (50%) of the voters casting a ballot at the referendum and,

WHEREAS, this additional amount will be appropriated for the purposes set forth below, increasing the total appropriation for each such purpose from what would otherwise be provided under the limitations of a two percent (2.0%) tax levy cap, as set forth below:

Line item name	Amount for referendum

(insert additional rows as necessary)

NOW, THEREFORE BE IT RESOLVED, that the question to be placed on the ballot shall be as follows:

"Shall the Board of Commissioners of Fire District Number (District #) in the (name of municipality) be authorized to increase the (insert year) amount to be raised by taxation in the Fire District annual budget, by (insert percent) or (insert dollar amount) as provided by N.J.S.A. 40A:4-45.45, notwithstanding that its amount to be raised by taxation will exceed the two percent (2.0%) increase limitation.

___ Yes ___ No

INTERPRETIVE STATEMENT

A "yes" vote will authorize the Board of Commissioners of the fire district to adopt the budget that was approved by the Board. N.J.S.A. 40A:4-45.45 provides a tax levy "cap" of two percent (2.0%) 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 listed in the resolution—do not list amounts)

...

If referendum is approved (a "yes" vote), the amount to be raised by taxation will include this amount.

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

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

BE IT FURTHER RESOLVED, that the referendum on exceeding the property tax levy cap is scheduled for (insert date of referendum), between the hours of 2:00 and 9:00 p.m., prevailing time, in the manner provided by statute.

BE IT FURTHER RESOLVED, that the budget of the Board of Commissioners of Fire District (insert number) of the (name of municipality) for (insert year) is hereby authorized to be published in the (name and date of official newspaper) issue.

BE IT FURTHER RESOLVED, that a public hearing on the budget will be held at the (insert location, date and time of public hearing) at which time and place objections to said budget may be presented by taxpayers or other interested parties.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution, shall be transmitted to the Director of the Division of Local Government Services, within 3 days after adoption with the recorded vote included thereon.

(insert local resolution closing, certification, and seal text)

APPENDIX B

FIRE DISTRICT BUDGET RELEASE OF RESTRICTED FUND BALANCE

REFERENDUM RESOLUTION

RESOLUTION BY THE BOARD OF COMMISSIONERS OF FIRE DISTRICT (insert Dist. #) OF THE (name of municipality) IN THE COUNTY OF (name of county) AND STATE OF NEW JERSEY AUTHORIZING A REFERENDUM TO APPROVE THE USE OF RESTRICTED FUND BALANCE ON (date of referendum)

WHEREAS, the Board of Commissioners of Fire District Number (District #) in the (name of municipality), in the County of (name of county) has previously appropriated funds to be used for capital improvement purposes and such funds are held as Restricted Fund Balance; and,

WHEREAS, the Board of Commissioners of Fire District Number (District #) in the (name of municipality), in the County of (name of county) has determined that (insert dollar amount) of its Restricted Fund Balance is not needed for such capital purposes as this time; and,

WHEREAS, the Board of Commissioners of Fire District Number (District #) in the (name of municipality), in the County of (name of

county) finds it advisable and necessary to release (insert dollar amount) of Restricted Fund Balance and to use said amount as a general revenue in the district's 20__ budget to provide and maintain essential district services for the residents of the district; and,

WHEREAS, this additional amount will be appropriated for the purposes set forth below, increasing the total appropriation for each such purpose from what would otherwise be appropriated:

Table with 2 columns: Line item name, Amount for referendum. Includes a row for (insert additional rows as necessary).

NOW, THEREFORE BE IT RESOLVED, that the question to be placed on the ballot shall be as follows:

"Shall the Board of Commissioners of Fire District Number (District #) in the (name of municipality) be authorized to appropriate from its restricted Fund Balance in its (insert year) Fire District annual budget, (insert dollar amount)?

___ Yes ___ No

INTERPRETIVE STATEMENT

A "yes" vote will authorize the Board of Commissioners of the fire district to adopt the budget that was approved by the Board that includes appropriating (insert dollar amount) of Restricted Fund Balance. Because the funds were previously restricted for capital purposes, this amount can be included in the budget when approved by referendum of the voters.

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

(List line items listed in the resolution—do not list amounts)

...

If referendum is approved (a "yes" vote), the budget will include this amount.

A "no" vote means that the Board of Commissioners must adopt the budget by reducing the appropriations described above.

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

BE IT FURTHER RESOLVED, that said referendum on the use of restricted fund balance is scheduled for (insert date of referendum), on the third Saturday in February between the hours of 2:00 and 9:00 p.m., prevailing time, in the manner provided by N.J.A.C. 5:31-2.15; and,

BE IT FURTHER RESOLVED, that the budget of the Board of Commissioners of Fire District (insert number) of the (name of municipality) for (insert year) is hereby authorized to be published in the (name and date of official newspaper) issue; and,

BE IT FURTHER RESOLVED, that a public hearing on the budget will be held at the (insert location, date and time of public hearing) at which time and place objections to the budget may be presented by taxpayers or other interested parties; and,

BE IT FURTHER RESOLVED, that the introduced budget is amended as necessary to reflect this resolution; and,

BE IT FURTHER RESOLVED, that a certified copy of this Resolution, shall be transmitted to the Director of the Division of Local Government Services, within 3 days after adoption with the recorded vote included thereon as required by N.J.S.A. 40A:4-5.

(insert local resolution closing, certification, and seal text)

APPENDIX C

AFFIDAVIT OF POSTING SPECIAL MEETING NOTICE:

INSTRUCTIONS

FIRE DISTRICTS HOLDING THEIR ANNUAL ELECTION ON THE THIRD SATURDAY IN FEBRUARY:

The legal voters of the fire district, at a special meeting called by the commissioners of the fire district, may vote to raise money for a firehouse, fire engines, apparatus, or appliances for the extinguishment of fires and to acquire lands or buildings or to erect buildings for the housing of fire equipment, or other buildings, including, but not limited to, administrative, communications, or training buildings, or buildings for the maintenance of fire apparatus, in an amount not exceeding 5 mills on the dollar of the last assessed valuation of the property in the fire district. The amount so voted for shall be included in the next succeeding annual budget of the fire district under the section for capital appropriations. Voting shall be open between the hours of 6:00 P.M. and 9:00 P.M., but the board of fire commissioners may designate a later closing hour on the same day, and the board of fire commissioners shall take any necessary action to ensure the secrecy and privacy of the casting of votes.

Any such special meeting shall be called on 10 days' notice by the board of fire commissioners. Notices setting forth the time, place, and object of the meeting shall be posted in five public places in the district, and the legal voters shall determine the amount of money to be raised. (N.J.S.A. 40A:14-84). A special meeting may coincide with a regular governing body meeting so long as the requirements for a special meeting have been met.

