

# ASSEMBLY LOCAL GOVERNMENT COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2777**

# **STATE OF NEW JERSEY**

DATED: JUNE 9, 1997

The Assembly Local Government Committee reports favorably a committee substitute for Assembly Bill No. 2777.

The committee substitute revises, reforms and repeals certain mandates, requirements and procedures that are burdensome on counties, municipalities and school districts. The committee substitute also resolves certain administrative ambiguities and encourages more business-like practices on the part of local units in order to effectuate cost savings that will benefit property taxpayers.

#### GENERALLY APPLICABLE REGULATORY REQUIREMENTS

Section 6 of the committee substitute amends section 5 of P.L.1970, c.39 (C.13:1E-5) to provide that a registration statement filed with the Department of Environmental Protection by a public entity, engaging in the disposal of solid waste after the effective date of the committee substitute, will be valid for a period of five years. The department would not be permitted to require an annual update of a registration statement by the public entity and the fee for the five-year registration could not exceed the fee in effect for a one-year registration as of March 1, 1997.

Section 56 provides that the requirements for pesticide applicator or pesticide operator certification, licensing or record keeping of the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.) shall not apply to any licensed health or sanitary inspector who applies a pesticide not classified for restricted use, on property or premises to determine insect infestation.

Section 57 provides that notwithstanding any rules or regulations to the contrary, no permit shall be required of a county or municipality by the Department of Environmental Protection for the purpose of performing restoration work on any manmade drainage ditch located in the jurisdiction, provided that the restoration activity does not deviate in any manner from the original cross sectional area and location. For the purposes of this section, "ditch" is defined as a linear topographic depression with bed and banks of human construction which conveys water to or from a site, but does not include channelized or redirected water courses.

### MANDATES AFFECTING SCHOOLS

Section 7 amends N.J.S.18A:6-45 to permit boards of education to become members of the New Jersey School Boards Association. Current law requires such membership.

Sections 8 and 9 amend N.J.S.18A:6-46 and 18A:6-50 respectively to clarify that memberships in the New Jersey School Boards Association will be permissive, not mandatory.

### LAWS AND REGULATIONS AFFECTING SALES OF PUBLIC PROPERTY, PUBLIC CONTRACTS, AND AGREEMENTS FOR CONSOLIDATION, INTERLOCAL AND JOINT SERVICES

Section 14 amends section 2 of P.L.1963, c.150 (C.34:11-56.26) to make public work paid for out of the funds of any local contracting unit under the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), or the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., subject to the adjusted prevailing wage threshold amount, currently \$9,850, instead of the fixed \$2,000 amount. This amendment would bring counties and school districts and local authorities on par with the municipal threshold and permit the use of less expensive labor for small public works contracts.

Sections 15 and 16 amend sections 2 and 3 of P.L.1973, c.208 (C.40:8A-2 and 40:8A-3) to permit any local authority subject to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), such as a county improvement authority, to enter into an interlocal services contract for the joint provision of services incidental to the primary purposes of the local unit.

Section 17 amends section 5 of P.L.1973, c.208 (C.40:8A-5) to provide that, in the case of a joint agreement under the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) for the provision of services by State-certified professionals, the agreement shall provide for the payment of a salary, and shall not include tenure rights in the municipality contracting to receive the service.

Section 47 amends section 13 of P.L.1971, c.199 (C.40A:12-13) to facilitate the sale, by a local unit of very small parcels of land not needed for a public purpose, being less than an eighth of the minimum size required for development under the municipal zoning ordinance and without any capital improvement, to contiguous owners. Such sales would be facilitated by permitting the fair market value of the parcel to be determined by negotiation between the local unit and the owner of the contiguous real property. The negotiated sum would be subject to approval by resolution of the governing body, but in no case could that sum be less than one dollar. This provision would enable local units to return to the tax rolls small pieces of property that are not being used for a public purpose.

Section 31 amends N.J.S.40A:5-16 to reduce the documentation required when the governing body of any local unit pays out money to a vendor under certain circumstances. A certification from a vendor that a payment amount is correct would no longer be required when:

(1) a claim or demand is less than \$150 and the certification of such vendor is not readily obtainable by the contracting unit;

(2) payment to vendors is required in advance of the delivery of certain materials or services that cannot be obtained from any other source at comparable prices; or

(3) billing and payment transactions for goods or services are made through a computerized electronic transmission.

