

[CORRECTED COPY]

CHAPTER 63

AN ACT to encourage the financial accountability of local units of government through empowering citizens, reducing waste and duplicative services, clearing legal hurdles to shared services and consolidation, and supplementing, amending, and repealing sections of statutory law.

WHEREAS, The problem of high property taxes paid by New Jersey's residents is not easily solved, but can be ameliorated through changes to the laws designed to encourage government efficiency through shared services, regionalization, and consolidation; and

WHEREAS, The problem of political resistance remains a potent barrier to consolidation, especially since initial additional short-term costs may mask the long-term benefits of consolidation; and

WHEREAS, The Legislature should attempt to facilitate, by an improved and streamlined process that is tailored to local needs, that avoids the current thicket of overlapping and antiquated laws inhibiting interlocal cooperation, and that deals with Civil Service issues rationally; and

WHEREAS, The State largely has employed a "carrot" approach to incentivizing consolidation and service sharing for over 30 years, and for real progress to occur in reducing the rate of property tax increase, the "stick" approach is appropriate; and

WHEREAS, Providing citizens with the tools to gauge the efficiency of their local governments will help promote accountability and cost savings; now, therefore,

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

ARTICLE 1. SHARED SERVICES AND CONSOLIDATION
SUBARTICLE A. GENERAL PROVISIONS

C.40A:65-1 Short title.

1. Sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35) shall be known and may be referred to as the "Uniform Shared Services and Consolidation Act."

C.40A:65-2 Findings, declarations relative to shared services and consolidation.

2. The Legislature finds and declares:

a. Historically, many specialized statutes have been enacted to permit shared services between local units for particular purposes.

b. Other laws, permitting a variety of shared services, including interlocal services agreements, joint meetings, and consolidated and regional services, exist but have not been very effective in promoting the broad use of shared services as a technique to reduce local expenses funded by property taxpayers.

c. It is appropriate for the Legislature to enact a new shared services statute that can be used to effectuate agreements between local units for any service or circumstance intended to reduce property taxes through the reduction of local expenses.

C.40A:65-3 Definitions relative to shared services and consolidation.

3. As used in sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35):

“Board” means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

"Construct" and "construction" connote and include acts of construction, reconstruction, replacement, extension, improvement and betterment of lands, public improvements, works, facilities, services or undertakings.

“Contracting local units” means local units participating in a joint meeting.

“Director” means the Director of the Division of Local Government Services in the Department of Community Affairs.

“Division” means the Division of Local Government Services in the Department of Community Affairs.

"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 that executive officer, to the extent of the officer's statutory participation.

“Joint contract” means an agreement between two or more local units to form a joint meeting.

“Joint meeting” means the joint operation of any public services, public improvements, works, facilities, or other undertaking by contracting local units pursuant to a joint contract under section 14 of P.L.2007, c.63 (C.40A:65-14).

"Local unit" means a “contracting unit” pursuant to section 2 of P.L.1971, c.198 (C.40A:11-2), a “district” pursuant to N.J.S.18A:18A-2, a “county college” pursuant to N.J.S.18A:64A-1, a joint meeting, or any authority or special district that is subject to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

"Operate" and "operation" mean and include acquisition, construction, maintenance, management, and administration of any lands, public improvements, works, facilities, services, or undertakings.

"Person" means any person, association, corporation, nation, State, or any agency or subdivision thereof, or a county or municipality of the State.

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

“Shared service” or “shared” means any service provided on a regional, joint, interlocal, shared, or similar basis between local units, the provisions of which are memorialized by agreement between the participating local units, but, for the purposes of this act, does not include any specific service or activity regulated by some other law, rule or regulation.

"Shared service agreement" or “agreement” means a contract authorized under section 4 of P.L.2007, c.63 (C.40A:65-4).

"Terminal leave benefit" means a single, lump sum payment, paid at termination, calculated using the regular base salary at the time of termination.

SUBARTICLE B. SHARED SERVICES

C.40A:65-4 Agreements for shared services.

4. a. (1) Any local unit may enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in the agreement is

empowered to provide or receive within its own jurisdiction, including services incidental to the primary purposes of any of the participating local units.

(2) Notwithstanding any law, rule or regulation to the contrary, any agreement between local units for the provision of shared services shall be entered into pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.); provided, however, that agreements regarding shared services that are otherwise regulated by statute, rule, or regulation are specifically excluded from sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

(3) The board is authorized to render a decision in the determination of the statutory basis under which a specific shared service is governed.

b. Any agreement entered into pursuant to this section shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs, pursuant to rules and regulations promulgated by the director.

C.40A:65-5 Adoption of resolution to enter into agreement.

5. a. A local unit authorized to enter into an agreement under section 4 of P.L.2007, c.63 (C.40A:65-4) may do so by the adoption of a resolution. A resolution adopted pursuant to this section or subsection b. of that section shall clearly identify the agreement by reference and need not set forth the terms of the agreement in full.

b. A copy of the agreement shall be open to public inspection at the offices of the local unit immediately after passage of a resolution to become a party to the agreement.

c. The agreement shall take effect upon the adoption of appropriate resolutions by all the parties thereto, and execution of agreements authorized thereunder as set forth in the agreement.

C.40A:65-6 Local units sharing services, designation of primary employer; rules, regulations.

6. a. In the case of an agreement for the provision of services by an officer or employee of a local unit who is required to comply with a State license or certification requirement as a condition of employment, the agreement 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. If the agreement fails to designate one of the local units as the primary employer, then the local unit having the largest population, shall be deemed the primary employer for the purposes of that person's tenure rights.

b. A State department or agency with oversight over specific activities that are the subject of a shared service agreement may promulgate whatever rules and regulations it deems necessary to ensure that the service continues to be provided in accordance with the requirements of that department or agency.

C.40A:65-7 Specific services delineated in agreement; conditions.

7. a. An agreement made pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4) shall specify:

(1) the specific services to be performed by one or more of the parties as agent for any other party or parties;

(2) standards of the level, quality, and scope of performance, with assignment and allocation of responsibility for meeting those standards between or among the parties;

(3) the estimated cost of the services throughout the duration of the agreement, with allocation of those costs to the parties, in dollar amounts or by formula, including a time schedule for periodic payment of installments for those allocations. The specification may

provide for the periodic modification of estimates or formulas contained therein in the light of actual experience and in accordance with procedures to be specified in the agreement;

(4) the duration of the agreement, which shall be 10 years, unless otherwise agreed upon by the parties; and

(5) the procedure for payments to be made under the contract.

b. In the case when all of the participating local units are municipalities, the agreement may provide that it shall not take effect until submitted to the voters of each municipality, and approved by a majority of the voters of each municipality voting at the referendum.

c. The agreement may provide for binding arbitration or for binding fact-finding procedures to settle any disputes or questions which may arise between the parties as to the interpretation of the terms of the agreement or the satisfactory performance by any of the parties of the services and other responsibilities required by the agreement.

d. For the purposes of sections 4 through 13 of P.L.2007, c.63 (C.40A:65-4 through C.40A:65-13), any party performing a service under a shared service agreement is the general agent of any other party on whose behalf that service is performed pursuant to the agreement, and that agent-party has full powers of performance and maintenance of the service contracted for, and full powers to undertake any ancillary operation reasonably necessary or convenient to carry out its duties, obligations and responsibilities under the agreement. These powers include all powers of enforcement and administrative regulation which are, or may be, exercised by the party on whose behalf the agent-party acts pursuant to the agreement, except as the powers are limited by the terms of the agreement itself, and except that no contracting party shall be liable for any part or share of the cost of acquiring, constructing, or maintaining any capital facility acquired or constructed by an agent-party unless that part or share is provided for in the agreement, or in an amendment thereto ratified by the contracting parties in the manner provided in sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) for entering into an agreement.

e. Except as the terms of any agreement may explicitly or by necessary implication provide, any party to an agreement entered into pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4) may enter into another agreement or agreements with any other eligible parties for the performance of any service or services pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.). The participation in one agreement shall not bar participation with the same or other parties in any other agreement.

f. Payment for services performed pursuant to an agreement shall be made by and to the parties, and at such intervals, as shall be provided in the agreement.

g. In the event of any dispute as to the amount to be paid, the full amount to be paid as provided in subsection a. of this section shall be paid; but if through subsequent negotiation, arbitration or litigation the amount due shall be determined, agreed or adjudicated to be less than was actually so paid, then the party having received the payment shall forthwith repay the excess.

