

[First Reprint]

SENATE, No. 1701

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

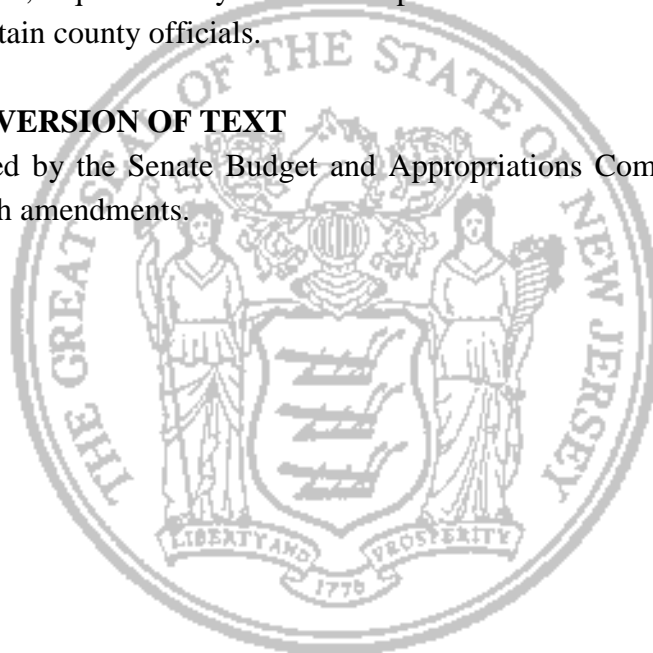
Senator Oroho

SYNOPSIS

Requires cost-benefit analyses for long term tax exemption; requires DCA to create database of these exemptions; requires new distribution of annual service charges; requires five-year tax exemption and abatement agreements be filed with certain county officials.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 11, 2018, with amendments.



(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning long term property tax exemptions and ¹five-year
 2 property tax exemptions and abatements,¹ amending and
 3 supplementing P.L.1991, c.431 ¹, and amending P.L.1991, c.441¹.
 4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*
 7

8 1. Section 8 of P.L.1991, c.431 (C.40A:20-8) is amended to read
 9 as follows:

10 8. Every urban renewal entity qualifying under **[this act]**
 11 P.L.1991, c.431 (C.40A:20-1 et seq.), before proceeding with any
 12 projects, shall make written application to the municipality for
 13 approval thereof. The application shall be in a form, and shall certify
 14 to those facts and data, as shall be required by the municipality, and
 15 shall include but not be limited to:

16 a. A general statement of the nature of the proposed project, that
 17 the undertaking conforms to all applicable municipal ordinances, and
 18 that the project accords with the redevelopment plan and master plan
 19 of the municipality, or, in the case of a redevelopment relocation
 20 housing project, provides for the relocation of residents displaced or to
 21 be displaced from a redevelopment area, or, in the case of a low and
 22 moderate income housing project, the housing units are restricted to
 23 occupation by low and moderate income households.

24 b. A description of the proposed project outlining the area
 25 included and a description of each unit thereof if the project is to be
 26 undertaken in units and setting forth architectural and site plans as
 27 required.

28 c. A statement prepared by a qualified architect or engineer of the
 29 estimated cost of the proposed project in the detail required, including
 30 the estimated cost of each unit to be undertaken.

31 d. The source, method ², and amount of money to be subscribed
 32 through the investment of private capital, setting forth the amount of
 33 stock or other securities to be issued therefor or the extent of capital
 34 invested and the proprietary or ownership interest obtained in
 35 consideration therefor.

36 e. A fiscal plan for the project outlining a schedule of annual
 37 gross revenue, the estimated expenditures for operation and
 38 maintenance, payments for interest, amortization of debt and reserves,
 39 and payments to the municipality to be made pursuant to a financial
 40 agreement to be entered into with the municipality.

41 f. A proposed financial agreement conforming to the provisions
 42 of section 9 of **[this act]** P.L.1991, c.431 (C.40A:20-9).

43 g. A cost-benefit analysis of the project's impact on the finances
 44 of the municipality, county, ¹school district¹ and other taxing districts,

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:

¹Senate SBA committee amendments adopted June 11, 2018.

