

§§ 1 - 4
C. 52:27D-438
To
52:27D-441
§ 5
C. 54:10A-5.27
§ 6
Note

P.L. 1997, CHAPTER 167, *approved July 22, 1997*
Assembly, No. 2824 (*First Reprint*)

1 **AN ACT** replacing the method of distributing certain funds to
2 municipalities from the taxation by the State of gas and electric
3 public utilities and certain telecommunications companies, and of
4 sales of electricity, natural gas and energy transportation service,
5 establishing the "Energy Tax Receipts Property Tax Relief Fund,"
6 and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title
7 52 of the Revised Statutes.

8
9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

11
12 1. This act shall be known and may be cited as the "Energy Tax
13 Receipts Property Tax Relief Act."

14
15 2. a. Commencing July 1, 1997 there is established the "Energy
16 Tax Receipts Property Tax Relief Fund" as a special dedicated fund in
17 the State Treasury into which there shall be credited annually,
18 commencing in State fiscal year 1998, the sum of ¹[\$730,000,000]
19 \$740,000,000 or the amount determined pursuant to subsection e. of
20 this section¹ from the following: net payments under the "Sales and
21 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use
22 of energy or utility services, net payments under the Corporation
23 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from
24 gas, electric, and gas and electric public utilities, whether municipal or
25 otherwise, that were subject to tax pursuant to the provisions of
26 P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, net
27 payments under the Corporation Business Tax Act (1945), P.L.1945,
28 c.162 (C.54:10A-1 et seq.) from telecommunications public utilities

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 19, 1997.

1 that were subject to tax pursuant to the provisions of P.L.1940, c.4
2 (C.54:30A-16 et seq.) as of April 1, 1997, net payments under
3 P.L.1940, c.5 (C.54:30A-49 et seq.) from sewerage and water
4 corporations, net payments under the "Transitional Energy Facility
5 Assessment Act," P.L. , c. (C.) (now pending before the
6 Legislature as sections 36 through 49 of Senate Bill No.31 of 1997 or
7 Assembly Bill No. 2825 of 1997), and such sums from the General
8 Fund as may be necessary to provide that the annual amount credited
9 to the fund shall equal ¹[\$730,000,000] \$740,000,000 or the amount
10 determined pursuant to subsection e. of this section¹ .

11 b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-16
12 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other provision
13 of law concerning the apportionment and distribution by the State of
14 taxes paid by public utilities,

15 (1) There shall be paid during the State fiscal year 1998 and during
16 each fiscal year thereafter from the "Energy Tax Receipts Property
17 Tax Relief Fund" to the municipalities of the State the sum of
18 ¹[\$730,000,000] \$740,000,000 or the amount determined pursuant to
19 subsection e. of this section¹ .

20 (2) A portion of the ¹[\$730,000,000] \$740,000,000 or the amount
21 determined pursuant to subsection e. of this section¹ shall be allocated
22 in a manner that provides that each municipality shall receive an
23 amount not less than the largest annual amount received or to be
24 received by the municipality from:

25 (a) the distribution of \$685,000,000 from the proceeds of the
26 public utilities franchise and gross receipts taxes under P.L.1940, c.4
27 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) in
28 calendar year 1994, 1995 or 1996; or

29 (b) the distribution of \$685,000,000 ¹[,]¹ from the proceeds of the
30 public utilities franchise and gross receipts taxes under P.L.1940, c.4
31 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) or
32 from taxes and assessments collected in replacement of such taxes as
33 released by the Division of Local Government Services in the
34 Department of Community Affairs as fiscal year 1998 estimated
35 franchise and gross receipts taxes State aid distributions by
36 municipality prior to the certification of apportionment of such funds
37 by the Director of the Division of Taxation ¹and the amounts required
38 pursuant to subsection d. of this section¹ .