C.40A:65-8 Preservation of seniority, tenure, pension rights for law enforcement officers.

8. a. Whenever two or more local units enter into an agreement, pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4), for the shared provision of law enforcement services within their respective jurisdictions, the agreement shall recognize and preserve the seniority, tenure, and pension rights of every full-time law enforcement officer who is employed by each of the participating local units and who is in good standing at the time the ordinance authorizing the agreement is adopted, and none of those law enforcement officers shall be terminated, except for cause; provided, however, this provision shall not be construed to

prevent or prohibit a merged law enforcement entity from reducing force as provided by law for reasons of economy and efficiency.

b. To provide for the efficient administration and operation of the shared law enforcement services within the participating local units, the agreement may provide for the appointment of a chief of police or other chief law enforcement officer. In that case, the agreement shall identify the appropriate authority to whom the chief of police or other chief law enforcement officer reports and also shall provide that any person who is serving as the chief of police or other chief law enforcement officer in one of the participating local units at the time the contract is adopted may elect either:

(1) to accept a demotion of no more than one rank without any loss of seniority rights, impairment of tenure, or pension rights; or

(2) to retire from service.

A person who elects retirement shall not be demoted, but shall retain the rank of chief of police or other chief law enforcement officer and shall be given terminal leave for a period of one month for each five-year period of past service as a law enforcement officer with a participating local unit. During the terminal leave, the person shall continue to receive full compensation and shall be entitled to all benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

c. Whenever the participating local units have adopted or are deemed to have adopted Title 11A, Civil Service, of the New Jersey Statutes with regard to the provision of law enforcement services, and the agreement provides for the appointment of a chief of police or other chief law enforcement officer, the position of chief of police or other chief law enforcement officer shall be in the career service.

C.40A:65-9 Awarding of public contracts.

9. If any local unit performs a service on behalf of one or more other local units that are parties to an agreement that utilizes a private contractor to perform all or most of that service, or all or most of a specific and separate segment of that service, then that local unit shall award the contract for the work to be performed by a private contractor under the agreement in accordance with the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

C.40A:65-10 Approval of award of contract.

10. In the event that any authority, board, commission, district, joint meeting, or other body created by one or more local units proposes to enter into a contract under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), whereby that entity agrees to have performed on its behalf services, the cost of which shall equal one-half or more of the total costs of the services being performed by that entity immediately prior to the adoption of the proposed contract, then the contract shall require approval by resolution of the governing body of each local unit which created the entity or which has become a participant therein subsequent to its creation.

C.40A:65-11 Employment reconciliation plan included in agreement; conditions.

11. a. When a local unit contracts, through a shared service or joint meeting, to have another local unit or a joint meeting provide a service it is currently providing using public employees and one or more of the local units have adopted Title 11A, Civil Service, then the agreement shall include an employment reconciliation plan in accordance with this section that and, if one or more of the local units have adopted Title 11A, Civil Service, shall

specifically set forth the intended jurisdiction of the Department of Personnel. An employment reconciliation plan shall be subject to the following provisions:

(1) a determination of those employees, if any, that shall be transferred to the providing local unit, retained by the recipient local unit, or terminated from employment for reasons of economy or efficiency, subject to the provisions of any existing collective bargaining agreements within the local units.

(2) any employee terminated for reasons of economy or efficiency by the local unit providing the service under the shared service agreement shall be given a terminal leave payment of not less than a period of one month for each five-year period of past service as an employee with the local unit, or other enhanced benefits that may be provided or negotiated. For the purposes of this paragraph, "terminal leave payment" means a single, lump sum payment, paid at termination, calculated using the regular base salary at the time of termination. Unless otherwise negotiated or provided by the employer, a terminal leave benefit shall not include extended payment, or payment for retroactive salary increases, bonuses, overtime, longevity, sick leave, accrued vacation or other time benefit, or any other benefit.

(3) the Department of Personnel shall place any employee that has permanent status pursuant to Title 11A, Civil Service, of the New Jersey Statutes that is terminated for reasons of economy or efficiency at any time by either local unit on a special reemployment list for any civil service employer within the county of the agreement or any political subdivision therein.

(4) when a proposed shared service agreement affects employees in local units subject to Title 11A, Civil Service, of the New Jersey Statutes, an employment reconciliation plan shall be filed with the Department of Personnel prior to the approval of the shared service agreement. The department shall review it for consistency with this section within 45 days of receipt and it shall be deemed approved, subject to approval of the shared service agreement by the end of that time, unless the department has responded with a denial or conditions that must be met in order for it to be approved.

(5) when an action is required of the Department of Personnel by this section, parties to a planned shared service agreement may consult with that department in advance of the action and the department shall provide such technical support as may be necessary to assist in the preparation of an employment reconciliation plan or any other action required of the department by this section.

b. If all the local units that are parties to the agreement are subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the Department of Personnel shall create an implementation plan for the agreement that will: (1) transfer employees with current status in current title unless reclassified, or (2) reclassify employees into job titles that best reflect the work to be performed. The Department of Personnel shall review whether any existing hiring or promotional lists should be merged, inactivated, or re-announced. Non-transferred employees shall be removed or suspended only for good cause and after the opportunity for a hearing before the Merit System Board; provided, however, that they may be laid-off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

c. If the local unit that will provide the service pursuant to a shared service agreement is subject to Title 11A, Civil Service, of the New Jersey Statutes, but the local unit to receive the service is not subject to that Title, and the contracting local units desire that some or all

employees of the recipient local unit are to be transferred to the providing local unit, the Department of Personnel shall vest only those employees who have been employed for one year or more in permanent status pursuant to N.J.S.11A:9-9 in appropriate titles, seniority, and tenure with the providing local unit based on the duties of the position. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

d. If the local unit that will provide the service is not subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, but the local unit that will receive the service is subject to that Title and the parties desire that some or all employees of the recipient local unit are to be transferred to the providing local unit, the transferred employees shall be granted tenure in office and shall only be removed or suspended for good cause and after a hearing; provided, however, that they may be laid-off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The transferred employees shall be subject to layoff procedures prior to the transfer to the new entity. Once transferred, they will be subject to any employment contracts and provisions that exist for the new entity. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

C.40A:65-12 Provision of technical advice by Public Employment Relations Commission.

12. The Public Employment Relations Commission is specifically authorized to provide technical advice, pursuant to section 12 of P.L.1968, c.303 (C.34:13A-8.3), and mediation services to integrate separate labor agreements into single agreements for the shared service agreement. The commission may order binding arbitration, pursuant to P.L.1995, c.425 (C.34:13A-14a et al.), to integrate any labor agreement.

C.40A:65-13 Construction of power to share services.

13. It is the intent of the Legislature to facilitate and promote shared service agreements, and therefore the grant of power under sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35) is intended to be as broad as is consistent with general law.

SUBARTICLE C. JOINT MEETINGS

C.40A:65-14 Joint contract for joint meeting for public services.

14. a. The governing bodies of any two or more local units may enter into a joint contract, for a period not to exceed 40 years, to provide for the formation of a joint meeting for the joint operation of any public services, public improvements, works, facilities, or undertakings which the local units are empowered to operate. The contract shall be entered into in accordance with the procedures set forth in subsection b. of section 16 of this bill.

b. A joint contract may provide for joint services for any services which any contracting local unit, on whose behalf those services are to be performed, is legally authorized to provide for itself. Those services include, but are not limited to, general government administration, health, police and fire protection, code enforcement, assessment and collection of taxes, financial administration, environmental protection, joint municipal courts, and youth, senior citizens and social welfare programs.

c. The joint contract shall set forth the public services, public improvements, works, facilities, or undertakings which the contracting local units desire to operate jointly, and shall

provide in general terms the manner in which the public services, public improvements, works, facilities or undertakings shall be jointly operated, and the respective duties and responsibilities of the contracting local units.

d. No joint contract pursuant to this section shall authorize the operation of any property or service defined as a "public utility" by R.S.48:2-13, except as may otherwise be provided by law.

C.40A:65-15 Joint meeting deemed public body corporate and politic; powers.