1 within which the project is located, outlining, at a minimum: (1) the
2 net financial impact on the municipality based on the estimated
3 payments to the municipality to be made pursuant to a financial
4 agreement to be entered into with the municipality and the estimated
5 additional one-time and periodic expenditures to be incurred by the
6 municipality as a result of the project; (2) the municipal revenues to be
7 gained or lost based on this estimated net financial impact and the
8 estimated net financial impact of the property on the municipality if
9 the project is not approved and the current use and condition of the
10 property is continued; (3) the property tax revenues to be foregone by
11 the county and taxing districts in which the project is located if a tax
12 exemption is approved pursuant to P.L.1991, c.431 (C.40A:20-1 et
13 seq.); ¹['and']¹ (4) ¹the impact on the equalization aid component of
14 the school funding formula; and (5)¹ any other information relevant to
15 determining the impact of the project on the finances of the
16 municipality, county, ¹school district¹ and other taxing districts, within
17 which the project is located, as shall be required by the municipality or
18 as may be required by administrative rules adopted by the
19 Commissioner of Community Affairs or the Local Finance Board.
20 Within 30 days of receipt of the application, the municipality shall post
21 the cost-benefit analysis required by this subsection on its Internet
22 website, or, if one does not exist, the cost-benefit analysis shall be
23 provided for public inspection on the Internet website of the
24 Department of Community Affairs.

25 The application shall be addressed and submitted to the mayor or
26 other chief executive officer of the municipality. The mayor or other
27 chief executive officer shall, within 60 days of his receipt of the
28 application thereafter, submit the application with his
29 recommendations, and an independent cost-benefit analysis of the
30 project's impact on the finances of the municipality, county, ¹school
31 district¹ and other taxing districts, within which the project is located,
32 conducted by the office, or other designee, of the mayor or other chief
33 executive officer, to the municipal governing body. The independent
34 cost-benefit analysis shall include, at a minimum, the information
35 required in subsection g. of this section. Within 30 days of submission
36 to the municipal governing body, the municipality shall post the
37 independent cost-benefit analysis on its Internet website, or, if one
38 does not exist, the independent cost-benefit analysis shall be provided
39 for public inspection on the Internet website of the Department of
40 Community Affairs.

41 The governing body shall by resolution approve or disapprove the
42 application, but in the event of disapproval, changes may be suggested
43 to secure approval. The resolution shall include specific findings
44 about the project's estimated net impact on the finances of the
45 municipality, county, ¹school district¹ and other taxing districts, within
46 which the project is located. Within 30 days of adoption of the
47 resolution, the municipality shall post the resolution on its Internet

1 website, or, if one does not exist, the resolution shall be provided for
2 public inspection on the Internet website of the Department of
3 Community Affairs. An application may be revised and resubmitted.
4 (cf: P.L.1991, c.431, s.8)

5
6 2. (New section) a. A municipality shall notify the
7 Department of Community Affairs within 30 days after approving a
8 financial agreement pursuant to section 9 of P.L.1991, c.431
9 (C.40A:20-9). The notice shall include the same information
10 required to be included in a plain language budget summary for
11 long term tax exemptions pursuant to subsection b. of section 39 of
12 P.L.2007, c.63 (C.40A:5-48).

13 b. The Department of Community Affairs, in consultation with
14 the Office of Information Technology, shall design, develop, and
15 maintain a database on its Internet website that contains and
16 displays: (1) the information provided to the department pursuant to
17 subsection a. of this section, and (2) the information included in
18 plain language budget summaries for long term tax exemptions
19 pursuant to subsection b. of section 39 of P.L.2007, c.63 (C.40A:5-
20 48), which were approved prior to the effective date of P.L. ,
21 c. (C.) (pending before the Legislature as this bill), sorted by
22 municipality.

