

**ASSEMBLY, No. 1880**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED JANUARY 28, 2008

**Sponsored by:**

**Assemblyman MICHAEL J. DOHERTY**  
**District 23 (Warren and Hunterdon)**  
**Assemblyman UPENDRA J. CHIVUKULA**  
**District 17 (Middlesex and Somerset)**  
**Assemblyman PETER J. BIONDI**  
**District 16 (Morris and Somerset)**  
**Assemblyman JOHN DIMAIO**  
**District 23 (Warren and Hunterdon)**

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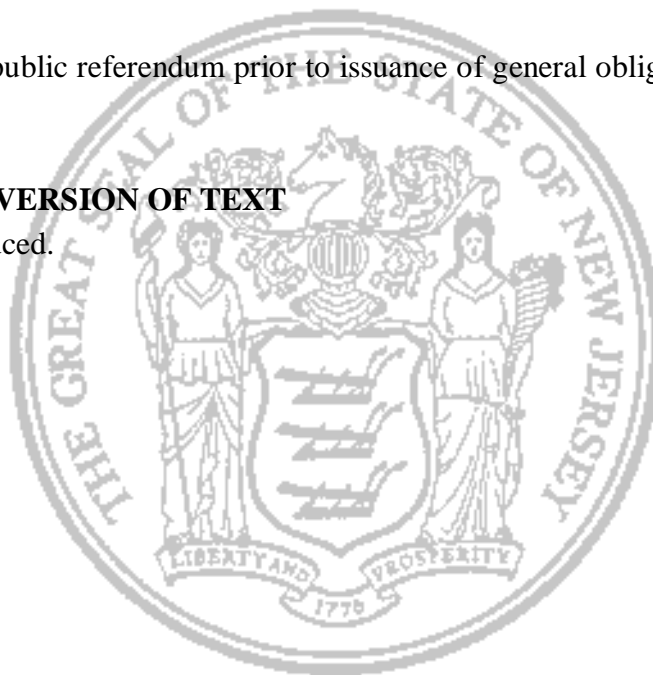
**Assemblywoman McHose, Assemblymen Carroll, Russo, Chiusano and Diegnan**

**SYNOPSIS**

Requires public referendum prior to issuance of general obligation bonds by local units.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/1/2009)**

A1880 DOHERTY, CHIVUKULA

2

1 AN ACT concerning the issuance of general obligation bonds by  
2 local governments and amending various parts of the statutory  
3 law.

4

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

7

8 1. N.J.S.40A:2-12 is amended to read as follows:

9 40A:2-12. A bond ordinance shall contain in substance the  
10 following:

11 a. (1) an authorization for the issuance of obligations, stating in  
12 brief and general terms sufficient for reasonable identification the  
13 purpose or purposes for which the obligations are to be issued, a  
14 statement of the estimated maximum amount of bonds or notes to be  
15 issued, and the estimated cost of such purpose or purposes, but  
16 related improvements or properties may be treated as one  
17 improvement or property; or

18 (2) an authorization for the assumption by the local unit of the  
19 obligations of the authority sought to be dissolved pursuant to  
20 section 20 of P.L.1983, c.313 (C.40A:5A-20) for which the local  
21 unit is not a guarantor;

22 b. a determination of the period of usefulness of the purpose  
23 within the limitations of this chapter or, if issued for several  
24 purposes, a determination of the average period of usefulness,  
25 taking into consideration the respective amounts of obligations  
26 authorized for the said several purposes;

27 c. a determination that (1) the supplemental debt statement has  
28 been filed in the office of the clerk, (2) such statement shows that  
29 the gross debt as defined in this chapter is increased by  
30 authorization of such obligations by \$ or is not increased, and (3)  
31 the obligations authorized by the bond ordinance will be within debt  
32 limitations prescribed by this chapter, or the issuance thereof is  
33 permitted by an exception to said limitations naming the particular  
34 section, paragraph or law providing such exception;

35 d. a statement of the aggregate amount for items of expense  
36 permitted under 40A:2-20;

37 e. a statement of the ways and means, exclusive of loans, by  
38 which the local unit shall pay the interest on the bonds as it falls  
39 due, and pay and discharge the principal amount of the bonds.

40 (cf: P.L.2001, c.29, s.2)

41

42 2. N.J.S.40A:2-17 is amended to read as follows:

43 40A:2-17. a. Introduction.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 A bond ordinance shall be introduced in writing at a meeting of  
2 the governing body and shall be passed upon first reading, which  
3 may be by title.

4 b. Publication, hearing and adoption.