FIRE DISTRICTS HOLDING THEIR ANNUAL ELECTION ON NOVEMBER GENERAL ELECTION:

The board of fire commissioners of a fire district, at a special meeting called by the commissioners of the fire district, may, by resolution adopted by a vote of not less than two-thirds (2/3) of the full membership of the board, determine to raise money for a firehouse, apparatus, appliances, land, or buildings in connection therewith for fire extinguishing purposes, including, but not limited to, administrative or training buildings, in an amount not exceeding 5 mills on the dollar of the last assessed valuation of the property in the fire district. The amount so adopted shall be included in the next succeeding annual budget of the fire district under the section for capital appropriations.

Prior to the special meeting, the resolution, or a summary of the resolution, shall be published together with notice of the time and place of the meeting, the opportunity of the public to be heard at the meeting, and the availability of copies of the resolution to the members of the general public of the fire district from the date following publication of the notice up to and including the date of the meeting. If a summary is published, the summary shall contain a clear and concise statement prepared by the clerk of the board of fire commissioners setting forth the purpose of the resolution and the amount to be raised by the additional levy being authorized.

If the resolution is to be adopted at a special meeting that coincides with a regular meeting of the board of fire commissioners (Option 1): the clerk of the board of fire commissioners shall, at least 10 days prior to the date of the meeting, post the in five public places in the fire district the resolution, or a summary of the resolution, together with notice of the time and place of the meeting, the opportunity of the public to be heard at the meeting, and the availability of copies of the resolution to the members of the general public of the fire district from the date following publication of the notice up to and including the date of the meeting. This same

information shall be advertised in a newspaper published in the fire district, if any, or otherwise advertised in a newspaper circulating in the district.

If the resolution is to be adopted at a special meeting (Option 2): the clerk shall, at least 21 days prior to the date of the meeting, post the information required to be published in five public places in the fire district, the resolution, or a summary of the resolution, together with notice of the time and place of the meeting, the opportunity of the public to be heard at the meeting, and the availability of copies of the resolution to the members of the general public of the fire district from the date following publication of the notice up to and including the date of the meeting. This same information shall be advertised in a newspaper published in the fire district, if any, otherwise in a newspaper circulating in the district. The clerk shall, not more than 20 days and at least 10 days prior to the date of the meeting, again advertise this information in that newspaper.

Copies of a resolution shall be made available to the members of the general public of the fire district who request such copies from the date following publication of the resolution up to and including the date of the meeting. All interested persons shall be given an opportunity to be heard at the meeting.

(see next page for affidavit)

AFFIDAVIT OF POSTING AND PUBLISHING NOTICE OF SPECIAL MEETING

I, the undersigned, hereby certify that a Special Meeting has been called by the Board of Fire Commissioners of _____ Fire District # _____ scheduled for _____ at _____ p.m. at [LOCATION].

I further certify that the District's annual election for the Board of Fire Commissioners is held on the (check one):

- _____ third Saturday in February
_____ November general election

I further certify that on _____ DATE _____, I posted notices in the 5 following locations pursuant to N.J.S.A. 40A:14-84 (the following are potential examples of five public places in the district):

- Fire District Notices Board
Anytown Town Hall Notices Board
Anytown Free Public Library
Anytown Municipal Court Bulletin Board
Anytown Post Office

I further certify that notice of the special meeting was published pursuant to N.J.S.A. 40A:14-84 on the following date(s) _____.*

I understand that I am subject to punishment under the law if any of the above statements are willfully false.

Signature _____

Printed Name _____

Title _____

Dated: _____

Please provide a copy of the notice that was posted, as well as proof of publication for the required newspaper notices. A separate certification is required to report the results of the special meeting.

* Notice publication is mandatory for special meetings held by a fire district whose annual election coincides with the November general election.

**APPENDIX D
FIRE DISTRICT SPECIAL MEETING
(N.J.S.A. 40A:14-84)
RESULTS CERTIFICATION**

Please include a copy of the Fire District Notice and Affidavit of Special Meeting Posting with this form upon submission.

Municipality:		District #:	
County:			
Annual Election Held:	(check one) ____ third Saturday in February ____ November General		

CAPITAL EXPENDITURES SUBJECT TO VOTER APPROVAL

	CAPITAL PROJECTS (add additional project columns as necessary) <i>(N.J.S.A. 40A:14-84)</i>		
	Capital #1 Description of Project:	Capital #2 Description of Project:	Capital #3 Description of Project:
Amount	\$	\$	\$
Total Votes	#	#	#
Total "Yes" Votes	#	#	#
Total "No" Votes	#	#	#
% of Yes Votes*	%	%	%
Total Abstaining or Absent**	#	#	#

* Percentage of "Yes" Votes = Total Number of "Yes" Votes ÷ Total Number of Votes Cast

**Only applies to fire districts within November Fire Commissioner Elections

It is hereby certified that this special meeting was conducted in compliance with the provisions of N.J.S.A. 40A:14-84:

Signature:		Date:	
Printed Name:			
Title:			
Telephone:		Fax:	
E-mail:			

APPENDIX E
20__ FIRE DISTRICT VOTER REFERENDUM
TO AUTHORIZE DEBT (N.J.S.A. 40A:14-85 and 86)
RESULTS CERTIFICATION

	CAPITAL PROJECTS (add additional project columns as necessary) <i>(N.J.S.A. 40A:14-85 AND 86)</i>		
	Capital #1 Description of Project:	Capital #2 Description of Project:	Capital #3 Description of Project:
Amount	\$	\$	\$
Total Votes	#	#	#
Total "Yes" Votes	#	#	#
Total "No" Votes	#	#	#
% of Yes Votes	%	%	%

I hereby certify that this voter referendum was held in compliance with the requirements of N.J.S.A. 40A:14-85 and 86, and Title 19 if the referendum was held during the November general election:

Signature:		Date:	
Printed Name:			
Title:			
Telephone:		Fax #:	
E-mail:			

Please return this form to the Division within seven (7) calendar days of the election, along with a copy of the election ballot upon which the question was placed.

APPENDIX F

Fire District Levy Cap Referendum Public Question

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, despite the fact 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:4-45.45 establishes a cap of two percent (2%) on the amount a property tax levy can 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 the referendum is approved (a "yes" vote) by more than 50 percent of the voters casting a vote at the referendum, the budget will be adopted with a property tax levy that exceeds the two percent (2%) property tax levy cap.

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 relevant information as the Board may wish to include" in the Statement.)"