15. a. A joint meeting is a public body corporate and politic constituting a political subdivision of the State for the exercise of public and essential governmental functions to provide for the public health and welfare.

b. A joint meeting has the following powers and authority, which may be exercised by its management committee to the extent provided for in the joint contract:

(1) to sue and be sued;

(2) to acquire and hold real and personal property by deed, gift, grant, lease, purchase, condemnation or otherwise;

(3) to enter into any and all contracts or agreements and to execute any and all instruments;

(4) to do and perform any and all acts or things necessary, convenient or desirable for the purposes of the joint meeting or to carry out any powers expressly given in sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35);

(5) to sell real and personal property owned by the joint meeting at public sale;

(6) to operate all services, lands, public improvements, works, facilities or undertakings for the purposes and objects of the joint meeting;

(7) to enter into a contract or contracts providing for or relating to the use of its services, lands, public improvements, works, facilities or undertakings, or any part thereof, by local units who are not members of the joint meeting, and other persons, upon payment of charges therefor as fixed by the management committee;

(8) to receive whatever State or federal aid or grants that may be available for the purposes of the joint meeting and to make and perform any agreements and contracts that are necessary or convenient in connection with the application for, procurement, acceptance, or disposition of such State or federal aid or grants; and

(9) to acquire, maintain, use, and operate lands, public improvements, works, or facilities in any municipality in the State, except where the governing body of the municipality, by resolution adopted within 60 days after receipt of written notice of intention to so acquire, maintain, use, or operate, shall find that the same would adversely affect the governmental operations and functions and the exercise of the police powers of that municipality.

c. If the governing body of a municipality in which a joint meeting has applied for the location and erection of sewage treatment or solid waste disposal facilities refuses permission therefor, or fails to take final action upon the application within 60 days of its filing, the joint meeting may, at any time within 30 days following the date of such refusal or the date of expiration of the 60-day period, apply to the Department of Environmental Protection for relief. That department is authorized, after hearing the joint meeting and the interested municipality, to grant the application for the erection of the sewage treatment or disposal or solid waste treatment or disposal facilities, notwithstanding the refusal or failure to act of the municipal governing body, upon being satisfied that the topographical and other physical conditions existing in the local units comprising the joint meeting are such as to

make the erection of such facilities within its boundaries impracticable as an improvement for the benefit of the whole applying joint meeting.

C.40A:65-16 Provisions of joint contract.

16. a. The joint contract shall provide for the operation of the public services, public improvements, works, facilities, or undertakings of the joint meeting, for the apportionment of the costs and expenses of operation required therefor among the contracting local units, for the addition of other local units as members of the joint meeting, for the terms and conditions of continued participation and discontinuance of participation in the joint meeting by the contracting local units, and for such other terms and conditions as may be necessary or convenient for the purposes of the joint meeting. The apportionment of costs and expenses may be based upon assessed valuations, population, and such other factor or factors, or any combination thereof, as may be provided in the joint contract.

b. (1) Notwithstanding any law to the contrary concerning approval of contracts, the joint contract shall be subject to approval by resolution of the governing bodies of each of the local units prior to its execution by the official or officials who are authorized to execute a joint contract.

(2) The joint contract shall specify the name by which the joint meeting shall be known.

(3) The joint contract may be amended from time to time by agreement of the parties thereto, in the same manner as the original contract was authorized and approved.

(4) A copy of every resolution creating a joint meeting, and every amendment thereto, shall be forthwith filed with the director.

C.40A:65-17 Preservation of seniority, tenure, pension rights of law enforcement officers.

17. a. Whenever the governing bodies of two or more local units enter into a joint contract for the joint operation of law enforcement services within their respective jurisdictions, the contract shall recognize and preserve the seniority, tenure, and pension rights of every full-time law enforcement officer who is employed by each of the contracting local units and who is in good standing at the time the ordinance or resolution, as the case may be, authorizing the contract is adopted, and none of those law enforcement officers shall be terminated, except for cause; provided, however, this provision shall not be construed to prevent or prohibit a merged law enforcement entity from reducing force as provided by law for reasons of economy and efficiency.

b. (1) To provide for the efficient administration and operation of the joint law enforcement services within the participating local units, the joint contract may provide for the appointment of a chief of police or other chief law enforcement officer. In that case, the joint contract shall identify the appropriate authority to whom the chief of police or other chief law enforcement officer reports and also shall provide that any person who is serving as the chief of police or other chief law enforcement officer in one of the participating local units at the time the joint contract is adopted may elect either:

(a) to accept a demotion of no more than one rank without any loss of seniority rights, impairment of tenure, or pension rights; or

(b) to retire from service.

(2) Any person who elects retirement shall not be demoted but shall retain the rank of chief of police or other chief law enforcement officer and shall be given terminal leave for a period of one month for each five-year period of past service as a law enforcement officer with the participating local unit. During the terminal leave, the person shall continue to receive full compensation and shall be entitled to all benefits, including any increases in

compensation or benefits, that he may have been entitled to if he had remained on active duty.

c. Whenever the participating local units have adopted or are deemed to have adopted Title 11A, Civil Service, of the New Jersey Statutes with regard to the provision of law enforcement services, and the contract provides for the appointment of a chief of police or other chief law enforcement officer, the position of chief law enforcement officer shall be in the career service.

C.40A:65-18 Applicability of terms of existing labor contracts.

18. a. When a joint meeting merges bargaining units that have current contracts negotiated in accordance with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the terms and conditions of the existing contracts shall apply to the rights of the members of the respective bargaining units until a new contract is negotiated, reduced to writing, and signed by the parties as provided pursuant to law and regulation promulgated thereunder.

b. The Public Employment Relations Commission is specifically authorized to provide technical advice, pursuant to section 12 of P.L.1968, c.303 (C.34:13A-8.3), and mediation services to integrate separate labor agreements into single agreements for the joint contract. The commission may order binding arbitration, pursuant to P.L.1995, c.425 (C.34:13A-14a et al.), to integrate any labor agreement.

C.40A:65-19 Employment reconciliation plan; provisions.

19. a. When a local unit agrees to participate in a joint meeting that will provide a service that the local unit is currently providing itself through public employees, the agreement shall include an employment reconciliation plan in accordance with this section. An employment reconciliation plan shall be subject to the following provisions:

(1) a determination of those employees, if any, that shall be transferred to the joint meeting, retained by the contracting local unit, or terminated from employment for reasons of economy or efficiency subject to the provisions of any collective bargaining agreements within the local units.

(2) any employee terminated for reasons of economy or efficiency by the contracting local unit providing the service or by the joint meeting shall be given a terminal leave payment of not less than a period of one month for each five-year period of past service as an employee with the local unit, or other enhanced benefits that may be provided or negotiated. Unless otherwise negotiated or provided by the employer, a terminal leave benefit shall not include extended payment, or payment for retroactive salary increases, bonuses, overtime, longevity, sick leave, accrued vacation or other time benefit, or any other benefit.

(3) the Department of Personnel shall place any employee that has permanent status pursuant to Title 11A, Civil Service, of the New Jersey Statutes that is terminated for reasons of economy or efficiency at any time by either local unit on a special reemployment list for any civil service employer within the county of the agreement or any political subdivision therein.

(4) when a proposed joint contract affects employees in local units that operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, an employment reconciliation plan shall be filed with the Department of Personnel prior to the approval of the joint meeting agreement. That department shall review the plan for consistency with this section within 45 days of receipt and it shall be deemed approved, subject to approval of the

joint meeting agreement by the end of that time, unless that department has responded with a denial or conditions that must be met in order for it to be approved.

(5) when an action is required of the Department of Personnel by this section, parties to a proposed joint contract may consult with the department in advance of the action and the department shall provide such technical support as may be necessary to assist in the preparation of an employment reconciliation plan or any other action required of the department by this section.

b. If both the local unit and joint meeting operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the Department of Personnel shall create an implementation plan for employees to be hired by the joint meeting that will: (1) transfer employees with current status in current title unless reclassified or (2) reclassify employees, if necessary, into job titles that best reflect the work to be performed. The Department of Personnel shall review whether any existing hiring or promotional lists should be merged, inactivated, or re-announced. Non-transferred employees shall be removed or suspended only for good cause and after the opportunity for a hearing before the Merit System Board; provided, however, that they may be laid-off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

c. If the joint meeting operates under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, and a local unit receiving the service is not subject to that Title, and the parties desire that some or all employees of the local unit be transferred to the joint meeting, the Department of Personnel shall vest only those employees who have been employed one year or more in permanent status pursuant to N.J.S.40A:9-9 in appropriate titles, seniority, and tenure with the providing local unit based on the duties of the position. The final decision of which employees shall transfer to the new employer is vested solely with the joint meeting and subject to the agreements affecting the parties, provided that those agreements do not conflict with the provisions of any existing collective bargaining agreements within the local units.

d. (1) If the joint meeting does not operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, and the local unit receiving the service is subject to that Title, and the parties desire that some or all employees of the recipient local unit are to be transferred to the joint meeting, then the transferred employees shall be granted tenure in office and shall be removed or suspended only for good cause and after a hearing. The transferred employees shall be subject to layoff procedures prior to the transfer to the new entity. Once transferred, they will be subject to any employment contracts and provisions that exist for the new entity. The final decision of which employees shall transfer to the joint meeting is vested solely with the joint meeting and subject to the provisions of any existing collective bargaining agreements within the local units.

