

ASSEMBLY, No. 929

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KRAMER

1 AN ACT concerning limitations imposed upon increases in municipal
2 final appropriations and county tax levies and amending P.L.1976,
3 c.68.

4

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

7

8 1. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read
9 as follows:

10 3. In the preparation of its budget a municipality shall limit any
11 increase in said budget to 5% or the index rate, whichever is less, over
12 the previous year's final appropriations subject to the following
13 exceptions:

14 a. (Deleted by amendment, P.L.1990, c.89.)

15 b. Capital expenditures, including appropriations for current capital
16 expenditures, whether in the capital improvement fund or as a
17 component of a line item elsewhere in the budget, provided that any
18 such current capital expenditure would be otherwise bondable under
19 the requirements of N.J.S.40A:2-21 and 40A:2-22;

20 c. (1) An increase based upon emergency temporary
21 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
22 situation or event which immediately endangers the health, safety or
23 property of the residents of the municipality, and over which the
24 governing body had no control and for which it could not plan and
25 emergency appropriations made pursuant to N.J.S.40A:4-46.
26 Emergency temporary appropriations and emergency appropriations
27 shall be approved by at least two-thirds of the governing body and by
28 the Director of the Division of Local Government Services, and shall
29 not exceed in the aggregate 3% of the previous year's final current
30 operating appropriations.

31 (2) (Deleted by amendment, P.L.1990, c.89.)

32 The approval procedure in this subsection shall not apply to

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 appropriations adopted for a purpose referred to in subsection d. or j.
2 below;
- 3 d. All debt service, including that of a Type I school district;
- 4 e. Upon the approval of the Local Finance Board in the Division
5 of Local Government Services, amounts required for funding a
6 preceding year's deficit;
- 7 f. Amounts reserved for uncollected taxes;
- 8 g. (Deleted by amendment, P.L.1990, c.89.)
- 9 h. Expenditure of amounts derived from new or increased
10 construction, housing, health or fire safety inspection or other service
11 fees imposed by State law, rule or regulation or by local ordinance;
- 12 i. Any amount approved by any referendum;
- 13 j. Amounts required to be paid pursuant to (1) any contract with
14 respect to use, service or provision of any project, facility or public
15 improvement for water, sewerage, parking, senior citizen housing or
16 any similar purpose, or payments on account of debt service therefor,
17 between a municipality and any other municipality, county, school or
18 other district, agency, authority, commission, instrumentality, public
19 corporation, body corporate and politic or political subdivision of this
20 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60
21 through 13:17-76) by a constituent municipality to the intermunicipal
22 account; [and] (3) any lease of a facility owned by a county
23 improvement authority when the lease payment represents the
24 proportionate amount necessary to amortize the debt incurred by the
25 authority in providing the facility which is leased, in whole or in part;
26 and (4) any repayments under a loan agreement entered into in
27 accordance with the provisions of section 5 of P.L.1992, c.89;
- 28 k. (Deleted by amendment, P.L.1987, c.74.)
- 29 l. Appropriations of federal, county, independent authority or State
30 funds, or by grants from private parties or non-profit organizations for
31 a specific purpose, and amounts received or to be received from such
32 sources in reimbursement for local expenditures. If a municipality
33 provides matching funds in order to receive the federal, county,
34 independent authority or State funds, or the grants from private parties
35 or non-profit organizations for a specific purpose, the amount of the
36 match which is required by law or agreement to be provided by the
37 municipality shall be excepted;
- 38 m. (Deleted by amendment, P.L.1987, c.74.)
- 39 n. (Deleted by amendment, P.L.1987, c.74.)
- 40 o. (Deleted by amendment, P.L.1990, c.89.)
- 41 p. (Deleted by amendment, P.L.1987, c.74.)
- 42 q. (Deleted by amendment, P.L.1990, c.89.)
- 43 r. Amounts expended to fund a free public library established
44 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 45 s. (Deleted by amendment, P.L.1990, c.89.)
- 46 t. Amounts expended in preparing and implementing a housing