5 The bond ordinance, or a summary thereof, in a form prescribed  
6 by the Local Finance Board, shall be published after first reading,  
7 together with notice of the introduction thereof and of the date,  
8 which shall be at least 10 days after introduction and first reading,  
9 and the time and place of further consideration for final passage,  
10 which may be at an adjournment of such meeting or another  
11 meeting. If a summary is published, the summary shall contain a  
12 clear and concise statement prepared by the clerk of the governing  
13 body setting forth the purpose of the ordinance, the amount of  
14 indebtedness being authorized and the time and place when and  
15 where a copy of the ordinance can be obtained, without cost, by any  
16 member of the general public residing in the local unit.

17 Such publication shall be at least one week prior to the date for  
18 further consideration. At the time and place so advertised, or at any  
19 time and place to which such meeting or further consideration shall  
20 from time to time be adjourned, such bond ordinance may be read  
21 by its title, if,

22 (1) at least one week prior to such date or further consideration,  
23 there shall have been posted, on the bulletin board or other place  
24 upon which public notices are customarily posted in the principal  
25 municipal building of the municipality,

26 (a) a copy of such bond ordinance or summary, and

27 (b) a notice that copies of such bond ordinance will be made  
28 available during such week and up to and including the date of such  
29 meeting or further consideration to the members of the general  
30 public of the municipality who shall request such copies, naming  
31 the place at which such copies will be so made available, and

32 (2) such copies of said bond ordinance shall have been made  
33 available accordingly, but otherwise such bond ordinance shall be  
34 read in full. All persons interested shall then be given an  
35 opportunity to be heard.

36 After the duplicate of the supplemental debt statement has been  
37 filed in the office of the director, and after such hearing, the  
38 governing body may proceed to amend the bond ordinance and  
39 thereupon finally adopt or reject it, with or without amendments.

40 If any amendment is adopted substantially altering matters  
41 required by this chapter to be contained in the bond ordinance, such  
42 amended bond ordinance shall not be finally adopted until at least  
43 one week thereafter and until the bond ordinance or a summary of it  
44 shall have been published once at least two days prior to the date  
45 for further consideration, together with notice of the date, time and  
46 place at which it will be further considered for final adoption. At  
47 the time and place so advertised, or at any time and place to which  
48 such meeting or further consideration shall from time to time be

1 adjourned, such amended bond ordinance may be read by its title,  
2 if,

3 (1) at least one week prior to such date or further consideration,  
4 there shall have been posted, on the bulletin board or other place  
5 upon which public notices are customarily posted in the principal  
6 municipal building of the municipality,

7 (a) a copy of such bond ordinance or summary, and

8 (b) a notice that copies of such bond ordinance will be made  
9 available during such week and up to and including the date of such  
10 meeting or further consideration to the members of the general  
11 public of the municipality who shall request such copies, naming  
12 the place at which such copies will be so made available, and

13 (2) such copies of said bond ordinance shall have been made  
14 available accordingly, but otherwise such bond ordinance shall be  
15 read in full. All persons interested shall again be given an  
16 opportunity to be heard. After such hearing, the governing body  
17 may proceed to reject, finally adopt or further amend such bond  
18 ordinance.

19 A bond ordinance shall be finally adopted by the recorded  
20 affirmative votes of at least 2/3 of the full membership of the  
21 governing body. In a local unit in which the approval of any officer  
22 is required to make an ordinance or resolution effective, such bond  
23 ordinance shall be so approved, or passed over veto before it shall  
24 be published after final adoption.

25 c. Final publication with statement.

26 Every bond ordinance shall be published either in full or in  
27 summary form after final adoption, together with a statement in  
28 substantially the following form:

29

30

31

STATEMENT

32

33 The bond ordinance published herewith has been finally adopted  
34 and the 20-day period of limitation within which a suit, action or  
35 proceeding questioning the validity of such ordinance can be  
36 commenced, as provided in the Local Bond Law has begun to run  
37 from the date of the first publication of this statement. The bond  
38 ordinance contains a statement of the ways and means, exclusive of  
39 loans, by which \_\_\_\_\_ (name of county or municipality, as  
40 appropriate) shall pay the interest on the bonds as it falls due, and  
41 pay and discharge the principal amount of the bonds. This bond  
42 ordinance will not take effect unless approved by a majority of the  
43 voters at the general election occurring at least 70 days next  
44 following the date of final adoption by the governing body.

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47

Clerk

1       d. Referendum before taking effect.

2       The bond ordinance shall not take effect until it has been  
3 submitted to the voters of the local unit, at the general election  
4 occurring at least 70 days next following its final adoption by the  
5 governing body. Approval shall be by a majority of the legally  
6 qualified voters of the local unit voting thereon.

7 (cf: P.L.2000, c.126, s.14)

8

9       3. (New section) The bond referendum question submitted to  
10 the voters pursuant to the requirements of N.J.S.40A:2-17 shall be  
11 submitted in the following form:

12       “Shall the bond ordinance, approved by the governing body,  
13 which authorizes the governing body to issue bonds in the amount  
14 of \$           to provide moneys for (insert purpose of bonds), and  
15 providing the ways and means to pay the interest on the debt and  
16 also to pay and discharge the principal of the bonds, which ways  
17 and means shall be (insert funding sources to be used to pay  
18 principal and interest on bonds), be approved?”

