

[Third Reprint]

**SENATE, No. 316**

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**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator ROBERT M. GORDON**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator Beck**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 25, 2015.



**(Sponsorship Updated As Of: 10/24/2014)**

1 AN ACT concerning municipal consolidation and amending  
2 P.L.2007, c.63 <sup>2</sup>, P.L.1995, c.376, and N.J.S.40A:4-53<sup>2</sup>.

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 <sup>2</sup>**contiguous**<sup>2</sup> municipalities  
19 <sup>2</sup>situated in the same county<sup>2</sup> may 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 <sup>2</sup>**contiguous**<sup>2</sup> municipalities <sup>2</sup>which committee shall  
25 contain at least one registered voter from each participating  
26 municipality<sup>2</sup> may petition the board for the creation of a  
27 Municipal Consolidation Study Commission, as described in  
28 subsection c. of this section. The petition, or each petition paper, as  
29 the case may be, shall state the purpose of the petition, and shall  
30 name the municipalities for which a Municipal Consolidation Study  
31 Commission is proposed. The petition, to be sufficient, shall be  
32 signed by the registered and qualified voters of <sup>2</sup>**the**  
33 **municipalities** each municipality<sup>2</sup> in a number at least equal to  
34 10% of the total votes cast in <sup>2</sup>**those municipalities** each  
35 municipality<sup>2</sup> at the last preceding general election at which  
36 members of the General Assembly were elected. <sup>2</sup>The signatures  
37 for a petition shall be obtained within two years of the date of the  
38 last preceding general election at which members of the General  
39 Assembly were elected.<sup>2</sup> The petition shall be filed with the  
40 <sup>2</sup>**board** clerk of each municipality who shall, within 30 days,  
41 ascertain and certify the number and validity of the signatures  
42 affixed thereto with respect to the municipality served by the clerk.

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 May 19, 2014.

<sup>2</sup>Assembly ASL committee amendments adopted February 12, 2015.

<sup>3</sup>Assembly floor amendments adopted June 25, 2015.

1     If the petition is determined to be insufficient, notice shall,  
2 within 30 days, be provided to the registered voters constituting the  
3 representative committee that filed the petition, which committee  
4 shall have 10 days from receipt of the notification of insufficiency  
5 to file a supplementary petition designed to rectify such  
6 insufficiency, which shall be in the same form and shall be filed in  
7 the same manner as the original petition. If no supplementary  
8 petition is filed within 10 days after such notification of  
9 insufficiency, or if the clerk shall, within five days after such a  
10 supplementary petition is filed, examine it and determine it to be  
11 still insufficient, the clerk shall execute a certificate of insufficiency  
12 and notify the representative committee of the insufficiency. A  
13 finding of insufficiency shall not prejudice the filing of a new  
14 petition for the same purpose, provided that such new petition  
15 otherwise conforms to the requirements of this paragraph.

16     If the petition is determined to be sufficient, the clerk of each  
17 municipality shall so certify, and shall forthwith provide the  
18 petition and proposed consolidation plan for public inspection on  
19 the Internet website of each participating municipality, if one exists,  
20 or, if one does not exist, on the Internet website of the Department  
21 of Community Affairs, transmit certified copies to the governing  
22 body of the municipality served by the clerk, to the clerk of each of  
23 the other municipalities named in the petition, and to the board<sup>2</sup>.

24     The board shall also accept a combination of applications from  
25 **[local] municipal** governing bodies, pursuant to subparagraph (b)  
26 of paragraph (1) of this subsection, and petitions from  
27 representative committees of registered voters, pursuant to this  
28 paragraph, from two or more <sup>2</sup>**[contiguous]**<sup>2</sup> municipalities,  
29 requesting the creation of a Municipal Consolidation Study  
30 Commission <sup>2</sup>**;** however, if each municipality submits an  
31 application from its governing body, any proposed consolidation  
32 plan shall be approved by voter referendum in each of the  
33 municipalities<sup>2</sup>. <sup>2</sup>**[After a petition is filed, the board shall arrange**  
34 **for the clerk of the county in which the municipalities named in the**  
35 **petition are located to ascertain and certify the number and validity**  
36 **of the signatures affixed thereto. If the petition is determined to be**  
37 **sufficient, the county clerk shall so certify, and shall forthwith**  
38 **transmit certified copies to the board, the governing bodies of the**  
39 **municipalities, and the clerks of the municipalities.]<sup>2</sup>**

40     (3) The board shall provide application forms <sup>2</sup>, model  
41 petitions,<sup>2</sup> and technical assistance to any governing bodies or  
42 voters desiring to apply to the board for approval of a consolidation  
43 plan or the creation of a Municipal Consolidation Study  
44 Commission.

45     (4) <sup>2</sup>**[A consolidation commission established pursuant to**  
46 **P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to**  
47 **enactment of sections 1 [to] through 37 of P.L.2007, c.63**

1 (C.40A:65-1 et al.) may apply to the <sup>1</sup>**Local Finance Board**  
2 **board**<sup>1</sup> for approval to use the provisions of sections 25 through 29  
3 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29). **Deleted**  
4 **by amendment, P.L. , c. ) (pending before the Legislature as this**  
5 **bill)**

6 (5) Municipalities that are not contiguous may be consolidated if  
7 located within a reasonable distance from each other and situated in  
8 the same county. The applicant shall have the burden of proving  
9 that a non-contiguous consolidation is reasonable as such.

