

## CHAPTER 25

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

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

C.40:66-1.2 Definitions relative to solid waste collection services for multifamily dwellings.

1. For the purposes of sections 1 through 4 of P.L.2001, c.25 (C.40:66-1.2 et seq.):

"Multifamily dwelling" means any building or structure or complex of buildings or structures in which five or more dwelling units are rented or leased or offered for rental or lease for residential purposes except hotels, motels or other guesthouses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

"Solid waste collection services" means the collection and disposal of solid waste.

"Total cost of services" means the cost that would be incurred by a municipality in providing solid waste collection services to a multifamily dwelling in the same manner as the municipality provides those services, curbside, to other residents of the municipality.

C.40:66-1.3 Reimbursement of multifamily dwelling.

2. a. Except as otherwise provided in subsection b. of this section, when solid waste collection services are provided to the residents of a municipality, the governing body of that municipality shall reimburse a multifamily dwelling for the actual cost to the multifamily dwelling of providing that service, but not more than the amount that the municipality would have expended on the solid waste collection services if provided by the municipality directly to the multifamily dwelling, calculated as if the dwelling units were located along public roads and streets and the service provided curbside. Alternatively, when solid waste collection services are provided to the residents of a municipality, the governing body of the municipality shall provide the solid waste collection services in the same manner as provided to the residents of the municipality who live along public roads and streets.

b. (1) Nothing in P.L.2001, c.25 (C.40:66-1.2 et al.) shall require a municipality to operate any municipally owned or leased vehicles or other equipment, or to provide any of the services enumerated in subsection a. of this section, upon, along or in relation to any road or street in a multifamily dwelling complex which either (a) is not accepted for dedication to public use or (b) does not meet all municipal standards and specifications for such dedication, except for width.

(2) In order to be eligible for solid waste collection services or reimbursement for those services, a multifamily dwelling shall be required to comply with all recycling requirements generally applicable to all other residential properties within the municipality. If a certified public works manager employed by the municipality determines that a multifamily dwelling is not in compliance with the municipal recycling requirements, then the municipality may terminate solid waste and recyclables collection services to the multifamily dwelling, or reduce its reimbursement payments by an amount equal to the landfill or disposal costs that would be saved if the recyclables were separated from the other solid waste. No solid waste collection shall be terminated or reimbursement amount shall be reduced pursuant to this subsection unless the landlord has been sent written notice of noncompliance and been given 30 days' written notice of the proposed reimbursement amount reduction. During those 30 days the landlord shall have the opportunity to bring the multifamily dwelling into compliance with the municipal recycling requirements, and have that compliance certified by a certified public works manager employed by the municipality.

c. The Director of the Division of Local Government Services in the Department of Community Affairs, for the purpose of calculating the allowable operating appropriations before exceptions pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), shall provide a cap base adjustment to the total general appropriations of the local budget year prior to the year in which the solid waste collection services are first provided in full, either through the provision of actual services or following the completion of the phase-in of the reimbursement amount provided by the municipality for the full amount of the costs attributable to implementing P.L.2001, c.25 (C.40:66-1.2 et al.).

d. Reimbursement or provision of services to a multifamily dwelling, when solid waste collection services are provided to residents generally within the municipality, shall commence

for local budget year 2002 in municipalities operating on a calendar year basis and local budget year 2003 in municipalities operating on a State fiscal year basis; provided that reimbursement payments shall be phased-in over a five-year period pursuant to section 4 of P.L.2001, c.25 (C.40:66-1.5).

e. No municipality shall be liable for the provision of any solid waste collection services or for the payment of any reimbursement amounts with regard to solid waste collection services to any multifamily dwelling except as specifically provided pursuant to P.L.2001, c.25 (C.40:66-1.2 et al.).

C.40:66-1.4 Written agreement, use of reimbursement.

3. a. Pursuant to section 2 of P.L.2001, c.25 (C.40:66-1.3) and section 4 of P.L.2001, c.25 (C.40:66-1.5), when a municipal governing body determines not to provide solid waste collection services to a multifamily dwelling, it shall enter into a written agreement with the multifamily dwelling to annually reimburse the multifamily dwelling in an amount not to exceed the cost that would be incurred by the municipality in providing those services.

b. The amount to be reimbursed to the multifamily dwelling shall be used by the multifamily dwelling to pay for the solid waste collection service that the municipality chooses not to provide. The municipal governing body shall reimburse the multifamily dwelling for the actual cost to the multifamily dwelling of providing that service, but not more than the amount that the municipality would have expended on the solid waste collection services if provided by the municipality directly to the multifamily dwelling, calculated as if the dwelling units were located along public roads and streets and the collection service provided curbside.

c. An agreement entered into pursuant to this section shall provide for an accounting by the multifamily dwelling of the use of the money paid over to it by the municipality, and for the refunding to the municipality of any payments in excess of the amounts actually expended or contractually committed by the multifamily dwelling during the accounting period in order to provide for the solid waste collection services covered by the agreement.

C.40:66-1.5 Reimbursement schedule.

4. Pursuant to a reimbursement agreement entered into in lieu of providing curbside solid waste collection services, a municipality shall reimburse the landlord of a multifamily dwelling for a portion of the cost of providing services commencing in local budget year 2002 for municipalities operating on a calendar year basis, and in local budget year 2003, for municipalities operating on a State fiscal year basis, in the following manner:

2002 or 2003, as appropriate,...20% of the total cost of services in 2002 or 2003, as appropriate

2003 or 2004, as appropriate,...40% of the total cost of services in 2003 or 2004, as appropriate

2004 or 2005, as appropriate,...60% of the total cost of services in 2004 or 2005, as appropriate

2005 or 2006, as appropriate,...80% of the total cost of services in 2005 or 2006, as appropriate

The total cost of services in each local budget year shall be determined pursuant to section 3 of P.L.2001, c.25 (C.40:66-1.4). In local budget year 2006 or 2007, as appropriate, and for each local budget year thereafter, the municipality shall either provide the solid waste collection services pursuant to section 2 of P.L.2001, c.25 (C.40:66-1.3) or enter into a written agreement to annually reimburse the multifamily dwelling pursuant to section 3 of P.L.2001, c.25 (C.40:66-1.4).

5. 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 multifamily dwellings for the collection and disposal of solid waste generated by the residents of the multifamily dwellings. This subsection shall cease to be operative at the end of the first local budget year in which the municipality has fully phased in its reimbursement amount expenses;
- 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).

6. This act shall take effect immediately; however, reimbursement or provision of services to a multifamily dwelling shall commence for local budget year 2002 for municipalities operating on a calendar year basis and local budget year 2003 for municipalities operating on a State fiscal year basis, and reimbursement payments shall be phased in over a five-year period pursuant to section 4 of P.L.2001, c.25 (C.40:66-1.5).

Approved February 27, 2001.