(2) A joint meeting established after the effective date of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) that affects both employees in local units subject to Title 11A, Civil Service, of the New Jersey Statutes and employees in local units not subject to that Title, shall determine whether the employees of the joint meeting shall be subject to the Title. If the joint meeting determines that the employees shall not be subject to Title 11A, Civil Service, of the New Jersey Statutes, then the employees from the local units in which the Title is in effect shall have the same rights as employees transferred pursuant to paragraph (1) of this subsection.

C.40A:65-20 Constitution, appointment of management committee.

20. a. The joint contract shall provide for the constitution and appointment of a management committee to consist of at least three members, of which one shall be appointed by the governing body of each of the local units executing the joint contract. The members shall be residents of the appointing local unit, except that a member who is the chief financial officer, business administrator, municipal administrator, or municipal manager of the local unit making the appointment need not be a resident of the appointing local unit. The appointees may or may not be members of the appointing governing body. Each member of the management committee shall hold office for the term of one year and until the member's successor has been appointed and qualified. In the event that there is an even number of local units that are parties to the joint contract, the management committee shall consist of one member appointed by each of the governing bodies and one member selected by the two other appointed members.

b. The management committee shall elect annually from among its members a chair to preside over its meetings. The management committee may appoint such other officers and employees, including counsel, who need not be members of the management committee or members of the governing bodies or employees or residents of the local units, as it may deem necessary. The employees appointed by the management committee shall hold office for such term not exceeding four years as may be provided by the joint contract. The management committee shall adopt rules and regulations to provide for the conduct of its meetings and the duties and powers of the chairman and such other officers and employees as may be appointed. All actions of the management committee shall be by vote of the majority of the entire membership of the committee, except for those matters for which the contract requires a greater number, and shall be binding on all local units who have executed the joint contract. The management committee shall exercise all of the powers of the joint meeting subject to the provisions of the joint contract.

The joint contract may provide for the delegation of the administration of any or all of the services, lands, public improvements, works, facilities or undertakings of the joint meeting to the governing body of any one of the several contracting local units, in which event such governing body shall have and exercise all of the powers and authority of the management committee with respect to such delegated functions.

C.40A:65-21 Apportionment of operating costs by management committee.

21. The cost of acquiring, constructing, and operating any public improvements, works, facilities, services, or undertakings, or any part thereof, as determined by the management committee, shall be apportioned among the participating local units as provided by the joint contract. Each local unit shall have power to raise and appropriate the funds necessary therefor in the same manner and to the same extent as the local unit would have if it were acquiring and constructing the same for itself, including the power to authorize and issue bonds or other obligations pursuant to the "Local Bond Law," N.J.S.40A:2-1 et seq. The management committee shall certify to the participating local units the cost of the acquisition or construction, as well as the apportioned shares thereof, within 15 days after its action thereon.

C.40A:65-22 Certification of costs and expenses by management committee.

22. The management committee, not later than November 1 of each year, shall certify to the participating local units the total costs and expenses of operation, other than acquisition

and construction costs, of the services, public improvements, works, facilities, or undertakings for the ensuing year, in accordance with the terms and provisions of the joint contract, together with an apportionment of the costs and expenses of operation among the participating local units in accordance with the method of apportionment provided in the joint contract. It shall be the duty of each participating local unit to include its apportioned share of such costs and expenses of operation in its annual budget, and to pay over to the management committee its apportioned share as provided in the joint contract. Operations under the budget and related matters shall be subject to and in accordance with rules of the Local Finance Board or the Commissioner of Education, as appropriate. The Local Finance Board shall be responsible for the determination of the appropriate rule-making authority with regard to each joint contract. For the first year of operation under the joint contract, a participating local unit may adopt a supplemental or emergency appropriation for the purpose of paying its apportioned share of the costs and expenses of operation, if provision therefor has not been made in the annual budget.

C.40A:65-23 Termination of joint contract.

23. The joint contract shall be terminated upon the adoption of a resolution to that effect by the governing bodies of two-thirds of the local units then participating; except that if only two local units are then participating, adoption of a resolution by both units shall be required to terminate the contract. The termination shall not be made effective earlier than the end of the fiscal year next succeeding the fiscal year in which the last of the required number of local units adopts its termination resolution

C.40A:65-24 Existing joint meeting, public school jointure unaffected.

24. Any joint meeting or public school jointure formed under a previous law is continued and shall be governed under the provisions of sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35).

SUBARTICLE D. LOCAL OPTION MUNICIPAL CONSOLIDATION

C.40A:65-25 Findings, declarations relative to municipal consolidation.

25. a. The Legislature finds and declares that in order to encourage municipalities to increase efficiency through municipal consolidation for the purpose of reducing expenses borne by their property taxpayers, more flexible options need to be available to the elected municipal officials and voters than are available through the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).

b. (1) In lieu of the procedures set forth in the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), the governing bodies from two or more contiguous municipalities may apply to the board for either:

(a) approval of a plan to consolidate their municipalities; or

(b) creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section.

(2) A representative committee of registered voters from two or more contiguous municipalities may petition the board for the creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section. The petition, to be sufficient, shall be signed by the registered and qualified voters of the municipalities in a number at least equal to 10% of the total votes cast in those municipalities at the last preceding general election at which members of the General Assembly were elected.

(3) The board shall provide application forms and technical assistance to any governing bodies or voters desiring to apply to the board for approval of a consolidation plan or the creation of a Municipal Consolidation Study Commission.

(4) A consolidation commission established pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) may apply to the Local Finance Board for approval to use the provisions of section 25 through 29 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29).

c. An application to create a Municipal Consolidation Study Commission shall propose a process to study the feasibility of consolidating the participating municipalities into a single new municipality or merging one into the other. The application shall include provisions for:

(1) the means of selection and qualifications of study commissioners;

(2) the timeframe for the study, which shall be no more than three years, along with key events and deadlines, including time for review of the report by State agencies, which review shall be no less than three months;

(3) whether a preliminary report shall be issued in addition to the final report;

(4) whether the development of a consolidation implementation plan will be a part of the study;

(5) the means for any proposed consolidation plan to be approved; either by voter referendum, by the governing bodies, or both; and

(6) if proposed by a representative group of voters, justification of that group's standing to serve as the community advocate for the consolidation proposal.

d. (1) An application to the board for consideration of a consolidation plan or to create a Municipal Consolidation Study Commission shall be subject to a public hearing within each municipality to be studied, and a joint public hearing in a place that is easily accessible to the residents of both or all of the municipalities.

(2) The public hearings shall be facilitated by the board and conducted in accordance with the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

(3) After approval of a plan by the board, it may be amended upon petition to the board by the applicant. Based on the nature of the amendment, the board may decide to hold a public hearing in any of the municipalities affected by the plan, or at a regular meeting, or both.

e. Every Municipal Consolidation Study Commission shall include a representative of the Department of Community Affairs as a non-voting representative on the commission. The representative shall not be a resident of a municipality participating in the study. The department shall prepare an objective fiscal study of the fiscal aspects of a consolidation and shall provide it to the commission in a timely manner.

f. If the consolidation would include the consolidation of boards of education, a person appointed by the Commissioner of Education shall serve as a non-voting member of that Municipal Consolidation Study Commission. The representative of the Commissioner of Education shall not be a resident of a community participating in the study. The county superintendent of schools shall conduct a study on the impact of consolidation on the educational system and its finances. The report shall be provided to the commission in a timely manner.

g. There shall be no more than one of either a consolidation plan study, a Municipal Consolidation Study Commission, or a joint municipal consolidation created under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active in a single

municipality at the same time. In the event that more than one application is filed with the board or is being considered by the governing bodies while another action affecting the same municipality or municipalities is under consideration, the board shall consider the applications and shall join any proposed creation of a joint municipal consolidation together and approve only one action as the board deems to be in the public interest. Prior to approving a single action, the board shall hold a public hearing permitting all parties to present testimony on the merits of their action in relation to the other proposals. Once an action is approved by the board, another action from the same combination of municipalities shall not be approved for at least five years.

h. In considering its decisions under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), the Local Finance Board and any other State agency shall take into account local conditions, the reasonableness of proposed decisions, and the facilitation of the consolidation process in making decisions concerning consolidation.