APPENDIX G

Public Question — Release of Restricted Fund Balance Referendum (Fire Districts)

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 appropriate (*insert dollar amount*) from its Restricted Fund Balance to use as general revenue in the district's (*insert year*) Fire District Budget?"

A "yes" vote will authorize the Board of Commissioners of the fire district to use (*insert dollar amount*) as general revenue in the district's (*insert year*) budget and spend those funds on providing and maintaining essential district services for the residents of the district. Because the funds were previously restricted for capital purposes, this amount cannot be included in the budget unless approved by the voters. The Board of Commissioners would increase its planned expenditure for each of the purposes listed below by the amount shown below.:

(List each line item with the corresponding amount for referendum)

...

If referendum is approved (a "yes" vote) by a vote in excess of 50 percent of the voters casting a vote at the referendum, the budget will be adopted with the release of (*insert dollar amount*) of its Restricted Fund Balance for use as general revenue.

A "no" vote means that the District Board of Commissioners will be adopted without the release of (*insert dollar amount*) of its Restricted Fund Balance for use as general revenue.

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

APPENDIX H

**AFFIDAVIT OF POSTING & PUBLICATION OF NOTICE
VOTER QUESTION ON DEBT ISSUANCE FOR CAPITAL
PURCHASES**

The board of commissioners of a fire district may purchase a firehouse, fire engines, apparatus, or other appliances for the extinguishment of fires and acquire lands or buildings or erect buildings for the housing of such equipment, or other buildings, including but not limited to, administrative, communications, or training buildings, or buildings for the maintenance of fire apparatus, at a cost not exceeding \$60,000.00 or 2% of the assessed valuation of the taxable property in the district, whichever amount is larger. The money may be raised by a bond issue, or through the creation of any other debt or liability, including, but not limited to, through a lease-purchase agreement. Any such bond issue, debt, or liability shall be authorized by a resolution of the commissioners specifying the amount and the purpose of the bond issue, debt, or liability. The resolution shall be inoperative unless and until submitted to and approved by the legal voters within said fire district at the annual election held for the election of commissioners and appropriation of money for fire extinguishing purposes, or at a special election for such purpose.

The resolution shall be written or printed and the election shall be held at the time and place stated in the notice. If said election is to be the annual one (i.e. the election for board of fire commissioners), the notices shall be posted by the clerk of the board of fire commissioners in 10 public places at least 10 days prior to the date of the election, and the board of commissioners and the clerk, may advertise the election in a newspaper published in the fire district, if any, otherwise in a newspaper published in the county of said district and circulating in such district. When a special election is specified, notices shall be posted in 10 public places, at least 21 days prior to the date of election, and the clerk of said board shall advertise said notice in such a newspaper at least twice prior to the election date. (N.J.S.A. 40A:14-85)

FIRE DISTRICTS WITH BOARD OF FIRE COMMISSIONER ELECTIONS HELD DURING THE NOVEMBER GENERAL ELECTION MUST ALSO COMPLY WITH TITLE 19 AS APPLICABLE.

APPENDIX I

**20__ Fire District Budget Election Results Certification
(FEBRUARY BOARD OF COMMISSIONER ELECTIONS)**

Please include a copy of the Fire District Election Ballot.

Municipality:		Fire District #:	
County:			

20__ ADOPTED BUDGET	
Amount to be Raised by Taxation	\$
Tax Rate Per Hundred	\$
Total Yes Votes	#
Total No Votes	#

Fire districts must submit a separate certification reporting on the results of the referendum along with copies of the following: 1) the ballot on which the question was placed; 2) the notice posted in 10 public places; and 3) if the question is presented at a special election, proof of newspaper publication for the required newspaper notices.



**AFFIDAVIT OF POSTING & PUBLICATION OF NOTICE
VOTER QUESTION ON DEBT ISSUANCE FOR CAPITAL
PURCHASES**

I, the undersigned, hereby certify that a voter referendum on debt issuance for capital purchase(s) has been called by the Board of Fire Commissioners of _____ Fire District # _____ scheduled for _____ at from the hours of _____ to _____ p.m. at [LOCATION].

I further certify that on DATE, I posted notices in the 10 following locations (the following are examples of ten public places) at least _____ days prior to the election date:

- | | |
|--|---------------------------|
| Anytown Town Hall Notices Board | Anytown Police Station |
| Anytown Free Public Library | Anytown Public School |
| Any County Clerk’s Bulletin Board | Anytown Recycling Center |
| Anytown Municipal Court Bulletin Board | Anytown Bus Station |
| Anytown Post Office | Anytown Recreation Center |

I further certify that the District held the voter referendum (check one):
 _____ at the annual election for Board of Fire Commissioners
 _____ during a special election

ONLY COMPLETE IF QUESTION HELD AT A SPECIAL ELECTION

I further certify that, pursuant to N.J.S.A. 40A:14-85, the notice was advertised at least twice in a newspaper prior to the election date on the following date(s):

Signature

Printed Name

Title

Dated: _____

OTHER REFERENDUM QUESTIONS

	Levy Cap Referendum	Release of Restricted Fund Balance	Initial LOSAP	CAPITAL PROJECTS* (N.J.S.A. 40A:14- 85)	
				Capital #1 Description of Project:	Capital #2 Description of Project:
Amount	\$	\$	\$	\$	\$
Total Votes	#	#	#	#	#
Total "Yes" Votes	#	#	#	#	#
Total "No" Votes	#	#	#	#	#
% of Yes Votes	%	%	%	%	%

*add additional columns as necessary

It is hereby certified that the above information complies with the requirements of law:

Signed Certification:		Date:	
Printed Name:			
Title:			
Telephone:		Fax:	
E-mail:			

APPENDIX J

20__ Fire District Levy Cap & Restricted Fund Balance

Referendum Results Certification

(FOR DISTRICTS WITH NOVEMBER BOARD OF COMMISSIONER ELECTIONS)

Please include copy of the Referendum Election Ballot.

Municipality:		Fire District #:	
County:			

20__ ADOPTED BUDGET	
Amount to be Raised by Taxation	\$
Tax Rate Per Hundred	\$

REFERENDUM QUESTIONS (AS APPLICABLE)

	Levy Cap Referendum	Release of Restricted Fund Balance
Amount	\$	\$
Total Votes	#	#
Total "Yes" Votes	#	#
Total "No" Votes	#	#
% of Yes Votes	%	%

OTHER REFERENDUM QUESTIONS (AS APPLICABLE)

Initial LOSAP	CAPITAL PROJECTS* (N.J.S.A. 40A:14- 85)	
	Capital #1 Description of Project:	Capital #1 Description of Project:
\$	\$	\$
#	#	#
#	#	#
#	#	#
%	%	%

SUBCHAPTER 3. CASH MANAGEMENT

5:31-3.1 Cash management plan; [Legal] legal depositories for public moneys; [Receipt] receipt and deposit of funds

(a) The governing body shall, by resolution, passed by not less than a majority of the full membership, adopt a cash management plan [which shall include the designation of a depository the State of New Jersey Cash Management Fund or a public depository or depositories as defined in N.J.S.A. 17:9-41 and may permit deposits in such depository or depositories as permitted in N.J.S.A. 17:9-44.] pursuant to N.J.S.A. 40A:5-14. The authority shall deposit, or invest, or both deposit and invest, its funds pursuant to its adopted cash management plan.