19

20       4. N.J.S.40A:2-18 is amended to read as follows:

21       40A:2-18. A bond ordinance shall **【**take effect 20 days after the  
22 first publication of the ordinance or of a summary thereof after final  
23 adoption. A bond ordinance which authorizes obligations to fund,  
24 refund, renew, extend or retire obligations issued or authorized  
25 pursuant to this chapter, or notes or bonds issued or authorized  
26 pursuant to any act of which this chapter is a revision shall not be  
27 subject to referendum**】** be submitted to the voters of the local unit at  
28 the general election next following by at least 70 days the final  
29 adoption of the ordinance by the governing body. A bond  
30 ordinance shall take effect upon its approval by a majority of the  
31 legally qualified voters of the local unit voting thereon.

32 (cf: P.L.2000, c.126, s.15)

33

34       5. N.J.S.40A:2-49 is amended to read as follows:

35       40A:2-49. After 20 days after publication after final passage of  
36 a bond ordinance, but subject to the referendum requirement of  
37 subsection d. of N.J.S.40A:2-17, and N.J.S.40A:2-18, the following  
38 shall be conclusively presumed:

39       a. the accuracy, correctness and sufficiency of any annual or  
40 supplemental debt statement filed in connection therewith;

41       b. any recitals or statements of fact contained in such ordinance  
42 or preamble or recital thereof;

43       c. determinations in said ordinance as to purposes for which said  
44 obligations are authorized, the period or average period of  
45 usefulness, the maturities of any obligations, and the validity of the  
46 purpose or purposes for which authorized;

47       d. the due and regular introduction, publication and final  
48 passage and adoption of such ordinance;

1 e. the compliance with the provisions of this chapter and every  
2 other law of such ordinance and all matters in connection therewith,  
3 and the issuance of obligations authorized thereby or pursuant  
4 thereto by the local unit.

5 The local unit and all other persons interested shall forever be  
6 stopped from denying that such ordinance or its final adoption or  
7 issuance of obligations thereunder do not comply with the  
8 provisions of this and every other law, or from questioning in any  
9 manner the validity of such ordinance or any obligations issued  
10 thereunder in any action or proceeding commenced after 20 days  
11 shall have elapsed from publication of such ordinance after final  
12 passage.

13 (cf: N.J.S.40A:2-49)

14

15 6. N.J.S.40A:2-51 is amended to read as follows:

16 40A:2-51. Any local unit may incur indebtedness, borrow  
17 money, authorize and issue refunding bonds, notwithstanding any  
18 provision or limitation contained in this chapter or in any other law,  
19 and in any amount determined to be necessary by the governing  
20 body of the local unit and approved by the Local Finance Board,  
21 except as provided in subsection c. of this section, to effect the  
22 refunding for the purpose of:

23 a. Paying, funding or refunding outstanding bonds of the local  
24 unit, including emergency appropriations, temporary emergency  
25 appropriations, advance funding of pension obligations as part of an  
26 early retirement program offered by the State, and amounts owing  
27 to others for taxes levied in the local unit, or any renewals or  
28 extensions thereof, or any bonds issued to fund or refund the same  
29 and whether or not prior to the maturity or earliest redemption date  
30 of the bonds to be refunded.

31 b. Paying the cost of the issuance of such refunding bonds,  
32 including printing, advertising, accounting and financial and legal  
33 expenses.

34 c. Issuance of refunding bonds to realize debt service savings  
35 on outstanding obligations without the approval of the local finance  
36 board when authorized by conditions set forth in rules and  
37 regulations of the local finance board and upon a resolution adopted  
38 by 2/3 vote of the full membership of the governing body.

39 d. The sale and award of bonds by a finance officer who has  
40 been delegated that responsibility by resolution of the governing  
41 body in accordance with the advertised terms of public sale. The  
42 finance officer making any such sale shall report in writing to the  
43 governing body at the next meeting thereof as to the principal  
44 amount, interest rate and maturities of the bonds sold, along with  
45 the price obtained and the name of the purchaser.

46 e. Bonds issued by a local unit pursuant to this section shall not  
47 be subject to the referendum requirements of subsection d. of

1 N.J.S.40A:2-17 and N.J.S.40A:2-18.

2 (cf: P.L.2003, c.15, s.9)

3

4 7. N.J.S.40A:2-52 is amended to read as follows:

5 40A:2-52. Refunding bonds shall be authorized by a refunding  
6 bond ordinance which shall be adopted in the manner prescribed for  
7 adoption of a bond ordinance, except that no down payment or voter  
8 referendum shall be required. Bonds to be paid, funded or refunded  
9 with respect to which a refunding bond ordinance has been adopted  
10 pursuant to the provisions of this chapter and not otherwise  
11 deductible shall be deducted from the gross debt of the local unit.  
12 To the extent such refunding bonds are authorized for purposes  
13 other than the refunding of outstanding bonds, such refunding  
14 bonds shall be deductible from gross debt.

