

[First Reprint]  
**SENATE, No. 2679**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED APRIL 15, 2013

**Sponsored by:**  
**Senator ROBERT M. GORDON**  
**District 38 (Bergen and Passaic)**

**SYNOPSIS**

Increases flexibility, clarity, and available tools of optional municipal consolidation process.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee on December 12, 2013, with amendments.



1 AN ACT concerning municipal consolidation and amending  
2 P.L.2007, c.63.

3

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

6

7 1. Section 25 of P.L.2007, c.63 (C.40A:65-25) is amended to  
8 read as follows:

9 25. a. The Legislature finds and declares that in order to  
10 encourage municipalities to increase efficiency through municipal  
11 consolidation for the purpose of reducing expenses borne by their  
12 property taxpayers, more flexible options need to be available to the  
13 elected municipal officials and voters than are available through the  
14 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et  
15 al.).

16 b. (1) In lieu of the procedures set forth in the "Municipal  
17 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), the  
18 governing bodies from two or more contiguous municipalities may  
19 apply to the board for either:

20 (a) approval of a plan to consolidate their municipalities; or

21 (b) creation of a Municipal Consolidation Study Commission, as  
22 described in subsection c. of this section.

23 (2) A representative committee of registered voters from two or  
24 more contiguous municipalities may petition the board for the  
25 creation of a Municipal Consolidation Study Commission, as  
26 described in subsection c. of this section. The petition, or each  
27 petition paper, as the case may be, shall state the purpose of the  
28 petition, and shall name the municipalities for which a Municipal  
29 Consolidation Study Commission is proposed. The petition, to be  
30 sufficient, shall be signed by the registered and qualified voters of  
31 the municipalities in a number at least equal to 10% of the total  
32 votes cast in those municipalities at the last preceding general  
33 election at which members of the General Assembly were elected.  
34 The petition shall be filed with the board. The board shall also  
35 accept a combination of applications from **[local]** municipal  
36 governing bodies, pursuant to subparagraph (b) of paragraph (1) of  
37 this subsection, and petitions from representative committees of  
38 registered voters, pursuant to this paragraph, from two or more  
39 contiguous municipalities, requesting the creation of a Municipal  
40 Consolidation Study Commission **];** however, if each municipality  
41 submits an application from its governing body, any proposed  
42 consolidation plan shall be approved by voter referendum in each of  
43 the municipalities] <sup>1</sup>; however, if each municipality submits an  
44 application from its governing body, any proposed consolidation

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted December 12, 2013.

1 plan shall be approved by voter referendum in each of the  
2 municipalities<sup>1</sup>. After a petition is filed, the board shall arrange for  
3 the clerk of the county in which the municipalities named in the  
4 petition are located to ascertain and certify the number and validity  
5 of the signatures affixed thereto. If the petition is determined to be  
6 sufficient, the county clerk shall so certify, and shall forthwith  
7 transmit certified copies to the board, the governing bodies of the  
8 municipalities, and the clerks of the municipalities.

9 (3) The board shall provide application forms and technical  
10 assistance to any governing bodies or voters desiring to apply to the  
11 board for approval of a consolidation plan or the creation of a  
12 Municipal Consolidation Study Commission.

13 (4) A consolidation commission established pursuant to  
14 P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to  
15 enactment of sections 1 **【to】** through 37 of P.L.2007, c.63  
16 (C.40A:65-1 et al.) may apply to the Local Finance Board for  
17 approval to use the provisions of sections 25 through 29 of  
18 P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29).

19 c. An application to create a Municipal Consolidation Study  
20 Commission shall propose a process to study the feasibility of  
21 consolidating the participating municipalities into a single new  
22 municipality or merging one into the other. The application shall  
23 include provisions for:

24 (1) the means of selection and qualifications of study  
25 commissioners;

26 (2) the timeframe for the study, which shall be no more than  
27 three years, along with key events and deadlines, including time for  
28 review of the report by State agencies, which review shall be no  
29 less than three months;

30 (3) whether a preliminary report shall be issued in addition to  
31 the final report;

32 (4) whether the development of a consolidation implementation  
33 plan will be a part of the study;

34 (5) the means for any proposed consolidation plan to be  
35 approved; either by voter referendum, by the governing bodies, or  
36 both; **【and】**

37 (6) if proposed by a representative group of voters, justification  
38 of that group's standing to serve as the community advocate for the  
39 consolidation proposal; and

40 (7) the designation of an administrative support entity.

41 At any time, the board may require the submission of any other  
42 information that it may deem helpful to its review of an application  
43 to create a Municipal Consolidation Study Commission.