1. The cash management plan shall be designed to assure, to the extent practicable, the investment of authority funds in interest bearing accounts and other permitted investments.

2. (No change.)

(b) All moneys received by, or on behalf of, the authority from any source shall within 48 hours after the receipt thereof, either be [deposited to the credit of the authority in its legal depository.]:

1. Paid to the officer charged with the custody of the general funds of the authority, who shall deposit all such funds within 48 hours after the receipt thereof to the credit of the authority in its designated legal depository; or

2. Deposited to the credit of the authority in its legal depository.

(c) (No change.)

(d) No officer of an authority shall accept in receipt of the payment of any fee or other charge, a check in excess of the amount actually due.

SUBCHAPTER 4. APPROVAL AND PAYMENT OF CLAIMS

5:31-4.1 Payment of authority moneys; approval of claims

(a) (No change.)

(b) The provisions of (a)2 and 3 above shall not apply to the reimbursement of employee expenses or payment for personal services.

1. No employee expenses shall be reimbursed by an authority unless the employee provides a detailed statement, certified in writing by the employee, along with documentation in support of each expense. Under no circumstances shall an authority reimburse an employee for purchases of alcohol or other recreational intoxicating substances.

2. (No change.)

(c)-(i) (No change.)

SUBCHAPTER 5. DATA PROCESSING

5:31-5.1 Electronic data processing systems for financial and revenue accounting

(a) [Authorities] All authorities and fire districts [utilizing] shall utilize electronic data processing systems or services for financial, payroll, [or] and revenue accounting, and equipment used for cash receipting purposes, and are subject to the following provisions:

1.-3. (No change.)

[4. All systems and services shall be capable of handling transactions, making calculations, storing dates, and properly operating as of, or with information dated on or after, January 1, 2000. The authority or fire district shall obtain vendor certifications, perform tests, or take other appropriate action to ensure these deadlines are met.]

[5.] 4. (No change in text.)

SUBCHAPTER 6. [SURETY BONDING] FINANCIAL ADMINISTRATION

5:31-6.1 Surety bond for authority employees and officials

The governing body of an authority shall by resolution designate authority employees and officials required to furnish surety bonds and determine minimum bonds for each such employee and official. The minimum requirement for the surety bond shall be determined with due regard for the duties and responsibilities of each such designated employee and official. Each person in the office handling funds shall be bonded in accordance with their responsibility. An authority is encouraged to provide a fidelity bond with faithful performance coverage for the chief financial officer that is separate from the local unit's blanket fidelity bond. The schedule set forth at N.J.A.C. 5:30-8.2 should be used as the basis for the bond amount.

5:31-6.2 Notice of occurrences

It is the duty and responsibility of the individual holding overall management responsibility for the authority's finances to advise the Director of the Division of Local Government Services, as early as possible, in any case where there might be a default in the payment of principal or interest of any of the authority's debt obligations, or such a default has occurred.

SUBCHAPTER 7. ACCOUNTING AND AUDITING

5:31-7.6 Auditing procedures and scope

(a) Each authority and each special district shall conduct an annual audit for [their] its respective fiscal year in accordance with: generally accepted auditing standards (GAAS), as promulgated by the American Institute of Certified Public Accountants (AICPA), [Harborside Financial Center, 201 Plaza Three, Jersey City, NJ 07311-3881] 1211 Avenue of the Americas, New York, New York 10036, incorporated herein by reference, as [may be] amended [from time to time] and supplemented; Government Auditing Standards (often called the Yellow Book, General Accepted Government Auditing Standards, or GAGAS) issued by the

Comptroller General of the United States and the United States General Accounting Office (GAO) at the United States General Accounting Office, Washington, D.C. 20548, and those audit standards having been adopted as rules by the Local Finance Board and the Division of Local Government Services, Department of Community Affairs, State of New Jersey. Those standards require that an independent auditor plan and perform an audit to obtain reasonable assurance that the financial statements of the reporting entity are free of material misstatement. These basic financial statements shall include, but not be limited to: a balance sheet and the related statements of revenues, expenses/expenditures and changes in retained earnings/fund balance and cash flows for the year then ended. Notwithstanding that such statements presented are the responsibility of the respective governing bodies involved, the independent auditor engaged to perform the audit, shall express an opinion on the financial statements taken as a whole.

(b)-(i) (No change.)

(OAL Note: The text of N.J.A.C. 5:31-7 Appendices A, B, and C appear without boldface symbolizing new text; those portions of the appendices appearing in boldface are proposed to be so permanently.)

APPENDIX A

AUDIT QUESTIONNAIRE FOR AUTHORITY AUDITS EACH QUESTION MUST BE ANSWERED.

PLEASE SELECT YES OR NO.

IF ANY ARE NOT APPLICABLE, STATE N/A AS YOUR ANSWER.

AUTHORITY _____

YEAR UNDER AUDIT _____

AUDITOR SIGNATURE _____

AUDITOR FIRM _____

AUDITOR ADDRESS _____

AUDITOR PHONE/FAX # _____

AUDITOR EMAIL _____

“NO” ANSWERS MUST BE EXPLAINED IN DETAIL. ATTACH ADDITIONAL SHEETS IF MORE SPACE IS REQUIRED. ANSWERS TO QUESTIONS WHICH INDICATE CORRECTIONS OR IMPROVEMENTS ARE REQUIRED MUST BE COVERED BY COMMENT AND RECOMMENDATION IN THE AUDIT REPORT. IF NOT COVERED, EXPLAIN IN DETAIL.