10 (6) Upon the approval by the board of a consolidation plan  
11 submitted by municipalities or the issuance of a final report by a  
12 Municipal Consolidation Study Commission recommending  
13 consolidation, the clerk of each participating municipality shall  
14 cause the question of consolidation to be submitted to the registered  
15 voters of each municipality on the date of the next general or  
16 municipal election, whichever shall occur sooner and allows  
17 sufficient time to publish all required notices. At that election, the  
18 question shall be submitted in the same manner as other public  
19 questions in each such municipality, and in the following form or  
20 such part thereof as shall be applicable:

21 "Shall (insert the names of the participating municipalities) be  
22 consolidated into a single new municipality to be known as (insert  
23 name and type of municipality) and governed under (insert the plan  
24 or form of government of the new municipality)?"

25 (7) A proposal to consolidate municipalities into a single new  
26 municipality shall be deemed approved and adopted only if a  
27 majority of those voting on the question of consolidation in each of  
28 the participating municipalities votes in favor of the question at  
29 such referendum.<sup>2</sup>

30 c. An application to create a Municipal Consolidation Study  
31 Commission shall propose a process to study the feasibility of  
32 consolidating the participating municipalities into a single new  
33 municipality or merging one into the other. The application shall  
34 include provisions for:

35 (1) the means of selection <sup>2</sup>, number,<sup>2</sup> and qualifications of  
36 study commissioners;

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

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

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

45 (5) <sup>2</sup>**the means for any proposed consolidation plan to be**  
46 **approved; either by voter referendum, by the governing bodies, or**

1 both;] (Deleted by amendment, P.L. , c. ) (pending before the  
2 Legislature as this bill)<sup>2</sup> [and]

3 (6) if proposed by a representative group of voters, justification  
4 of that group's standing to serve as the community advocate for the  
5 consolidation proposal; <sup>2</sup>[and]<sup>2</sup>

6 (7) the designation of an administrative support entity <sup>2</sup>, if any,  
7 and;

8 (8) the proposed means of funding the study<sup>2</sup>.

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

12 For the purposes of this subsection, "administrative support  
13 entity" means a government <sup>1</sup>agency, an institution of higher  
14 education<sup>1</sup> , <sup>1</sup>or a<sup>1</sup> not-for-profit <sup>1</sup>[,]<sup>1</sup> <sup>3</sup>[or for-profit]<sup>3</sup> entity that  
15 will provide funds or other resources <sup>1</sup>[and] or<sup>1</sup> administer  
16 contracts and finances for a Municipal Consolidation Study  
17 Commission. An administrative support entity shall be subject to  
18 the government records provisions of P.L.1963, c.73 (C.47:1A-1 et  
19 seq.). <sup>3</sup>An administrative support entity designated by a  
20 commission shall not be eligible for a public contract with the  
21 single new municipality created by a consolidation recommended  
22 by the commission except for a contract for the study of, or the  
23 administration of contracts and finances for another commission  
24 with regard to, any other potential consolidation.<sup>3</sup>

25 <sup>2</sup>(9) The commission shall prepare and publish a final report  
26 containing its findings and recommendations. The final report may  
27 include a statement, if any, by any commissioner dissenting from  
28 the findings and recommendations set forth in the final report and  
29 the findings of the Department of Community Affairs on the fiscal  
30 aspects of the proposed consolidation. The commission shall file its  
31 final report with the clerk of each participating municipality, the  
32 county clerk, the division, and the Secretary of State. The clerk of  
33 each participating municipality shall deliver a copy of the final  
34 report to each member of the municipal governing body. The  
35 commission shall cause a reasonable number of copies of the final  
36 report to be printed and made available to the general public, and  
37 shall provide additional copies upon request. Upon its filing, the  
38 final report shall be provided for public inspection on the Internet  
39 website of each participating municipality, if one exists, or, if one  
40 does not exist, the final report shall be posted on the Internet  
41 website of the Department of Community Affairs.

42 (10) If the commission recommends the consolidation of the  
43 participating municipalities into a single new municipality in its  
44 final report, the commission shall prepare an official abstract of the  
45 final report, which abstract shall consist of a concise statement that  
46 is objective in content and presentation, and that is descriptive of

1 the substance of the plan. At the time the commission files its final  
2 report, and again on a date not less than 30 days preceding the date  
3 fixed for the referendum on the consolidation question, the  
4 commission shall cause the official abstract to be published at least  
5 once in a newspaper of general circulation in the participating  
6 municipalities, together with notice of:

- 7 (a) The time, place, and purpose of the election;  
8 (b) The manner in which copies of the commission's final report  
9 may be obtained; and  
10 (c) A statement that, if the voters favor consolidation by a  
11 majority vote in each of the participating municipalities, the  
12 consolidation plan, if any, shall become binding and legally  
13 enforceable between or among such municipalities.

14 Upon the filing of the final report, the official abstract and notice  
15 required by this paragraph shall be provided for public inspection  
16 on the Internet website of each participating municipality within 30  
17 days, if one exists, or, if one does not exist, the official abstract and  
18 notice shall be posted on the Internet website of the Department of  
19 Community Affairs.<sup>2</sup>

20 d. (1) An application to the board for consideration of a  
21 consolidation plan or to create a Municipal Consolidation Study  
22 Commission shall be subject to a public hearing within each  
23 municipality to be studied <sup>2</sup>], and a joint public hearing in a place  
24 that is easily accessible to the residents of both or all of the  
25 municipalities. The joint public hearing may be held in conjunction  
26 with one of the public hearings required to be held within one of the  
27 municipalities to be studied]<sup>2</sup> .