44 For the purposes of this subsection, “administrative support  
45 entity” means a government, not-for-profit, or for-profit entity that  
46 will provide funds or other resources and administer contracts and  
47 finances for a Municipal Consolidation Study Commission. An

1 administrative support entity shall be subject to the government  
2 records provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

3 d. (1) An application to the board for consideration of a  
4 consolidation plan or to create a Municipal Consolidation Study  
5 Commission shall be subject to a public hearing within each  
6 municipality to be studied, and a joint public hearing in a place that  
7 is easily accessible to the residents of both or all of the  
8 municipalities. The joint public hearing may be held in conjunction  
9 with one of the public hearings required to be held within one of the  
10 municipalities to be studied.

11 (2) The public hearings shall be facilitated by the board and  
12 conducted in accordance with the provisions of the "Senator Byron  
13 M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et  
14 seq.).

15 (3) The board may, as a condition of approval, require that a  
16 consolidation implementation plan be amended. After approval of a  
17 plan by the board, it may be amended upon petition to the board by  
18 the applicant, subject to the approval of the board. Based on the  
19 nature of the amendment, the board may decide to hold a public  
20 hearing in any of the municipalities affected by the plan, or at a  
21 regular meeting, or both.

22 e. Every Municipal Consolidation Study Commission shall  
23 include a representative of the Department of Community Affairs as  
24 a non-voting representative on the commission. The representative  
25 shall not be a resident of a municipality participating in the study.  
26 The department **【shall】** <sup>1</sup>**【may】 shall**<sup>1</sup> prepare an objective fiscal  
27 study of the fiscal aspects of a consolidation **【and shall provide it】**  
28 <sup>1</sup>**【. Any such study shall be provided】 and shall provide it**<sup>1</sup> to the  
29 commission in a timely manner.

30 f. If the consolidation would include the consolidation of  
31 boards of education, a person appointed by the Commissioner of  
32 Education shall serve as a non-voting member of that Municipal  
33 Consolidation Study Commission. The representative of the  
34 Commissioner of Education shall not be a resident of a community  
35 participating in the study. The county superintendent of schools  
36 shall conduct a study on the impact of consolidation on the  
37 educational system and its finances. The report shall be provided to  
38 the commission in a timely manner.

39 g. There shall be no more than one of either a consolidation  
40 plan study, a Municipal Consolidation Study Commission, or a joint  
41 municipal consolidation created under the "Municipal  
42 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active  
43 in a single municipality at the same time. In the event that more  
44 than one application is filed with the board or is being considered  
45 by the governing bodies while another action affecting the same  
46 municipality or municipalities is under consideration, the board  
47 shall consider the applications and shall join any proposed creation  
48 of a joint municipal consolidation together and approve only one

1 action as the board deems to be in the public interest. Prior to  
2 approving a single action, the board shall hold a public hearing  
3 permitting all parties to present testimony on the merits of their  
4 action in relation to the other proposals. Once an action is approved  
5 by the board, another action from the same combination of  
6 municipalities shall not be approved for at least five years.

7 h. In considering its decisions <sup>1</sup>concerning consolidation<sup>1</sup>  
8 under sections 1 **【to】 through** 37 of P.L.2007, c.63 (C.40A:65-1 et  
9 al.), the Local Finance Board and any other State agency **【shall】**  
10 <sup>1</sup>**【may】 shall**<sup>1</sup> take into account local conditions, the reasonableness  
11 of proposed decisions, and the facilitation of the consolidation  
12 process <sup>1</sup>**【in making decisions concerning consolidation】**<sup>1</sup>.  
13 (cf: P.L.2011, c.55, s.1)  
14

15 2. Section 26 of P.L.2007, c. 63 (C.40A:65-26) is amended to  
16 read as follows:

17 26. a. A consolidation plan or report of a Municipal  
18 Consolidation Study Commission shall include the provisions of  
19 sections 16 and 24 of P.L.1977, c.435 (C.40:43-66.50 and 40:43-  
20 66.58), insofar as they are consistent with the provisions of sections  
21 1 **【to】 through** 37 of P.L.2007, c.63 (C.40A:65-1 et al.). In  
22 addition, a consolidation plan shall address the following  
23 implementation issues:

24 (1) a timetable for implementing the consolidation plan;

25 (2) duplicate positions, including those held by tenured,  
26 certified officers, listing those positions proposed to be abolished  
27 for reasons of economy, efficiency or other good cause and listing  
28 those positions proposed to be merged; **【and】**

29 (3) applicability of the provisions of Title 11A, Civil Service, of  
30 the New Jersey Statutes, if Title 11A has been adopted by one or  
31 more consolidating municipalities ; and

32 (4) a process for the efficient and economical equalization of the  
33 assessment on the properties of the new municipality for the  
34 apportionment of taxes in accordance with Article VIII, Section I,  
35 paragraph 1 of the New Jersey Constitution.