Sections 40 and 41 through 46 amend section 11 of P.L.1992, c.51 (C.40A:10-36.1) and sections 1 through 6 of P.L.1992, c.51 (C.40A:10-52 through 40A:10-57) to permit a county to join with municipalities and school districts in various joint loss and liability, workers' compensation and health insurance pools.

Section 58 establishes in the Department of Community Affairs a "Municipal Consolidation Incentive Aid Fund." The purpose of this fund would be to provide a financial incentive, paid-out over a term of years, for the consolidation of municipalities and the consolidation of fire districts.

#### INITIATIVE TO INCREASE EFFICIENCIES THROUGH PRIVATIZATION

Section 21 amends section 1 of P.L.1983, c.208 (C.40:48-5a) to permit the governing body of a municipality to contract with a private entity or firm to collect delinquent municipal court fines, costs, surcharges and other penalties, including motor vehicle violation fines, required to be collected by the municipality.

Section 60 permits the governing body of any county to enter into a contract with a private agency or firm to collect any delinquent fines owed to the county.

#### LOCAL FINANCE AND BUDGET REQUIREMENTS

Section 55 amends R.S.54:4-65 to permit municipalities to disclose on their tax bills as separate items the portion of property taxes related to the collection and disposal of solid waste and recyclables. The Department of Community Affairs, after consultation with representatives of county and municipal officials, is required to prepare uniform standards for calculating the portion of taxes related to the collection and disposal of solid waste and recyclables, which shall be used by any municipality which elects to disclose such costs.

Section 23 amends section 3 of P.L.1991, c.54 (C.40:66-10) to eliminate the current requirement that the Local Finance Board approve the budget of a municipal solid waste collection district. Under this amendment, budget approval is given by the Director of the Division of Local Government Services.

Sections 24 and 25 amend N.J.S.40A:2-17 and 40A:2-18 respectively, to permit the publication of a summary of a bond ordinance instead of the entire bond ordinance, as is currently required by law.

Section 26 amends N.J.S.40A:4-27 to permit the anticipation in a

local budget as a miscellaneous revenue of the total amount of payments payable to a local unit as a result of the sale of property when the obligation to make such a payment is entered into prior to the adoption of the budget. Current law requires that the obligation to pay must be entered into prior to February 10 of the calendar fiscal year, or August 10 of the State fiscal year in order for the amount of the sale to be included as miscellaneous revenue in a local budget.

Section 27 amends N.J.S.40A:4-41 to permit the Director of the Division of Local Government Services to promulgate rules and regulations to permit the use of a three-year average to determine the amount of reserve for uncollected taxes that must be included as part of a local budget. Under current law, except for municipalities in which tax appeal judgments have been awarded to property owners or for which the amount of tax reductions resulting from tax appeal judgments for the previous fiscal year exceeds 1% of the tax levy for that previous fiscal year, the minimum reserve for uncollected taxes is required to be calculated based on the amount of uncollected taxes in the previous year.

Sections 28 and 29 amend sections 3 and 4 of P.L.1976, c.68 (C.40A:4-45.3 and 40A:4-45.4) to include as an exception to the limits of the "cap" law, P.L.1976, c.68 (C.40A:4-45.1 et seq.) the amounts expended by a municipality or a county under an interlocal service agreement entered into, following the enactment of this committee substitute, pursuant to P.L.1973, c.208 (C.40:8A-1 et seq.) or under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.).

Section 30 amends section 6 of P.L.1990, c.89 (C.40A:4-45.38) to permit budget transfers during the last two months of the fiscal year of a local unit, even when the transfer is from an appropriation subject to the budget cap so long as the transfer is between line items for the same item of appropriation. Under current law transfers cannot be made from an appropriation under the budget cap.

Section 59 provides that, notwithstanding the provisions of section 3 of P.L.1981, c.56, (C.40A:4-45.4a), N.J.S.40A:4-58 and N.J.S.40A:4-59 to the contrary, transfers between salary and wage and other expense line items for a purpose specified in the budget are permitted at any time after adoption of the budget in order to facilitate a change in the way a particular service or activity is provided by the local unit, when the local unit changes service provisions from employees of the local unit to a contracted service, or from a contracted service to employees of the local unit.

Section 61 provides that, notwithstanding the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et seq.) or any other law, rule, or regulation to the contrary, the Local Finance Board in consultation with the Commissioner of Education may adopt rules and regulations permitting local government units and boards of education to contract with third-party disbursement service organizations in order to make payments and execute financial transactions for those

purposes and under such conditions as permitted by the Local Finance Board.

