

# SENATE, No. 534

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**SYNOPSIS**

Modifies calculation of adjusted tax levy for municipalities and counties to allow two-year levy cap banking and eliminate levy cap penalty when debt servicing expenditures are reduced.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the calculation of the tax levy cap and  
2 amending P.L.2007, 62.

3

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

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7 1. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to  
8 read as follows:

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

17 (2) A local unit that has not been granted approval for a waiver  
18 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), may add  
19 to its adjusted tax levy in either of the next two succeeding years,  
20 the amount of the difference between the maximum allowable  
21 amount to be raised by taxation or county purposes tax, as  
22 applicable, for the current local budget year pursuant to subsection  
23 a. of this section and the actual amount to be raised by taxation or  
24 county purposes tax, as applicable, for the current local budget year.

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

27 (1) increases in amounts required to be raised for (a) all debt  
28 service and (b) lease payments with county improvement authorities  
29 pursuant to leases in effect on the effective date of P.L.2007, c.62  
30 (C.18A:7F-37 et al.);

31 (2) increases in amounts required to be raised to replace State  
32 formula aid due to a reduction in State formula aid from the  
33 previous local budget year;

34 (3) increases in amounts for certain pension contributions set  
35 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years  
36 set forth in that section;

37 (4) with respect to municipalities, any increase, greater than four  
38 percent, in the reserve for uncollected taxes that is required by law;

39 (5) increases in health care costs equal to that portion of the  
40 actual increase in total health care costs for the budget year that is  
41 in excess of four percent of the total health care costs in the prior  
42 year, but is not in excess of the product of the total health care costs  
43 in the prior year and the average percentage increase of the State  
44 Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as

**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 annually determined by the Division of Pensions and Benefits in the  
2 Department of the Treasury;

3 (6) increases in amounts for certain normal and accrued liability  
4 pension contributions set forth in sections 1 and 2 of P.L.2009, c.19  
5 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section  
6 15 of P.L.1944, c.255 (C.43:16A-15) equal to that portion of the  
7 actual increase in normal and accrued liability pension contributions  
8 for the budget year that is in excess of four percent of the normal  
9 and accrued liability pension contributions in the prior year.

10 【Notwithstanding the other provisions of this subsection, when  
11 the appropriation for all debt service is less than the amount  
12 appropriated for all debt service in the prior fiscal year, the amount  
13 of the difference shall be deducted from the sum of the exclusions  
14 listed in paragraphs (1) through (6) of this subsection.】 If there are  
15 no exclusions, then the amount of the difference shall reduce the  
16 adjusted tax levy by that amount. Any cancelled or unexpended  
17 appropriation for any exclusion pursuant to this subsection or  
18 waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46),  
19 also shall be deducted from the sum of the exclusions listed in  
20 paragraphs (1) through (6) or directly reduce the adjusted tax levy if  
21 there are no exclusions.

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

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24 2. This act shall take effect immediately.

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#### STATEMENT

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29 This bill would permit levy cap "banking" of any portion of the  
30 permitted 4% increase under the municipal and county property tax  
31 levy cap that is not used by the local unit in any budget year. Under  
32 current law, if a local unit does not use the entire 4% increase,  
33 perhaps because it uses surplus that year to keep tax rates steady,  
34 the difference is lost. This can be a problem in a succeeding tax  
35 year if circumstances require an unexpected increase in  
36 expenditures to maintain services. Under the bill, any unused  
37 permissible increase amount permitted under the 4% levy cap limit  
38 could be used in either of the next two succeeding local budget  
39 years. This concept is similar to cap banking under the  
40 appropriations cap law (N.J.S.A.40A:4-45.1 et seq.).

41 The bill also deletes language in current law in order to eliminate  
42 a levy cap penalty that occurs when a local unit acts responsibly to  
43 reduce its debt servicing expenditures.