C.40A:65-26 Required information included in Municipal Consolidation Study Commission reports.

26. a. A consolidation plan or report of a Municipal Consolidation Study Commission shall include the provisions of sections 16 and 24 of P.L.1977, c.435 (C.40:43-66.50 and 40:43-66.58), insofar as they are consistent with the provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.). In addition, a consolidation plan shall address the following implementation issues:

- (1) a timetable for implementing the consolidation plan;
- (2) duplicate positions, including those held by tenured, certified officers, listing those positions proposed to be abolished for reasons of economy, efficiency or other good cause and listing those positions proposed to be merged; and
- (3) applicability of the provisions of Title 11A, Civil Service, of the New Jersey Statutes, if Title 11A has been adopted by one or more consolidating municipalities.

b. The following policies may be considered and implemented under an application for approval of a consolidation plan, and may be included as part of a study under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), or as part of a study conducted by a Municipal Consolidation Study Commission pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.):

- (1) creation of a consolidation implementation plan to establish a timetable of significant events and goals to be achieved as part of a consolidation study;
- (2) a phase-in of a consolidation over a fixed period of time. Such a plan shall be subject to review and approval of the Local Finance Board prior to it being approved by the governing bodies or subject to voter referendum;
- (3) variations from existing State law or State department rules that may not have anticipated a phase-in or consolidation of services. When variations are proposed, they shall be submitted to the board which shall refer it to the agency with oversight responsibility. After due consideration, the referee agency is empowered to waive such law or rules if a waiver is found reasonable to further the process of consolidation. Where no such agency exists, the Commissioner of Community Affairs shall act on behalf of the State. These requests shall be acted on within 45 days of their receipt by an agency, and they shall be deemed approved, subject to approval of a consolidation proposal by the municipalities, by the end of that time unless the agency has responded with a denial, conditions that must be met in order for it to be approved, or an alternative approach to resolving the matter;

(4) the use of advisory planning districts, comprised of residents living in the former territories of each former municipality, to provide advice to the planning board and the zoning board of adjustment on applications and master plan changes affecting those areas. A consolidation study plan shall specify the types and nature of the development and zoning applications that the advisory planning districts shall review and the official boards shall be required to respond, at a public meeting, to each suggestion made by an advisory planning district;

(5) the establishment of service districts comprised of the boundaries of any or all of the former municipalities which may be used to allocate resources and used for official geographic references in the new municipality;

(6) the continued use of boundary lines of any or all of the former municipalities to continue local ordinances that existed prior to consolidation that the governing body deems necessary and appropriate. The need for any such differentiation shall be reviewed by the governing body at least every five years and shall only be continued upon the affirmative vote of the full membership of the governing body, and if such continuance fails, the governing body shall then adopt uniform policies for the entire area; and

(7) the apportionment of existing debt between the taxpayers of the consolidating municipalities, including whether existing debt should be apportioned in the same manner as debt within special taxing districts so that the taxpayers of each consolidating municipality will continue to be responsible for their own pre-consolidation debts.

c. When one of the municipalities is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the question of whether the new municipality shall be subject to the provisions of that Title shall be the subject of a public referendum before all of the voters of the consolidating municipalities. Upon the approval by a majority of those voting, regardless of their municipality of residence, the new municipality shall be subject to the provisions of that Title.

C.40A:65-27 Creation of task force to facilitate consolidation.

27. a. Once a consolidation has been approved by the affected municipal governing bodies or voters, the division shall create a task force of State departments, offices and agencies, as it deems appropriate, and representatives of affected negotiations units, to facilitate the consolidation and provide technical assistance.

b. When a consolidation plan provides that the consolidated municipality will be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes the Department of Personnel is specifically authorized to create a consolidation implementation plan to vest non-civil service employees, based on the education and experience of the individuals, in appropriate titles and tenure.

c. Whenever a referendum question to decide if a consolidated municipality shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes fails, the employees of a municipality already subject to that Title shall be given non-civil service titles in the new entity and previously held tenure shall be vacated.

d. The Public Employment Relations Commission is authorized to provide technical advice, pursuant to section 12 of P.L.1968, c.303 (C.34:13A-8.3), to assist a new municipality and existing labor unions to integrate separate labor agreements into consolidated agreements and to adjust the structure of collective negotiations units, as the commission determines appropriate for the consolidated municipality.

C.40A:65-28 Equalization of property assessments for apportionment of taxes.

28. a. If a revaluation of property for the consolidated municipality is not implemented for the first local budget year of the consolidated municipality, then the assessments on the properties owned by the taxpayers of the former municipalities shall be equalized for the apportionment of taxes for the consolidated municipality, in the same manner as assessments are equalized for the apportionment of county taxes.

b. The owners of any residential property or residential tenants of any municipality consolidated under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), who experience a municipal or school district purposes real property tax increase in the first tax year following the municipal consolidation shall be entitled to annual property tax relief until such time as they sell or transfer their home or no longer reside as tenants in the rental unit they occupied just prior to the municipal consolidation. In the case of the owner of residential property, the property tax relief shall be reflected as a credit on the property tax bill equal to the difference between the municipal and school district purposes real property tax payable by the taxpayer for the tax year, subject to any adjustment as determined necessary by the Director of the Division of Local Government Services in the Department of Community Affairs to reflect operating budgets for a normal pre-consolidated fiscal year, and the municipal and school district purposes real property tax billed to that taxpayer for the tax year during which the consolidation is effectuated, as may be adjusted by the Director of the Division of Local Government Services in the Department of Community Affairs to reflect normal post-consolidation operating budgets for the municipalities and school districts. In the case of a residential tenant, the tax credit applied to an apartment property shall be distributed to eligible tenants pursuant to the provisions of the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2 et seq.) and this section. The total of all such relief in the municipality shall be paid by the State to the municipality on a schedule determined by the Local Finance Board. For the purpose of this subsection, a "normal" budget year shall be one that, in the determination of the director, does not reflect expenses made in anticipation of, or in implementation of, a municipal consolidation.

C.40A:65-29 Construction of law on consolidation appeals.

29. The provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) shall be liberally construed to effectuate the intention of sections 25 through 28 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-28). The board is empowered to act to provide guidance, interpretation, and to resolve disputes regarding these sections or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.). Decisions of the board may be appealed directly to the Appellate Division of the Superior Court.

SUBARTICLE E. SHARING AVAILABLE RESOURCES EFFICIENTLY PROGRAM

C.40A:65-30 "Sharing Available Resources Efficiently" (SHARE) program established.

30. a. A local unit that plans to study the feasibility of a shared service agreement, joint meeting contract, or municipal consolidation may apply to the director for grants or loans to fund the study, including consultant costs, and to fund one-time start-up costs of a shared service agreement or joint meeting contract or municipal consolidation. The director, in consultation with the Commissioner of Education, shall establish a program to be known as the "Sharing Available Resources Efficiently" program, or "SHARE," to accomplish this purpose, and, in consultation with the commissioner, shall promulgate rules and regulations necessary to effectuate the purposes of the program.

b. The director, in consultation with the commissioner, shall provide guidelines and procedures for the submission of SHARE grant and loan applications.

c. Applications for shared service study funds:

(1) May require such local match of funds, as is determined by the director for the studies if the director finds that the local unit is financially capable of providing such matching funds.

(2) Shall not require a local match of funds for consolidation studies under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).

(3) Grants for implementation of shared services may include financial assistance for terminal leave benefits, but not for early retirement incentives related to pension contributions.

d. Applications for one-time start-up costs shall provide that:

(1) Local units may apply for financial assistance for the one-time start-up costs necessary to implement shared services. Costs that may be financed through the issuance of debt or capital lease agreements shall be excluded from this program.

(2) The director may set limits on aid awards and negotiate the various provisions, costs, payment provisions, and amounts of grants or loans to ensure that the shared service is cost effective and in the public interest. Financial assistance for costs associated with terminal leave benefits shall be limited to the lesser of the officer or employee's regular base rate of compensation that is paid for the terminal leave benefit pursuant to an applicable employment contract, local practice, local ordinance, or State law.

e. The director may provide technical support programs to assist local units in applying for grants or aid for studying shared services.

C.40A:65-31 "Sharing Available Resources Efficiently" account.