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

32 (3) The board may, as a condition of approval, require that a  
33 consolidation implementation plan be amended. After approval of a  
34 plan by the board, it may be amended upon petition to the board by  
35 the applicant, subject to the approval of the board <sup>2</sup>either prior or  
36 subsequent to a referendum<sup>2</sup>. Based on the nature of the  
37 amendment, the board may decide to hold a public hearing in any of  
38 the municipalities affected by the plan, or at a regular meeting, or  
39 both.

40 e. <sup>2</sup>**[Every]** (1) <sup>2</sup>**A** Municipal Consolidation Study Commission  
41 shall include a representative of the Department of Community  
42 Affairs as a non-voting representative on the commission. The  
43 representative shall not be a resident of a municipality participating  
44 in the study. The department shall prepare an objective fiscal study  
45 of the fiscal aspects of a consolidation and shall provide it to the  
46 commission in a timely manner.

- 1       <sup>2</sup>(2) A commission shall include a member of the governing  
2 body of each participating municipality.
- 3       (3) The majority of the commissioners shall be registered voters  
4 of the participating municipalities. The participating municipalities  
5 shall be represented by equal numbers of commissioners.
- 6       (4) If there is a vacancy in the membership of the commission,  
7 the commissioners of the participating municipality in which the  
8 vacancy occurred shall, within 10 days after notification of such  
9 vacancy, fill the vacancy by appointment of a registered voter of the  
10 municipality.
- 11       (5) A commission shall organize and hold its first meeting as  
12 soon as may be practicable after the petition for its creation is  
13 approved by the board, but no later than 90 days after such  
14 approval. The commission shall elect from its membership a chair  
15 and a vice-chair. The commission shall fix its hours and places of  
16 meeting, adopt such rules for the conduct of its business as it may  
17 deem necessary and advisable, and appoint a secretary, who need  
18 not be a member of the commission. A majority of the total  
19 membership of the commission shall constitute a quorum for the  
20 transaction of business, but a recommendation of the commission  
21 shall require a concurring vote by a majority of the commissioners  
22 from each of the participating municipalities. At its first meeting,  
23 or as soon thereafter as may be practicable, the commission shall  
24 establish a schedule for the conduct of its business. A copy of such  
25 schedule shall be filed with the clerk of each of the participating  
26 municipalities and with the Commissioner of Community Affairs  
27 within 90 days of the first meeting.
- 28       (6) The commissioners shall serve without compensation.
- 29       (7) The commission shall hold its meetings and hearings in  
30 accordance with the "Senator Byron M. Baer Open Public Meetings  
31 Act," P.L.1975, c.231 (C.10:4-6 et seq.), and shall generally  
32 provide for the widest possible public information and discussion  
33 with regard to the purposes and progress of its work.
- 34       (8) The commission shall have the power to take testimony and  
35 issue subpoenas; to compel the attendance of officers and  
36 employees of the participating municipalities; to compel the  
37 production of all books, documents, and other papers of the  
38 participating municipalities; and to administer oaths to persons  
39 appearing before it to testify. Any such subpoena shall be  
40 enforceable, and misconduct of a witness may be dealt with, in the  
41 manner provided by the "County and Municipal Investigations  
42 Law," P.L.1953, c.38 (C.2A:67A-1 et seq.).
- 43       (9) The commission shall prepare and publish a final report  
44 containing its findings and recommendations. The commission  
45 shall publish the final report on the Internet website of each  
46 participating municipality, within thirty days, if one exists, or, if  
47 one does not exist, the official abstract and notice shall be posted on

1 the Internet website of the Department of Community Affairs. The  
2 final report may include a statement, if any, by any commissioner  
3 dissenting from the findings and recommendations set forth in the  
4 final report and the findings of the Department of Community  
5 Affairs on the fiscal aspects of the proposed consolidation. The  
6 commission shall file its final report with the clerk of each  
7 participating municipality, the county clerk, the division, and the  
8 Secretary of State. The clerk of each participating municipality  
9 shall deliver a copy of the final report to each member of the  
10 municipal governing body. The commission shall cause a  
11 reasonable number of copies of the final report to be printed and  
12 made available to the general public, and shall provide additional  
13 copies upon request. Upon its filing, the final report shall be  
14 provided for public inspection on the Internet website of each  
15 participating municipality, if one exists, or, if one does not exist,  
16 the final report shall be posted on the Internet website of the  
17 Department of Community Affairs.

18 (10) If the commission recommends the consolidation of the  
19 participating municipalities into a single new municipality in its  
20 final report, the commission shall prepare an official abstract of the  
21 final report, which abstract shall consist of a concise statement that  
22 is objective in content and presentation, and that is descriptive of  
23 the substance of the plan. At the time the commission files its final  
24 report, and again on a date not less than 30 days preceding the date  
25 fixed for the referendum on the consolidation question, the  
26 commission shall cause the official abstract to be published at least  
27 once in a newspaper of general circulation in the participating  
28 municipalities, together with notice of:

29 (a) The time, place, and purpose of the election;

30 (b) The manner in which copies of the commission's final report  
31 may be obtained; and

32 (c) A statement that, if the voters favor consolidation by a  
33 majority vote in each of the participating municipalities, the  
34 consolidation plan, if any, shall become binding and legally  
35 enforceable between or among such municipalities.

