

ASSEMBLY, No. 3832

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED APRIL 12, 2018

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

Co-Sponsored by:

**Assemblywoman Jones, Assemblyman Caputo, Assemblywomen Vainieri
Huttle and Murphy**

SYNOPSIS

Authorizes municipal tax levy dedicated to arts and culture through public question.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/1/2019)

1 AN ACT concerning arts and culture funding and supplementing
2 Title 40 of the Revised Statutes.

3

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

6

7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 “Arts and culture” means creative and cultural activities,
10 including but not limited to, performing, visual, and fine arts,
11 music, dance, graphic design, film, digital media and video,
12 architecture and urban design, humanities, literature, arts and
13 culture education, historic preservation, museum curation, crafts,
14 and folk arts.

15 “Arts and culture trust fund” means a fund established pursuant
16 to section 2 of P.L. , c. (C.) (pending before the Legislature
17 as this bill), for the purpose of supporting local arts and culture.

18 “Local arts council” means an entity, often referred to as a local
19 arts agency, arts commission, or cultural affairs office, that:

20 a. is either a municipal or county government agency, or a
21 private entity exempt from federal income taxation under paragraph
22 (3) of subsection (c) of section 501 of the federal Internal Revenue
23 Code of 1986 (26 U.S.C. s.501(c)(3)); and

24 b. maintains a mission that generally involves making arts and
25 culture more accessible to the public, and supporting local artists,
26 art programming, or local organizations focused on arts and culture.

27

28 2. a. The governing body of a municipality may, by ordinance,
29 submit to the voters of the municipality, in a general or special
30 election, a proposition authorizing an annual levy, in an amount or
31 at a rate that the governing body deems appropriate, to be
32 established for the purpose of supporting arts and culture, or any
33 subset of activities within the definition of “arts and culture” under
34 section 1 of P.L. , c. (C.) (pending before the Legislature
35 as this bill). Upon approval of the proposition by a majority of the
36 votes cast by the voters of the municipality, the governing body of
37 the municipality may annually raise by taxation a sum not to exceed
38 the amount or rate set forth in the proposition approved by the
39 voters for the purposes specified therein.

40 b. (1) The amount or rate of the annual levy may be subdivided
41 in the proposition to reflect the relative portions of the levy to be
42 allocated to any respective arts and culture purpose.

43 (2) If the amount or rate set forth in the proposition is not
44 subdivided among its various purposes, then the governing body of
45 the municipality may, by ordinance, determine the appropriate
46 amount or rate to be allocated to each purpose at a later time. By
47 ordinance, the governing body of the municipality may also adjust
48 any previously-determined allocation of funds among each purpose,

1 so long as the adjustment is in accordance with the terms of the levy
2 allocation submitted to the voters.

3 c. Amounts raised by the levy imposed pursuant to this section
4 shall be deposited into an "arts and culture trust fund" to be created
5 by the municipality, and shall be used exclusively for the purposes
6 authorized by the voters of the municipality. Any interest or other
7 income earned on monies deposited into the arts and culture trust
8 fund shall be credited to the fund to be used for the same purposes
9 as the principal. Separate accounts may be created within the arts
10 and culture trust fund for the deposit of revenue that is to be
11 expended for each respective purpose, as specified in the
12 proposition approved by the voters of the municipality. A
13 municipality may deposit other funds into the arts and culture trust
14 fund, as it may, from time to time, deem appropriate.

15 d. The governing body of a municipality may, by ordinance,
16 submit to the voters of the municipality in a general or special
17 election a proposition amending, supplementing, or repealing, a
18 proposition previously submitted, approved, and implemented as
19 provided pursuant to this section. The proposition may propose to
20 eliminate the annual levy, change the amount or rate of the annual
21 levy, or add or remove purposes authorized pursuant to this section
22 for which the levy may be expended. Upon approval of an
23 amendatory or supplementary proposition by a majority of the votes
24 cast by the voters of the municipality, the governing body of the
25 municipality shall implement it in the same manner as set forth in
26 P.L. , c. (C.) (pending before the Legislature as this bill)
27 for implementation of the original proposition.

28 e. Upon petition to the governing body of a municipality
29 signed by the voters of the municipality equal in number to at least
30 15 percent of the votes cast therein at the last preceding general
31 election, filed with the governing body at least 90 days before a
32 general or special election, the governing body of the municipality
33 shall submit to the voters of the municipality in the general or
34 special election the proposition otherwise authorized pursuant to
35 subsection a. or subsection d. of this section, as the case may be.