Section 62 permits a local contracting unit to enter into a contract as a participant in a cooperative pricing system with a board of education for materials, supplies or services not listed in section 15 of P.L.1971, c.198 (C.40A:11-15) and that are required on a recurring basis from year to year for up to a two-year term. The agreement can be reviewed annually for up to three years without any further solicitation for bids or bidding upon a finding by the contracting unit that the services are being performed in an effective and efficient manner, or that the materials and supplies continue to meet the original specifications.

Sections 63 through 84 permit local units to grant early retirement incentives to employees who are members of PFRS, PERS, TPAF, or the ABP and whose jobs are affected by a consolidation or joint services agreement between local units. In the case of counties, early retirement incentives could be granted, regardless of any consolidation or joint services agreement, upon the adoption of an early retirement plan by the county governing body that is determined to be fiscally sound after review by the Director of the Division of Local Government Services in the Department of Community Affairs in consultation with the Director of the Division of Pensions and Benefits in the Department of the Treasury.

Section 85 authorizes the Commissioner of Community Affairs, after consultation with the State Board of Education and the Administrator of the Office of Telecommunications and Information Systems, to adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to charge appropriate fees and authorize not-for-profit organizations, whose purposes support the administration of, or personnel engaged in, respectively, government or education services, to utilize any computerized communication networks that may be established by the State for the conduct of government or organizational activities, for communication with the members of such not-for-profit organizations in the conduct of such activities; except that such networks shall not be used to directly lobby State officials with regard to legislation, or by organizations that represent employees for the purpose of conducting collective negotiations with public employers.

Section 89 provides that notwithstanding the provisions of P.L.1983, c.312, s.2 (C.40A:4-45.19) to the contrary, any municipality that failed to print on the ballot the amount of the cost increase for the proposed PERS to PFRS transfer for police officers may apply to the director for permission to include the 1997 budget year amount of the pension appropriation representing the increase due to the switch as an increase in the cap base upon which final appropriations are based.

LAWS AND REGULATIONS AFFECTING LOCAL OFFICERS AND EMPLOYEES

Sections 2 through 5 amend N.J.S.11A:2-11, N.J.S.11A:4-13, N.J.S.11A:4-15 and N.J.S.11A:4-16 respectively, to expand the powers of the Department of Personnel to assist local units in managing their public employees. Section 2 permits the department to establish pilot programs in local units intended to improve the efficiency and effectiveness of public service within that local unit. Section 3 specifically allows a six month window for the regular appointment of certain provisional employees, after examination, when an eligible list has not been issued for the title held by the provisional employee prior to the effective date of this committee substitute. Section 4 permits the department to expand working test periods to such civil service titles as it may determine by rule so that local units can better evaluate a new employee before the appointment becomes permanent. Section 5 clarifies that the Merit System Board may establish rules and procedures governing transfers, reassignments and lateral title changes between State government and political subdivisions and between political subdivisions.

Sections 11, 12 and 13 amend R.S.26:3-3, 26:3-9 and 26:3-10 respectively to permit the governing body of a municipality to appoint a school nurse or the municipal physician to the local Board of Health, notwithstanding that the person is not a resident of the municipality. Current law requires municipal residency for appointment to a Board of Health.

Sections 18 and 19 amend sections 2 and 5 of P.L.1990, c.33 (C.40:20-35.11a and 40:41A-145.1) to provide that if at any time after the election of a member of a county board of chosen freeholders, and the commencement of the term of office of that person, the freeholder-elect dies, the county committee of the political party of which the deceased freeholder-elect was the nominee shall appoint another person to fill the position until the next general election. If the deceased freeholder-elect was not the nominee of a political party, on or within 30 days after the time fixed for the commencement of the term of office, the board of freeholders, without regard to party, shall appoint a successor to fill the position until the next general election.

Section 32 amends section 5 of P.L.1988, c.110 (C.40A:9-140.10) to require that the first 12 months of any initial term of a municipal chief financial officer shall be a probationary period during which that person may be removed from office for unsatisfactory performance, or for any other reason by the governing body. This section specifies that the removal of a chief financial officer during this probationary period will be considered a vacancy due to expiration of term. Current law does not provide for a probationary term.

Section 33 amends N.J.S.40A:9-141 to provide that the governing body of a municipality may, by resolution, set the hours of operation of the tax collector's office, the tax collector and all personnel assigned to the tax collector's office. Current law requires that this be done by

ordinance.

Section 34 amends N.J.S.40A:9-142 to permit the appointment of a temporary municipal tax collector for a period of six months from a vacancy in that office. The person appointed as a temporary tax collector would not be required to hold a tax collector certificate. This amendment would make the appointment of a temporary tax collector similar to the appointment of a temporary chief financial officer.

