

CHAPTER 126

AN ACT revising certain mandates, requirements and procedures for local governments and school districts and amending and supplementing various parts of the statutory law.

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

C.52:13H-21 Findings, declarations relative to unfunded mandates and local governments and school districts.

1. The Legislature finds and declares:

Over the past four decades, prior to adoption of the constitutional amendment prohibiting unfunded State mandates on local government, the State routinely and systematically imposed greater and greater numbers of mandates, orders, directives and burdens on local government. This web of mandates and burdens came about as the result of the enactment and adoption of a plethora of unrelated laws and regulations addressing many and diverse issues. While these actions by State government occurred in order to address a variety of public concerns, they all shared a common philosophical underpinning: the mandatory implementation of State policy directives by local government officials.

While the overwhelming majority of these statutes and regulations was established by sincere-minded and well-intentioned public officials in order to address legitimate public concerns, the collective regulatory weight of these mandates on local officials continues to be a matter of deep concern and a subject that cries for legislative relief.

In response to this decades long pattern of seemingly inexorable increases in burdensome mandates from Trenton, local officials repeatedly petition the Legislature for relief. In response to entreaties of local officials, various committees of several Legislatures have determined to continue to address the problem of burdensome mandates on an expedited basis through the enactment of omnibus acts that repeal or modify many of those mandates, resolve administrative ambiguities and encourage more businesslike practices. This is the third such omnibus mandate relief act.

2. Section 1 of P.L.1978, c.97 (C.18A:40-4.3) is amended to read as follows:

C.18A:40-4.3 Biennial examination for scoliosis.

1. Every board of education shall provide for the biennial examination of every pupil between the ages of 10 and 18 for the condition known as scoliosis in accordance with standards jointly established and promulgated by the Departments of Health and Senior Services and Education. Such examination shall be carried out by a school physician, school nurse, physical education instructor or other school personnel properly trained in the screening process for scoliosis. Every board of education shall further provide for the notification of the parents or guardian of any pupil suspected of having scoliosis. Such notification shall include an explanation of scoliosis, the significance of treating it at an early stage, and the public services available, after diagnosis, for such treatment.

3. R.S.26:3-3 is amended to read as follows:

Composition of local board.

26:3-3. The local board in every municipality, other than a township, which is subject to the provisions of subdivision C of this article, shall be composed of not less than five nor more than seven members, except that in a city of the first class the board shall consist of 10 members, and in a city having a population of over 80,000, but not of the first class, the board shall consist of not less than five nor more than 10 members. Upon the consent of the prospective appointee, the governing body of a municipality may appoint a school nurse or the municipal physician to the local board, notwithstanding that the nurse or physician is not a resident of the municipality.

The local board may, by ordinance, provide for the appointment of two alternate members. Notwithstanding the provisions of any other law or charter heretofore adopted, the ordinance shall provide the method of appointment of the alternate members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2."

The terms of the alternate members shall be for two years, except that the terms of the

alternate members first appointed shall be two years for Alternate No. 1 and one year for Alternate No. 2, so that the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

An alternate member shall not be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

4. R.S.26:3-9 is amended to read as follows:

Composition of local board in townships of 20,000 or less.

26:3-9. a. The local board in every township having a population of not more than 20,000 inhabitants may be composed of the members of the township committee, the township assessor or, if the township has a board of assessors, the township clerk, and one physician or school nurse, to be appointed by the township committee for a term of three years from the time of his appointment and until the successor is appointed. Upon the consent of the prospective appointee, the township committee may appoint, as the physician or school nurse appointment, the township physician or a school nurse to the local board, notwithstanding that the physician or nurse is not a resident of the township. The township committee may by ordinance provide for the appointment of not more than two alternate members. Alternate members shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No 2." The term of the alternate members shall be for two years, except that of the first two alternate members appointed, one shall be appointed for a term of one year so that the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

b. Any such township may by ordinance adopt the provisions of subdivision B of this article and thereafter shall be subject to the provisions thereof and shall not be subject to the provisions of this subdivision of this article.

5. R.S.26:3-10 is amended to read as follows:

Composition of local board in townships of more than 20,000.

26:3-10. The local board in every township having a population of more than twenty thousand inhabitants shall be composed of not less than five nor more than seven members who shall be appointed in such manner and hold their respective offices for such terms, not exceeding four years, as the township committee or other governing body may by ordinance provide, but the terms of not more than three members shall expire in any one year, but any such township may by ordinance adopt the provisions of subdivision B of this article and thereafter shall be subject to the provisions thereof and shall not be subject to the provisions of this subdivision of this article. Upon the consent of the prospective appointee, the township committee may appoint a school nurse or the township physician to the local board, notwithstanding that the nurse or physician is not a resident of the township.

6. Section 8 of P.L.1983, c.516 (C.34:6A-32) is amended to read as follows:

C.34:6A-32 Promulgation of regulations.

8. The commissioner shall, in consultation with the Commissioner of Health and Senior

Services and the Commissioner of Community Affairs and with the advice of the advisory board, promulgate all regulations which he deems necessary for the proper administration and enforcement of this act. A variance may be granted if the commissioner determines that the applicant is in compliance with the requirements for a permanent variance as set forth in subsection c. of section 15 of this act. The variance shall not be deemed to be a variation approved pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et al.) or any other building or fire safety standard or code.

Space leased by a public employer shall be subject to current health or safety rules and regulations. Any deficiency, including a deficiency resulting either from occupant use or deferred maintenance by the lessor, shall be subject to correction in accordance with the governing rules and regulations at the time that the deficiency is cited by the commissioner or the Commissioner of Health and Senior Services. However, a lease of any duration may not be entered into unless the leased property is in conformance with such rules and regulations as are in effect at the time the lease is executed.

No fire company, first aid or rescue squad, whether paid, part-paid, or volunteer, shall be required to pay to the Department of Labor or the Department of Health and Senior Services any registration or inspection fee imposed by rule or regulation with regard to the filling of air cylinders for respiratory equipment used by the fire company, first aid or rescue squad.

7. Section 2 of P.L.1973, c.208 (C.40:8A-2) is amended to read as follows:

C.40:8A-2 Definitions.

2. As used in this act, unless the context indicates otherwise:

a. "Local unit" means a municipality, county, school district, authority subject to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), or a regional authority or district other than an interstate authority or district.

b. "Governing body" means the board, commission, council or other body having the control of the finances of a local unit; and in those local units in which an executive officer is authorized by law to participate in such control through powers of recommendation, approval or veto, the term includes such executive officer to the extent of such participation.

c. "Chief executive officer" means the mayor of a municipality, the elected county executive of a county, the director of the board of chosen freeholders in a county not having an elected county executive, and the chairman or other presiding officer of any other governing body.

d. "Service" means any of the powers, duties and functions exercised or performed by a local unit by or pursuant to law.

e. "Contract" means a contract authorized under section 3 of this act.