23
24 ¹3. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
25 read as follows:

26 12. The rehabilitation or improvements made in the development
27 or redevelopment of a redevelopment area or area appurtenant thereto
28 or for a redevelopment relocation housing project, pursuant to
29 P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation
30 for a limited period as hereinafter provided. When housing is to be
31 constructed, acquired or rehabilitated by an urban renewal entity, the
32 land upon which that housing is situated shall be exempt from taxation
33 for a limited period as hereinafter provided. The exemption shall be
34 allowed when the clerk of the municipality wherein the property is
35 situated shall certify to the municipal tax assessor that a financial
36 agreement with an urban renewal entity for the development or the
37 redevelopment of the property, or the provision of a redevelopment
38 relocation housing project, or the provision of a low and moderate
39 income housing project has been entered into and is in effect as
40 required by P.L.1991, c.431 (C.40A:20-1 et seq.).

41 Delivery by the municipal clerk to the municipal tax assessor of a
42 certified copy of the ordinance of the governing body approving the
43 tax exemption and financial agreement with the urban renewal entity
44 shall constitute the required certification. For each exemption granted
45 pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.), upon certification
46 as required hereunder, the tax assessor shall implement the exemption
47 and continue to enforce that exemption without further certification by
48 the clerk until the expiration of the entitlement to exemption by the

1 terms of the financial agreement or until the tax assessor has been duly
2 notified by the clerk that the exemption has been terminated.

3 Within 10 calendar days following the later of the effective date of
4 an ordinance following its final adoption by the governing body
5 approving the tax exemption or the execution of the financial
6 agreement by the urban renewal entity, the municipal clerk shall
7 transmit a certified copy of the ordinance and financial agreement to
8 the chief financial officer of the county and to the county counsel for
9 informational purposes.

10 Whenever an exemption status changes during a tax year, the
11 procedure for the apportionment of the taxes for the year shall be the
12 same as in the case of other changes in tax exemption status during the
13 tax year. Tax exemptions granted pursuant to P.L.2003, c.125
14 (C.40A:12A-4.1 et al.) represent long term financial agreements
15 between the municipality and the urban renewal entity and as such
16 constitute a single continuing exemption from local property taxation
17 for the duration of the financial agreement. The validity of a financial
18 agreement or any exemption granted pursuant thereto may be
19 challenged only by filing an action in lieu of prerogative writ within 20
20 days from the publication of a notice of the adoption of an ordinance
21 by the governing body granting the exemption and approving the
22 financial agreement. Such notice shall be published in a newspaper of
23 general circulation in the municipality and in a newspaper of general
24 circulation in the county if different from the municipal newspaper.

25 a. The duration of the exemption for urban renewal entities shall
26 be as follows: for all projects, a term of not more than 30 years from
27 the completion of the entire project, or unit of the project if the project
28 is undertaken in units, or not more than 35 years from the execution of
29 the financial agreement between the municipality and the urban
30 renewal entity.

31 b. During the term of any exemption, in lieu of any taxes to be
32 paid on the buildings and improvements of the project and, to the
33 extent authorized pursuant to this section, on the land, the urban
34 renewal entity shall make payment to the municipality of an annual
35 service charge, which shall remit a portion of that revenue to the
36 county as provided hereinafter. In addition, the municipality may
37 assess an administrative fee, not to exceed two percent of the annual
38 service charge, for the processing of the application. The annual
39 service charge for municipal services supplied to the project to be paid
40 by the urban renewal entity for any period of exemption, shall be
41 determined as follows:

42 (1) An annual amount equal to a percentage determined pursuant
43 to this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), of
44 the annual gross revenue from each unit of the project, if the project is
45 undertaken in units, or from the total project, if the project is not
46 undertaken in units. The percentage of the annual gross revenue shall
47 not be more than **【15%】** 15 percent in the case of a low and moderate

1 income housing project, nor less than **【10%】** 10 percent in the case of
2 all other projects.

3 At the option of the municipality, or where because of the nature of
4 the development, ownership, use or occupancy of the project or any
5 unit thereof, if the project is to be undertaken in units, the total annual
6 gross rental or gross shelter rent or annual gross revenue cannot be
7 reasonably ascertained, the governing body shall provide in the
8 financial agreement that the annual service charge shall be a sum equal
9 to a percentage determined pursuant to this subsection and section 11
10 of P.L.1991, c.431 (C.40A:20-11), of the total project cost or total
11 project unit cost determined pursuant to P.L.1991, c.431 (C.40A:20-1
12 et seq.) calculated from the first day of the month following the
13 substantial completion of the project or any unit thereof, if the project
14 is undertaken in units. The percentage of the total project cost or total
15 project unit cost shall not be more than **【2%】** two percent in the case
16 of a low and moderate income housing project, and shall not be less
17 than **【2%】** two percent in the case of all other projects.