31. There is created a "Sharing Available Resources Efficiently" account within the Property Tax Relief Fund as a non-lapsing revolving account which shall receive moneys as may be credited to it from the Property Tax Relief Fund, the repayments of loans made from the account, and any other funds as may be appropriated to the account from time to time. Moneys in the account shall be appropriated for the purposes of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

SUBARTICLE F. VOTER PARTICIPATION TO IDENTIFY SHARED SERVICES AND OTHER COST-SAVING OPPORTUNITIES

C.40A:65-32 Adoption of resolution authorizing certain referenda for citizen's commission.

32. The governing body of a municipality may adopt, at any regular meeting, a resolution requesting the clerk of the county to print upon the official ballots to be used at the next ensuing regular or general election, as appropriate, a certain proposition to authorize the creation of a citizen's commission, consisting of members of the governing body, appropriate municipal officials such as the municipal purchasing agent, and at least an equal number of residents of the municipality, and to identify and implement shared service, joint meeting, or consolidation opportunities for the municipality. The proposition shall be formulated and expressed in the resolution in concise form and filed with the clerk of the county not later than 74 days previous to the election. If approved by a majority of those voting at the election, the proposition shall be binding and shall constitute the authority for the governing

body to appoint members to the citizen's commission and provide resources as it deems necessary.

SUBARTICLE G. MISCELLANEOUS

C.40A:65-33 Existing agreements, contracts continued.

33. Any shared service agreement, joint contract for a joint meeting, or agreement to regionalize or consolidate services in existence at the time of enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) are continued pursuant to the law in effect at the time that the agreement or contract was executed; provided, however, that any renewals shall be in accordance with the provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

C.40A:65-34 PERC rules, regulations, fee schedule, grievances, appeals.

34. a. Any shared service or joint meeting agreement or municipal consolidation shall be deemed in furtherance of the public good and presumed valid, subject to a rebuttable presumption of good faith on the part of the governing bodies entering into the agreement.

b. With regard to any responsibilities assigned to the Public Employment Relations Commission pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.):

(1) The commission may promulgate rules or regulations to effectuate the purposes of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

(2) The commission may establish a fee schedule to cover the costs of effectuating its services; provided, however, that the fees so assessed shall not exceed the commission's actual cost of effectuating those provisions.

(3) Within 14 days of receiving a decision, a party aggrieved by a decision of a mediator or arbitrator assigned by the commission may file notice of an appeal of an award to the commission. In deciding an appeal, the commission, pursuant to rule and regulation and upon petition, may afford the parties the opportunity to present oral arguments. The commission may affirm, modify, correct or vacate the award or may, at its discretion, remand the award to the same arbitrator or to another arbitrator, selected by lot, for reconsideration. An aggrieved party may appeal a decision of the commission to the Appellate Division of the Superior Court.

SUBARTICLE H. REPEALER

C.40A:65-35 Repealer.

35. The following sections of law are repealed:

N.J.S.11A:9-8;

N.J.S.18A:46-25 through 18A:46-28;

R.S.27:14-33 through 27:14-34;

Section 12 of P.L.1947, c.62 (C.27:15-1.11);

R.S.27:16-22;

R.S.27:16-24;

R.S.27:16-40;

R.S.27:16-69 and 27:16-70;

R.S.27:16-72 through 27:16-76;

R.S.27:19-8;

R.S.27:19-38;

R.S.27:20-2 through 27:20-4;

R.S.27:22-1 through 27:22-9;

R.S.27:22-11;

Section 1 of P.L.1952, c.120 (C.40:5-2.9);

Sections 1 through 9, 19, and 20 of P.L.1973, c.208 (C.40:8A-1 through 40:8A-11);

Section 2 of P.L.1992, c.145 (C.40:8A-6.1);

Sections 1 through 5 of P.L.1999, c.60 (C.40:8B-14 through 40:8B-18);

Sections 1 through 11 of P.L.1952, c.72 (C.40:48B-1 through 40:48B-11);

Sections 8 and 9 of P.L.1960, c.3 (C.40:48B-12 and 40:48B-13);

Sections 1 and 2 of P.L.1951, c.102 (C.40:54-29.1 and 40:54-29.2);

Sections 1 through 4 of P.L.1958, c.147 (C.40:60-25.47 through 40:60-25.50);

Sections 1 through 4 of P.L.1964, c.185 (C.40:61-35.1 through 40:61-35.4);

R.S.40:67-24 and 40:67-25; and

R.S.40:67-36 through 40:67-46.

36. N.J.S.18A:17-14.1 is amended to read as follows:

18A:17-14.1 Appointment of school business administrator; duties; subcontracting; tenure acquisition.

1. A board or the boards of two or more districts may, under rules and regulations prescribed by the State board, appoint a school business administrator by a majority vote of all the members of the board, define his duties, which may include serving as secretary of one of the boards, and fix his salary, whenever the necessity for such appointment shall have been agreed to by the county superintendent of schools or the county superintendents of schools of the counties in which the districts are situate and approved by the commissioner and the State board.

Nothing in P.L.1996, c.111 (C.18A:17-24.1 et al.) shall prohibit a school district from subcontracting its school business administrator to another school district pursuant to the provisions of P.L.1973, c.208 (C.40:8A-1 et al.), in which case credit toward tenure acquisition shall accrue only in the primary district of employment.

37. Sections 1 through 36 of P.L.2007, c.63 (C.40A:65-1 et al.) shall take effect immediately, but section 35 shall remain inoperative until the first day of the seventh month next following enactment.

ARTICLE 2. USER-FRIENDLY BUDGETS

38. N.J.S.40A:4-10 is amended to read as follows:

Adoption of budget; copies; public inspection.

40A:4-10. No budget or amendment thereof shall be adopted unless the director shall have previously certified his approval thereof. Final adoption shall be by resolution adopted by a majority of the full membership of the governing body, and may be by title where the procedures required by N.J.S.40A:4-8 and N.J.S.40A:4-9 or section 12 of P.L.1995, c.259 (C.40A:4-6.1), as applicable, have been followed.

The budget shall be adopted in the case of a county not later than February 25, and in the case of a municipality not later than March 20 of the calendar fiscal year or September 20 of the State fiscal year, except that the governing body may adopt the budget at any time within

10 days after the director shall have certified his approval thereof and returned the same, if such certification shall be later than the date of the advertised hearing.

If, in the case of a municipality which operates on the State fiscal year, the governing body fails to adopt the budget within the permitted time, the chief financial officer of the local unit shall so notify the director the next working day after the expiration of the permitted time.

Copies of the budget, as adopted, in such form and in such quantity as determined by the Local Finance Board, shall be transmitted to the director, and made available in print for public inspection at the local library, within three days after adoption.

Upon adoption, the budget shall constitute an appropriation for the purposes stated therein and an authorization of the amount to be raised by taxation for the purposes of the local unit.

The adopted budget shall be provided for public inspection on the local unit's website, if one exists, and made available online and in print as required by this section in a "user-friendly" summary format using plain language. The Local Finance Board shall promulgate a "user-friendly," plain language summary format for use by local units for this purpose pursuant to section 39 of P.L.2007, c.63 (C.40A:5-48).

C.40A:5-48 "User-friendly," plain language budget summary forms.

39. a. The Local Finance Board shall promulgate "user-friendly," plain language budget summary forms for the use of counties, municipalities, local authorities, and fire districts. The board shall also promulgate a procedure for the submission by each of these local government units of the required budget summary form to the Division of Local Government Services in the Department of Community Affairs following the adoption of the annual budget.

b. The plain language budget summary shall provide the public with information in summary form about the budget of the local unit and shall include, in addition to an abbreviated version of the formal budget adopted by the local unit, such statistical information as the board determines to be useful for the public's understanding of the local unit's fiscal matters and condition, and shall also include, but shall not be limited to the following information, for both the local unit's current budget year and the previous budget year, as the Local Finance Board determines appropriate to the local unit: all line items of appropriation aggregated by service type; the property tax rate; the property tax collection rate; the assessed value and taxable value of all real property located in the local unit; the amount of bonded indebtedness of the local unit; revenues by major category; description of unusual revenues or appropriations, with a description of the circumstances of the revenues or appropriations; a list of shared service agreements in which the local unit is participating; and the number and amount of outstanding long-term tax exemptions and abatements, and the amount of revenue derived therefrom.

c. The plain language budget summary shall be submitted to the division in such form as determined by the Local Finance Board, and, upon its receipt of the summary, the division shall make the summary available to the public through an Internet website maintained by the division. The information on the website shall be presented as data that can be downloaded by the public for comparative purposes using commonly-used software.