15 (cf: P.L.2003, c.15, s.10)

16

17 8. N.J.S.40A:4-51 is amended to read as follows:

18 40A:4-51. Any local unit may borrow money and issue its  
19 negotiable notes to meet an emergency appropriation. Each such  
20 note shall be authorized by resolution of the governing body, shall  
21 be designated an "emergency note" , and may be renewed from  
22 time to time. All such notes, and any renewals thereof, shall mature  
23 not later than the last day of the fiscal year next succeeding the  
24 fiscal year in which such notes were issued and the emergency  
25 appropriation authorized. The provisions of this chapter relating to  
26 tax anticipation notes shall apply to emergency notes except for  
27 limitations as to maturity and renewals.

28 Bonds issued by a local unit pursuant to this section shall not be  
29 subject to the referendum requirements of subsection d. of  
30 N.J.S.40A:2-17 and N.J.S.40A:2-18.

31

32 9. Section 5 of P.L.1961, c.22 (C.40A:4-55.5) is amended to  
33 read as follows:

34 5. No such ordinance or resolution shall be valid unless it is  
35 approved by the Local **Government** Finance Board and a copy  
36 thereof shall be filed forthwith after it is adopted with the Director  
37 of the Division of Local Government Services in the Department of  
38 **the Treasury** Community Affairs for that purpose. An ordinance  
39 or resolution so approved by the director shall not be subject to the  
40 referendum requirements of subsection d. of N.J.S.40A:2-17 and  
41 N.J.S.40A:2-18.

42 (cf: P.L.1961, c.22, s. 5)

43

44 10. Section 1 of P.L.1965, c.87 (C.40A:4-55.8) is amended to  
45 read as follows:

46 1. Upon the receipt of a certification from the board of school  
47 estimate of the board of trustees of a county college, a county may  
48 by a 2/3 vote of its entire governing body, adopt a resolution

1 authorizing a special emergency appropriation to provide for funds  
2 expected to be received as State or Federal aid for the establishment  
3 of a county college. Such resolution shall:

4 (a) State the amount needed to provide for said State or Federal  
5 share based upon the certification of the board of school estimate.

6 (b) Set forth the amount appropriated, which shall not be in  
7 excess of the amount requested by the board of trustees.

8 (c) Provide for the borrowing of any amount required in  
9 anticipation of the receipt of State or Federal aid which may  
10 subsequently become available, said borrowing to be by "special  
11 county college emergency notes." Emergency notes issued pursuant  
12 to this section shall not be subject to the referendum requirements  
13 of subsection d. of N.J.S.40A:2-17 and N.J.S.40A:2-18.

14 (cf: P.L.1965, c.87, s.1)

15

16 11. Section 4 of P.L.1968, c.194 (C.40A:4-55.16) is amended to  
17 read as follows:

18 4. When any such appropriation is to be financed by borrowing  
19 money, the governing body of the local unit shall, by a 2/3 vote  
20 of the full membership thereof, adopt a resolution:

21 a. Setting forth the amount appropriated, and

22 b. Making provision for the borrowing of money by the issuance  
23 of "special emergency notes" which may be renewed from time to  
24 time, but at least 1/3 of all such notes, and the renewals thereof,  
25 shall mature and be paid in each succeeding year so that all notes  
26 and renewals shall have matured and have been paid not later than  
27 the last day of the third year following the date of the special  
28 emergency resolution.

29 The issuance of "special emergency notes" pursuant to this  
30 section shall not be subject to the referendum requirements of  
31 subsection d. of N.J.S.40A:2-17 and N.J.S.40A:2-18.

32 (cf: P.L.1968, c.194, s.4)

33

34 12. Section 2 of P.L.1982, c.66 (C.40A:4-55.19) is amended to  
35 read as follows:

36 2. a. The governing body of a distressed municipality may by  
37 resolution approved by not less than two-thirds vote of its full  
38 membership provide for the payment of any judgment against it  
39 resulting from an order of the court by providing an appropriation  
40 therefor, and financing such from surplus funds or by borrowing  
41 through issuance of notes or other obligations in the name of the  
42 municipality.

43 b. Any resolution adopted under the provisions of this act shall  
44 provide that in the case of any notes issued to finance  
45 appropriations, at least one-fifth of all such notes, and any renewals  
46 thereof, shall mature and be paid each year, so that all notes and  
47 renewals shall have matured and have been paid not later than the  
48 last day of the fifth year following the date of the resolution.