18 (2) In either case, the financial agreement shall establish a
19 schedule of annual service charges to be paid over the term of the
20 exemption period, which shall be in stages as follows:

21 (a) For the first stage of the exemption period, which shall
22 commence with the date of completion of the unit or of the project, as
23 the case may be, and continue for a time of not less than six years nor
24 more than 15 years, as specified in the financial agreement, the urban
25 renewal entity shall pay the municipality an annual service charge for
26 municipal services supplied to the project in an annual amount equal to
27 the amount determined pursuant to paragraph (1) of this subsection
28 and section 11 of P.L.1991, c.431 (C.40A:20-11). For the remainder
29 of the period of the exemption, if any, the annual service charge shall
30 be determined as follows:

31 (b) For the second stage of the exemption period, which shall not
32 be less than one year nor more than six years, as specified in the
33 financial agreement, an amount equal to either the amount determined
34 pursuant to paragraph (1) of this subsection and section 11 of
35 P.L.1991, c.431 (C.40A:20-11), or **【20%】** 20 percent of the amount of
36 taxes otherwise due on the value of the land and improvements,
37 whichever shall be greater;

38 (c) For the third stage of the exemption period, which shall not be
39 less than one year nor more than six years, as specified in the financial
40 agreement, an amount equal to either the amount determined pursuant
41 to paragraph (1) of this subsection and section 11 of P.L.1991, c.431
42 (C.40A:20-11), or **【40%】** 40 percent of the amount of taxes otherwise
43 due on the value of the land and improvements, whichever shall be
44 greater;

45 (d) For the fourth stage of the exemption period, which shall not be
46 less than one year nor more than six years, as specified in the financial
47 agreement, an amount equal to either the amount determined pursuant

1 to paragraph (1) of this subsection and section 11 of P.L.1991, c.431
2 (C.40A:20-11), or **【60%】** 60 percent of the amount of taxes otherwise
3 due on the value of the land and improvements, whichever shall be
4 greater; and

5 (e) For the final stage of the exemption period, the duration of
6 which shall not be less than one year and shall be specified in the
7 financial agreement, an amount equal to either the amount determined
8 pursuant to paragraph (1) of this subsection and section 11 of
9 P.L.1991, c.431 (C.40A:20-11), or **【80%】** 80 percent of the amount of
10 taxes otherwise due on the value of the land and improvements,
11 whichever shall be greater.

12 If the financial agreement provides for an exemption period of less
13 than 30 years from the completion of the entire project, or less than 35
14 years from the execution of the financial agreement, the financial
15 agreement shall set forth a schedule of annual service charges for the
16 exemption period which shall be based upon the minimum service
17 charges and staged adjustments set forth in this section.

18 The annual service charge shall be paid to the municipality on a
19 quarterly basis in a manner consistent with the municipality's tax
20 collection schedule.

21 Each municipality which enters into a financial agreement on or
22 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.), and
23 before the effective date of P.L. , c. (pending before the Legislature
24 as this bill), shall remit 5 percent of the annual service charge collected
25 by the municipality to the county in accordance with the provisions of
26 R.S.54:4-74.

27 Each municipality that enters into a financial agreement on or after
28 the effective date of P.L. , c. (pending before the Legislature as this
29 bill) shall remit a portion of the annual service charge collected by the
30 municipality to the county, school district, and any other taxing
31 district, within which the project is located, in direct proportion to the
32 distribution of the amount raised by taxation in the prior tax year to the
33 county, school district, and any other taxing district, as displayed on
34 the property tax bill for that year pursuant to paragraph (1) of
35 subsection b. of R.S.54:4-65. The annual service charge portion shall
36 be remitted to the county, school district, or other taxing district in the
37 same manner as property taxes.

