

CHAPTER 335

AN ACT concerning the municipal tax levy and local government issuance of non-recourse bonds, amending P.L.2011, c.187, supplementing Title 40 of the Revised Statutes, and making an appropriation.

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

C.40:12-15.11 Definitions.

1. As used in P.L.2019, c.335 (C.40:12-15.11 et al.):

“Arts and culture” means creative and cultural activities, including but not limited to, performing, visual, and fine arts, music, dance, graphic design, film, digital media and video, architecture and urban design, humanities, literature, arts and culture education, historic preservation, museum curation, crafts, and folk arts.

“Arts and culture trust fund” means a fund established pursuant to section 2 of P.L.2019, c.335 (C.40:12-15.12), for the purpose of supporting local arts and culture.

“Local arts council” means an entity, often referred to as a local arts agency, arts commission, or cultural affairs office, that:

a. is either a municipal or county government agency, or a private entity exempt from federal income taxation under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)); and

b. maintains a mission that generally involves making arts and culture more accessible to the public, and supporting local artists, art programming, or local organizations focused on arts and culture.

C.40:12-15.12 Proposition authorizing levy to support arts and culture.

2. a. The governing body of a municipality may, by ordinance, submit to the voters of the municipality, in a general or special election, a proposition authorizing an annual levy, in an amount or at a rate that the governing body deems appropriate, to be established for the purpose of supporting arts and culture. Upon approval of the proposition by a majority of the votes cast by the voters of the municipality, the governing body of the municipality may annually raise by taxation a sum not to exceed the amount or rate set forth in the proposition approved by the voters for the purposes specified therein. The arts and culture levy shall become effective in the next budget year following the year in which the levy has been approved by the voters.

b. Amounts raised by the levy imposed pursuant to this section shall be deposited into an "arts and culture trust fund" to be created by the municipality, and shall be used exclusively for arts and culture, except that the municipality may deposit such amounts into the current fund of that municipality for uses not related to arts and culture if the Director of the Division of Local Government Services in the Department of Community Affairs finds that the municipality is in fiscal distress. Any interest or other income earned on monies deposited into the arts and culture trust fund shall be credited to the fund to be used for the same purposes as the principal. A municipality may deposit other funds into the arts and culture trust fund, as it may, from time to time, deem appropriate.

c. The governing body of a municipality may, by ordinance, submit to the voters of the municipality in a general or special election a proposition amending, supplementing, or repealing, a proposition previously submitted, approved, and implemented as provided pursuant to this section. The proposition may propose to eliminate the annual levy or change the amount or rate of the annual levy. Upon approval of an amendatory or supplementary proposition by a majority of the votes cast by the voters of the municipality, the governing

body of the municipality shall implement it in the same manner as set forth in P.L.2019, c.335 (C.40:12-15.11 et al.) for implementation of the original proposition.

d. Upon petition to the governing body of a municipality signed by the voters of the municipality equal in number to at least 15 percent of the votes cast therein at the last preceding general election, filed with the governing body at least 90 days before a general or special election, the governing body of the municipality shall submit to the voters of the municipality in the general or special election the proposition otherwise authorized pursuant to subsection a. or subsection c. of this section, as the case may be.

C.40:12-15.13 Local arts council.

3. a. The municipality, either through an ordinance adopted pursuant to section 2 of P.L.2019, c.335 (C.40:12-15.12), or through a subsequent ordinance, shall designate a local arts council to which monies from the arts and culture trust fund shall be appropriated. The local arts council shall comply with the conditions for the use of the funding established by ordinance.

b. An agreement entered into in accordance with this section shall not be subject to the requirements and provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). If the local arts council is a private entity, then the local arts council shall allow the chief financial officer of the municipality to serve on its board, ex officio, as a non-voting member.

4. Section 2 of P.L.2011, c.187 (C.40:56-13.1) is amended to read as follows:

C.40:56-13.1 Clean energy special assessment, financing through bonds.

2. a. Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, a municipality may adopt an ordinance to establish a program to finance the purchase and installation of renewable energy systems and energy efficiency improvements by property owners and to authorize the issuance at public or private sale of non-recourse bonds as further provided herein. The governing body may apply to a county improvement authority that issues bonds pursuant to paragraph (2) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the program pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2). Funds for the purchase and installation of renewable energy systems and energy efficiency improvements shall be loaned to property owners in exchange for a clean energy special assessment on the property pursuant to section 1 of P.L.2011, c.187 (C.40:56-1.4), to be paid quarterly. In the case of financing provided by bonds issued by a county improvement authority, the clean energy special assessment shall be used to repay the bonds. The bonds issued by a county improvement authority pursuant to this section shall be issued as non-recourse obligations of the authority and shall not be considered to be direct and general obligations of the authority. In the case of financing provided by the municipality through the issuance of municipal bonds, the clean energy special assessment shall be used to repay the bonds. The bonds issued by a municipality pursuant to this section shall be issued as non-recourse obligations of the municipality and shall not be considered to be direct and general obligations of the municipality. Any bonds issued or authorized by a municipality pursuant to this section shall not be considered gross debt of the municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq. A property owner who purchases and installs a renewable energy system under the program may also assign any solar renewable energy certificates or other renewable energy credits that accrue to the property owner from

the operation of the system to the municipality or the county improvement authority to repay the loan for the system. The Director of Local Government Services in the Department of Community Affairs shall coordinate efforts with the Board of Public Utilities to ensure that the amount of financing made available by local programs authorized pursuant to this act is in accordance with limits set from time to time by the Board of Public Utilities in order to ensure that local programs further the goals of the Office of Clean Energy in the Board of Public Utilities.

b. As used in this section, "solar renewable energy certificate" shall have the same meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

5. There is appropriated from the General Fund to the Division of Local Government Services in the Department of Community Affairs \$100,000 to fund the expenses of implementing P.L.2019, c.335 (C.40:12-15.11 et al.).

6. This act shall take effect immediately.

Approved January 13, 2020.