36 Upon the filing of the final report, the official abstract and notice  
37 required by this paragraph shall be provided for public inspection  
38 on the Internet website of each participating municipality within  
39 thirty days, if one exists, or, if one does not exist, the official  
40 abstract and notice shall be posted on the Internet website of the  
41 Department of Community Affairs.

42 (11) The commission shall be discharged on the date of the  
43 referendum.<sup>2</sup>

44 f. If the consolidation would include the consolidation of  
45 boards of education, a person appointed by the Commissioner of  
46 Education shall serve as a non-voting member of that Municipal  
47 Consolidation Study Commission. The representative of the



1 Commissioner of Education shall not be a resident of a community  
2 participating in the study. The county superintendent of schools  
3 shall conduct a study on the impact of consolidation on the  
4 educational system and its finances. The report shall be provided to  
5 the commission in a timely manner.

6 g. There shall be no more than one of either a consolidation  
7 plan study, a Municipal Consolidation Study Commission, or a joint  
8 municipal consolidation created under the "Municipal  
9 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active  
10 in a single municipality at the same time. In the event that more  
11 than one application is filed with the board or is being considered  
12 by the governing bodies while another action affecting the same  
13 municipality or municipalities is under consideration, the board  
14 shall consider the applications and shall join any proposed creation  
15 of a joint municipal consolidation together and approve only one  
16 action as the board deems to be in the public interest. Prior to  
17 approving a single action, the board shall hold a public hearing  
18 permitting all parties to present testimony on the merits of their  
19 action in relation to the other proposals. Once <sup>2</sup>~~an action is~~  
20 ~~approved by the board~~ a referendum is held<sup>2</sup>, another action from  
21 the same combination of municipalities shall not be approved for at  
22 least five years.

23 h. In considering its decisions concerning consolidation under  
24 sections 1 ~~to~~ through 37 of P.L.2007, c.63 (C.40A:65-1 et al.),  
25 the <sup>1</sup>~~Local Finance Board~~ board<sup>1</sup> and any other State agency shall  
26 take into account local conditions, the reasonableness of proposed  
27 decisions, and the facilitation of the consolidation process ~~in~~  
28 making decisions concerning consolidation. <sup>1</sup>In considering such  
29 decisions, the board may pursue a waiver of a law, rule, or  
30 regulation that may not have anticipated a phase-in or consolidation  
31 of services through referral of the matter to the appropriate agency  
32 pursuant to paragraph (3) of subsection b. of section 26 of  
33 P.L.2007, c.63 (C.40A:65-26).<sup>1</sup>  
34 (cf: P.L.2011, c.55, s.1)

35  
36 2. Section 26 of P.L.2007, c.63 (C.40A:65-26) is amended to  
37 read as follows:

38 26. a. A consolidation plan or report of a Municipal  
39 Consolidation Study Commission shall include the provisions of  
40 sections 16 and 24 of P.L.1977, c.435 (C.40:43-66.50 and 40:43-  
41 66.58), insofar as they are consistent with the provisions of sections  
42 1 ~~to~~ through 37 of P.L.2007, c.63 (C.40A:65-1 et al.). In  
43 addition, a consolidation plan <sup>1</sup>or report of a Municipal  
44 Consolidation Study Commission<sup>1</sup> shall address the following  
45 implementation issues:

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

1 (2) duplicate positions, including those held by tenured, certified  
 2 officers, listing those positions proposed to be abolished for reasons  
 3 of economy, efficiency or other good cause and listing those  
 4 positions proposed to be merged; **[and]**

5 (3) applicability of the provisions of Title 11A, Civil Service, of  
 6 the New Jersey Statutes, if Title 11A has been adopted by one or  
 7 more consolidating municipalities ; <sup>2</sup>**[and]**<sup>2</sup>

8 (4) a process for the efficient and economical equalization of the  
 9 assessment on the properties of the new municipality for the  
 10 apportionment of taxes in accordance with Article VIII, Section I,  
 11 paragraph 1 of the New Jersey Constitution. <sup>1</sup>Such process shall be  
 12 subject to the review and approval of the Director of the Division of  
 13 Taxation in the Department of the Treasury, in consultation with the  
 14 assessors of the municipalities, the governing bodies of the  
 15 municipalities, the Municipal Consolidation Study Commission, the  
 16 county tax board, and the director. Such approval shall be obtained  
 17 before an application for approval of a consolidation plan is  
 18 submitted to the board or before a Municipal Consolidation Study  
 19 Commission votes on its final report, as the case may be. The  
 20 Director of the Division of Taxation may, after due consideration,  
 21 wave any law, rule, or regulation concerning the assessment of  
 22 property that may not have anticipated a phase-in or consolidation  
 23 of services if a waiver is found reasonable to further the process of  
 24 consolidation <sup>2</sup>; and

25 (5) the projected property tax impact resulting from  
 26 consolidation<sup>2</sup>.<sup>1</sup>

27 b. The following policies may be considered and implemented  
 28 under an application for approval of a consolidation plan, and may  
 29 be included as part of a study under the "Municipal Consolidation  
 30 Act," P.L.1977, c.435 (C.40:43-66.35 et al.), or as part of a study  
 31 conducted by a Municipal Consolidation Study Commission  
 32 pursuant to sections 1 **[to]** through 37 of P.L.2007, c.63 (C.40A:65-  
 33 1 et al.):