8. Section 3 of P.L.1973, c.208 (C.40:8A-3) is amended to read as follows:

C.40:8A-3 Authority to enter into contract for joint provision of services.

3. Any local unit of this State may enter into a contract with any other local unit or units for the joint provision within their several jurisdictions of any service, including services incidental to the primary purposes of the local unit which any party to the agreement is empowered to render within its own jurisdiction. An authority subject to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and any other board, commission or district established by and within a single local unit and providing service within such local unit or a part thereof may become a party to such contract with the consent of the governing body of the local unit, by resolution thereof adopted in the manner provided in section 4 of P.L.1973, c.208 (C.40:8A-4); and after such consent duly given, such authority, board, commission or district may enter into such contract by resolution without need of publication or hearing.

9. Section 5 of P.L.1973, c.208 (C.40:8A-5) is amended to read as follows:

C.40:8A-5 Joint provision of certain services.

5. a. The parties to a contract authorized by P.L.1973, c.208 (C.40:8A-1 et seq.) may agree to provide jointly, or through the agency of one or more of them on behalf of any or all of them, any service or aspect of a service which any of the parties on whose behalf such services are to be performed may legally perform for itself. Such services shall include, but not be limited to, the areas of general government administration, health, police and fire protection, code enforcement, assessment and collection of taxes, financial administration, environmental services, joint municipal courts, youth, senior citizens, welfare and social services programs. Nothing in P.L.1973, c.208 (C.40:8A-1 et seq.) shall be deemed to amend or repeal any procedures for or powers of approval of any consolidated local service program which any State agency may now exercise pursuant to law.

b. In the case of a contract for the joint provision of services by an officer or employee of a local unit who is required to comply with a State certification requirement as a condition of employment, the contract shall provide for the payment of a salary to the officer or employee and shall designate one of the local units as the primary employer of the officer or employee for the purpose of that person's tenure rights.

10. Section 2 of P.L.1990, c.33 (C.40:20-35.11a) is amended to read as follows:

C.40:20-35.11a Vacancy on board of chosen freeholders eligible to be filled by election; exceptions.

2. a. When any vacancy occurs on the board of chosen freeholders otherwise than by expiration of term, it shall be filled by election for the unexpired term only at the next general election occurring not less than 60 days after the occurrence of the vacancy, except that no such vacancy shall be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs. In the event a vacancy eligible to be filled by election hereunder occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election, such petitions may be prepared and filed for nomination in that primary election in the manner provided by article 3 of chapter 23 of Title 19 of the Revised Statutes. In the event the vacancy occurs after that sixth day preceding the last day for filing petitions for nomination for the primary election, or if the vacancy occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election but no such petition has been filed with respect to a given political party, each political party, or that party respectively, may select a candidate for the office in question in the manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections. A statement of such selection under R.S.19:13-20 shall be filed with the county clerk not later than the 48th day preceding the date of the general election.

Besides the selection of candidates by each political party, candidates may also be nominated by petition in a manner similar to direct nomination by petition for the general election; but if the candidate of any party to fill the vacancy will be chosen at a primary election, such petition shall be filed with the county clerk at least 55 days prior to the primary election; and if no candidate of any party will be chosen at a primary election, such petition shall be filed with the county clerk not later than 12 o'clock noon of the day on which the first selection meeting by any party is held under this section to select a nominee to fill the vacancy.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office and the names of such persons as have been duly nominated, in their proper columns.

b. Notwithstanding subsection a. of this section, if at any time after an election for a member of the board of chosen freeholders and before the time fixed for the commencement of the term of the office, the person elected to that office dies or otherwise becomes unable to assume office, the county committee of the political party of which the person elected was the nominee shall appoint another person to fill the position until the next general election. If the person elected 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 governing body shall appoint a successor to fill the office until the next general election without regard to party.

11. Section 5 of P.L.1990, c.33 (C.40:41A-145.1) is amended to read as follows:

C.40:41A-145.1 Election to fill vacancy on board of chosen freeholders; exception.

5. a. When any vacancy occurs on the board of chosen freeholders otherwise than by expiration of term, it shall be filled by election for the unexpired term only at the next general election occurring not less than 60 days after the occurrence of the vacancy, except that no such vacancy shall be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs. In the event a vacancy eligible to be filled by election hereunder occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election, such petitions may be prepared and filed for nomination in that primary election in the manner provided by article 3 of chapter 23 of Title 19 of the Revised Statutes. In the event the vacancy occurs after that sixth day preceding the last day for filing petitions for nomination for the primary election, or if the vacancy occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election but no such petition has been filed with respect to a given political party, each political party, or that party respectively, may select a candidate for the office in question in the manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections. A statement of such selection under R.S.19:13-20 shall be filed with the county clerk not later than the 48th day preceding the date of the general election.

Besides the selection of candidates by each political party, candidates may also be nominated by petition in a manner similar to direct nomination by petition for the general election; but if the candidate of any party to fill the vacancy will be chosen at a primary election, such petition shall be filed with the county clerk at least 55 days prior to the primary election; and if no candidate of any party will be chosen at a primary election, such petition shall be filed with the county clerk not later than 12 o'clock noon of the day on which the first selection meeting by any party is held under this section to select a nominee to fill the vacancy.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office and the names of such persons as have been duly nominated, in their proper columns.

b. Notwithstanding subsection a. of this section, if at any time after an election for the office of county executive or for a member of the freeholder board and before the time fixed for the commencement of the term of the office, the person elected to that office dies or otherwise becomes unable to assume office, the county committee of the political party of which the person elected was the nominee shall appoint another person to fill the position until the next general election. If the person elected 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 governing body shall appoint a successor to fill the office until the next general election without regard to party.

12. Section 1 of P.L.1956, c.176 (C.40:45A-1) is amended to read as follows:

C.40:45A-1 Date, time of annual organization, reorganization meeting.

1. Notwithstanding any other provision of law, the governing body of a municipality in which any of the members of the governing body are elected for terms commencing January 1 may, by resolution, fix the date and time of its annual organization or reorganization meeting at 12 o'clock noon on January 1, or at some other hour on any day during the first week in January.

13. Section 3 of P.L.1991, c.54 (C.40:66-10) is amended to read as follows:

C.40:66-10 Funding for cost of solid waste collection.

3. The governing body of any municipality which operated a solid waste collection district as of December 31, 1989, shall determine the amount of money necessary for the support of the solid waste collection district. The amount so determined shall become part of the municipal budget and subject to approval by the director.

14. N.J.S.40A:2-17 is amended to read as follows:

Adoption of bond ordinance, procedures.

40A:2-17. a. Introduction.

A bond ordinance shall be introduced in writing at a meeting of the governing body and shall be passed upon first reading, which may be by title.

b. Publication, hearing and adoption.

