# LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE, No. 1

# STATE OF NEW JERSEY
# 219th LEGISLATURE

DATED: FEBRUARY 19, 2021

## SUMMARY

**Synopsis:** Encourages sharing of services; makes appropriations.

**Type of Impact:** Annual State cost impact; annual local government net cost decrease; annual local government revenue impact.

**Agencies Affected:** Department of Community Affairs, Department of the Treasury, New Jersey Civil Service Commission, Public Employment Relations Commission, and local units.

**Office of Legislative Services Estimate**

| Fiscal Impact | Year 1 | Year 2 | Year 3 |
|---|---|---|---|
| **State Cost Impact** | | Indeterminate | |
| **Local Net Cost Decrease** | | Indeterminate | |
| **Local Revenue Impact** | | Indeterminate | |

- The Office of Legislative Services (OLS) determines that local government units that will share services as a result of this bill will achieve indeterminate reductions in the annual costs of delivering those services. These units will also incur an indeterminate one-time net impact on their expenditures composed of additional non-recurring costs to implement shared services agreements and reduced non-recurring costs from the repeal of the current requirement that terminal leave payments be awarded to employees whose positions are eliminated because of a shared services agreement. The units may also receive additional non-recurring revenue from the State to cover the extraordinary implementation costs of a shared services agreement.

- Conversely, if local government units fail to implement a shared service recommendation made by the Local Unit Alignment, Reorganization, and Consolidation Commission (LUARCC) within certain timeframes, they will incur a decrease in their formulaic State aid. The municipal revenue loss would be equal to the amount of the estimated savings the municipality would have achieved had it executed the shared services recommendation.

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- In addition, the bill will have an indeterminate net effect on annual State expenditures. Carrying out the provisions of the bill, including the disbursement of aid to offset local units' extraordinary costs of implementing shared services agreements, will increase annual State expenditures. A decrease in State expenditures will materialize whenever annual formulaic State aid payments are reduced to municipalities that do not implement a shared services recommendation made by the LUARCC.

## BILL DESCRIPTION

This bill modifies the Uniform Shared Services and Consolidation Act (USSCA) and the law governing the LUARCC to encourage and facilitate the provision of local and regional services through shared service agreements and joint contracts.

With respect to the USSCA modifications, the bill would change or add requirements related to: personnel, tenure, and terminal leave payments; review of employment reconciliation plans; the transfer of employees between local units; local unit decision making; alternative dispute resolution processes, including mediation and arbitration; State oversight; and employment termination. Among the provisions of the bill, certain civil service protections would be relaxed by the Civil Service Commission at the request of the parties to a shared service agreement, under certain circumstances, in order to facilitate the transfer of employees between local units. Any dispute would be settled by the parties using mediation or, if that is unsuccessful, by binding arbitration conducted by the Public Employment Relations Commission (PERC). The bill also provides that local units are no longer required to provide employees with terminal leave payments when they are terminated for reasons of economy or efficiency.

With respect to the law governing LUARCC, the bill would change or add requirements related to: the membership of the LUARCC commission; the conduct of LUARCC studies; consolidation consultation requirements; substantive and procedural requirements applicable to consolidation and shared services proposals; potential reductions to State aid for municipalities that do not implement shared service agreements; and appropriations to cover extraordinary expenses of local units needed to implement a LUARCC-proposed consolidation plan or shared service agreement.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS estimates that the enactment of this bill would have various indeterminate annual impacts on local government costs and revenues as well as on State expenditures. By encouraging the sharing of services between local units, the bill will reduce the costs associated with providing those government services. However, the OLS cannot determine the amount of local savings that would result from the bill because they would depend on the specific provisions of each potential agreement.

The bill also may result in annual State aid reductions to local governments in the form of reduced monies from Energy Tax Receipts (ETR) or Consolidated Municipal Property Tax Relief Aid (CMPTRA) for any municipality that fails to promptly approve or implement a certified LUARCC recommendation for the sharing of services. Reductions in State aid would be considered a loss of miscellaneous municipal revenue for those affected municipalities. The bill will also result in additional costs incurred by the LUARCC, the Civil Service Commission (CSC), the Department of the Treasury, the Department of Community Affairs and the PERC to implement the provisions of the bill, including aid to offset local units' extraordinary implementation costs.

For context, according to original Governor's Budget Message for Fiscal Year 2021 given to the Legislature in February 2020, over 1,000 shared services agreements have been executed since the appointment of the Shared Services Czars in 2019. According to data provided by the Division of Local Government Services, 369 different municipalities were engaged in at least one shared services agreement in 2020 and 358 different municipalities in 2019. Using 2020 figures, 196 of the State's 565 municipalities could be subject to a LUARCC study.