38 Against the annual service charge the urban renewal entity shall be
39 entitled to credit for the amount, without interest, of the real estate
40 taxes on land paid by it in the last four preceding quarterly
41 installments.

42 Notwithstanding the provisions of this section or of the financial
43 agreement, the minimum annual service charge shall be the amount of
44 the total taxes levied against all real property in the area covered by
45 the project in the last full tax year in which the area was subject to
46 taxation, and the minimum annual service charge shall be paid in each
47 year in which the annual service charge calculated pursuant to this

1 section or the financial agreement would be less than the minimum
2 annual service charge.

3 c. All exemptions granted pursuant to the provisions of P.L.1991,
4 c.431 (C.40A:20-1 et seq.) shall terminate at the time prescribed in the
5 financial agreement.

6 Upon the termination of the exemption granted pursuant to the
7 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
8 affected parcels, land and all improvements made thereto shall be
9 assessed and subject to taxation as are other taxable properties in the
10 municipality. After the date of termination, all restrictions and
11 limitations upon the urban renewal entity shall terminate and be at an
12 end upon the entity's rendering its final accounting to and with the
13 municipality.¹

14 (cf: P.L.2015, c.247, s.1)

15

16 ¹4. Section 11 of P.L.1991, c.441 (C.40A:21-11) is amended to
17 read as follows:

18 11. a. All tax agreements entered into by municipalities pursuant
19 to sections 9 through 12 of P.L.1991, c.441 shall be in effect for no
20 more than the five full years next following the date of completion of
21 the project.

22 b. All projects subject to tax agreement as provided herein shall
23 be subject to all applicable federal, State and local laws and
24 regulations on pollution control, worker safety, discrimination in
25 employment, housing provision, zoning, planning and building code
26 requirements.

27 c. That percentage which the payment in lieu of taxes for a
28 property bears to the property tax which would have been paid had an
29 exemption and abatement not been granted for the property under the
30 agreement shall be applied to the valuation of the property to
31 determine the reduced valuation of the property to be included in the
32 valuation of the municipality for determining equalization for county
33 tax apportionment and school aid during the term of the tax
34 agreements covering the properties, and at the termination of an
35 agreement for a property the reduced valuation procedure required
36 under this section shall no longer apply.

37 d. Within **[30]** 10 days after the execution of a tax agreement, a
38 municipality shall forward a copy of the agreement to the **[Director of**
39 **the Division of Local Government Services in the Department of**
40 **Community Affairs,]** the chief financial officer of the county, and the
41 county counsel.¹

42 (cf: P.L.2007, c.268, s.4)

43

44 ¹5. Section 21 of P.L.1991, c.441 (C.40A:21-21) is amended to
45 read as follows:

46 21. The governing body of a municipality adopting an ordinance
47 pursuant to this act shall report, on or before October 1 of each year, to

1 the Director of the Division of Local Government Services in the
2 Department of Community Affairs and to the Director of the Division
3 of Taxation in the Department of the Treasury, the chief financial
4 officer of the county, and the county counsel the total amount of real
5 property taxes exempted and the total amount abated within the
6 municipality in the current tax year for each of the following:

- 7 a. improvements of dwellings;
8 b. construction of dwellings;
9 c. improvements and conversions of multiple dwellings;
10 d. improvements of commercial or industrial structures;
11 e. construction of multiple dwellings under tax agreements; and
12 f. construction of commercial or industrial structures under tax
13 agreements.

14 In the case of e. and f. above, the report shall state instead the total
15 amount of payments made in lieu of taxes according to each formula
16 utilized by the municipality, and the difference between that total
17 amount and the total amount of real property taxes which would have
18 been paid on the project had the tax agreement not been in effect, for
19 the current tax year.

20 The Director of the Division of Taxation shall include a summary
21 of the information provided in the annual reports in the annual report
22 of the division.¹

23 (cf: P.L.1991, c.441, s.21)
24

25 ¹**[3.] 6.**¹ This act shall take effect ¹**[immediately]** on the first
26 day of the ninth month next following enactment¹.