The bond ordinance, or a summary thereof, in a form prescribed by the Local Finance Board, shall be published after first reading, together with notice of the introduction thereof and of the date, which shall be at least 10 days after introduction and first reading, and the time and place of further consideration for final passage, which may be at an adjournment of such meeting or another meeting. If a summary is published, the summary shall contain a clear and concise statement prepared by the clerk of the governing body setting forth the purpose of the ordinance, the amount of indebtedness being authorized and the time and place when and where a copy of the ordinance can be obtained, without cost, by any member of the general public residing in the local unit.

Such publication shall be at least one week prior to the date for further consideration. At the time and place so advertised, or at any time and place to which such meeting or further consideration shall from time to time be adjourned, such bond ordinance may be read by its title, if,

(1) at least one week prior to such date or further consideration, there shall have been posted, on the bulletin board or other place upon which public notices are customarily posted in the principal municipal building of the municipality,

(a) a copy of such bond ordinance or summary, and

(b) a notice that copies of such bond ordinance will be made available during such week and up to and including the date of such meeting or further consideration to the members of the general public of the municipality who shall request such copies, naming the place at which such copies will be so made available, and

(2) such copies of said bond ordinance shall have been made available accordingly, but otherwise such bond ordinance shall be read in full. All persons interested shall then be given an opportunity to be heard.

After the duplicate of the supplemental debt statement has been filed in the office of the director, and after such hearing, the governing body may proceed to amend the bond ordinance and thereupon finally adopt or reject it, with or without amendments.

If any amendment is adopted substantially altering matters required by this chapter to be contained in the bond ordinance, such amended bond ordinance shall not be finally adopted until at least one week thereafter and until the bond ordinance or a summary of it shall have been published once at least two days prior to the date for further consideration, together with notice of the date, time and place at which it will be further considered for final adoption. At the time and place so advertised, or at any time and place to which such meeting or further consideration shall from time to time be adjourned, such amended bond ordinance may be read by its title, if,

(1) at least one week prior to such date or further consideration, there shall have been posted, on the bulletin board or other place upon which public notices are customarily posted in the principal municipal building of the municipality,

(a) a copy of such bond ordinance or summary, and

(b) a notice that copies of such bond ordinance will be made available during such week and up to and including the date of such meeting or further consideration to the members of the general public of the municipality who shall request such copies, naming the place at which such copies will be so made available, and

(2) such copies of said bond ordinance shall have been made available accordingly, but otherwise such bond ordinance shall be read in full. All persons interested shall again be given an opportunity to be heard. After such hearing, the governing body may proceed to reject, finally adopt or further amend such bond ordinance.

A bond ordinance shall be finally adopted by the recorded affirmative votes of at least 2/3 of the full membership of the governing body. In a local unit in which the approval of any officer is required to make an ordinance or resolution effective, such bond ordinance shall be so approved, or passed over veto before it shall be published after final adoption.

c. Final publication with statement.

Every bond ordinance shall be published either in full or in summary form after final adoption, together with a statement in substantially the following form:

STATEMENT

The bond ordinance published herewith has been finally adopted and the 20-day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law has begun to run from the date of the first publication of this statement.

Clerk

15. N.J.S.40A:2-18 is amended to read as follows:

Bond ordinance, effective date.

40A:2-18. A bond ordinance shall take effect 20 days after the first publication of the ordinance or of a summary thereof after final adoption. A bond ordinance which authorizes obligations to fund, refund, renew, extend or retire obligations issued or authorized pursuant to this chapter, or notes or bonds issued or authorized pursuant to any act of which this chapter is a revision shall not be subject to referendum.

16. Section 2 of P.L.1991, c.75 (C.40A:4-3.1) is amended to read as follows:

C.40A:4-3.1 Municipalities, operation under State, calendar fiscal year.

2. a. Except as provided in subsection b. of this section, any municipality operating under the State fiscal year as of January 1, 1997 shall continue to operate under the State fiscal year; and any municipality which was required to change to the State fiscal year but failed to implement the change shall continue to operate under the calendar year fiscal year.

b. Any municipality may apply to the Local Finance Board for approval to convert to the State fiscal year, and the Board shall approve the conversion if it finds it is in the interest of the taxpayers of the municipality to change. Any municipality whose fiscal year is changed pursuant to this section shall prepare a transition year budget to cover the period between January 1 and June 30 prior to the beginning of its first State fiscal year.

17. N.J.S.40A:4-27 is amended to read as follows:

Miscellaneous revenues; sale of property.

40A:4-27. A local unit may anticipate as a miscellaneous revenue the total amount of all payments due and payable to the local unit during the fiscal year, directly or indirectly as a result of the sale of property by the local unit, when the obligation to make such payment is entered into prior to the adoption of the budget.

18. N.J.S.40A:4-41 is amended to read as follows:

Computation of reserve for uncollected taxes.

40A:4-41. a. For the purpose of determining the amount of the appropriation for "reserve for uncollected taxes" required to be included in each annual budget where less than 100% of current tax collections may be and are anticipated, anticipated cash receipts shall be as set forth in the budget of the current year, and in accordance with the limitations of statute for anticipated revenue from, surplus appropriated, miscellaneous revenues and receipts from delinquent taxes.

b. Receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by the last day of the preceding fiscal year.

c. (1) For any municipality in which tax appeal judgments have been awarded to property owners from action of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq. in the preceding fiscal year, the governing body of the municipality may elect to determine the reserve for uncollected taxes by using the average of the percentages of taxes levied which were received in cash by the last day of each of the three preceding fiscal years. Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

(2) If the amount of tax reductions resulting from tax appeal judgments of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq., for the previous fiscal year exceeds 1% of the tax levy for that previous fiscal year, the governing body of the municipality may elect to calculate the current year reserve for uncollected taxes by reducing the certified tax levy of the prior year by the amount of the tax levy adjustments resulting from those judgments. Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

d. The director may promulgate rules and regulations to permit a three-year average to be used to determine the amount required for the reserve for uncollected taxes for municipalities to which subsection c. of this section is not applicable.

19. 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; budget 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;
- ll. Amounts expended by a municipality under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of the municipality that will receive the service may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);
- mm. Amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of each participating municipality may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2).

20. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read as follows:

C.40A:4-45.4 Limitation on increase in county tax levies over previous year; exceptions.

4. In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 5% or the index rate, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

- a. The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation;
- 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 expenditures 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 county, 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 f. below;

d. All debt service;

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

f. 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 county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) 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;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

h. (Deleted by amendment, P.L.1987, c.74.)

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

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

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

l. 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.);

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

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

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

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. 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;

r. 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;

s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;

t. 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;

u. Expenditures for the administration of general public assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

v. Amounts in a separate line item of a county budget that are expended on tick-borne disease vector management activities undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

w. Amounts expended by a county under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.).

21. N.J.S.40A:5-16 is amended to read as follows:

Local unit, requirements for paying out moneys.