34 (1) creation of a consolidation implementation plan to establish  
 35 a timetable of significant events and goals to be achieved as part of  
 36 a consolidation study;

37 (2) a phase-in of a consolidation over a fixed period of time.  
 38 Such a plan shall be subject to review and approval of the <sup>1</sup>**[Local**  
 39 **Finance Board]** board<sup>1</sup> prior to it being <sup>2</sup>**[approved by the**  
 40 **governing bodies or]**<sup>2</sup> subject to voter referendum;

41 (3) variations from <sup>1</sup>**[existing State law or State department**  
 42 **rules]** any law, rule, or regulation<sup>1</sup> that may not have anticipated a  
 43 phase-in or consolidation of services. **[When]** If variations are  
 44 proposed, they shall be submitted to the board which shall refer it to  
 45 the agency with oversight responsibility. After due consideration,  
 46 the referee agency is empowered to waive such law <sup>1</sup>**[or rules]** ,

1 rule, or regulation<sup>1</sup> if a waiver is found reasonable to further the  
2 process of consolidation. **【Where】** If no such agency exists, the  
3 Commissioner of Community Affairs shall act on behalf of the  
4 State. These requests shall be acted on within 45 days of their  
5 receipt by an agency, and they shall be deemed approved, subject to  
6 approval of a consolidation proposal by the municipalities, by the  
7 end of that time unless the agency has responded with a denial,  
8 conditions that must be met in order for it to be approved, or an  
9 alternative approach to resolving the matter;

10 (4) the use of advisory planning districts **【**, comprised of  
11 residents living in the former territories of each former  
12 municipality**】** <sup>2</sup>, comprised of residents living in the former  
13 territories of each former municipality,<sup>2</sup> to provide advice to the  
14 planning board and the zoning board of adjustment on applications  
15 and master plan changes affecting those areas. A consolidation  
16 study plan shall specify the types and nature of the development and  
17 zoning applications that the advisory planning districts shall review  
18 and the official boards shall be required to respond, at a public  
19 meeting, to each suggestion made by an advisory planning district;

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

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

34 (7) the apportionment of existing debt , or debt newly created in  
35 accordance with any financial arrangement between any or all of the  
36 former municipalities in furtherance of any aspect of a  
37 consolidation plan, between the taxpayers of the consolidating  
38 municipalities, including whether **【existing】** such debt should be  
39 apportioned **【in the same manner as debt】** within special taxing  
40 districts **【**so that the taxpayers of each consolidating municipality  
41 will continue to be responsible for their own pre-consolidation  
42 debts**】**; <sup>1</sup>**【and】**<sup>1</sup> <sup>3</sup>and<sup>3</sup>

43 (8) <sup>3</sup>【the authorization of severance pay for municipal  
44 employees who will be terminated by the new municipality <sup>2</sup>,  
45 subject to the approval of the director<sup>2</sup> <sup>1</sup>; and

1       (9)]<sup>3</sup> the execution of any financial or other agreement between  
 2 any or all of the former municipalities to adjust benefits between  
 3 the municipalities, provide indemnification from legal actions  
 4 stemming from a consolidation, or provide incentives or other acts  
 5 to facilitate municipal consolidation. Such agreement shall be  
 6 subject to the review and approval of the <sup>2</sup>[board] director<sup>2</sup>. Such  
 7 approval shall be obtained before an application for approval of a  
 8 consolidation plan is submitted to the board or before a Municipal  
 9 Consolidation Study Commission votes on its final report, as the  
 10 case may be<sup>1</sup>.

11       c. **[When]** If one of the municipalities is subject to the  
 12 provisions of Title 11A, Civil Service, of the New Jersey Statutes,  
 13 the question of whether the new municipality shall be subject to the  
 14 provisions of that Title shall be the subject of a public referendum  
 15 before all of the voters of the consolidating municipalities. Upon  
 16 the approval by a majority of those voting, regardless of their  
 17 municipality of residence, the new municipality shall be subject to  
 18 the provisions of that Title.

19       d. If one or more of the municipalities has adopted an annual  
 20 levy pursuant to section 7 of P.L.1997, <sup>2</sup>[c.157] c.24<sup>2</sup> (C.40:12-  
 21 15.7) <sup>1</sup>[and any of the other municipalities has not approved such  
 22 levy or has approved such levy at a different amount or rate]<sup>1</sup>, the  
 23 question of whether the new municipality shall impose such levy  
 24 and the amount or rate of the levy shall be the subject of a public  
 25 referendum before all the voters of the consolidating municipalities  
 26 pursuant to subsection a. of section 7 of P.L.1997, <sup>2</sup>[c.157] c.24<sup>2</sup>  
 27 (C.40:12-15.7), which shall be held at the same time of the first  
 28 election of officers for the new municipality. <sup>1</sup>[If all the  
 29 municipalities have approved identical annual levies pursuant to  
 30 section 7 of P.L.1997, (C.40:12-15.7), the levy shall continue in the  
 31 new municipality until modified pursuant to subsection d. or e. of  
 32 section 7 of P.L.1997, (C.40:12-15.7).