39 ¹(3) A portion of the \$740,000,000 or the amount determined
40 pursuant to subsection e. of this section shall be allocated in a manner
41 that provides that each municipality shall receive an amount equal to
42 the difference, if any, between the amount it received pursuant to
43 paragraph (2) of this subsection and the sum of the amounts that the
44 municipality received pursuant to the certification made in the 1997
45 calendar year released by the Division of Local Government Services
46 in the Department of Community Affairs as the fiscal year 1998

1 estimated franchise and gross receipts taxes State aid distribution of
2 \$685,000,000 and the certification of the 1997 fiscal year distribution
3 of \$45,000,000.

4 (4) The portion of the \$740,000,000 or the amount determined
5 pursuant to subsection e. of this section remaining after the allocations
6 pursuant to paragraphs (2) and (3) of this subsection shall be
7 distributed in proportion to the amounts distributed pursuant to
8 paragraph (2) of this subsection.¹

9 c. ¹(1)¹ The funds distributed pursuant to ¹[paragraph] paragraphs¹
10 (2) ¹and (4)¹ of subsection b. of this section shall be distributed
11 ¹annually¹ to municipalities on the following schedule: July 15, 35%
12 of the total amount due; August 1, 10% of the total amount due;
13 September 1, 30% of the total amount due; October 1, 15% of the
14 total amount due; November 1, 5% of the total amount due; and
15 December 1, 5% of the total amount due.

16 ¹(2) The funds distributed pursuant to paragraph (3) of subsection
17 b. of this section shall be distributed annually to municipalities on or
18 before June 30.

19 d. The allocation set forth in paragraph (2) of subsection b. of this
20 section shall be adjusted to increase each appropriate municipal
21 distribution by the amount necessary to:

22 (1) make corrections to apportionment valuations or distribution
23 values made by the Director of the Division of Taxation in the
24 Department of the Treasury pursuant to R.S.54:30-2 and

25 (2) correct equitable distortions, as determined by the State
26 Treasurer, resulting from the application of section 2 of P.L.1980, c.10
27 (C. 54:30A-24.1) and section 4 of P.L.1980, c.11 (C. 54:30A-61.1).

28 The director shall report to the Legislature, on or before July 15,
29 1997, the amount and distribution of the corrections pursuant to
30 paragraphs (1) and (2) of this subsection.

31 e. The amount credited to the "Energy Tax Receipts Property Tax
32 Relief Fund" shall be \$745,000,000 for State fiscal year 1999,
33 \$750,000,000 for each of State fiscal years 2000 and 2001, and
34 \$755,000,000 for State fiscal year 2002 and each fiscal year thereafter.

35 f. Notwithstanding any other provision of this section or any other
36 provision of law to the contrary, if any municipality paid a county for
37 an amount for county purposes from the amount it received from its
38 apportionment of taxes according to the limitations on the
39 municipalities apportionment under section 4 of P.L.1980, c.11
40 (C.54:30A-61.1), the highest amount of that payment during calendar
41 year 1994, 1995, and 1996 shall be paid annually directly to that
42 county by the State Treasurer and be deducted from that municipality's
43 distribution otherwise determined pursuant to paragraph (2) of
44 subsection b. of this section.¹

45
46 ¹3. If, in any State fiscal year, net payments under the "Sales and

1 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use
2 of energy or utility services, net payments under the Corporation
3 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from
4 gas, electric, and gas and electric public utilities, whether municipal or
5 otherwise, that were subject to tax pursuant to the provisions of
6 P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, net
7 payments under the Corporation Business Tax Act (1945), P.L.1945,
8 c.162 (C.54:10A-1 et seq.) from telecommunications public utilities
9 that were subject to tax pursuant to the provisions of P.L.1940, c.4
10 (C.54:30A-16 et seq.) as of April 1, 1997, net payments under
11 P.L.1940, c.5 (C.54:30A-49 et seq.) from sewerage and water
12 corporations, net payments under the "Transitional Energy Facility
13 Assessment Act," P.L. , c. (C.) (now pending before the
14 Legislature as sections 36 through 49 of Senate Bill No. 31 of 1997
15 or Assembly Bill No. 2825 of 1997) exceed \$1,425,000,000, 75% of
16 that amount of net payments in excess of \$1,425,000,000 shall be
17 credited to the "Energy Tax Receipts Property Tax Relief Fund" in
18 addition to the amount credited pursuant to section 2 of P.L. , c.
19 (C.)(now pending before the Legislature as this bill), for
20 distribution to municipalities as additional aid.¹