C.40A:5-49 Public meeting when resolution proposed to establish, modify employee compensation.

40. Whenever the governing body of a local unit proposes a resolution, or other action that will establish or modify the salaries, benefits, or other compensation of any individual

employee or group of its employees, that measure shall only be taken after the local unit first holds a public meeting where the proposed action shall be introduced and discussed by the governing body. Notice of the date, time, place, and purpose of the public meeting, and of the time and place at which a copy of the proposed measure, together with the employee compensation disclosure form required to be prepared pursuant to this section, shall be available to each person requesting it, at no charge, during the week preceding such public meeting. The public meeting shall be advertised in a newspaper having substantial circulation in the local unit at least 10 days prior to the meeting date. Salaries for local officers and employees that are established, increased, or decreased by ordinance pursuant to the provisions of N.J.S.40A:9-165 shall continue to be fixed and determined in accordance with that section.

Prior to the publication of the newspaper notice required by this section, the chief financial officer or other appropriate officer of the local unit shall prepare an employee compensation disclosure form pursuant to the requirements of this section. The employee compensation disclosure form shall be made part of any formal action taken by the local unit, but shall not be considered part of any contract or agreement.

The chief financial officer of the local unit shall file the employee compensation disclosure form with the clerk or the secretary to the governing body of the local unit prior to a public meeting when such measure shall be introduced and discussed. Any such proposed measure shall be announced publicly at the meeting, along with a declaration that an employee compensation disclosure form has been provided to the governing body of the local unit pursuant to the requirements of sections 39 et al. of P.L.2007, c.63 (C.40A:5-48 et al.). Any formal action by a governing body approving or disapproving a measure establishing or modifying the salaries, benefits, or other compensation of its employees shall occur no earlier than the tenth calendar day immediately following the meeting at which the measure was introduced and discussed.

The employee compensation disclosure form shall display the estimated cost of salary, benefits or other compensation, for each year of the contract for each individual employee or group of employees, itemized by the specific form of compensation, the estimated cost of the compensation at the time of the action, and the incremental difference between each year.

Governing body actions taken without compliance with this section shall be null and void.

C.40A:5-50 Rules, regulations.

41. Not later than the first day of the sixth month next following the enactment of sections 39 et al. of P.L.2007, c.63 (C.40A:5-48 et al.), the Local Finance Board shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of section 39 of P.L.2007, c.63 (C.40A:5-48) concerning the plain language budget summary, and it also shall promulgate the forms and procedures necessary to effectuate the provisions of section 40 of P.L.2007, c.63 (C.40A:5-49) concerning the employee compensation disclosure form.

ARTICLE 3. EXECUTIVE COUNTY SUPERINTENDENTS

42. N.J.S.18A:7-1 is amended to read as follows:

Appointment; qualifications; term of executive county superintendent.

18A:7-1. a. The Governor, upon the recommendation of the commissioner and with the advice and consent of the Senate, shall appoint for each county, a suitable person, who holds

an appropriate certificate issued pursuant to this title and who has been a resident of the State for at least three years immediately preceding the appointment, to be the executive county superintendent of schools, who shall serve, unless sooner removed pursuant to law, for a term of three years. The superintendent may be re-appointed by the Governor on the basis of a satisfactory performance assessment required pursuant to subsection b. of this section. A person who is serving as a county superintendent of schools on the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), shall be eligible for appointment as the executive county superintendent of schools. The executive county superintendent of schools shall report to the Commissioner of Education or to a person designated by the commissioner.

b. An executive county superintendent shall be subject to at least one performance assessment during the three-year term. The performance of the superintendent shall be assessed by the Commissioner of Education based on the ability of the superintendent to monitor and promote administrative and operational efficiencies and cost savings within the school districts located in the county, while enhancing the effectiveness of the districts in providing a thorough and efficient system of education, and on their monitoring of the school districts in the five key components of school district effectiveness under the New Jersey Quality Single Accountability Continuum: instruction and program; personnel; fiscal management; operations; and governance. In establishing the standards for assessing the performance of the superintendent in facilitating administrative efficiencies, the commissioner shall include such factors as administrator-to-teacher ratios, administrator-to-student ratios, per-pupil administrative expenditures, and improved student educational outcomes.

43. N.J.S.18A:7-2 is amended to read as follows:

Disability or vacancy; designation of temporary replacement by commissioner.

18A:7-2. The commissioner may designate any one of his assistant commissioners or another suitable person to exercise the powers and perform the duties of the executive county superintendent without additional compensation:

a. During any period when an executive county superintendent shall be unable to perform his duties by reason of illness, physical disability or for any other cause; and

b. During any period when the office of executive county superintendent shall be vacant in any county by reason of the death or resignation of the incumbent or for any other cause.

44. N.J.S.18A:7-3 is amended to read as follows:

Salary, cap; expenses.

18A:7-3. An executive county superintendent of schools shall receive such salary as shall be approved by the commissioner and shall receive a salary which is not greater than the salary of a cabinet-level official of the State.

Each executive county superintendent shall receive, in addition to his salary, the traveling and other expenses incurred by him in conducting his office and performing his official duties, which shall be paid by the county treasurer on the orders of the commissioner, upon his furnishing to the commissioner an itemized statement thereof certified under his oath, together with proper vouchers, and no such order shall be issued until such statement and vouchers are so furnished.

45. N.J.S. 18A:7-4 is amended to read as follows:

Withholding salaries and expenses.

18A:7-4. The commissioner shall, subject to appeal to the State board, cause to be withheld the orders for the payment of the salary and expenses of any executive county superintendent, who shall fail to perform faithfully all of the duties imposed upon him by this chapter or by the rules of the State board, until he shall have performed all of such duties.

46. N.J.S.18A:7-5 is amended to read as follows:

Full-time officer; general jurisdiction.

18A:7-5. Each executive county superintendent shall devote his entire time to the duties of his office, and he shall have general supervision of all of the public schools of the districts of the county except those city school districts in which there shall have been appointed superintendents of schools.

47. N.J.S.18A:7-6 is amended to read as follows:

Office; location; school records.

18A:7-6. The executive county superintendent shall maintain an office at a suitable location within the county which shall be open to the public as are other county offices and which shall be supplied to him, and shall be suitably furnished and equipped, by the board of chosen freeholders of the county, and the school records of the county for the use of the county and State Departments of Education, the United States Office of Education and the United States Commissioner of Education shall be kept at such office.

48. N.J.S.18A:7-7 is amended to read as follows:

Clerical assistants; selection; salaries.

18A:7-7. The executive county superintendent shall appoint such clerical assistants for his office as he shall deem necessary and fix their compensation within the limits of available appropriations made thereof. In counties governed by Title 11A, Civil Service, of the New Jersey Statutes, such appointments shall be made and compensation shall be fixed pursuant to the provisions thereof, and in all other counties the compensation of such clerical assistants shall be fixed on a basis commensurate with that of other county employees performing similar duties.

49. N.J.S.18A:7-8 is amended to read as follows:

General powers and duties.

18A:7-8. Each executive county superintendent shall:

a. Visit and examine from time to time all of the schools under his general supervision and exercise general supervision over them in accordance with the rules prescribed from time to time by the State board;

b. Keep himself informed as to the management, methods of instruction and discipline and the courses of study and textbooks in use, the condition of the school libraries, and the condition of the real and personal property, particularly in respect to the construction,

heating, ventilation and lighting of school buildings, in the local districts under his general supervision, and make recommendations in connection therewith;

c. Advise with and counsel the boards of education of the local districts under his general supervision and of any other district of the county when so requested, in relation to the performance of their duties;

d. Promote administrative and operational efficiencies and cost savings within the school districts in the county while ensuring that the districts provide a thorough and efficient system of education;

e. Based on standards adopted by the commissioner, recommend to the commissioner, who is hereby granted the authority to effectuate those recommendations, that certain school districts be required to enter arrangements with one or more other school districts or educational services commissions for the consolidation of the district's administrative services;

f. Recommend to the commissioner the elimination of laws the executive county superintendent determines to be unnecessary State education mandates, other than the categories of laws set forth in section 3 of P.L.1996, c.24 (C.52:13H-3);

g. Have the authority to eliminate districts located in the county that are not operating schools on the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), in accordance with a plan submitted to the commissioner no later than one year following the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.);

