

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:4-45.29

("Cap" law--municipal--  
exempt liability insurance  
costs)

LAWS OF: 1985

CHAPTER 522

BILL NO: A4090

Sponsor(s): Otlowski

Date Introduced: September 12, 1985

Committee: Assembly: Municipal Government

Senate: -----

Amended during passage: Yes

Amendments during passage denoted by  
asterisks.

Date of Passage:

Assembly:

January 13, 1986

Senate:

January 13, 1986

Date of Approval:

January 21, 1986

Following statements are attached if available:

Sponsor statement:

Yes

Attached: Assembly  
amendments, adopted  
1-6-86 (with statement).

Committee statement:

Assembly

Yes

Senate

No

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

1-21-86

[SECOND OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 4090

## STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 12, 1985

By Assemblyman OTLOWSKI

AN ACT concerning **\*\*[certain municipal \*and county\* insurance costs]\*\*** **\*\*appropriations by municipalities\*\*** and **\*\*[amending]\*\*** **\*\*supplementing\*\*** P. L. 1976, c. 68 **\*\* (C. 40A:4-45.1 et seq.)\*\***.

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

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

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

7 a. The amount of revenue generated by the increase in its valua-  
8 tions, based solely on applying the preceding year's general tax rate  
9 of the municipality to the assessed value of new construction or  
10 improvements;

10A b. Capital expenditures, including appropriations for current  
11 capital expenditures, whether in the capital improvement fund or  
12 as a component of a line item elsewhere in the budget, provided  
13 that any such current capital expenditure would be otherwise bond-  
14 able under the requirements of N. J. S. 40A:2-21 and 40A:2-22;

15 c. An increase based upon: (1) emergency temporary appropria-  
16 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-  
17 tion or event which immediately endangers the health, safety or  
18 property of the residents of the municipality, and over which the  
19 governing body had no control and for which it could not plan;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

\*—Assembly committee amendments adopted December 5, 1985.

\*\*—Assembly amendments adopted January 6, 1986.

20 (2) emergency appropriations made pursuant to N. J. S. 40A:4-46  
21 and special emergency appropriations made pursuant to N. J. S.  
22 40:4-53; or (3) special emergency appropriations made pursuant  
23 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1)  
24 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency tem-  
25 porary appropriations, special emergency appropriations and emer-  
26 gency appropriations under (1) and (2) above shall be approved  
27 by at least two-thirds of the governing body and by the Director of  
28 the Division of Local Government Services, and shall not exceed  
29 in the aggregate 3% of the previous year's final current operating  
30 appropriations. Special emergency appropriations under (3) above  
31 shall be approved by at least two-thirds of the governing body, and  
32 shall not exceed in the aggregate 3% of the previous year's final  
33 current operating appropriations. Neither procedure shall apply  
34 to appropriations adopted for a purpose referred to in subsection  
35 d. or j. below;

- 36 d. All debt service, including that of a Type I school district;  
37 e. Amounts required for funding a preceding year's deficit;  
38 f. Amounts reserved for uncollected taxes;  
39 g. Expenditures mandated after the effective date of this act  
40 pursuant to State or federal law;  
41 h. Expenditure of amounts derived from new or increased service  
42 fees imposed by ordinance, or derived from the sale of municipal  
43 assets;  
44 i. When approved by referendum;  
45 j. Amounts required to be paid pursuant to any contract with  
46 respect to use, service or provision of any project, facility or public  
47 improvement for water, sewer, solid waste, parking, senior citizen  
48 housing or any similar purpose, or payments on account of debt  
49 service therefor, between a municipality and any other municipality,  
50 county, school or other district, agency, authority, commission,  
51 instrumentality, public corporation, body corporate and politic or  
52 political subdivision of this State. With respect to the amounts  
53 required to be paid for senior citizen housing in the above cited  
54 political subdivisions or bodies, the exceptions shall be subject to  
55 the review and approval of the Local Finance Board;  
56 k. Amounts required to be paid by any constituent municipality  
57 of the Hackensack Meadowlands District established pursuant to  
58 article 2 of the "Hackensack Meadowlands Reclamation and De-  
59 velopment Act" (P. L. 1968, c. 404; C. 13:17-4), to the inter-  
60 municipal account established pursuant to article 9 of said act  
61 (C. 13:17-60 through 13:17-76);  
62 l. Programs funded wholly or in part by federal or State funds

63 and amounts received or to be received from federal, State or other  
64 funds in reimbursement for local expenditures;

65-66 m. Amounts appropriated to fund any increase in public utility,  
67 fuel oil, gasoline or heating oil charges which exceeds by more than  
68 10% the amount produced by subtracting from the amount appro-  
69 priated in the previous year for these purposes that amount which  
70 was excepted pursuant to this subsection in that previous year;

71 n. Increased revenue from payments in lieu of taxes on any prop-  
72 erty owned by a tax-exempt public entity, to the extent that the pay-  
73 ment received for any single property exceeds the amount of real  
74 property taxes received on that property in the year immediately  
75 prior to acquisition by the public entity, or, in the case of State  
76 property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.), to the  
77 extent that the total State payment exceeds the amount of the pay-  
78 ment received in the 1982 budget year;

79 o. Any decrease in amounts received pursuant to any federal  
80 general purposes aid program from the amounts received in local  
81 budget year 1982, after deducting from the decrease any amount of  
82 new or increased federal or State general purposes aid explicitly  
83 provided for the purpose of replacing the decrease in federal aid;