Section 35 amends N.J.S.40A:9-146 to permit the governing body or the chief executive, as appropriate to the form of government of the municipality, by resolution or order, to set the hours of operation of the tax assessor's office and the tax assessor, commensurate with the compensation paid to the tax assessor. Current law contains no such provision.

Section 36 amends N.J.S.40A:9-148 to require that the first 12 months of any initial term of a municipal tax assessor or deputy tax assessor shall be a probationary period during which that person may be removed from office for unsatisfactory performance, or for any other reason by the governing body. This section specifies that the removal of a tax assessor or deputy tax assessor during this probationary period will be considered a vacancy due to expiration of term. Current law does not provide for a probationary term.

Section 37 amends N.J.S.40A:9-165 to provide that a tax assessor, chief financial officer, tax collector or municipal clerk shall not be automatically given a pay raise equal to that given to all other municipal employees. Current law provides that such an increase cannot be denied.

Section 39 amends section 37 of P.L.1995, c.259 (C.40A:10-17.1) to permit a county employee who receives health benefits as the dependent of his or her spouse, to waive health coverage under the county plan. Such persons may, at the discretion of the county, receive annually a payment from the county that does not exceed 50% of the county's savings because of the employee's waiver of coverage. Municipal employees received this right to waive coverage as a result of the enactment of P.L.1995, c.259.

Section 50 amends section 36 of P.L.1995, c.259 (C.52:14-17.31a) to permit a county or school district employee who receives health benefits as the dependent of his or her spouse, to waive health coverage under the county or school district plan. Such persons may, at the discretion of the county or school district, receive annually a payment from the county or school district that does not exceed 50% of the savings by the county or school district because of the employee's waiver of coverage. Municipal employees received this right to waive coverage as a result of the enactment of P.L.1995, c.259.

Section 51 amends section 8 of P.L.1975, c.217 (C.52:27D-126) to permit, by resolution or order as appropriate, the appointing authority of a municipality to set the hours of operation of the

construction official's office and the construction official, commensurate with the compensation paid to the construction official.

#### RECORD KEEPING REFORMS

Section 22 amends section 76 of P.L.1975, c.291 (C.40:55D-89) to change the period for general reexamination of a municipality's master plan and development regulations by the planning board from every six years to every 10 years.

Section 48 amends section 22 of P.L.1971, c.199 (C.40A:12-22) to make permissive the current statutory requirement that a municipality must establish and maintain a central registry of all real property acquired by it for purposes other than streets or highways.

Section 49 amends section 7 of P.L.1995, c.253 (C.46:3C-7) to provide that a municipality receiving and making available the lists required under the "New Residential Construction Off-site Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.) may charge purchasers of the information in the same manner as prices are charged for other public records pursuant to section 2 of P.L.1963, c.73 (C.47:1A-2). Under current law, the price charged may reflect the actual reproduction costs. This amendment is intended to promote uniformity of municipal charges for all types of reproduced documents.

Section 86 provides that notwithstanding any rules, regulations or guidelines promulgated by the Attorney General, State narcotics action plan reports, commonly referred to as "SNAP" reports, shall be made on a quarterly basis. The Department of Law and Public Safety shall develop and supply to all participating police departments a standard computer software program, which shall include all of the necessary parameters for reporting, so that the SNAP reports may be generated by computer.

Section 90 establishes a Police Paperwork Reduction Task Force to study and recommend steps for reducing State requirements for information collection, reporting and retention by local police forces. The task force will have nine members, including two representatives of the Attorney General's office and one member of the Division of State Police, all appointed by the Governor; two representatives of local law enforcement agencies and one municipal court administrator, all appointed by the President of the Senate; and two representatives of local law enforcement agencies and one municipal court administrator, all appointed by the Speaker of the General Assembly.

The task force is charged with reviewing information requirements imposed by the State on local police and recommending ways in which these requirements may be reduced or streamlined. The task force is required to report its findings and recommendations to the Governor and the Legislature within six months and will dissolve on the 60th day after submission of its report.



### COAH REFORMS

Section 52 amends section 11 of P.L.1985, c.222 (C.52:27D-311) to permit a municipality to purchase privately owned residential property as part of the municipality's housing element under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), for the balance owed on any mortgages to which the property is subject, even though the property may have a fair market value less than the mortgage amounts owed. This provision is intended to permit a rapid increase in the stock of affordable housing in a municipality while saving money that would be required for new construction.

