

CHAPTER 26

AN ACT concerning the provision of municipal solid waste collection services to apartment residents, supplementing Title 40 of the Revised Statutes and amending P.L.1976, c.68.

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

1. The Legislature finds and declares:

The decision of the New Jersey Superior Court, Appellate Division, in WHS Realty Company, Inc. v. Town of Morristown, 323 N.J. Super. 553 (App. Div. 1999), certif. den., 162 N.J.489 (1999), which held that a municipal garbage collection ordinance could not exclude apartment buildings and garden apartment complexes on the basis of equal protection, imposes a substantial financial impact on municipalities which cannot reasonably be provided for without adequate time for planning.

A number of municipalities and apartment owners have already entered into, or have started negotiating, mutually acceptable agreements for the implementation of the WHS Realty decision.

It is therefore in the public interest to provide adequate time to the municipalities and apartment owners to continue their negotiations for the orderly implementation of the court decision so as not to cause any undue financial impact on the municipalities.

2. No municipality shall be liable for any payments relating to trash collection from any apartment building or from any apartment complex for any period prior to the municipal budget year beginning on or after January 1, 2001. Nothing herein shall affect any agreements entered into prior to the enactment of P.L.2000, c.26) or prevent any municipality from negotiating or entering into an agreement under which the municipality will reimburse the owners of an apartment building or apartment complex for any portion of the costs of solid waste collection and disposal.

3. The Department of Community Affairs shall survey the progress of negotiations of agreements between municipalities and apartment owners to address the issues of the collection and disposal of solid waste generated by the residents of the qualified apartment buildings and garden apartment complexes and submit a report to the Senate and General Assembly on the anticipated fiscal and operational impact on municipalities on or before October 1, 2000.

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

C.40A:4-45.3 Municipalities; limitation exceptions.

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

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

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

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

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

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

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

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

- f. Amounts reserved for uncollected taxes;
- g. (Deleted by amendment, P.L.1990, c.89.)
- h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;
 - i. Any amount approved by any referendum;
 - j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89;
 - k. (Deleted by amendment, P.L.1987, c.74.)
 - l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;
 - m. (Deleted by amendment, P.L.1987, c.74.)
 - n. (Deleted by amendment, P.L.1987, c.74.)
 - o. (Deleted by amendment, P.L.1990, c.89.)
 - p. (Deleted by amendment, P.L.1987, c.74.)
 - q. (Deleted by amendment, P.L.1990, c.89.)
 - r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
 - s. (Deleted by amendment, P.L.1990, c.89.)
 - t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;
 - u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
 - v. (Deleted by amendment, P.L.1990, c.89.)
 - w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);
 - x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;
 - y. (Deleted by amendment, P.L.1990, c.89.)
 - z. (Deleted by amendment, P.L.1990, c.89.)
 - aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;
 - bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;
 - cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;
 - dd. Expenditures of amounts actually realized in the local budget year from the sale of

municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Amounts expended for the staffing and operation of the municipal court;

gg. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L.1983, c.372 (C.40A:10-36), but not including appropriations for claims payments by local member units;

hh. Amounts appropriated for the cost of implementing an estimated tax billing system and the issuance of tax bills thereunder pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

ii. Expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5);

jj. Amounts expended for a length of service award program pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

kk. Amounts expended to provide municipal services or reimbursement amounts to qualified apartment buildings and garden apartment complexes for the collection and disposal of solid waste generated by the residents of the qualified apartment buildings and garden apartment complexes. This exception shall apply to all agreements for reimbursement entered into after July 27, 1999.

5. This act shall take effect immediately.

Approved May 11, 2000.