40A:5-16. The governing body of any local unit shall not pay out any of its moneys

a. unless the person claiming or receiving the same shall first present a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct. The governing body may, by resolution, require an affidavit in lieu of the said certification, and the clerk or disbursing officer of the local unit may take such affidavit without cost, and

b. unless it carries a written or electronic certification of some officer or duly designated employee of the local unit having knowledge of the facts that the goods have been received by, or the services rendered to, the local unit.

c. Notwithstanding the provisions of subsection a. of this section, upon adoption by the Local Finance Board of rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) that provide for procedures to be followed by local units and under those circumstances deemed appropriate by the board, a local unit shall be permitted to pay out its moneys without requiring a certification of the party claiming payment as otherwise required by subsection a. of this section. Such circumstances may include, but shall not be limited to:

(1) when 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

(2) when ordering, billing and payment transactions for goods or services are made through a computerized electronic transaction; or

(3) when claim or demand is less than a threshold set by the board and the certification is not readily obtainable by the contracting unit; but such exceptions shall not include reimbursement of employee expenses or payment for personal services.

22. N.J.S.40A:9-141 is amended to read as follows:

Appointment of tax collector; compensation; work hours.

40A:9-141. Notwithstanding any other law the governing body or chief executive, as shall be appropriate to the form of government of the municipality, by ordinance, shall provide for the appointment of a municipal tax collector and the compensation of the tax collector shall be fixed in the manner otherwise provided by law. The governing body may, by resolution, set appropriate hours of operation of the tax collector's office and the work hours of the tax collector, commensurate with the compensation paid to the tax collector, and all personnel assigned to the tax collector's office. The office of municipal tax collector and municipal treasurer, or municipal clerk may be held by the same person.

23. N.J.S.40A:9-146 is amended to read as follows:

Appointment of tax assessor, deputies.

40A:9-146. The governing body or chief executive, as shall be appropriate to the form of government of the municipality shall provide for the appointment of a tax assessor and such deputy tax assessors as it may determine necessary. The appointing authority may, by resolution or order as appropriate, set the total number of weekly hours of operation of the tax assessor's office and the total number of weekly work hours of the tax assessor, commensurate with the compensation paid to the tax assessor. The appointing authority shall not set the specific work hours of the tax assessor. The governing body, by ordinance, shall determine the amount of compensation of such assessors.

24. N.J.S.40A:10-6 is amended to read as follows:

Establishment of insurance fund; appropriations.

40A:10-6. The governing body of any local unit may establish an insurance fund for the following purposes:

a. To insure against any loss or damage however caused to any property, motor vehicles, equipment or apparatus owned by it, or owned by or under the control of any of its departments, boards, agencies or commissions;

b. To insure against liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by it, or owned by or under the control of any of its departments, boards, agencies or commissions;

c. To insure against liability for its negligence and that of its officers, employees and servants, whether or not compensated or part-time, who are authorized to perform any act or services, but not including an independent contractor within the limitations of the "New Jersey Tort Claims Act" (N.J.S.59:1-1 et seq.);

d. To insure against any loss or damage from liability as established by chapter 15 of Title 34 of the Revised Statutes;

e. To provide contributory or noncontributory self-funded, or partially self-funded, health benefits to employees or their dependants, or both, except for employees, or their dependents, of boards of education, jointure commissions, educational service commissions, county special services school districts, county vocational-technical schools, and county colleges, in accordance with rules and regulations of the Director of the Division of Local Government Services in the Department of Community Affairs. The establishment and operation of a fund to provide health benefits by a local unit prior to the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) is hereby validated; however, any such health benefits fund shall comply with all rules and regulations promulgated by the director pursuant to this subsection.

The governing body may appropriate the moneys necessary for the purposes of this section.

25. Section 37 of P.L.1995, c.259 (C.40A:10-17.1) is amended to read as follows:

C.40A:10-17.1 County, municipal employee permitted to waive benefits coverage under N.J.S.40A:10-16 et seq.

37. Notwithstanding the provisions of any other law to the contrary, a county or municipality which enters into a contract providing group health care benefits to its employees pursuant to N.J.S.40A:10-16 et seq., may allow any employee who is eligible for coverage as a dependent of the employee's spouse under that plan or another plan, including the State Health Benefits Program established pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), offered by the spouse's employer, whether a public or private employer, to waive coverage under the county's or municipality's plan to which the employee is entitled by virtue of employment with the county or municipality. The waiver shall be in such form as the county or municipality shall prescribe and shall be filed with the county or municipality. In consideration of filing such a waiver, a county or municipality may pay to the employee annually an amount, to be established in the sole discretion of the county or municipality, which shall not exceed 50% of the amount saved by the county or municipality because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to resume coverage under the same terms and conditions as apply to initial coverage if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall file a declaration with the county or municipality, in such form as the county or municipality shall prescribe, that the waiver is revoked. The decision of a county or municipality to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

26. Section 13 of P.L.1971, c.199 (C.40A:12-13) is amended to read as follows:

C.40A:12-13 Sales of real property, capital improvements or personal property; exceptions; procedure.

13. Sales of real property, capital improvements or personal property; exceptions; procedure. Any county or municipality may sell any real property, capital improvement or personal property,

or interests therein, not needed for public use, as set forth in the resolution or ordinance authorizing the sale, other than county or municipal lands, real property otherwise dedicated or restricted pursuant to law, and, except as otherwise provided by law, all such sales shall be made by one of the following methods:

(a) By open public sale at auction to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the lands are situated, by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven days prior to such sale. In the case of public sales, the governing body may by resolution fix a minimum price or prices, with or without the reservation of the right to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the sale and public notice thereof shall be given at the time of sale. Such resolution may provide, without fixing a minimum price, that upon the completion of the bidding, the highest bid may be accepted or all the bids may be rejected. The invitation to bid may also impose restrictions on the use to be made of such real property, capital improvement or personal property, and any conditions of sale as to buildings or structures, or as to the type, size, or other specifications of buildings or structures to be constructed thereon, or as to demolition, repair, or reconstruction of buildings or structures, and the time within which such conditions shall be operative, or any other conditions of sale, in like manner and to the same extent as by any other vendor. Such conditions shall be included in the advertisement, as well as the nature of the interest retained by the county or municipality. Such restrictions or conditions shall be related to a lawful public purpose and encourage and promote fair and competitive bidding of the county or municipality and shall not, in the case of a municipality, be inconsistent with or impose a special or higher standard than any zoning ordinance or building, plumbing, electrical, or similar code or ordinance then in effect in the municipality.

In any case in which a county or municipality intends to retain an estate or interest in any real property, capital improvement or personal property, in the nature of an easement, contingent or reversionary, the invitation to bid and the advertisement required herein shall require each bidder to submit one bid under each Option A and Option B below.