36 b. The following policies may be considered and implemented  
37 under an application for approval of a consolidation plan, and may  
38 be included as part of a study under the "Municipal Consolidation  
39 Act," P.L.1977, c.435 (C.40:43-66.35 et al.), or as part of a study  
40 conducted by a Municipal Consolidation Study Commission  
41 pursuant to sections 1 **【to】 through** 37 of P.L.2007, c.63 (C.40A:65-  
42 1 et al.):

43 (1) creation of a consolidation implementation plan to establish  
44 a timetable of significant events and goals to be achieved as part of  
45 a consolidation study;

46 (2) a phase-in of a consolidation over a fixed period of time.  
47 Such a plan shall be subject to review and approval of the Local

1 Finance Board prior to it being approved by the governing bodies or  
2 subject to voter referendum;

3 (3) variations from existing State law or State department rules  
4 that may not have anticipated a phase-in or consolidation of  
5 services. **【When】** If variations are proposed, they shall be  
6 submitted to the board which shall refer it to the agency with  
7 oversight responsibility. After due consideration, the referee  
8 agency is empowered to waive such law or rules if a waiver is  
9 found reasonable to further the process of consolidation. **【Where】**  
10 If no such agency exists, the Commissioner of Community Affairs  
11 shall act on behalf of the State. These requests shall be acted on  
12 within 45 days of their receipt by an agency, and they shall be  
13 deemed approved, subject to approval of a consolidation proposal  
14 by the municipalities, by the end of that time unless the agency has  
15 responded with a denial, conditions that must be met in order for it  
16 to be approved, or an alternative approach to resolving the matter;

17 (4) the use of advisory planning districts **【**, comprised of  
18 residents living in the former territories of each former  
19 municipality**】** to provide advice to the planning board and the  
20 zoning board of adjustment on applications and master plan changes  
21 affecting those areas. A consolidation study plan shall specify the  
22 types and nature of the development and zoning applications that  
23 the advisory planning districts shall review and the official boards  
24 shall be required to respond, at a public meeting, to each suggestion  
25 made by an advisory planning district;

26 (5) the establishment of service districts **【**comprised of the  
27 boundaries of any or all of the former municipalities**】** which may be  
28 used to allocate resources and used for official geographic  
29 references in the new municipality;

30 (6) the continued use of boundary lines of any or all of the  
31 former municipalities to continue local ordinances that existed prior  
32 to consolidation or the establishment of special districts which may  
33 be subject to different ordinances than the remainder of the new  
34 municipality that the governing body deems necessary and  
35 appropriate. The need for any such differentiation shall be  
36 reviewed by the governing body at least every five years and shall  
37 only be continued upon the affirmative vote of the full membership  
38 of the governing body, and if such continuance fails, the governing  
39 body shall then adopt uniform policies for the entire area; **【and】**

40 (7) the apportionment of existing debt , or debt newly created in  
41 accordance with any financial arrangement between any or all of the  
42 former municipalities in furtherance of any aspect of a  
43 consolidation plan, between the taxpayers of the consolidating  
44 municipalities, including whether **【existing】** such debt should be  
45 apportioned **【in the same manner as debt】** within special taxing  
46 districts **【**so that the taxpayers of each consolidating municipality

1 will continue to be responsible for their own pre-consolidation  
2 debts】 ; and

3 (8) the authorization of severance pay for municipal employees  
4 who will be terminated by the new municipality.

5 c. **【When】** If one of the municipalities is subject to the  
6 provisions of Title 11A, Civil Service, of the New Jersey Statutes,  
7 the question of whether the new municipality shall be subject to the  
8 provisions of that Title shall be the subject of a public referendum  
9 before all of the voters of the consolidating municipalities. Upon  
10 the approval by a majority of those voting, regardless of their  
11 municipality of residence, the new municipality shall be subject to  
12 the provisions of that Title.

13 d. If one or more of the municipalities has adopted an annual  
14 levy pursuant to section 7 of P.L.1997, c.157 (C.40:12-15.7) and  
15 any of the other municipalities has not approved such levy or has  
16 approved such levy at a different amount or rate, the question of  
17 whether the new municipality shall impose such levy and the  
18 amount or rate of the levy shall be the subject of a public  
19 referendum before all the voters of the consolidating municipalities  
20 pursuant to subsection a. of section 7 of P.L.1997, c.157 (C.40:12-  
21 15.7), which shall be held at the same time of the first election of  
22 officers for the new municipality. If all the municipalities have  
23 approved identical annual levies pursuant to section 7 of P.L.1997,  
24 c.157 (C.40:12-15.7), the levy shall continue in the new  
25 municipality until modified pursuant to subsection d. or e. of  
26 section 7 of P.L.1997, c.157 (C.40:12-15.7).