21

22 ¹[3.] 4.¹ a. The annual appropriations act for each State fiscal year
23 commencing with fiscal year 1998 shall appropriate and distribute
24 during the fiscal year an amount not less than ¹[\$730,000,000]
25 \$740,000,000 or the amount determined pursuant to subsection e. of
26 section 2 of P.L. , c. (C.)(now pending before the Legislature
27 as this bill)¹ from the "Energy Tax Receipts Property Tax Relief
28 Fund" pursuant to the provisions of section 2 of P.L. , c. (C.)
29 (now pending before the Legislature as this bill), for the purposes of
30 that fund.

31 b. If the provisions of subsection a. of this section are not met on
32 the effective date of an annual appropriations act for the State fiscal
33 year, or if an amendment or supplement to an annual appropriations
34 act for the State fiscal year should violate the provisions of subsection
35 a. of this section, the Director of the Division of Budget and
36 Accounting in the Department of the Treasury shall, not later than five
37 days after the enactment of the annual appropriations act, or an
38 amendment or supplement thereto, that violates the provisions of
39 subsection a. of this section, certify to the Director of the Division of
40 Taxation that the requirements of subsection a. of this section have not
41 been met.

42 c. The Director of the Division of Taxation shall, no later than five
43 days after certification by the Director of the Division of Budget and
44 Accounting in the Department of the Treasury pursuant to subsection
45 b. of this section that the provisions of subsection a. of this section
46 have not been met or have been violated by an amendment or

1 supplement to the annual appropriations act, notify all taxpayers that
2 have filed a return under the Corporation Business Tax (1946),
3 P.L.1945, c.162 (C.54:10A-1 et seq.) during the previous calendar
4 year, other than taxpayers that are gas, electric, and gas and electric,
5 or telecommunications public utilities as defined pursuant to
6 subsection (q) of section 4 of P.L.1945, c.162 (C.54:10A-4) pursuant
7 to the amendment to that section 4 made in section 2 of P.L. , c.
8 (now pending before the Legislature as Senate Bill No. 31 of 1997 or
9 Assembly No. 2825 of 1997), that the taxpayer shall have no liability
10 pursuant to the provisions of P.L.1945, c.162 for any corporation
11 business tax for the taxpayer's current privilege period,
12 notwithstanding any other provision of law to the contrary.

13

14 ¹[4.]5.¹ Notwithstanding the provisions of P.L.1945, c.162
15 (C.54:10A-1 et seq.) or any other law to the contrary, for a privilege
16 period of a taxpayer, other than a taxpayer that is a gas, electric, and
17 gas and electric, or telecommunications public utility as defined
18 pursuant to subsection (q) of section 4 of P.L.1945, c.162
19 (C.54:10A-4) pursuant to the amendment to that section 4 made in
20 section 2 of P.L. , c. (now pending before the Legislature as Senate
21 Bill No. 31 of 1997 or Assembly Bill No. 2825 of 1997), in which the
22 taxpayer would otherwise have had a tax liability or minimum tax due
23 under P.L.1945, c.162, during which privilege period the Director of
24 the Division of Budget and Accounting in the Department of the
25 Treasury makes a certification that the provisions of subsection a. of
26 section ¹[3] 4.¹ of P.L. , c. (C.) (now pending before the
27 Legislature as this bill) have not been met or have been violated by an
28 amendment or supplement to the annual appropriations act, there shall
29 be no liability pursuant to the provisions of P.L.1945, c.162 for any
30 such taxpayer's current privilege period.

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32 ¹[5.] 6.¹ This act shall take effect immediately but shall remain
33 inoperative until July 1, 1997.

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38 The "Energy Tax Receipts Property Tax Relief Act;" replaces method
39 of distributing certain funds guaranteed to municipalities from the
40 State's taxation of energy and telecommunications.