AUDIT QUESTIONNAIRE

AUTHORITY _____

General

- 1. Is a general ledger maintained by the authority? YES NO
2. Are key employees bonded in amounts required by organization policy? YES NO
3. Is insurance coverage in force for at least the following?
Loss or damage to assets from fire and other hazards. YES NO
Public liability and property damage? YES NO
Robbery, burglary, theft and disappearance? YES NO
Worker's compensation? YES NO
4. Are loans to employees prohibited? YES NO
5. Has the Bureau of Authority Regulation been notified of deficiencies in the accounting system or records? YES NO
6. Has a corrective action plan been filed for the previous year audit report? YES NO

Cash and Investments

- 1. Has the authority adopted a cash management plan? YES NO
2. Are all depositories and accounts authorized by resolution of the governing body? YES NO
3. Are receipts deposited within 48 hours pursuant to N.J.A.C. 5:31-3.1(b)? YES NO
4. Are the duties of personnel who receive and deposit cash separate from investments cash disbursing, and bookkeeping? YES NO
5. Are cash receipts adequately safeguarded before deposit? YES NO
6. Is responsibility for the petty cash fund vested in only one person? YES NO
7. Are petty cash disbursements supported by signed receipts which are attached to reimbursement vouchers? YES NO
8. Are check signers and individuals initiating or authorizing transactions utilizing standard electronic funds transfer technologies designated by resolution? YES NO
9. If a mechanical check signer is used, are there procedures to control and record

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the check numbers and amounts of checks signed?	YES	NO
10. Is there adequate security over blank checks?	YES	NO
11. Are the duties of personnel who disburse cash separate from the function of approving vouchers?	YES	NO
12. Are bank statements reconciled monthly?	YES	NO
A. Is the sequence of check numbers accounted for?	YES	NO
B. Are check endorsements scrutinized?	YES	NO
13. Are outstanding checks older than 6 months investigated?	YES	NO
14. Are investments under the control of a responsible official who does not receive or disburse cash?	YES	NO
15. Are all investments issued in the name of the authority?	YES	NO
16. Are all investment transactions approved by the governing body?	YES	NO
17. Are all investments permitted by law or bond agreement?	YES	NO
18. Are perpetual records of investments reflecting all pertinent information maintained?	YES	NO
19. Is interest income verified?	YES	NO
A. Is it promptly recorded in the accounting records?	YES	NO
20. Are investments examined periodically and verified with the detail record and control account?	YES	NO
21. Are investments protected against loss or theft?	YES	NO
22. Are signature stamps, mechanical signatures, facsimile signatures, and electronic copies of signatures under adequate control and protected against unauthorized use?	YES	NO

Accounts Receivable and Income

1. Are billings to users independently verified?	YES	NO
2. Is there segregation of duties between accounts receivable, record maintenance, billing, and receipt of cash?	YES	NO
3. Are total accounts receivable balances verified with the accounts receivable control periodically?	YES	NO
4. Are delinquent accounts receivable reviewed and collection procedures initiated by a responsible official?	YES	NO
5. Are accounts receivable records promptly posted?	YES	NO
A. Billings to users?	YES	NO
B. Cash receipts?	YES	NO
6. Are adjustments to accounts receivable approved by a responsible official?	YES	NO

Inventory

1. Are inventories of material and supplies under physical control of a designated employee who is not responsible for purchasing?	YES	NO
2. Is the storage area properly safeguarded to prevent damage to materials and unauthorized removal?	YES	NO
3. Do quantities appear reasonable for normal consumption?	YES	NO
4. Are physical inventories taken annually and supervised by non-storeroom personnel?	YES	NO
5. Are responsible officials advised of significant inventory discrepancies?	YES	NO

Accounts Payable and Purchasing

1. Are the following requirements of the Local Public Contracts Law (40A:11) being followed and documented		
A. Competitive bidding and contract award?	YES	NO
B. Informal quotations on purchases not requiring public bidding (40A:11-6.1)?	YES	NO
C. Certificate of availability of funds prior to award of contracts (Reg. 5:30-5.4)?	YES	NO
D. Resolutions adopted and advertised authorizing agreements for professional services (40A:11-5)?	YES	NO
E. Emergency purchases and contracts (40A:11-6)?	YES	NO
2. Are prenumbered or system generated purchase orders issued for all purchases, except petty cash purchases?	YES	NO
3. Is there a record of all purchase orders issued?	YES	NO
4. Are quantities and description of materials and supplies received:		
A. Compared to purchase orders?	YES	NO
B. Compared to vendors' invoices?	YES	NO
C. Verified with packing or delivery slips?	YES	NO
5. Are open purchase orders reviewed periodically?	YES	NO
6. Do vouchers approved for payment contain:		
A. Signature of person who verified quantities and description of materials received or services rendered?	YES	NO
B. Copies of purchase order, delivery slips, etc.?	YES	NO
7. Were all vouchers approved by the governing body?	YES	NO
8. Is there segregation of duties between the purchasing, receiving, and disbursement functions?	YES	NO
9. Are total accounts payable balances verified with the accounts payable control periodically?	YES	NO

Payroll

1. Are payrolls approved by a responsible official outside the payroll department?	YES	NO
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2. Are the functions of payroll preparation and distribution separated?	YES	NO
3. Are the personnel records maintained separately from payroll preparation and distribution?	YES	NO
4. Are names added to and deleted from payroll and rates of pay changed only upon written authorization?	YES	NO
5. Are new employees, employee promotions and rates of pay approved by the governing body?	YES	NO
6. Are all payroll deductions supported by signed authorizations on file?	YES	NO
7. Are payroll deductions promptly paid to the proper agencies?	YES	NO
8. Are records maintained to control and verify vacation time, sick leave, etc., taken and accumulated?	YES	NO
9. Are all employees paid by check or by direct deposit?	YES	NO
10. Are payroll check endorsements and employee account authorizations scrutinized?	YES	NO
11. Are old outstanding payroll checks investigated by someone independent of the payroll preparation?	YES	NO
12. Is there a separate bank account for payroll disbursements?	YES	NO
A. Are deposits in exact amount of payroll?	YES	NO
B. Is the payroll bank balance reconciled monthly by someone independent of payroll preparation?	YES	NO
C. Are payroll procedures established by resolution of the governing body?	YES	NO

Property, Plant and Equipment

1. Are detailed fixed asset records maintained?	YES	NO
A. Are fixed assets properly identified with the fixed asset records?	YES	NO
B. Are additions and deletions properly authorized and promptly recorded?	YES	NO
2. Is the documentation substantiating the cost of fixed assets permanently filed?	YES	NO
3. Is there a written policy defining items to be capitalized and those to be expensed?	YES	NO
4. Does the capitalization of interest and other indirect costs conform to accounting principles?	YES	NO
5. Is a physical inventory of fixed assets taken periodically and verified to fixed assets records?	YES	NO
6. Are dispositions of fixed assets properly recorded and sales proceeds promptly accounted for in the accounting records?	YES	NO
7. Are fixed assets properly safeguarded against loss by fire, unauthorized use or theft?	YES	NO