27 e. A consolidation plan shall not be approved unless the  
28 Director of the Division of Taxation in the Department of the  
29 Treasury has approved, in consultation with the assessors of the  
30 municipalities, the governing bodies of the municipalities, the  
31 Municipal Consolidation Study Commission, the county tax board,  
32 and the director, the process for the equalization of the assessment  
33 on the properties of the new municipality.

34 (cf: P.L.2007, c.63, s.26)

35

36 3. Section 27 of P.L.2007, c.63 (C.40A:65-27) is amended to  
37 read as follows:

38 27. a. Once a consolidation has been approved by the affected  
39 municipal governing bodies or voters, the division shall **【create a**  
40 **task force of】** coordinate State departments, offices , and agencies,  
41 as it deems appropriate, and representatives of affected collective  
42 negotiations units, to facilitate the consolidation and provide  
43 technical assistance. The consolidation shall be implemented under  
44 the oversight of the board in accordance with the consolidation plan  
45 approved by the board, unless an alternate plan is approved by the  
46 board.

47 b. **【When】** If a consolidation plan provides that the  
48 consolidated municipality will be subject to the provisions of Title

1 11A, Civil Service, of the New Jersey Statutes , the Civil Service  
2 Commission is specifically authorized to create a consolidation  
3 implementation plan to vest non-civil service employees, based on  
4 the education and experience of the individuals, in appropriate titles  
5 and tenure.

6 c. Whenever a referendum question to decide if a consolidated  
7 municipality shall be subject to the provisions of Title 11A, Civil  
8 Service, of the New Jersey Statutes fails, the employees of a  
9 municipality already subject to that Title shall be given non-civil  
10 service titles in the new entity and previously held tenure shall be  
11 vacated.

12 d. The Public Employment Relations Commission is authorized  
13 to provide technical advice, pursuant to section 12 of P.L.1968,  
14 c.303 (C.34:13A-8.3), to assist a new municipality and existing  
15 labor unions to integrate separate labor agreements into  
16 consolidated agreements and to adjust the structure of collective  
17 negotiations units, as the commission determines appropriate for the  
18 consolidated municipality.

19 (cf: P.L.2008, c.29, s.103)

20

21 4. Section 28 of P.L.2007, c.63 (C.40A:65-28) is amended to  
22 read as follows:

23 28. a. **【If a revaluation of property for the consolidated**  
24 **municipality is not implemented for the first local budget year of**  
25 **the consolidated municipality, then the assessments on the**  
26 **properties owned by the taxpayers of the former municipalities shall**  
27 **be equalized for the apportionment of taxes for the consolidated**  
28 **municipality, in the same manner as assessments are equalized for**  
29 **the apportionment of county taxes.】** (Deleted by amendment,  
30 P.L. , c. ) (pending before the Legislature as this bill)

31 b. The owners of any residential property or residential tenants  
32 of any municipality consolidated under sections 1 **【to】 through 37**  
33 **of P.L.2007, c.63 (C.40A:65-1 et al.), or the "Municipal**  
34 **Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), who**  
35 **experience a municipal or school district purposes real property tax**  
36 **increase in the first tax year following the municipal consolidation**  
37 **shall be entitled to annual property tax relief until such time as they**  
38 **sell or transfer their home or no longer reside as tenants in the rental**  
39 **unit they occupied just prior to the municipal consolidation. In the**  
40 **case of the owner of residential property, the property tax relief**  
41 **shall be reflected as a credit on the property tax bill equal to the**  
42 **difference between the municipal and school district purposes real**  
43 **property tax payable by the taxpayer for the tax year, subject to any**  
44 **adjustment as determined necessary by the Director of the Division**  
45 **of Local Government Services in the Department of Community**  
46 **Affairs to reflect operating budgets for a normal pre-consolidated**  
47 **fiscal year, and the municipal and school district purposes real**  
48 **property tax billed to that taxpayer for the tax year during which the**



1 consolidation is effectuated, as may be adjusted by the Director of  
2 the Division of Local Government Services in the Department of  
3 Community Affairs to reflect normal post-consolidation operating  
4 budgets for the municipalities and school districts. In the case of a  
5 residential tenant, the tax credit applied to an apartment property  
6 shall be distributed to eligible tenants pursuant to the provisions of  
7 the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2  
8 et seq.) and this section. The total of all such relief in the  
9 municipality shall be paid by the State to the municipality on a  
10 schedule determined by the Local Finance Board. For the purpose  
11 of this subsection, a "normal" budget year shall be one that, in the  
12 determination of the director, does not reflect expenses made in  
13 anticipation of, or in implementation of, a municipal consolidation.  
14 (cf: P.L.2007, c.63, s.28)

15

16 5. This act shall take effect immediately.