(1) Option A shall be for the real property, capital improvement or personal property subject to the conditions or restrictions imposed, or interest or estate retained, which the county or municipality proposes to retain or impose.

(2) Option B shall be for the real property, capital improvement or personal property to be sold free of all such restrictions, conditions, interests or estates on the part of the county or municipality.

The county or the municipality may elect or reject either or both options and the highest bid for each. Such acceptance or rejection shall be made not later than at the second regular meeting of the governing body following the sale, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such sale may be adjourned at the time advertised for not more than one week without readvertising.

(b) At private sale, when authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, in the following cases:

(1) A sale to any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey or to an interstate agency or body of which the State of New Jersey is a member or to the United States of America or any department or agency thereof.

(2) A sale to a person submitting a bid pursuant to subsection (a) of this section, where all bids have been rejected, provided that the terms and price agreed to shall in no event be less than the highest bid rejected, and provided further that the terms and conditions of sale shall remain identical.

(3) A sale by any county or municipality, when it has or shall have conveyed its right, title and interest in any real property, capital improvement or personal property not needed for public use, and it was assumed and intended that there should be conveyed a good and sufficient title in fee simple to said real property, capital improvement or personal property, free of all encumbrances and the full consideration has been paid therefor, and it shall thereafter appear that the title conveyed was insufficient or that said county or municipality at the time of said

conveyance was not the owner of some estate or interest in said real property, capital improvement or personal property or of some encumbrances thereon, and the county or municipality shall thereafter acquire a good and sufficient title in fee simple, free of all encumbrances of said real property, capital improvement or personal property or shall acquire such outstanding estate or interest therein or outstanding encumbrance thereon and said county or municipality, by resolution of the governing body and without the payment of any additional consideration, has deemed to convey or otherwise transfer to said purchaser, his heirs or assigns, such after-acquired title, or estate or interest in, or encumbrance upon, such real property, capital improvement or personal property to perfect the title or interest previously conveyed.

(4) A sale of an easement upon any real property previously conveyed by any county or municipality may be made when the governing body of any county, by resolution, or any municipality, by ordinance, has elected to release the public rights in the nature of easements, in, on, over or under any real property within the county or the municipality, as the case may be, upon such terms as shall be agreed upon with the owner of such lands, if the use of such rights is no longer desirable, necessary or required for public purposes.

(5) A sale to the owner of the real property contiguous to the real property being sold; provided that the property being sold is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; except that when there is more than one owner with real property contiguous thereto, said property shall be sold to the highest bidder from among all such owners. Any such sale shall be for not less than the fair market value of said real property. When there is only one owner with real property contiguous to the property being sold, and the property is less than an eighth of the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon, the fair market value of that property may be determined by negotiation between the local unit and the owner of the contiguous real property. The negotiated sum shall be subject to approval by resolution of the governing body, but in no case shall that sum be less than one dollar.

In the case of any sale of real property hereafter made pursuant to subsection (b) of this section, in no event shall the price agreed upon with the owner be less than the difference between the highest bid accepted for the real property subject to easements (Option A) and the highest bid rejected for the real property not subject to easements (Option B). After the adoption of the resolution or ordinance, and compliance by the owner of said real property with the terms thereof, said real property shall be free, and entirely discharged of and from such rights of the public and of the county or municipality, as the case may be, but no such release shall affect the right of lawful occupancy or use of any such real property by any municipal or private utility to occupy or use any such real property lawfully occupied or used by it. A list of the property so authorized to be sold, pursuant to subsection (b) of this section, together with the minimum prices, respectively, as determined by the governing body, shall be included in the resolution or ordinance authorizing the sale, and said list shall be posted on the bulletin board or other conspicuous space in the building which the governing body usually holds its regular meetings, and advertisement thereof made in a newspaper circulating in the municipality or municipalities in which the real property, capital improvement or personal property is situated, within five days following enactment of said resolution or ordinance. Offers for any or all properties so listed may thereafter be made to the governing body or its designee for a period of 20 days following the advertisement herein required, at not less than said minimum prices, by any prospective purchaser, real estate broker, or other authorized representative. In any such case, the governing body may reconsider its resolution or ordinance, not later than 30 days after its enactment, and advertise the real property, capital improvement, or personal property in question for public sale pursuant to subsection (a) of this section.

Any county or municipality selling any real property, capital improvement or personal property pursuant to subsection (b) of this section shall file with the Director of the Division of Local Government Services in the Department of Community Affairs, sworn affidavits verifying the publication of advertisements as required by this subsection.

(c) By private sale of a municipality in the following case: A sale to a private developer by a municipality, when acting in accordance with the "Local Redevelopment and Housing Law,"

P.L.1992, c.79 (C.40A:12A-1 et al.).

All sales, either public or private, may be made for cash or upon credit. A deposit not exceeding 10% of the minimum price or value of the property to be sold may be required of all bidders. When made upon credit, the county or municipality may accept a purchase-money mortgage, upon terms and conditions which shall be fixed by the resolution of the governing body; provided, however, that such mortgage shall be fully payable within five years from the date of the sale and shall bear interest at a rate equal to that authorized under Title 31 of the Revised Statutes, as amended and supplemented, and the regulations issued pursuant thereto, or the rate last paid by the county or municipality upon any issue of notes pursuant to the "Local Bond Law" (N.J.S.40A:2-1 et seq.), whichever is higher. The governing body may, by resolution, fix the time for closing of title and payment of the consideration.

In all sales made pursuant to this section, the governing body of any county or municipality may provide for the payment of a commission to any real estate broker, or authorized representative other than the purchaser actually consummating such sale; provided, however, that no commission shall be paid unless notice of the governing body's intention to pay such a commission shall have been included in the advertisement of sale and the recipient thereof shall have filed an affidavit with the governing body stating that said recipient is not the purchaser. Said commissions shall not exceed, in the aggregate, 5% of the sale price, and be paid, where there has been a public sale, only in the event that the sum of the commission and the highest bid price does not exceed the next highest bid price (exclusive of any real estate broker's commission). As used in this section, "purchaser" shall mean and include any person, corporation, company, association, society, firm, partnership, or other business entity owning or controlling, directly or indirectly, more than 10% of the purchasing entity.

27. Section 22 of P.L.1971, c.199 (C.40A:12-22) is amended to read as follows:

C.40A:12-22 Establishment, maintenance of central registry.

22. Each municipality and county may establish and maintain a central registry of all real property in which it has acquired title or a leasehold interest for other than street or highway purposes as of the effective date of this act. This registry may also include a record of all real property which a county or municipality may hereafter acquire, sell or lease.

The central registry referred to herein, if established and maintained, shall:

- a. Constitute a public record;
- b. Be entitled "Municipal Real Property Registry" or "County Real Property Registry" as may be appropriate;
- c. Be available for inspection in the office of the municipal clerk or clerk of the board of chosen freeholders, as may be appropriate.