Long and Short Term Debt

1. Is a detailed record such as a bond or note register maintained of debt issue and outstanding?	YES	NO
A. Are principal and interest due dates and amounts reflected and date of payment recorded?	YES	NO
2. Are debt issues properly authorized by the governing body?	YES	NO
3. Does the expenditure of borrowed funds conform to the purpose authorized?	YES	NO
4. Are paid bonds and notes properly cancelled and accounted for?	YES	NO
5. Has the authority paid its debt service on a timely basis?	YES	NO
6. Is the authority in compliance with all bond covenants?	YES	NO

Budget System

1. Were the adopted operating and capital budgets and amendments thereto approved by the Director of Local Government Services?	YES	NO
2. Were the adopted budgets and amendments recorded in the minutes?	YES	NO
3. Are there sufficient controls to monitor expenses and revenues against budgeted amounts?	YES	NO
4. Is a budget status report periodically furnished to the governing body?	YES	NO
5. Are appropriations encumbered when purchase orders are issued?	YES	NO
6. Are fixed assets acquired through budget appropriations properly capitalized?	YES	NO

Grant Management

1. Is a permanent file of each grant maintained?	YES	NO
2. Does the accounting system provide details of eligible expenditures to be reimbursed from each grant?	YES	NO
3. Is each expenditure reviewed for compliance with the terms of the applicable grant?	YES	NO
4. Does the authority have a grant manager?	YES	NO
5. Are all required reports promptly filed with the grantor agency?	YES	NO
6. Were grant reimbursement requests filed promptly?	YES	NO
7. Are assets acquired from grant funds properly identified?	YES	NO
8. If indirect costs are chargeable to grants, has the method of allocation been approved?	YES	NO

Electronic Data Processing

1. Does the authority utilize electronic data processing for accounting and financial functions?	YES	NO
2. Was the system approved by the Division of Local Government Services?	YES	NO
3. Are there sufficient audit trails to identify documents being processing and identify output?	YES	NO
4. Are there daily printouts of:		
A. Transactions?	YES	NO

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B. Rejected transactions?	YES	NO
C. Error corrections?	YES	NO
5. Are the daily printouts reviewed and approved by supervisory personnel?	YES	NO
6. Are journal entries and error corrections authorized by supervisory personnel?	YES	NO
7. Are master files updated periodically and on schedule to prevent loss of data in transaction files?	YES	NO
8. Are there periodic printouts of updated files by E.D.P. transactions?	YES	NO
9. Are authorized users validated by user codes and passwords?	YES	NO
10. Are terminals located in a secure area, to prevent access by unauthorized personnel?	YES	NO
11. Are there backup operators to process transactions in the absence of the authorized operator?	YES	NO
12. Are there copies of all critical materials such as programs, master files, transaction files, etc.?	YES	NO
13. Are these copies stored in a safe location (offsite or in a fireproof vault onsite)?	YES	NO
14. Are mechanisms in place to guard against loss due to power failures, fire, flood, etc.?	YES	NO
Electronic Funds Transfers		
1. Has the governing body adopted a resolution establishing policies and procedures governing electronic funds transfers?	YES	NO
2. Has the authority's chief financial officer been charged by the governing body with the responsibility of ensuring that internal controls for electronic fund transfers are being adhered to?	YES	NO
3. Are initiation and authorization roles segregated and password restricted?	YES	NO
4. Has another officer of the authority not under the chief financial officer's authority been designated to authorize an electronic funds transfer initiated by the chief financial officer?	YES	NO
5. Are activity reports on transactions involving electronic funds transfers reviewed at least weekly by the chief financial officer or an individual under the chief financial officer's supervision, and monitored by another individual not under the chief financial officer's supervision?	YES	NO
6. Have financial institution providers of electronic funds transfer technologies submitted to the authority satisfactory proof of internal control?	YES	NO
7. Does each bill list have proper reference to the type of technology and a tracking mechanism to provide for an adequate audit trail?	YES	NO
8. For electronic funds transfers conducted through an automated clearing house transfer (ACH):		
A. Is a current Electronic Funds Transfer and Indemnification Agreement in place with a banking institution authorized to access authority bank accounts for the purpose of conducting electronic funds transfers through ACH?	YES	NO
B. Do users uploading an ACH file check the amounts and recipients against a register displaying ACH payments?	YES	NO
C. Are users that can generate an ACH file neither given upload rights nor given access that permits editing of a vendor routing number or vendor account number?	YES	NO
D. Is each edit to vendor ACH information approved by a separate individual and logged showing the user editing the data, date stamp, IP address, and approval of the edit?	YES	NO
E. Are plain text ACH files not stored on a local computer past the time the file is transmitted to a bank?	YES	NO
9. For electronic funds transfers conducted through a charge card/account:		
A. Are monthly purchase orders issued for each individual charge card or account that authorize a maximum amount that can expended per month?	YES	NO
B. Is the charge card or account limited to use with a specific vendor?	YES	NO
C. Are outstanding balances paid in full each month?	YES	NO
D. Has the authority adopted policies and procedures for use of charge cards/charge accounts?	YES	NO
E. Are individuals authorized to utilize charge cards/accounts		
i. trained on the policies and procedures governing their use?	YES	NO
ii. signatories to a contract of understanding that includes financial responsibility for misuse?	YES	NO
iii. covered by a bond or blanket honesty policy?	YES	NO
F. Have individuals responsible for activity reconciliations and supervisory review been trained in the policies and procedures governing the use of charge cards/accounts?	YES	NO
10. If the authority utilizes a procurement card		
A. Are individuals authorized to utilize procurement cards		
i. trained on the policies and procedures governing their use?	YES	NO
ii. signatories to a contract of understanding that includes financial responsibility for misuse?	YES	NO
iii. covered by a bond or blanket honesty policy?	YES	NO

- B. Does a Qualified Purchasing Agent serve as program manager? YES NO
- C. Have individuals responsible for activity reconciliations and supervisory review been trained in the policies and procedures governing the use of procurement cards? YES NO

THE FOREGOING QUESTIONNAIRE MUST BE SEPARATELY FILED WITH THE DIVISION OF LOCAL GOVERNMENT SERVICES FOR EACH REPORT OF AUDIT. IT IS NOT TO BE BOUND IN THE REPORT.

APPENDIX B

AUDIT QUESTIONNAIRE FOR FIRE DISTRICT AUDITS

EACH QUESTION MUST BE ANSWERED.

PLEASE SELECT YES OR NO.

IF ANY ARE NOT APPLICABLE, STATE N/A AS YOUR ANSWER.