33       e. A consolidation plan shall not be approved unless the  
 34 Director of the Division of Taxation in the Department of the  
 35 Treasury has approved, in consultation with the assessors of the  
 36 municipalities, the governing bodies of the municipalities, the  
 37 Municipal Consolidation Study Commission, the county tax board,  
 38 and the director, the process for the equalization of the assessment  
 39 on the properties of the new municipality.]<sup>1</sup>

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

41  
 42       3. Section 27 of P.L.2007, c.63 (C.40A:65-27) is amended to  
 43 read as follows:

44       27. a. Once a consolidation has been approved by the <sup>2</sup>[affected  
 45 municipal governing bodies or]<sup>2</sup> voters, the division shall [create a  
 46 task force of] <sup>2</sup>[coordinate] create a task force consisting of

1 officers of<sup>2</sup> State departments, offices, and agencies,  
2 <sup>2</sup>commissioners of a Municipal Consolidation Study Commission, if  
3 any, or other individuals,<sup>2</sup> as it deems appropriate, and  
4 representatives of affected collective negotiations units, to facilitate  
5 the consolidation and provide technical assistance. <sup>2</sup>The task force  
6 shall be created no later than 60 days after the date the results of the  
7 referendum are certified.<sup>2</sup> The consolidation shall be implemented  
8 under the oversight of the board in accordance with the  
9 consolidation plan approved by the board, unless an alternate plan  
10 is approved by the board.

11 b. **【When】** If a consolidation plan provides that the  
12 consolidated municipality will be subject to the provisions of Title  
13 11A, Civil Service, of the New Jersey Statutes, the Civil Service  
14 Commission is specifically authorized to create a consolidation  
15 implementation plan to vest non-civil service employees, based on  
16 the education and experience of the individuals, in appropriate titles  
17 and tenure.

18 c. Whenever a referendum question to decide if a consolidated  
19 municipality shall be subject to the provisions of Title 11A, Civil  
20 Service, of the New Jersey Statutes <sup>3,3</sup> fails, the employees of a  
21 municipality already subject to that Title shall be given non-civil  
22 service titles in the new entity and previously held tenure shall be  
23 vacated.

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

31 <sup>3</sup>e. If a consolidation has been approved by the voters, the  
32 consolidated municipality shall recognize and preserve the  
33 seniority, tenure, and pension rights of every full-time law  
34 enforcement officer who is employed by each participating  
35 municipality and who is in good standing at the time the  
36 consolidation is adopted, and none of those law enforcement  
37 officers shall be terminated, except for cause; provided, however,  
38 this provision shall not be construed to prevent or prohibit a  
39 consolidated municipality from reducing the police force as  
40 provided by law for reasons of economy and efficiency.

41 f. A consolidated municipality may provide for the  
42 appointment of a chief of police or other chief law enforcement  
43 officer. If such officer is appointed, the consolidated municipality  
44 shall provide that any other person who served as the chief of police  
45 or other chief law enforcement officer in one of the participating  
46 municipalities at the time the consolidation is adopted may elect  
47 either:

1       (1) to accept a demotion of no more than one rank without any  
2 loss of seniority rights, or any impairment of tenure or pension  
3 rights; or

4       (2) to retire from service.

5       A person who elects retirement shall not be demoted, but shall  
6 retain the rank of chief of police or other chief law enforcement  
7 officer and shall be given terminal leave for a period of one month  
8 for each five-year period of past service as a law enforcement  
9 officer with the participating municipality. During the terminal  
10 leave, the person shall continue to receive full compensation and  
11 shall be entitled to all benefits, including any increases in  
12 compensation or benefits, that the person may have been entitled to  
13 if the person had remained on active duty.

14       g. If one or more of the participating municipalities have  
15 adopted Title 11A, Civil Service, of the New Jersey Statutes, any  
16 employee terminated for reasons of economy or efficiency by the  
17 consolidated municipality shall be given a terminal leave payment  
18 of not less than a period of one month for each five-year period of  
19 past service as an employee with the participating municipality, or  
20 other enhanced benefits that may be provided or negotiated. For the  
21 purposes of this subsection, "terminal leave payment" means a  
22 single, lump sum payment, paid at termination, calculated using the  
23 regular base salary at the time of termination. Unless otherwise  
24 negotiated or provided by the employer, a terminal leave benefit  
25 shall not include extended payment, or payment for retroactive  
26 salary increases, bonuses, overtime, longevity, sick leave, accrued  
27 vacation or other time benefit, or any other benefit.<sup>3</sup>

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

29  
30       4. Section 28 of P.L.2007, c.63 (C.40A:65-28) is amended to  
31 read as follows:

32       28. a. **【If a revaluation of property for the consolidated**  
33 **municipality is not implemented for the first local budget year of**  
34 **the consolidated municipality, then the assessments on the**  
35 **properties owned by the taxpayers of the former municipalities shall**  
36 **be equalized for the apportionment of taxes for the consolidated**  
37 **municipality, in the same manner as assessments are equalized for**  
38 **the apportionment of county taxes.】** (Deleted by amendment,  
39 P.L. , c. ) (pending before the Legislature as this bill)

40       b. The owners of any residential property or residential tenants  
41 of any municipality consolidated under sections 1 **【to】** through 37  
42 of P.L.2007, c.63 (C.40A:65-1 et al.), or the "Municipal  
43 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), who  
44 experience a municipal or school district purposes real property tax  
45 increase in the first tax year following the municipal consolidation  
46 shall be entitled to annual property tax relief until such time as they  
47 sell or transfer their home or no longer reside as tenants in the rental