28. Section 7 of P.L.1995, c.253 (C.46:3C-7) is amended to read as follows:

C.46:3C-7 Fees for copies of lists.

7. A municipality that receives and makes available the lists required under [this act] P.L.1995, c.253 (C.46:3C-1 et seq.) may charge purchasers in accordance with the provisions of section 2 of P.L.1963, c.73 (C.47:1A-2).

29. Section 8 of P.L.1975, c.217 (C.52:27D-126) is amended to read as follows:

C.52:27D-126 Appointment of construction official, subcode officials.

8. a. The appointing authority of any municipality shall appoint a construction official and any necessary subcode officials to administer and enforce the code. The appointing authority may, by resolution or order as appropriate, set the total number of weekly hours of operation of the construction official's office and the total number of weekly work hours of the construction official, commensurate with the compensation paid to the construction official. The appointing authority shall not set the specific work hours of the construction official. The appointing

authority shall also appoint a construction board of appeals to hear and decide appeals from decisions made by said construction official and subcode officials, in the administration and enforcement of the code. Nothing herein, however, shall prevent a municipality from accepting inspections as to compliance with the code or any subcode thereof made by an inspection authority approved by the State of New Jersey pursuant to law.

b. To establish tenure rights or any other right or protection provided by the "State Uniform Construction Code Act" or Title 11A, Civil Service, of the New Jersey Statutes, or any pension law or retirement system, the job title "construction official" shall be equivalent to that job title which, prior to the adoption of the State Uniform Construction Code as provided in section 5 of the "State Uniform Construction Code Act," entailed the chief administrative responsibility to enforce all construction codes which had been adopted by the municipal governing body, the enforcement of which was not the responsibility of an authorized private inspection agency; and the job title "subcode official" shall be equivalent to that job title which, prior to the adoption of the State Uniform Construction Code, entailed subordinate administrative responsibility to enforce one or more of the following construction codes: building, plumbing, electrical or fire code.

Any person, in a municipality operating under Title 11A, Civil Service, of the New Jersey Statutes, who, prior to the adoption of the State Uniform Construction Code, held the equivalent of the job title "construction" official or "subcode" official, but who no longer holds his position as a result of a determination that his old job title was not equivalent to that of "construction" official or "subcode" official, shall be offered reappointment as a construction official or subcode official, as the case may be, and shall be granted permanent classified status in such position. Tenure shall continue for (1) any construction official or subcode official who is serving under tenure as otherwise provided by law on the effective date of this act or within one year thereafter, or (2) any person certified pursuant to subsection c. of this section and who subsequently gains such tenure.

A construction official or subcode official appointed in a municipality operating under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, who, at the time of adoption of the State Uniform Construction Code, January 1, 1977, or prior to January 1, 1981, had permanent classified status or was employed as a construction official or subcode official or in another position in the unclassified service, shall be included in the classified service without civil service examination in his respective title of construction official or subcode official. Any individual employed by a municipality, who, in his employment with the municipality between January 1, 1977 and prior to January 1, 1981, was charged with the chief administrative responsibility to enforce all existing municipal construction codes, shall be deemed as appointed to the position of construction official for the purposes of this act. Any individual employed by a municipality, who, in his employment with the municipality between January 1, 1977 and prior to January 1, 1981, was charged with chief responsibility to enforce the municipal building, plumbing, fire, or electrical code, shall be deemed as appointed to the position of subcode official for the purposes of this act. No person, on or after January 1, 1981, shall be appointed as construction or subcode official in a municipality operating under Title 11A, Civil Service, of the New Jersey Statutes without having passed an examination administered by the Merit System Board certifying the merit and fitness of the person to hold such position; provided that, whenever a noncivil service municipality adopts the provisions of that Title, construction code officials and subcode officials of such municipality appointed prior to the filing of the petition for the adoption of civil service, shall attain permanent status in the classified service without examination. Any construction or subcode official appointed after January 1, 1981 on a provisional basis in a municipality which has adopted the provisions of Title 11A, Civil Service, of the New Jersey Statutes, may not be removed from office except for just cause after a fair and impartial hearing has been held at the local level, with no further appeal to the Merit System Board; provided, however, that such a construction or subcode official may be removed to permit the appointment of a person certified for appointment by the Merit System Board.

A construction official or subcode official in a noncivil service municipality shall be appointed for a term of four years and shall, upon appointment to a second consecutive term or on or after the commencement of a fifth consecutive year of service, including years of service in an

equivalent job title held prior to the adoption of the State Uniform Construction Code, be granted tenure and shall not be removed from office except for just cause after a fair and impartial hearing.

A construction or subcode official, to be eligible for appointment in civil service or noncivil service municipalities, shall be certified by the State of New Jersey in accordance with subsection c. of this section and shall have had at least three years' experience in construction, design or supervision as a licensed engineer or registered architect; or five years' experience in construction, design, or supervision as an architect or engineer with a bachelor's degree from an accredited institution of higher education; or 10 years' experience in construction, design or supervision as a journeyman in a trade or as a contractor. A subcode official shall, pursuant to any subcode which he administers, pass upon:

(1) matters relative to the mode, manner of construction or materials to be used in the erection or alteration of buildings or structures, except as to any such matter foreclosed by State approval pursuant to this act, and (2) actual execution of the approved plans and the installation of the materials approved by the State. The construction official in each municipality shall be the chief administrator of the "enforcing agency." He shall have the power to overrule a determination of a subcode official based on an interpretation of a substantive provision of the subcode which such subcode official administers, only if the construction official is qualified to act pursuant to this act as a subcode official for such subcode. He may serve as subcode official for any subcode which he is qualified under this act to administer. A subcode official or municipal engineer may serve as a construction official if otherwise qualified under the provisions of this act. The municipal enforcing agency shall require compliance with the provisions of the code, of all rules lawfully adopted and promulgated thereunder and of laws relating to the construction, alteration, repair, removal, demolition and integral equipment and location, occupancy and maintenance of buildings and structures, except as may be otherwise provided for.

Two or more municipalities may provide by ordinance, subject to regulations established by the commissioner, for the joint appointment of a construction official and subcode official for the purpose of enforcing the provisions of the code in the same manner.

c. No person shall act as a construction official or subcode official for any municipality unless the commissioner determines that said person is so qualified, except for the following:

(1) a municipal construction official or subcode official holding office under permanent civil service status, or tenure as otherwise provided by law on the effective date of this act or within one year thereafter and (2) a municipal construction official or subcode official holding office without such permanent civil service status or tenure on the effective date of this act or within one year thereafter; provided said construction official or subcode official not having such permanent civil service status or tenure shall be certified in accordance with this act within four years of the effective date thereof; provided further that a person holding on the effective date of this act a valid plumbing inspector's license from the Department of Health and Senior Services pursuant to Title 26 of the Revised Statutes may serve as a plumbing subcode official and a person holding on the effective date of this act a valid electrical inspector's license from the Board of Public Utilities pursuant to Title 48 of the Revised Statutes may serve as an electrical subcode official. The commissioner, after consultation with the code advisory board, may authorize the preparation and conducting of oral, written and practical examinations to determine if a person is qualified by this act to be eligible to be a construction official or subcode official or, in the alternative, may accept successful completion of programs of training as proof of qualification within the meaning of this act. Upon a determination of qualification the commissioner shall issue or cause to be issued a certificate to the construction official or subcode official or trainee stating that he is so certified. The commissioner, after consultation with the code advisory board, may establish classes of certification that will recognize the varying complexities of code enforcement in the municipalities within the State. The commissioner shall, after consultation with the code advisory board, provide for educational programs designed to train and assist construction officials and subcode officials in carrying out their responsibilities.