- 1 element and fair share plan pursuant to the provisions of P.L.1985,
2 c.222 (C.52:27D-301 et al.) and any amounts received by a
3 municipality under a regional contribution agreement pursuant to
4 section 12 of that act;
- 5 u. Amounts expended to meet the standards established pursuant
6 to the "New Jersey Public Employees' Occupational Safety and Health
7 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 8 v. (Deleted by amendment, P.L.1990, c.89.)
- 9 w. Amounts appropriated for expenditures resulting from the
10 impact of a hazardous waste facility as described in subsection c. of
11 section 32 of P.L.1981, c.279 (C.13:1E-80);
- 12 x. Amounts expended to aid privately owned libraries and reading
13 rooms, pursuant to R.S.40:54-35;
- 14 y. (Deleted by amendment, P.L.1990, c.89.)
- 15 z. (Deleted by amendment, P.L.1990, c.89.)
- 16 aa. [Extraordinary expenses, approved by the Local Finance Board,
17 required for the implementation of an interlocal services
18 agreement;](Deleted by amendment, P.L. , c. .) (pending before the
19 Legislature as this bill)
- 20 bb. Any expenditure mandated as a result of a natural disaster, civil
21 disturbance or other emergency that is specifically authorized pursuant
22 to a declaration of an emergency by the President of the United States
23 or by the Governor;
- 24 cc. Expenditures for the cost of services mandated by any order of
25 court, by any federal or State statute, or by administrative rule,
26 directive, order, or other legally binding device issued by a State
27 agency which has identified such cost as mandated expenditures on
28 certification to the Local Finance Board by the State agency;
- 29 dd. Expenditures of amounts actually realized in the local budget
30 year from the sale of municipal assets if appropriated for non-recurring
31 purposes or otherwise approved by the director;
- 32 ee. Any local unit which is determined to be experiencing fiscal
33 distress pursuant to the provisions of P.L.1987, c.75
34 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
35 municipality" as defined in section 3 of P.L.1987, c.75
36 (C.52:27D-118.26), and which has available surplus pursuant to the
37 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
38 seq.), may appropriate and expend an amount of that surplus approved
39 by the director and the Local Finance Board as an exception to the
40 spending limitation. Any determination approving the appropriation
41 and expenditure of surplus as an exception to the spending limitations
42 shall be based upon:
- 43 1) the local unit's revenue needs for the current local budget year
44 and its revenue raising capacity;
- 45 2) the intended actions of the governing body of the local unit to
46 meet the local unit's revenue needs;

- 1 3) the intended actions of the governing body of the local unit to
2 expand its revenue generating capacity for subsequent local budget
3 years;
- 4 4) the local unit's ability to demonstrate the source and existence
5 of sufficient surplus as would be prudent to appropriate as an
6 exception to the spending limitations to meet the operating expenses
7 for the local unit's current budget year; and
- 8 5) the impact of utilization of surplus upon succeeding budgets of
9 the local unit;
- 10 ff. Amounts expended for the staffing and operation of the
11 municipal court;
- 12 gg. Amounts appropriated for the cost of administering a joint
13 insurance fund established pursuant to subsection b. of section 1 of
14 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for
15 claim payments by local member units;
- 16 hh. Amounts expended by a municipality under an interlocal
17 services agreement entered into pursuant to P.L.1973, c.208
18 (C.40:8A-1 et al.), except for amounts expended under joint
19 purchasing agreements or cooperative pricing agreements entered into
20 pursuant to sections 10 and 11 of the "Local Public Contracts Law,"
21 P.L.1971, c.198 (C.40A:11-10 and C.40A:11-11) and amounts
22 expended under joint insurance funds entered into pursuant to
23 P.L.1983, c.372 (C.40A:10-36 et seq.).
24 (cf: P.L.1993, c.269, s.16)
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- 26 2. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read
27 as follows:
- 28 4. In the preparation of its budget, a county may not increase the
29 county tax levy to be apportioned among its constituent municipalities
30 in excess of 5% or the index rate, whichever is less, of the previous
31 year's county tax levy, subject to the following exceptions:
- 32 a. The amount of revenue generated by the increase in valuations
33 within the county, based solely on applying the preceding year's county
34 tax rate to the apportionment valuation of new construction or
35 improvements within the county, and such increase shall be levied in
36 direct proportion to said valuation;
- 37 b. Capital expenditures, including appropriations for current capital
38 expenditures, whether in the capital improvement fund or as a
39 component of a line item elsewhere in the budget, provided that any
40 such current capital expenditures would be otherwise bondable under
41 the requirements of N.J.S.40A:2-21 and 40A:2-22;
- 42 c. (1) An increase based upon emergency temporary
43 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
44 situation or event which immediately endangers the health, safety or
45 property of the residents of the county, and over which the governing
46 body had no control and for which it could not plan and emergency

1 appropriations made pursuant to N.J.S.40A:4-46. Emergency
2 temporary appropriations and emergency appropriations shall be
3 approved by at least two-thirds of the governing body and by the
4 Director of the Division of Local Government Services, and shall not
5 exceed in the aggregate 3% of the previous year's final current
6 operating appropriations.

7 (2) (Deleted by amendment, P.L.1990, c.89.)

8 The approval procedure in this subsection shall not apply to
9 appropriations adopted for a purpose referred to in subsection d. or f.
10 below;

11 d. All debt service;

12 e. (Deleted by amendment, P.L.1990, c.89.)