1 unit they occupied just prior to the municipal consolidation. In the  
2 case of the owner of residential property, the property tax relief  
3 shall be reflected as a credit on the property tax bill equal to the  
4 difference between the municipal and school district purposes real  
5 property tax payable by the taxpayer for the tax year, subject to any  
6 adjustment as determined necessary by the Director of the Division  
7 of Local Government Services in the Department of Community  
8 Affairs to reflect operating budgets for a normal pre-consolidated  
9 fiscal year, and the municipal and school district purposes real  
10 property tax billed to that taxpayer for the tax year during which the  
11 consolidation is effectuated, as may be adjusted by the Director of  
12 the Division of Local Government Services in the Department of  
13 Community Affairs to reflect normal post-consolidation operating  
14 budgets for the municipalities and school districts. In the case of a  
15 residential tenant, the tax credit applied to an apartment property  
16 shall be distributed to eligible tenants pursuant to the provisions of  
17 the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2  
18 et seq.) and this section. The total of all such relief in the  
19 municipality shall be paid by the State to the municipality on a  
20 schedule determined by the Local Finance Board. For the purpose  
21 of this subsection, a "normal" budget year shall be one that, in the  
22 determination of the director, does not reflect expenses made in  
23 anticipation of, or in implementation of, a municipal consolidation.  
24 (cf: P.L.2007, c.63, s.28)

25

26 <sup>15</sup>. Section 29 of P.L.2007, c.63 (C.40A:65-29) is amended to  
27 read as follows:

28 29. The provisions of sections 1 **【to】** through 37 of P.L.2007,  
29 c.63 (C.40A:65-1 et al.) shall be liberally construed to effectuate the  
30 intention of sections 25 through 28 of P.L.2007, c.63 (C.40A:65-25  
31 through C.40A:65-28). The board is empowered to act to provide  
32 guidance, interpretation, make decisions, issue orders, and to  
33 resolve disputes regarding these sections or the "Municipal  
34 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).  
35 **【Decisions】** Actions of the board may be appealed directly to the  
36 Appellate Division of the Superior Court.<sup>1</sup>  
37 (cf: P.L.2007, c.63, s.29)

38

39 <sup>26</sup>. Section 1 of P.L.1995, c.376 (C.40:43-66.78) is amended to  
40 read as follows:

41 1. The Legislature finds and declares that the consolidation of  
42 sparsely populated municipalities into **【contiguous】** municipalities  
43 having larger populations should be encouraged as a means to  
44 reduce the costs of local government. The Legislature also finds  
45 that there should be a simplified consolidation process when a  
46 municipality seeking consolidation is sparsely populated and when  
47 the resulting consolidated municipality will have the same form of

1 government as the municipality absorbing the sparsely populated  
2 municipality.<sup>2</sup>

3 (cf: P.L.1995, c.376, s.1)

4

5 <sup>27</sup>. Section 2 of P.L.1995, c.376 (C.40:43-66.79) is amended to  
6 read as follows:

7 2. For the purposes of **[this act]** P.L.1995, c.376:

8 "Absorbing municipality" means a municipality into which a  
9 **[contiguous]** sparsely populated municipality situate in the same  
10 county intends to be consolidated pursuant to the provisions of  
11 P.L.1995, c.376 (C.40:43-66.78 et seq.).

12 "Director" means the Director of the Division of Local  
13 Government Services in the Department of Community Affairs.

14 "Consolidated municipality" means the single new municipality  
15 that results from an affirmative consolidation effort pursuant to the  
16 provisions of P.L.1995, c.376 (C.40:43-66.78 et seq.).

17 "Sparsely populated municipality" means a municipality with a  
18 population of less than **[500]** 1,000 persons according to the most  
19 recent federal decennial census.<sup>2</sup>

20 (cf: P.L.1995, c.376, s.2)

21

22 <sup>28</sup>. Section 3 of P.L.1995, c.376 (C.40:43-66.80) is amended to  
23 read as follows:

24 3. a. The governing body of a sparsely populated municipality  
25 may adopt, by two-thirds vote of its full membership, an ordinance  
26 **[proposing the municipality's consolidation into a contiguous**  
27 **municipality]** authorizing the mayor to meet with the director, the  
28 mayor of the absorbing municipality, and such municipal officials  
29 as the director shall require from the sparsely populated  
30 municipality to formulate a plan to consolidate with an absorbing  
31 municipality.

32 b. The clerk of a municipality that adopts an ordinance  
33 pursuant to subsection a. of this section shall forward a copy of the  
34 ordinance to the governing body of the absorbing municipality and  
35 to the director within seven days of the effective date of the  
36 ordinance.

37 c. **[If the]** The governing body of the absorbing municipality  
38 **[consents to the consolidation it shall]** may, within 120 days after  
39 receipt of the ordinance adopted by the governing body of the  
40 sparsely populated municipality pursuant to subsection a. of this  
41 section, adopt an ordinance **[consenting to consolidation]**  
42 authorizing the mayor to meet with the director, the mayor of the  
43 sparsely populated municipality, and such municipal officials as the  
44 director shall require from the absorbing municipality to formulate  
45 a plan to consolidate with the sparsely populated municipality by a  
46 two-thirds vote of the full membership of the governing body and



1 shall forward a copy of the ordinance to the director and the clerk of  
2 the sparsely populated municipality.<sup>2</sup>

3 (cf: P.L.1995, c.376, s.3)

4

5 <sup>2</sup>9. Section 4 of P.L.1995, c.376 (C.40:43-66.81) is amended to  
6 read as follows:

7 4. a. Whenever the governing body of a sparsely populated  
8 municipality **【with a population between 100 and 500 persons**  
9 **according to the most recent federal decennial census】** and the  
10 governing body of an absorbing municipality have both adopted  
11 ordinances **【proposing and consenting to the consolidation of their**  
12 **respective municipalities】** authorizing the formulation of a plan to  
13 consolidate, the director shall meet with the mayors and such other  
14 municipal officials as the director shall require from the sparsely  
15 populated municipality and the absorbing municipality. In  
16 consultation with the mayors, the director shall establish a timetable  
17 for the completion of the plan to consolidate. Upon its completion,  
18 the sparsely populated municipality and the absorbing municipality  
19 shall publish a summary of the plan at least once in a newspaper of  
20 general circulation in the municipalities and the complete plan on  
21 the municipality's Internet website, if one exists, or, if one does not  
22 exist, on the Internet website of the Department of Community  
23 Affairs. Upon publication of the consolidation plan, the  
24 **【municipal】** clerk of each municipality shall cause the question of  
25 consolidation to be submitted to the registered voters of each  
26 municipality on the date for the next general or regular municipal  
27 election occurring not less than 60 days after the **【adoption of the**  
28 **ordinance of the absorbing municipality】** publication of the  
29 consolidation plan. At that election, the question shall be submitted  
30 in the same manner as other public questions in each such  
31 municipality, and in the following form or such part thereof as shall  
32 be applicable:

33 "Shall (insert the names of the municipalities) be consolidated  
34 into a single municipality to be known as (insert name of absorbing  
35 municipality) and governed under (insert the present plan or form of  
36 government of the absorbing municipality) pursuant to the  
37 consolidation plan?"

38 b. The question submitted pursuant to subsection a of this  
39 section shall be deemed approved and adopted only if a majority of  
40 those voting on the question in each of the municipalities votes in  
41 favor of the question.

42 c. The results of the election in each municipality in which the  
43 question was submitted shall be certified in accordance with Title  
44 19 of the Revised Statutes, and the county clerk shall, in turn, not  
45 more than five days after said certification, notify the director of the  
46 election results.<sup>2</sup>

47 (cf: P.L.1995, c.376, s.4)

1       <sup>2</sup>10. Section 5 of P.L.1995, c.376 (C.40:43-66.82) is amended to  
2 read as follows:

3       5. a. Within 20 days of [either: (1) receipt of an ordinance  
4 consenting to consolidation pursuant to subsection c. of section 3 of  
5 P.L.1995, c.376 (C.40:43-66.80), with regard to a consolidation  
6 involving a sparsely populated municipality with a population of  
7 less than 100 persons according to the most recent federal decennial  
8 census, or (2)] the certification of the results of elections approving  
9 a consolidation pursuant to section 4 of P.L.1995, c.376 (C.40:43-  
10 66.81), the director shall meet with the mayors and such other  
11 municipal officials as the director shall require from the sparsely  
12 populated municipality and the absorbing municipality.

13       b. In consultation with the mayors, the director shall establish  
14 a timetable for the consolidation to become effective and shall make  
15 such budget, financial, and educational district adjustments as shall  
16 be required to complete the consolidation. The Commissioner of  
17 Education also shall be consulted with regard to the adjustment of  
18 educational district matters. The director shall also establish a  
19 timetable for the preparation of a new official map of the  
20 consolidated municipality showing the new boundaries.

21       c. The director, in consultation with the mayors, shall have all  
22 of the powers of a consolidation commission under the ["Municipal  
23 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.)]  
24 "Uniform Shared Services and Consolidation Act," P.L.2007, c.63  
25 (C.40A:65-1 et seq.).<sup>2</sup>  
26 (cf: P.L.1995, c.376, s.5)

27

28       <sup>2</sup>11. N.J.S.40A:4-53 is amended to read as follows:

29       40A:4-53. A local unit may adopt an ordinance authorizing  
30 special emergency appropriations for the carrying out of any of the  
31 following purposes:

32       a. Preparation of an approved tax map.

33       b. Preparation and execution of a complete program of  
34 revaluation of real property for the use of the local assessor, or of  
35 any program to update and make current any previous revaluation  
36 program when such is ordered by the county board of taxation.

37       c. Preparation of a revision and codification of its ordinances.

38       d. Engagement of special consultants for the preparation, and  
39 the preparation of a master plan or plans, when required to conform  
40 to the planning laws of the State.

41       e. Preparation of drainage maps for flood control purposes.

42       f. Preliminary engineering studies and planning necessary for  
43 the installation and construction of a sanitary sewer system.

44       g. Authorized expenses of a consolidation commission  
45 established pursuant to the "Municipal Consolidation Act,"  
46 P.L.1977, c.435 (C.40:43-66.35 et seq.) or the "Uniform Shared

1 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1  
2 through C.40A:65-35).

3 h. Contractually required severance liabilities resulting from  
4 the layoff or retirement of employees. Such liabilities shall be paid  
5 without interest and, at the sole discretion of the local unit, may be  
6 paid in equal annual installments over a period not to exceed five  
7 years.

8 i. Preparation of a sanitary or storm system map.

9 A copy of all ordinances or resolutions as adopted relating to  
10 special emergency appropriations shall be filed with the director.<sup>2</sup>

11 (cf: P.L.2010, c.46, s.1)

12

13 <sup>2</sup>[16.] 12.<sup>2</sup> This act shall take effect immediately.<sup>1</sup>