Whenever the commissioner is required by the terms of this subsection to consult with the code advisory board and the matter in question concerns plumbing subcode officials, the

commissioner shall also consult with the Public Health Council and Commissioner of Health and Senior Services.

d. The commissioner, after consultation with the code advisory board, may periodically require that each construction official and subcode official demonstrate a working knowledge of innovations in construction technology and materials, recent changes in and additions to the relevant portions of the State Uniform Construction Code, and current standards of professional ethics and legal responsibility; or, in the alternative, the commissioner, after consultation with the code advisory board, may accept successful completion of appropriate programs of training as proof of such working knowledge.

30. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to read as follows:

C.52:27D-311 Provision of fair share by municipality.

11. a. In adopting its housing element, the municipality may provide for its fair share of low and moderate income housing by means of any technique or combination of techniques which provide a realistic opportunity for the provision of the fair share. The housing element shall contain an analysis demonstrating that it will provide such a realistic opportunity, and the municipality shall establish that its land use and other relevant ordinances have been revised to incorporate the provisions for low and moderate income housing. In preparing the housing element, the municipality shall consider the following techniques for providing low and moderate income housing within the municipality, as well as such other techniques as may be published by the council or proposed by the municipality:

(1) Rezoning for densities necessary to assure the economic viability of any inclusionary developments, either through mandatory set-asides or density bonuses, as may be necessary to meet all or part of the municipality's fair share;

(2) Determination of the total residential zoning necessary to assure that the municipality's fair share is achieved;

(3) Determination of measures that the municipality will take to assure that low and moderate income units remain affordable to low and moderate income households for an appropriate period of not less than six years;

(4) A plan for infrastructure expansion and rehabilitation if necessary to assure the achievement of the municipality's fair share of low and moderate income housing;

(5) Donation or use of municipally owned land or land condemned by the municipality for purposes of providing low and moderate income housing;

(6) Tax abatements for purposes of providing low and moderate income housing;

(7) Utilization of funds obtained from any State or federal subsidy toward the construction of low and moderate income housing;

(8) Utilization of municipally generated funds toward the construction of low and moderate income housing; and

(9) The purchase of privately owned real property used for residential purposes at the value of all liens secured by the property, excluding any tax liens, notwithstanding that the total amount of debt secured by liens exceeds the appraised value of the property, pursuant to regulations promulgated by the Commissioner of Community Affairs pursuant to subsection b. of section 41 of P.L.2000, c.126 (C.52:27D-311.2).

b. The municipality may provide for a phasing schedule for the achievement of its fair share of low and moderate income housing.

c. The municipality may propose that a portion of its fair share be met through a regional contribution agreement. The housing element shall demonstrate, however, the manner in which that portion will be provided within the municipality if the regional contribution agreement is not entered into. The municipality shall provide a statement of its reasons for the proposal.

d. Nothing in this act shall require a municipality to raise or expend municipal revenues in order to provide low and moderate income housing.

e. When a municipality's housing element includes the provision of rental housing units in a community residence for the developmentally disabled, as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), which will be affordable to persons of low and moderate income, and for

which adequate measures to retain such affordability pursuant to paragraph (3) of subsection a. of this section are included in the housing element, those housing units shall be fully credited as permitted under the rules of the council towards the fulfillment of the municipality's fair share of low and moderate income housing.

f. It having been determined by the Legislature that the provision of housing under this act is a public purpose, a municipality or municipalities may utilize public monies to make donations, grants or loans of public funds for the rehabilitation of deficient housing units and the provision of new or substantially rehabilitated housing for low and moderate income persons, providing that any private advantage is incidental.

31. Section 2 of P.L.1976, c.63 (C.54:4-6.3) is amended to read as follows:

C.54:4-6.3 Definitions relative to tenants property tax rebates.

2. As used in this act unless the context clearly indicates a different meaning:

a. "Qualified real rental property" means any building or structure or complex of buildings or structures in which five or more housing units are rented or leased or offered for rental or lease for residential purposes except:

- (1) hotels, motels or other guesthouses serving transient or seasonal guests;
- (2) buildings or structures which are subject to an abatement agreement under which reduced or no property taxes are paid on the improvements pursuant to statute, notwithstanding that payments in lieu of taxes are paid in accordance with the agreement;
- (3) buildings or structures located in municipalities in which a rent control ordinance which does not provide for an automatic increase in the amount of rent permitted to be charged by a property owner upon an increase in the amount of property tax levied upon the property is in effect for the base year and the current year;
- (4) dwelling units in a residential cooperative or mutual housing corporation;
- (5) dwelling units in a condominium, other than those dwelling units which are occupied by qualified tenants under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.);
- (6) dwelling units in a continuing care retirement community; or
- (7) dwelling units within residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding House Act of 1979" or similar facilities for which occupancy is predicated upon the receipt of medical, nursing or personal care services for the residents and the cost thereof is included in the rent.

Owner occupation of a building shall not be a factor in whether a building is qualified real rental property under P.L.1976, c.63 (C.54:4-6.2 et seq.).

b. "Property tax reduction" means the difference between the amount of property tax paid or payable on any qualified real rental property in the base year, and the amount of property taxes paid or payable in the current year if less than the amount of property taxes paid or payable in the base year.

c. "Base year" means calendar year 1998.

If any of the following events occur, "base year" shall then mean:

- (1) any calendar year after 1998 in which property taxes levied for qualified real rental property exceed the property taxes levied for 1998 for that property;
- (2) the first calendar year after 1998 during which qualified real rental property is first offered for rent or lease;
- (3) the first full calendar year after 1998 in which qualified real rental property is no longer subject to a tax exemption or tax abatement program;
- (4) a calendar year subsequent to 1998 for which the property tax calculation reflects an assessment reduction from the prior base year assessment; or
- (5) a calendar year subsequent to 1998 in which the property taxes paid in the base year and the property taxes paid in the current year do not reflect consistent budgetary and tax item components because sewer, solid waste or similar services provided through a taxing entity budget and reflected in the tax rate are changed to a separately billed user fee.

d. "Assessment reduction" means a decrease in the amount of assessed value of qualified real rental property resulting from an agreement entered into with a municipal taxing authority, an abatement, exemption, change in assessment imposed administratively by a municipal tax assessor or county board of taxation, or a judgment entered by a county board of taxation, the tax court, or by a court of competent jurisdiction.