Impact on Local Costs

The sharing of services between local units will reduce the long-term costs associated with providing those services for participating local governments by indeterminate amounts. In the short-term, the net expenditure impact is uncertain because some municipalities may incur one-time expenses to implement these agreements. However, the removal of the requirement that local units issue terminal leave payments to employees who have been terminated for reasons of economy or efficiency will reduce upfront personnel costs for participating local units. Under current law, a terminal leave payment is required to equal one month of the employee's base salary multiplied by each five-year period of employment.

The OLS cannot determine the net local savings that may result from the enactment of this bill because any savings would be determined by the specific provisions of each potential agreement. Several factors that may affect the degree of local savings include the following: (1) the size of the local units; (2) the type of service to be shared (e.g., code enforcement, health services, property assessment, law enforcement, etc.); and (3) the applicability of civil service protections and collective bargaining agreement provisions for the affected employees. Moreover, the provisions of the bill that require the continuation of civil service protections for certain transferring employees who previously held those protections may reduce the amount of initial savings that result from certain shared service agreements.

Impact on Local Revenues

The bill's impact on local government revenues is indeterminate and will be on a case-by-case basis with some local units experiencing increased revenues and others seeing a decrease. The bill would reduce revenue for municipalities that fail to promptly approve or implement a certified LUARCC recommendation for the sharing of services. Under the bill, when a municipality that is subject to a certified LUARCC recommendation for the sharing of services fails to: (1) approve the proposal within 14 months of recommendation, or (2) make a good faith effort to implement the proposal within 28 months of recommendation, the amount of State aid distributed to the municipality through ETR or CMPTRA would be annually reduced by the amount of savings estimated by the LUARCC in the proposal. However, a municipality would not incur State aid reductions for failing to: (1) comply with a consolidation recommendation, or (2) implement the recommendation due solely to the inaction of another local unit. Every municipality in the State is a recipient of ETR, though not all municipalities receive CMPTRA.

The reduction in State aid would be considered a loss of miscellaneous municipal revenues. The OLS has no basis for forecasting the amount of local revenue reductions that would result from the bill. Alternatively, one-time local revenues may increase for some local governments by indeterminate amounts if the LUARCC determines that they are to receive aid to fund extraordinary expenses of implementing consolidation plans and shared service agreements.

Impact on State Expenditures

The bill could reduce State expenditures for State aid to certain municipalities. Specifically, annual State aid reductions, in the form of reduced ETR or CMPTRA, would be imposed on any municipality that fails to approve or implement a certified LUARCC recommendation for the sharing of services within the time frames provided in the bill. The State aid reductions would be equal to the amount of savings estimated in the LUARCC's proposal.

The bill would also likely result in increased costs incurred by certain State agencies in performance of their enhanced duties. For example, the CSC would be permitted to contract for the services of professional, technical, and operational personnel, to be reimbursed by the Department of Community Affairs. To that end, the bill appropriates monies to the Department of Community Affairs from the General Fund and the Property Tax Relief Fund to support the operating expenses and extraordinary costs that result from local units' implementation of consolidation plans and shared service agreements.

The CSC may also incur additional costs as a result of the bill. In particular, the CSC could experience increased costs, including personnel and litigation costs, associated with the processing of certain terminated employee appeals that arise from shared service agreements. For example, when an employee terminated pursuant to a shared service agreement holds permanent status under Title 11A, Civil Service, of the New Jersey Statutes, that employee would have the right to appeal the termination to the CSC. However, the CSC would not be expected to incur short-term costs, as shared service recommendation, approval, and implementation procedures would have to occur before the provisions of the bill affected the commission. Potential cost increases also could be offset by the removal of the requirement that the CSC review the employment reconciliation plan of each shared service agreement.

Additionally, the PERC may incur additional costs as a result of the bill. Specifically, the PERC could experience increased costs, including personnel and litigation costs, in the event of any conflict in the operation of collective bargaining agreements of the affected local units as it pertains to employment decisions. If a dispute cannot be settled by the parties using mediation, the PERC would conduct a binding arbitration. Similarly, if disputes between local units entering into a joint meeting or regional service agency cannot be resolved through advice and mediation, the PERC would determine the appropriate units for purposes of collective negotiations and would conduct secret ballot elections in such units to permit employees to select their majority representative. The OLS cannot determine the amount of State costs or savings that would result from this provision of the bill.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).