

ASSEMBLY, No. 2384

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 26, 1996

By Assemblymen BATEMAN and Carroll

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

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

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

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

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

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

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

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

31 The approval procedure in this subsection shall not apply to  
32 appropriations adopted for a purpose referred to in subsection d. or j.  
33 below;

34 d. All debt service, including that of a Type I school district;

**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 e. Upon the approval of the Local Finance Board in the Division  
2 of Local Government Services, amounts required for funding a  
3 preceding year's deficit;
- 4 f. Amounts reserved for uncollected taxes;
- 5 g. (Deleted by amendment, P.L.1990, c.89.)
- 6 h. Expenditure of amounts derived from new or increased  
7 construction, housing, health or fire safety inspection or other service  
8 fees imposed by State law, rule or regulation or by local ordinance;
- 9 i. Any amount approved by any referendum;
- 10 j. Amounts required to be paid pursuant to (1) any contract with  
11 respect to use, service or provision of any project, facility or public  
12 improvement for water, sewerage, parking, senior citizen housing or  
13 any similar purpose, or payments on account of debt service therefor,  
14 between a municipality and any other municipality, county, school or  
15 other district, agency, authority, commission, instrumentality, public  
16 corporation, body corporate and politic or political subdivision of this  
17 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60  
18 through 13:17-76) by a constituent municipality to the intermunicipal  
19 account; (3) any lease of a facility owned by a county improvement  
20 authority when the lease payment represents the proportionate amount  
21 necessary to amortize the debt incurred by the authority in providing  
22 the facility which is leased, in whole or in part; and (4) any repayments  
23 under a loan agreement entered into in accordance with the provisions  
24 of section 5 of P.L.1992, c.89.
- 25 k. (Deleted by amendment, P.L.1987, c.74.)
- 26 l. Appropriations of federal, county, independent authority or State  
27 funds, or by grants from private parties or nonprofit organizations for  
28 a specific purpose, and amounts received or to be received from such  
29 sources in reimbursement for local expenditures. If a municipality  
30 provides matching funds in order to receive the federal, county,  
31 independent authority or State funds, or the grants from private parties  
32 or nonprofit organizations for a specific purpose, the amount of the  
33 match which is required by law or agreement to be provided by the  
34 municipality shall be excepted;
- 35 m. (Deleted by amendment, P.L.1987, c.74.)
- 36 n. (Deleted by amendment, P.L.1987, c.74.)
- 37 o. (Deleted by amendment, P.L.1990, c.89.)
- 38 p. (Deleted by amendment, P.L.1987, c.74.)
- 39 q. (Deleted by amendment, P.L.1990, c.89.)
- 40 r. Amounts expended to fund a free public library established  
41 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 42 s. (Deleted by amendment, P.L.1990, c.89.)
- 43 t. Amounts expended in preparing and implementing a housing  
44 element and fair share plan pursuant to the provisions of P.L.1985,  
45 c.222 (C.52:27D-301 et al.) and any amounts received by a  
46 municipality under a regional contribution agreement pursuant to

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

1 exception to the spending limitations to meet the operating expenses  
2 for the local unit's current budget year; and  
3 5) the impact of utilization of surplus upon succeeding budgets of  
4 the local unit;  
5 ff. Amounts expended for the staffing and operation of the  
6 municipal court;  
7 gg. Amounts appropriated for the cost of administering a joint  
8 insurance fund established pursuant to subsection b. of section 1 of  
9 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
10 claims payments by local member units;  
11 hh. Amounts appropriated for the cost of implementing an  
12 estimated tax billing system and the issuance of tax bills thereunder  
13 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);  
14 ii. Amounts expended for volunteer emergency services.  
15 (cf: P.L.1994, c.72, s.6)

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17 2. This act shall take effect immediately.

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## STATEMENT

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22 This bill would remove from the spending limitations imposed under  
23 section 3 of P.L.1976, c.68 (C.40A:4-45.3), commonly referred to as  
24 the "cap law," those amounts expended by a municipality for volunteer  
25 emergency services.

26 Current law authorizes municipal governing bodies to appropriate  
27 funds to volunteer fire companies (See: N.J.S.40A:14-34 and  
28 N.J.S.40A:14-35) and to make voluntary contributions to volunteer  
29 ambulance or rescue squads (see R.S.40:5-2). Many municipalities,  
30 however, are unable to provide financial support to volunteer  
31 emergency service organizations because of the strictures of the "cap  
32 law." Municipal support for volunteer emergency service organizations  
33 is particularly crucial at this time due to a marked decline in private  
34 contributions to such organizations.

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39 Provides "cap" exception for amounts expended by municipalities for  
40 volunteer emergency services.