SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 29

STATE OF NEW JERSEY

DATED: JUNE 23, 2010

The Senate Budget and Appropriations committee reports favorably on Senate Bill No. 29.

This bill reduces the tax levy cap for school districts, counties, municipalities, fire districts, and solid waste collection districts from the currently permitted 4% annual increase to a 2.9% permitted annual increase. The bill also establishes the tax levy cap as the permanent mechanism for the calculation of the maximum allowable increase in the tax levy for local units and school districts that may occur between budget years. Under existing law, the 2007 tax levy cap law is scheduled to expire June 30, 2012.

The bill narrows the purposes for which waivers to authorize the raising of additional tax levy may be requested from the Local Finance Board to only those purposes related to the provision of government services that the board deems essential to protect the public health, safety, or welfare. In the case of school districts, a waiver may only be requested from the Commissioner of Education for a district's failure to meet the core curriculum content standards (thorough and efficient). The bill also eliminates the ability of a local unit or a school district to submit a separate public question to the voters to authorize the raising of additional tax levy.

The bill would also permit levy cap "banking" of any portion of the permitted 2.9% increase under the property tax levy cap that is not used by a county or municipality in any budget year. In the case of a school district it would allow cap banking of any portion of the permitted 2.9% increase plus applicable adjustments not used by the school district in a budget year. Under current law, if a county, municipality, or school district does not use the entire 4% increase, perhaps because it uses surplus that year to keep tax rates steady, the difference is lost. This can be a problem in a succeeding tax year if circumstances require an unexpected increase in expenditures to maintain services. Under the bill, the cap is being reduced, but any unused permissible increase amount under the reduced levy cap limit could be used in any one of the next three succeeding budget years. This concept is similar to cap banking under the municipal and county appropriations cap law (N.J.S.A.40A:4-45.1 et seq.). Cap banking was also authorized under the statutes which established the formula for the calculation of a school district's spending growth limitation, which was last operative in the 2006-2007 school year, and which is being repealed under this bill as the tax levy growth limitation becomes the permanent mechanism to calculate school district tax levy increases.

The bill also deletes language in current law in order to eliminate a levy cap penalty that occurs when a county or municipality acts responsibly to reduce its debt servicing expenditures.

The reduction in the property tax levy cap would be applicable to the local budget year next following enactment of the bill, and the opportunity to bank any unused portion of the allowable increase would commence in that local budget year so that any unused portion of the current 4 percent levy cap would not be available to be banked.

The current levy cap, enacted in 2007, has been effective in holding down the rate of property tax increases. According to the information posted on the Division of Local Government Services website, the average municipal property tax bill rose 3.7% from 2007 to 2008 and 3.3% from 2008 to 2009. The tightening of the existing levy cap laws will act to further control such increases.

FISCAL IMPACT:

The OLS estimates that the new local property tax cap may result in lower property tax levies, that would otherwise occur under existing law, by indeterminate amounts. The OLS notes that local budgetary decisions that determine annual changes in local property tax levies are affected by multiple factors, such as the provisions of labor contracts, costs of good and services, levels of local non-property tax revenues, debt service requirements, and the number of pupils required to be educated by local school districts. It is reasonable to conclude that a decrease in the amount that the tax levy is permitted to increase from year-to-year may comprise greater restraints on annual property tax increases than the restraints under current law, but it is not feasible to estimate the degree to which this is the case, or to quantify the amount by which future property levies would be lowered by the effect of the lower caps and the provisions permitting the use of cap “banking”.