13 f. Amounts required to be paid pursuant to (1) any contract with
14 respect to use, service or provision of any project, facility or public
15 improvement for water, sewerage, parking, senior citizen housing or
16 any similar purpose, or payments on account of debt service therefor,
17 between a county and any other county, municipality, school or other
18 district, agency, authority, commission, instrumentality, public
19 corporation, body corporate and politic or political subdivision of this
20 State; and (2) any lease of a facility owned by a county improvement
21 authority when the lease payment represents the proportionate amount
22 necessary to amortize the debt incurred by the authority in providing
23 the facility which is leased, in whole or in part;

24 g. That portion of the county tax levy which represents funding to
25 participate in any federal or State aid program and amounts received
26 or to be received from federal, State or other funds in reimbursement
27 for local expenditures. If a county provides matching funds in order
28 to receive the federal or State or other funds, only the amount of the
29 match which is required by law or agreement to be provided by the
30 county shall be excepted;

31 h. (Deleted by amendment, P.L.1987, c.74.)

32 i. (Deleted by amendment, P.L.1990, c.89.)

33 j. (Deleted by amendment, P.L.1990, c.89.)

34 k. (Deleted by amendment, P.L.1990, c.89.)

35 l. Amounts expended to meet the standards established pursuant to
36 the "New Jersey Public Employees' Occupational Safety and Health
37 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

38 m. (Deleted by amendment, P.L.1990, c.89.)

39 n. (Deleted by amendment, P.L.1990, c.89.)

40 o. (Deleted by amendment, P.L.1990, c.89.)

41 p. [Extraordinary expenses, approved by the Local Finance Board,
42 required for the implementation of an interlocal services
43 agreement;](Deleted by amendment, P.L. , c. .) (pending before the
44 Legislature as this bill)

45 q. Any expenditure mandated as a result of a natural disaster, civil
46 disturbance or other emergency that is specifically authorized pursuant

1 to a declaration of an emergency by the President of the United States
2 or by the Governor;

3 r. Expenditures for the cost of services mandated by any order of
4 court, by any federal or State statute, or by administrative rule,
5 directive, order, or other legally binding device issued by a State
6 agency which has identified such cost as mandated expenditures on
7 certification to the Local Finance Board by the State agency;

8 s. That portion of the county tax levy which represents funding to
9 a county college in excess of the county tax levy required to fund the
10 county college in local budget year 1992;

11 t. Amounts appropriated for the cost of administering a joint
12 insurance fund established pursuant to subsection b. of section 1 of
13 P.L.1983, c.372 (C40A:10-36), but not including appropriations for
14 claims payments by local member units;

15 u. Expenditures by a county under an interlocal services agreement
16 entered into pursuant to P.L.1973, c.208 (C.40:8A-1 et al.), except for
17 amounts expended under joint purchasing agreements or cooperative
18 pricing agreements entered into pursuant to sections 10 and 11 of the
19 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-10 and
20 C.40A:11-11) and amounts expended under joint insurance funds
21 entered into pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.).

22 (cf: P.L.1993, c.269, s.17)

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24 3. This act shall take effect January 1 next following enactment.

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STATEMENT

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29 This bill would remove from those spending limitations imposed
30 under sections 3 and 4 of P.L.1976, c.68 (C.40A:4-45.3 and 45.4),
31 commonly referred to as the "cap law," those amounts appropriated or
32 expended by a municipality or county under an interlocal services
33 agreement entered into pursuant to the "Interlocal Services Act,"
34 P.L.1973, c.208 (C.40:8A-1 et al.). The bill specifically exempts from
35 this exception amounts expended under joint purchasing agreements
36 or cooperative pricing agreements entered into pursuant to sections 10
37 and 11 of the "Local Public Contracts Law," P.L.1971, c.198
38 (C.40A:11-10 and C.40A:11-11) and amounts expended under joint
39 insurance funds entered into pursuant to P.L.1983, c.372
40 (C.40A:10-36 et seq.).

41 Currently, subsection aa. of section 3 and subsection p. of section
42 4 of P.L.1976, c.68 (C.40A:4-45.3 and C.40A:4-45.4) permit a cap
43 exception only for "[e]xtraordinary expenses, approved by the Local
44 Finance Board, required for the implementation of an interlocal
45 services agreement." The effect of this bill is to broaden the exception
46 for interlocal service agreements and at the same time to clarify that

1 expenditures under joint purchasing agreements, cooperative pricing
2 agreements and joint insurance funds, which some consider to be
3 within the ambit of the "Interlocal Services Act," P.L.1973, c.208
4 (C.40:8A-1 et al.), are not "cap exempt."

5 Under this bill the amount of the cap exception would be the
6 amount of money agreed to be paid under the interlocal services
7 agreement. For example, if one municipality agreed to accept \$50,000
8 to provide police services to another municipality, the sending
9 municipality would get a cap exception for the \$50,000 it is paid under
10 the agreement. The money paid by the receiving municipality for
11 police services would be outside its budget cap, regardless of whether
12 it was greater than or less than amounts spent by the municipality on
13 the service prior to the interlocal agreement. This would have the
14 benefit of freeing-up capped funds for another municipal purpose.

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19 Provides "cap" exception for amounts expended by counties and
20 municipalities under "Interlocal Services Act."