36
37 3. a. The municipality, either through an ordinance adopted
38 pursuant to section 2 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), or through a subsequent ordinance, shall
40 designate a local arts council to manage the distribution of monies
41 in the arts and culture trust fund. In distributing arts and culture
42 trust fund monies, the local arts council shall comply with the
43 conditions for the use of the funding established through the
44 propositions and ordinances adopted pursuant to section 2 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill).

46 b. An agreement entered into in accordance with this section
47 shall not be subject to the requirements and provisions of the "Local
48 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). If the

1 local arts council is a private entity, then the local arts council shall
2 allow the chief financial officer of the municipality to serve on its
3 board, ex officio, as a non-voting member.

4

5 4. This act shall take effect immediately.

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STATEMENT

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10 This bill would authorize a municipality to adopt an ordinance,
11 allowing the establishment of an annual tax levy dedicated to arts
12 and culture funding, if approved by a majority of voters in the
13 municipality through a public question in a general or special
14 election.

15 The public question permitted by the bill would specify the sum
16 or rate of the annual tax levy, and whether the levy will support arts
17 and culture in the municipality broadly, or a subset of specific
18 activities within the bill's definition of "arts and culture." The bill
19 defines "arts and culture" as creative and cultural activities,
20 including but not limited to, performing, visual, and fine arts,
21 music, dance, graphic design, film, digital media and video,
22 architecture and urban design, humanities, literature, arts and
23 culture education, historic preservation, museum curation, crafts,
24 and folk arts.

25 Under the bill, the amount or rate of the annual levy could be
26 subdivided in the public question to reflect the relative portions of
27 the levy to be allocated to any respective arts and culture purpose.
28 If the public question does not subdivide the amount or rate of the
29 levy among its various purposes, then the bill allows the
30 municipality to determine by ordinance the appropriate amount or
31 rate to be allocated to each purpose at a later time. By ordinance,
32 the bill also allows the municipality to adjust any previously-
33 determined allocation of funds among each purpose, so long as the
34 adjustment is consistent with the terms of the levy allocation
35 submitted to the voters.

36 Amounts raised by the levy would be deposited into an "arts and
37 culture trust fund," and used exclusively for the purposes authorized
38 by the voters of the municipality. The bill allows separate accounts
39 to be created within the arts and culture trust fund for the deposit of
40 revenue to be expended for each of the purposes specified in the
41 public question. The bill also allows the municipality to deposit
42 other funds into the arts and culture trust fund, as it may deem
43 appropriate.

44 Following approval and implementation of one public question
45 submitted under the terms of this bill, a municipality could, by
46 ordinance, submit to the voters another proposition to (1) eliminate
47 the annual levy, (2) change the amount or rate of the annual levy, or
48 (3) add or remove certain purposes of the levy. Upon approval of

1 an amendatory or supplementary proposition by a majority of the
2 voters, this bill allows the municipality to implement it in the same
3 manner as the original proposition.

4 The bill also authorizes a municipality's residents to compel a
5 public question on arts and culture funding through petition.
6 Specifically, through a petition signed by the voters of the
7 municipality equal in number to at least 15 percent of the votes cast
8 therein at the last preceding general election, filed with the
9 municipality at least 90 days before a general or special election,
10 the bill requires the municipality to submit to the voters any
11 proposition otherwise authorized by the bill, in accordance with the
12 terms of the petition.

13 The bill requires the municipality to designate, by ordinance, a
14 local arts council to manage the distribution of monies in the arts
15 and culture trust fund. The bill defines a local arts council as an
16 entity, often referred to as a local arts agency, arts commission, or
17 cultural affairs office, that:

- 18 • is either a municipal or county government agency, or a
19 private entity exempt from federal income taxation under
20 paragraph (3) of subsection (c) of section 501 of the federal
21 Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)); and
- 22 • maintains a mission that generally involves making arts and
23 culture more accessible to the public, and supporting local
24 artists, art programming, or local organizations focused on
25 arts and culture.

26 In distributing arts and culture trust fund monies, the bill requires
27 the local arts council to comply with the conditions for the use of
28 the funding established through the one or more propositions and
29 ordinances establishing the fund. An agreement entered into with a
30 local arts council would not be subject to the requirements and
31 provisions of the "Local Public Contracts Law," P.L.1971, c.198
32 (C.40A:11-1 et seq.). However, if the local arts council is a private
33 entity, then the bill requires it to allow the chief financial officer of
34 the municipality to serve on its board, ex officio, as a non-voting
35 member.