FIRE DISTRICT _____

YEAR UNDER AUDIT _____

AUDITOR SIGNATURE _____

AUDITOR FIRM _____

AUDITOR ADDRESS _____

AUDITOR PHONE/FAX# _____

AUDITOR EMAIL _____

“NO” ANSWERS MUST BE EXPLAINED IN DETAIL. ATTACH ADDITIONAL SHEETS IF MORE SPACE IS REQUIRED. ANSWERS TO QUESTIONS WHICH INDICATE CORRECTIONS OR IMPROVEMENTS ARE REQUIRED MUST BE COVERED BY COMMENT AND RECOMMENDATION IN THE AUDIT REPORT. IF NOT COVERED, EXPLAIN IN DETAIL.

AUDIT QUESTIONNAIRE

FIRE DISTRICT _____

General

- 1. Is a general ledger maintained by the district? YES NO
- 2. Are key employees bonded in amounts required by organization policy? YES NO
- 3. Is insurance coverage in force for at least the following:
 - Loss or damage to assets from fire and other hazards? YES NO
 - Public liability and property damage? YES NO
 - Robbery, burglary, theft and disappearance? YES NO
 - Worker’s compensation? YES NO
- 4. Are loans to employees prohibited? YES NO
- 5. Has the Bureau of Authority Regulation been notified of deficiencies in the accounting system or records? YES NO
- 6. Has a corrective action plan been filed for the previous year audit report? YES NO

Cash and Investments

- 1. Has the district adopted a cash management plan? YES NO
- 2. Are all depositories and accounts authorized by resolution of the governing body? YES NO
- 3. Are receipts deposited within 48 hours pursuant to N.J.A.C. 5:31-3.1(b)? YES NO
- 4. Are the duties of personnel who receive and deposit cash separate from investments, cash disbursing, and bookkeeping? YES NO
- 5. Are cash receipts adequately safeguarded before deposit? YES NO
- 6. Is responsibility for the petty cash fund vested in only one person? YES NO
- 7. Are petty cash disbursements supported by signed receipts which are attached to reimbursement vouchers? YES NO
- 8. Are check signers and individuals initiating or authorizing transactions utilizing standard electronic funds transfer technologies designated by resolution? YES NO
- 9. If a mechanical check signer is used, are there procedures to control and record the check numbers and the number of checks signed? YES NO
- 10. Is there adequate security over blank checks? YES NO
- 11. Are the duties of personnel who disburse cash separate from the function of approving vouchers? YES NO
- 12. Are bank statements reconciled monthly? YES NO
 - A. Is the sequence of check numbers accounted for? YES NO
 - B. Are check endorsements scrutinized? YES NO
- 13. Are outstanding checks older than 6 months investigated? YES NO
- 14. Are investments under the control of a responsible official who does not receive or disburse cash? YES NO
- 15. Are all investments issued in the name of the district? YES NO
- 16. Are all investment transactions approved by the governing body? YES NO
- 17. Are all investments permitted by law or bond agreement? YES NO
- 18. Are perpetual records of investments reflecting all pertinent YES NO

- information maintained?
- 19. Is interest income verified? YES NO
 - A. Is it promptly recorded in the accounting records? YES NO
- 20. Are investments examined periodically and verified with the detail record and control account? YES NO
- 21. Are investments protected against loss or theft? YES NO
- 22. Are signature stamps, mechanical signatures, facsimile signatures, and electronic copies of signatures under adequate control and protected against unauthorized use? YES NO

Accounts Receivable and Income

(District Taxes, User Charges and Miscellaneous)

- 1. Has the district tax levy been verified with the Abstract of Ratables? YES NO
- 2. Does the district tax revenue agree to the tax levy? YES NO
- 3. Are billings to users independently verified? YES NO
- 4. Is there segregation of duties among accounts receivable, record maintenance, billing, and receipt of cash? YES NO
- 5. Are total accounts receivable balances verified with the accounts receivable control periodically? YES NO
- 6. Are delinquent accounts receivable reviewed and collection procedures initiated by a responsible official? YES NO
- 7. Are accounts receivable records promptly posted? YES NO
 - A. Billings to users? YES NO
 - B. Cash receipts? YES NO
- 8. Are adjustments to accounts receivable approved by a responsible official? YES NO

Inventory

- 1. Is the storage area properly safeguarded to prevent damage to materials and unauthorized removal? YES NO
- 2. Do quantities appear reasonable for normal consumption? YES NO
- 3. Are physical inventories taken annually? YES NO

Accounts Payable and Purchasing

- 1. Are the following requirements of the Local Public Contracts Law (40A:11) being followed and documented:
 - A. Competitive bidding and contract award? YES NO
 - B. Informal quotations on purchases not requiring public bidding (40A:11-6.1)? YES NO
 - C. Certificate of availability of funds prior to award of contracts (Reg. 5:30-15.4)? YES NO
 - D. Resolutions adopted and advertised authorizing agreements for professional services (40A:11-5)? YES NO
 - E. Emergency purchases and contracts (40A:11-6)? YES NO
- 2. Are prenumbered or system generated purchase orders issued for all purchases, except petty cash purchases? YES NO
- 3. Is there a record of all purchase orders issued? YES NO
- 4. Are quantities and descriptions of materials and supplies received:
 - A. Compared to purchase orders? YES NO
 - B. Compared to vendors' invoices? YES NO
 - C. Verified with packing or delivery slips? YES NO
- 5. Are open purchase orders reviewed periodically? YES NO
- 6. Do vouchers approved for payment contain:
 - A. Signature of person who verified quantities and description of materials received or services rendered? YES NO
 - B. Copies of purchase order, delivery slips, etc. YES NO
- 7. Were all vouchers approved by the governing body? YES NO
- 8. Is there segregation of duties between the purchasing, receiving and disbursement functions? YES NO
- 9. Are total accounts payable balances verified with the accounts payable control periodically? YES NO

Payroll

- 1. Are the functions of payroll preparation and distribution separated? YES NO
- 2. Are names added to and deleted from payroll and rates of pay changed only upon written authorization? YES NO
- 3. Are new employees, employee promotions and rates of pay approved by the governing body? YES NO
- 4. Are payroll deductions promptly paid to the proper agencies? YES NO
- 5. Are records maintained to control and verify vacation time, sick leave, etc. taken and accumulated? YES NO
- 6. Are all employees paid by check or by direct deposit? YES NO
- 7. Is there a separate bank account for payroll disbursements? YES NO
 - A. Are deposits in exact amount of payroll? YES NO

- B. Is the payroll bank balance reconciled monthly by someone independent of payroll preparation? YES NO
- C. Are payroll procedures established by resolution of the governing body? YES NO
- 8. Are all payroll deductions supported by signed authorizations on file? YES NO
- 9. Are payroll check endorsements and employee account authorizations scrutinized? YES NO