h. No later than three years following the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend to the commissioner a school district consolidation plan to eliminate all districts, other than county-based districts and other than preschool or kindergarten through grade 12 districts in the county, through the establishment or enlargement of regional school districts. After the approval of the plan by the commissioner, the executive county superintendent shall require each board of education covered by a proposal in the plan to conduct a special school election, at a time to be determined by the executive county superintendent, and submit thereat the question whether or not the executive county superintendent's proposal for the regionalization of the school district shall be adopted. The question shall be deemed adopted if it receives a vote in accordance with the provisions of N.J.S.18A:13-5. If the question is adopted by the voters, then the regional district shall be established or enlarged in accordance with chapter 13 of Title 18A of the New Jersey Statutes;

i. Promote coordination and regionalization of pupil transportation services through means such as reviewing bus routes and schedules of school districts and nonpublic schools within the county;

j. Review and approve, according to standards adopted by the commissioner, all employment contracts for superintendents of schools, assistant superintendents of schools, and school business administrators in school districts within the county, prior to the execution of those contracts;

k. Request the commissioner to order a forensic audit and to select an auditor for any school district in the county upon the determination by the executive county superintendent, according to standards adopted by the commissioner, that the accounting practices in the district necessitate such an audit;

l. Review all school budgets of the school districts within the county, and may, pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), disapprove a portion of a school district's proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district or if he determines that the budget

includes excessive non-instructional expenses. If the executive county superintendent disapproves a portion of the school district's budget pursuant to this paragraph, the school district shall deduct the disapproved amounts from the budget prior to publication of the budget, and during the budget year the school district shall not transfer funds back into those accounts;

m. Permit a district to submit to the voters a separate proposal or proposals for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), only if: (1) the district provides the executive county superintendent with written documentation that the district has made efforts to enter into shared arrangements with other districts, municipalities, counties, and other units of local government for the provision of administrative, business, purchasing, public and nonpublic transportation, and other required school district services; (2) the district certifies and provides written documentation that the district participates in on-going shared arrangements; or (3) the district certifies and provides written documentation that entering such shared arrangements would not result in cost savings or would result in additional expenses for the district;

n. Promote cooperative purchasing within the county of textbooks and other instructional materials;

o. Coordinate with the Department of Education to maintain a real time Statewide and district-wide database that tracks the types and capacity of special education programs being implemented by each district and the number of students enrolled in each program to identify program availability and needs;

p. Coordinate with the Department of Education to maintain a Statewide and district-wide list of all special education students served in out-of-district programs and a list of all public and private entities approved to receive special education students that includes pertinent information such as audit results and tuition charges;

q. Serve as a referral source for districts that do not have appropriate in-district programs for special education students and provide those districts with information on placement options in other school districts;

r. Conduct regional planning and identification of program needs for the development of in-district special education programs;

s. Serve as a liaison to facilitate shared special education services within the county including, but not limited to direct services, personnel development, and technical assistance;

t. Work with districts to develop in-district special education programs and services including providing training in inclusive education, positive behavior supports, transition to adult life, and parent-professional collaboration;

u. Provide assistance to districts in budgetary planning for resource realignment and reallocation to direct special education resources into the classroom;

v. Report on a regular basis to the commissioner on progress in achieving the goal of increasing the number of special education students educated in appropriate programs with non-disabled students;

w. Render a report to the commissioner annually on or before September 1, in the manner and form prescribed by him, of such matters relating to the schools under his jurisdiction as the commissioner shall require; and

x. Perform such other duties as shall be prescribed by law.

Any budgetary action of the executive county superintendent under this section may be appealed directly to the commissioner, who shall render a decision within 15 days of the receipt of the appeal. If the commissioner fails to issue a decision within 15 days of the filing of an appeal, the budgetary action of the executive county superintendent shall be

deemed approved. The commissioner shall by regulation establish a procedure for such appeals.

Nothing in this section shall be construed or interpreted to contravene or modify the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or to limit or restrict the scope of negotiations as provided pursuant to law, or to require an employer to enter into a subcontracting agreement which affects the employment of any employee in a collective bargaining unit represented by a majority representative during the time that an existing collective bargaining agreement with the majority representative is in effect.

Nothing in this section is intended to interfere with a school district's ability to provide a thorough and efficient education.

50. N.J.S.18A:7-9 is amended to read as follows:

Administration of oaths without charge.

18A:7-9. The executive county superintendent may, without charge, administer oaths.

51. N.J.S.18A:7-10 is amended to read as follows:

Budget requests; appropriations.

18A:7-10. Each executive county superintendent shall, on or before December 1 of each year, furnish to the board of chosen freeholders of the county a statement of the amounts estimated to be necessary to be appropriated for the ensuing year for:

- a. the compensation of his clerical assistants;
- b. the supplying of furniture, supplies and equipment for his office;
- c. printing; and
- d. traveling and other expenses incident to the conduct and the performance of his official duties of his office incurred by him.

The board of chosen freeholders shall fix and determine the amounts necessary to be appropriated for such purposes and shall appropriate the same accordingly.

52. Section 2 of P.L.1975, c.360 (C.18A:13-52) is amended to read as follows:

C.18A:13-52 Report; feasibility study.

2. The executive county superintendent shall, within 60 days after such request, file with the governing bodies of the municipalities constituting the regional district and the boards of education of all of the constituent school districts and the board of education of the regional school district a report containing a statement of the current assets and operating expenses of the regional district for the then current year and such financial, educational and other information as he may deem necessary to enable said governing bodies and local boards of education and regional board of education to form an intelligent judgment as to the advisability of the proposed withdrawal or dissolution and the effect thereof upon the educational and financial condition of the withdrawing district and the regional district, or upon each of the constituent districts in the event of a dissolution and setting forth the amount of indebtedness, if any, to be assumed by the withdrawing and the regional districts, or by each constituent district in the event of a dissolution, calculated as hereinafter provided. The report, in discussing the educational and financial effect of the withdrawal or dissolution, shall include the effect thereof upon the administrative and operational

efficiencies, and the resultant cost savings or cost increases, in the withdrawing and the regional districts, or by each constituent district in the event of a dissolution.

The executive county superintendent may require the constituent municipalities and school districts and the regional district to submit a feasibility study in order to determine the educational and financial impact of the withdrawal from, or dissolution of, the limited purpose regional district. In the event the executive county superintendent requests a feasibility study to be conducted, the executive county superintendent's report required pursuant to this section shall be filed within 60 days following submission of the feasibility study.

C.18A:7-11 Executive county business official, term.

53. The commissioner shall appoint an executive county business official to serve in the office of the executive county superintendent of schools for a term of three years. The executive county business official shall assist the executive county superintendent in the performance of the superintendent's duties pursuant to N.J.S.18A:7-8, and perform such other duties as determined by the commissioner. Based on criteria developed by the commissioner, the executive county business official shall be subject to a performance assessment at least once during the three-year term. The business official may be re-appointed on the basis of a satisfactory performance assessment.

C.18A:7-12 Application for services assumed by the office of the superintendent.

54. A local school district may apply to the executive county superintendent of schools to have school district services including, but not limited to, transportation, personnel, purchasing, payroll, and accounting, assumed by the office of the superintendent. If the executive county superintendent determines to assume a service, a fee may be assessed the school district for the service. The executive county superintendent of schools may utilize county special services school districts, jointure commissions, and educational services commissions to provide services to local school boards.

C.18A:7-13 Appointment of executive county superintendent of schools.

55. a. When the office of county superintendent is vacated through the completion of a current term or for any other reason, the Governor, upon the recommendation of the Commissioner of Education, shall appoint an executive county superintendent of schools pursuant to N.J.S.18A:7-1.

b. When the position of executive county business official is vacated through the completion of a current term or for any other reason, the commissioner shall appoint an executive county business official pursuant to section 53 of P.L.2007, c.63 (C.18A:7-11).

C.18A:7-14 Term county superintendent deemed to refer to executive county superintendent of schools.

56. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the office of the county superintendent of schools, the same shall mean and refer to the office of the executive county superintendent of schools.

C.18A:7-15 Limitation on post employment for executive county superintendent.

57. An executive county superintendent of schools shall not accept employment in any school district which was under his supervision in that position for a period of two years commencing on the day his term as executive county superintendent terminates.

C.18A:7-16 Rules, regulations.

58. The State Board of Education shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.); except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), which shall be effective for a period not to exceed 12 months.

59. Sections 1 through 36 shall take effect as provided in section 37 of this act; sections 38 through 41 shall take effect immediately; sections 42 through 58 shall take effect immediately.

Approved April 3, 2007.