Section 87 contains the operative language which would permit a municipality to purchase privately owned residential property as part of the municipality's fair share housing obligation under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), for the balance owed on any mortgages to which the property is subject, even though the property may have a fair market value less than the mortgage amounts owed. This section also requires the Commissioner of Community Affairs to adopt rules and regulations, within six months following the effective date of this committee substitute, to effectuate the purposes of this section.

Section 88 concerns the number of units of housing which a municipality may set aside for age-restricted housing in fulfilling its fair share housing obligation. Currently, under rules and regulations adopted pursuant to the "Fair Housing Act," the Council on Affordable Housing has established a 25 percent cap on the number of units which a municipality may set aside for age-restricted housing in fulfilling its fair share housing obligation. For municipalities with a large number of senior citizens and which anticipate growth in this population given current demographic trends, the 25 percent limit is overly constraining and in fact could inhibit municipalities in accommodating long-term housing need. The language in this section would establish the 25 percent cap legislatively and grant the council the discretion to approve municipal fair share housing plans which exceed the cap, so long as the municipality can demonstrate to the satisfaction of the council that the number of units proposed will fulfill housing need in the municipality or the housing region. This section sets forth criteria which the council shall use in evaluating and approving such requests.

### MISCELLANEOUS REFORMS

Section 10 amends R.S.19:31-2 to remove the current requirement of evening voter registration before the primary and general elections, and makes such evening voter registration optional at the discretion of the county commissioner of registration.

Section 20 amends section 1 of P.L.1956, c.176 (C.40:45A-1) to provide that the governing body of a municipality in which any of the members are elected for terms beginning on January 1 may by resolution fix the date and time of its annual organization or

reorganization meeting. Current law requires this procedure to be done by ordinance.

Section 38 amends N.J.S.40A:10-6 to permit local units to establish insurance funds for the provision of contributory or non-contributory self-funded, or partially self-funded, health insurance for employees or their dependants, or both. Current law only permits local units to enter into contracts for health insurance and so it is not clear that local units can be self insured for health insurance without specific statutory authority. This provision also validates self insurance funds operating prior to the effective date of this committee substitute.

Sections 53 and 54 amend R.S.54:4-38 and section 32 of P.L.1991, c.75 (C.54:4-38.1) to permit biennial notification of a property owner's current assessment and preceding year's real property taxes. Current law requires annual notification. A municipality that chooses biennial notification would still be required to notify a taxpayer of any assessment change within 30 days of such change.

As introduced by the sponsor, Assembly Bill No. 2777 contained provisions permitting municipalities to create solid waste districts. That provision was removed in favor of permitting the disclosure of solid waste and recycling collection and disposal costs on the tax bill. As introduced, the bill permitted civil service municipalities and counties to rescind the adoption of civil service through voter referendum for all newly hired employees except for police and fire fighters. That provision was removed in favor of a provision increasing the flexibility of the Department of Personnel to establish pilot programs intended to improve the efficiency and effectiveness of the public service. The original bill would have permitted a municipality to address any portion of its fair share housing obligation by counting as affordable housing certain age restricted housing unit or alternative living arrangement situate within the municipality. The committee substitute modified that provision to codify regulations indicating that a municipality could satisfy 25% of its fair share housing obligation with age restricted housing units and alternative living arrangements, and permitting a municipality to exceed that percentage when demographic studies indicate that such housing is especially appropriate and indicated for the municipality. Also, the introduced bill provided that, notwithstanding the provisions of the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.) or any rule or regulation promulgated thereunder to the contrary, the requirements of that act would not apply to any sanitary or health inspector who applies a pesticide on property or premises for the purpose of determining insect infestation. The committee substitute modifies that language so that sanitary and health inspectors would still be subject to certain provisions of that act. The original bill provided that no permit would be required of a county or municipality by the Department of Environmental Protection for the purpose of

performing restoration work on any drainage ditch located in the jurisdiction, provided that the restoration activity did not deviate in any manner from the original drainage plans. The committee substitute restricts the effect of the provision to work done to restore manmade drainage ditches.

The committee substitute also changed the procedure for the adoption of regulations related to the participation of certain nonprofit groups, whose purposes support the administration of, or personnel engaged in, respectively, government or education services, in any governmental computerized communication networks.

Finally, the committee substitute includes an amendment to N.J.S.40A:10-6, which was not in the bill as introduced, to permit local units to establish insurance funds for the provision of contributory or non-contributory self-funded, or partially self-funded, health insurance for employees or their dependants, or both.