Property, Plant and Equipment

- 1. Are detailed fixed asset records maintained? YES NO
 - A. Are fixed assets properly identified with the fixed asset records? YES NO
 - B. Are additions and deletions properly authorized and promptly recorded? YES NO
- 2. Is the documentation substantiating the cost of fixed assets permanently filed? YES NO
- 3. Is there a written policy defining items to be capitalized and those to be expensed? YES NO
- 4. Does the capitalization of interest and other indirect costs conform to accounting principles? YES NO
- 5. Do fixed asset additions conform to the adopted or amended capital budget? YES NO
- 6. Are fixed assets carried on the accounting records at cost or, if acquired by gift, at fair market value at date of gift? YES NO
- 7. Is a physical inventory of fixed assets taken periodically and verified to fixed asset records? YES NO
- 8. Are dispositions of fixed assets properly recorded and sales proceeds promptly accounted for in the accounting records? YES NO
- 9. Are fixed assets properly safeguarded against loss by fire, unauthorized use or theft? YES NO

Long and Short Term Debt

- 1. Is a detailed record such as a bond or note register maintained of debt issued and outstanding? YES NO
 - A. Are principal and interest due dates and amounts reflected and date of payment recorded? YES NO
- 2. Are debt issues properly authorized by the governing body? YES NO
- 3. Does the expenditure of borrowed funds conform to the purposes authorized? YES NO
- 4. Are paid bonds and notes properly cancelled and accounted for? YES NO
- 5. Has the fire district paid its debt service on a timely basis? YES NO
- 6. Is the fire district in compliance with all bond covenants? YES NO

Capital Leases

- 1. Have all capital leases been approved by the voters? YES NO
- 2. Has the project financing for capital leases been approved by the Local Finance Board? YES NO

Budget System

- 1. Were the adopted operating budget and amendments thereto approved by the Director of Local Government Services? YES NO
- 2. Were the adopted budgets and amendments recorded in the minutes? YES NO
- 3. Are there sufficient controls to monitor expenses and revenues against budgeted amounts? YES NO
- 4. Is a budget status report periodically furnished to the governing body? YES NO
- 5. Are appropriations encumbered when purchase orders are issued? YES NO
- 6. Are fixed assets acquired through budget appropriations properly capitalized? YES NO

Grant Management

- 1. Is a permanent file of each grant maintained? YES NO
- 2. Does the accounting system provide details of eligible expenditures to be reimbursed from each grant? YES NO
- 3. Is each expenditure reviewed for compliance with the terms of the applicable grant? YES NO
- 4. Are all required reports promptly filed with the grantor agency? YES NO
- 5. Were grant reimbursement requests filed promptly? YES NO
- 6. Are assets acquired from grant funds properly identified? YES NO
- 7. If indirect costs are chargeable to grants, has the method of allocation been approved? YES NO

Electronic Data Processing

- 1. Does the district utilize electronic data processing for accounting or financial functions? YES NO
- 2. Was the system approved by the Division of Local YES NO

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- Government Services?
3. Are there sufficient audit trails to identify documents being processed and identify output? YES NO
 4. Are master files updated periodically and on schedule to prevent loss of data in transaction files? YES NO
 5. Are there periodic printouts of updated files by E.D.P. transactions? YES NO
 6. Are authorized users validated by user codes and passwords? YES NO
 7. Are terminals located in a secure area, to prevent access by unauthorized personnel? YES NO
 8. Are there copies of all critical materials such as programs, master files, transaction files, etc.? YES NO
 9. Are these copies stored in a safe location (offsite or in a fireproof vault onsite)? YES NO
 10. Are mechanisms in place to guard against loss due to power failures, fire, flood, etc.? YES NO

Electronic Funds Transfers

1. Has the governing body adopted a resolution establishing policies and procedures governing electronic funds transfers? YES NO
2. Has the fire district's chief financial officer been charged by the governing body been charged by the governing body with the responsibility of ensuring that internal controls for electronic fund transfers are being adhered to? YES NO
3. Are initiation and authorization roles segregated and password restricted? YES NO
4. Has another officer of the fire district that is not under the chief financial officer's authority been designated to authorize an electronic funds transfer initiated by the chief financial officer? YES NO
5. Are activity reports on transactions involving electronic funds transfers reviewed at least weekly by the chief financial officer or an individual under the chief financial officer's supervision, and monitored by another individual not under the chief financial officer's supervision? YES NO
6. Have financial institution providers of electronic funds transfer technologies submitted to the fire district proof of satisfactory internal control? YES NO
7. Does each bill list have proper reference to the type of technology and a tracking mechanism to provide for an adequate audit trail? YES NO
8. For electronic funds transfers conducted through an automated clearing house transfer (ACH):
 - A. Is a current Electronic Funds Transfer and Indemnification Agreement in place with a banking institution authorized to access fire district bank accounts for the purpose of conducting electronic funds transfers through ACH? YES NO
 - B. Are users that can generate an ACH file neither given upload rights nor given access that permits editing of a vendor routing number or vendor account number? YES NO
 - C. Is each edit to vendor ACH information approved by a separate individual and logged showing the user editing the data, date stamp, IP address, and approval of the edit? YES NO
 - D. Are plain text ACH files not stored on a local computer past the time the file is transmitted to a bank? YES NO
9. For electronic funds transfers conducted through a charge card/account:
 - A. Are monthly purchase orders issued for each individual charge card or account that authorize a maximum amount that can expended per month? YES NO
 - B. Is the charge card or account limited to use with a specific vendor? YES NO
 - C. Are outstanding balances paid in full each month? YES NO
 - D. Has the authority adopted policies and procedures for use of charge cards/ charge accounts? YES NO
 - E. Are individuals authorized to utilize charge cards/accounts
 - i. trained on the policies and procedures governing their use? YES NO
 - ii. signatories to a contract of understanding that includes financial responsibility for misuse? YES NO
 - iii. covered by a bond or blanket honesty policy? YES NO
 - F. Have individuals responsible for activity reconciliations and supervisory Review been trained in the policies and procedures governing the use of charge cards/accounts? YES NO
10. If the fire district utilizes a procurement card
 - A. Are individuals authorized to utilize procurement cards
 - i. trained on the policies and procedures governing their use? YES NO
 - ii. signatories to a contract of understanding that includes financial responsibility for misuse? YES NO
 - iii. covered by a bond or blanket honesty policy? YES NO
 - B. If procurement cards are being utilized, does a Qualified Purchasing Agent serve as program manager? YES NO