32. N.J.S.59:9-2 is amended to read as follows:

Judgments, interest, limitations.

59:9-2. a. No interest shall accrue prior to the entry of judgment against a public entity or public employee.

b. No judgment shall be granted against a public entity or public employee on the basis of strict liability, implied warranty or products liability.

c. No punitive or exemplary damages shall be awarded against a public entity.

d. No damages shall be awarded against a public entity or public employee for pain and suffering resulting from any injury; provided, however, that this limitation on the recovery of damages for pain and suffering shall not apply in cases of permanent loss of a bodily function, permanent disfigurement or dismemberment where the medical treatment expenses are in excess of \$3,600.00. For purposes of this section medical treatment expenses are defined as the reasonable value of services rendered for necessary surgical, medical and dental treatment of the claimant for such injury, sickness or disease, including prosthetic devices and ambulance, hospital or professional nursing service.

e. If a claimant receives or is entitled to receive benefits for the injuries allegedly incurred from a policy or policies of insurance or any other source other than a joint tortfeasor, such benefits shall be disclosed to the court and the amount thereof which duplicates any benefit contained in the award shall be deducted from any award against a public entity or public employee recovered by such claimant; provided, however, that nothing in this provision shall be construed to limit the rights of a beneficiary under a life insurance policy. No insurer or other person shall be entitled to bring an action under a subrogation provision in an insurance contract against a public entity or public employee.

C.13:1E-5a Registration renewal of solid waste collection and disposal vehicles.

33. Notwithstanding sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and C.13:1E-5) and any regulations promulgated thereunder, the registration renewal of solid waste collection and disposal vehicles operated by a public entity shall be valid for a five-year period and the registration fee for the public entity shall be no greater than the fee in effect as of March 1, 1999 for the one-year registration.

C.13:1F-1a Inapplicability of pesticide control act to certain insect inspections.

34. 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 for pesticide applicator or pesticide operator certification, licensing or record keeping shall not apply to any licensed sanitary or health inspector who applies a pesticide not classified for restricted use, on property or premises for the purpose of determining insect infestation.

C.13:9B-13.1 Permit not required for certain restoration work on manmade drainage ditch.

35. 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" means 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.

C.18A:7F-5a Inclusion of certain amounts in future school district budget.

36. Notwithstanding any provision of P.L.1996, c.138 (C.18A:7F-1 et seq.) to the contrary, any school district which increases its net budget between the prebudget and budget years in an amount less than that authorized pursuant to subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), shall be permitted to include the amount of the difference between its actual net budget and its permitted net budget in either of the next two succeeding budget years.

C.40:23-6.53 Contract for collection of delinquent fees, fines.

37. The governing body of any county may enter into a contract with a private agency or firm for the purpose of collecting any delinquent fees or fines owed to the county. Any such contract shall be made pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

C.52:27D-20.1 Contracts for third-party disbursement services, permitted.

38. 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.

C.52:27D-10.1 Computerized communication network fees, exceptions.

39. The Commissioner of Community Affairs after consultation with the State Board of Education, and the Administrator of the Office of Information Technology, may adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to charge appropriate fees for use of a computerized communication network that may be established by the State for the conduct of government activities except that no fee shall be charged to local units of government and school districts. Such regulations may authorize any nonprofit corporation organized pursuant to Title 15A of the New Jersey Statutes, whose purposes support the administration of, or personnel engaged in, government or educational services, to utilize such network for communication with the members of such nonprofit corporations in the conduct of government or organizational 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.

C.52:17B-4a "SNAP" reports to be made on quarterly basis.

40. 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.

C.52:27D-311.2 Purchase of privately owned land by municipality for fair share housing.

41. a. Notwithstanding the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), or of any other law, rule or regulation to the contrary, a municipality may provide for the purchase of privately owned residential property at the value of all liens secured by real property, excluding any tax lien to which the property is subject and include those units toward the fulfillment of its fair share housing obligation pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). Any such purchase under this section shall be made pursuant to and consistent with regulations promulgated by the Commissioner of Community Affairs pursuant to subsection b. of this section.

b. The Commissioner of Community Affairs shall, on or before the first day of the seventh month next following the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) promulgate

rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of subsection a. of this section.

42. Notwithstanding any provision of section 2 of P.L.1983, c.312 (C.40A:4-45.19) to the contrary, any municipality that failed to print on a referendum 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 1999 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.

43. a. (1) There is hereby created a Police Paperwork Reduction Task Force. The task force shall have nine members, selected as follows: two representatives of the Attorney General's office and one member of the Division of State Police, to be appointed by the Governor; two representatives of local law enforcement agencies and one municipal court administrator, to be appointed by the President of the Senate; and two representatives of local law enforcement agencies and one municipal court administrator, to be appointed by the Speaker of the General Assembly.

(2) The task force shall organize as soon as practicable following the appointment of its members and shall select a chairperson and vice chairperson from among its members, and a secretary, who need not be a member of the task force.

b. The task force shall:

(1) Review State requirements for the collection, reporting and retention of information by local police officers and police agencies;

(2) Determine the approximate cost to local police agencies, including the costs of salaries, materials, equipment and space, of complying with State-mandated information requirements;

(3) Determine whether these requirements assist or hinder the cost-effective provision of police services and whether a valid reason exists for the collection, reporting or retention of the information; and

(4) Determine the extent to which these requirements can be eliminated or streamlined to reduce unnecessary paperwork and costs of local police agencies.

c. Staff and related support services shall be provided to the task force by the Department of Law and Public Safety. The task force shall be entitled to call to its assistance the services of the department as well as the employees of any other State, county or municipal department, board, bureau commission or agency.

d. The task force may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature. The task force shall issue a final report of its findings and recommendations, including any recommended legislation, to the Governor and the Legislature no later than six months following the original appointment of all members of the task force. The task force shall dissolve on the 60th day following submission of its final report.

C.43:8C-2.1 Incentive program to encourage retirement, termination of employment of county employees.

44. Notwithstanding the provisions of section 2 of P.L.1999, c.59 (C.43:8C-2) to the contrary, but subject to the other provisions of that law, a county governing body may, by resolution, adopt an incentive program to encourage the retirement or termination of employment of county government employees, regardless of whether the county is entering into an interlocal services contract or a joint services contract. The incentive program shall be submitted to the Director of the Division of Local Government Services in the Department of Community Affairs for approval. The director may condition approval on modifications to the incentive program. Following approval of the incentive program by the director, the county government may implement the program and offer the incentives to its employees.

45. This act shall take effect immediately.

Approved September 21, 2000.