84 p. Amounts expended for the conduct of a special election re-  
85 quired by law to be held at a time other than the time of the general  
86 election or the time of a regular municipal election;

87 q. Expenditures of amounts to fund the purchase of vehicles  
88 used by the municipal police department and all equipment in-  
89 stalled in or on the vehicles; **[or]**

90 r. Amounts expended to fund a free public library established  
91 pursuant to the provisions of R. S. 40:54-1 through 40:54-29,  
92 inclusive; *or*

93 *s. Amounts appropriated to fund any increase in the cost of*  
94 *providing liability insurance coverage for the municipality, its*  
95 *departments, boards, agencies, commissions, officers, employees or*  
96 *servants and including, if funds were so appropriated in the pre-*  
97 *vious year, the volunteer fire department, incorporated fire com-*  
98 *panies or incorporated volunteer first aid, emergency, rescue or*  
99 *ambulance squads which exceeds by more than 10% the amount*  
100 *produced by subtracting from the amount appropriated in the pre-*  
101 *vious year for those purposes that amount which was excepted*  
102 *pursuant to this subsection in that previous year.]\*\* \*\*a. Notwith-*

103 *standing the provisions of section 3 of P. L. 1976, c. 68 (C.*  
104 *40A:4-45.3) to the contrary, a municipality which incurs increased*  
105 *costs due to an increase in the premium of any municipal insurance*  
106 *policy may expend funds as may be necessary to defer those in-*

107 *creased costs as an exception to the spending limitations imposed*  
 108 *by P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) in the year in which those*  
 109 *increased costs are first incurred.*

110 *b. Notwithstanding the provisions of section 2 of P. L. 1976, c. 68*  
 111 *(C. 40A:4-45.2) to the contrary, in the year following the year in*  
 112 *which an exception is taken pursuant to subsection a. of this sec-*  
 113 *tion, the amount excepted in that year for increased insurance*  
 114 *costs shall be included by the municipality as part of its final ap-*  
 115 *propriations for the previous year for the purpose of calculating its*  
 116 *permissible increase in final appropriations for the current budget*  
 117 *year.\*\**

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

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

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

12     b. Capital expenditures, including appropriations for current  
 13 capital expenditures, whether in the capital improvement fund or  
 14 as a component of a line item elsewhere in the budget, provided  
 15 that any such current capital expenditures would be otherwise  
 16 bondable under the requirements of N. J. S. 40A:2-21 and  
 17 40A:2-22;

18     c. An increase based upon: (1) emergency temporary appropria-  
 19 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-  
 20 tion or event which immediately endangers the health, safety  
 21 or property of the residents of the county, and over which the  
 22 governing body had no control and for which it could not plan; (2)  
 23 emergency appropriations made pursuant to N. J. 40A:4-46 and  
 24 special emergency appropriations made pursuant to N. J. S.  
 25 40A:4-53; or (3) special emergency appropriations made pursuant  
 26 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1),  
 27 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency  
 28 temporary appropriations, special emergency appropriations and  
 29 emergency appropriations under (1) and (2) above shall be  
 30 approved by at least two-thirds of the governing body and, where  
 31 appropriate, approved by the chief executive officer of the county,  
 32 and further approved by the Director of the Division of Local

33 Government Services, and shall not exceed in the aggregate 3% of  
34 the previous year's final current operating appropriations. Special  
35 emergency appropriations under (3) above shall be approved by  
36 at least two-thirds of the governing body, and, where appropriate,  
37 approved by the chief executive officer of the county, and shall not  
38 exceed in the aggregate 3% of the previous year's final current  
39 operating appropriations. Neither procedure shall apply to appro-  
40 priations adopted for a purpose referred to in subsection d. or f.  
41 below;

42 d. All debt service;

43 e. Expenditures mandated after the effective date of this act  
44 pursuant to State or federal law;

45 f. Amounts required to be paid pursuant to any contract with  
46 respect to use, service or provision of any project, facility or  
47 public improvement for water, sewer, solid waste, parking, senior  
48 citizen housing or any similar purpose, or payments on account  
49 of debt service therefor, between a county, and any other county,  
50 municipality, school or other district, agency, authority, commis-  
51 sion, instrumentality, public corporation, body corporate and  
52 politic or political subdivision of this State. With respect to the  
53 amounts required to be paid for senior citizen housing in the above  
54 cited political subdivisions or bodies, the exceptions shall be sub-  
55 ject to the review and approval of the Local Finance Board;

56 g. That portion of the county tax levy which represents funding  
57 to participate in any federal or State aid program and amounts  
58 received or to be received from federal, State or other funds in  
59 reimbursement for local expenditures;

60 h. Amounts appropriated to fund any increase in public utility,  
61 fuel oil, gasoline or heating oil charges which exceeds by more than  
62 10% the amount produced by subtracting from the amount appro-  
63 priated in the previous year for these purposes that amount which  
64 was excepted pursuant to this subsection in that previous year;

65 i. Any decrease in amounts received pursuant to any federal  
66 general purposes aid program from the amounts received in local  
67 budget year 1982, after deducting from the decrease any amount  
68 of new or increased federal or State general purposes aid explicitly  
69 provided for the purpose of replacing the decrease in federal aid;

70 **[or]**

71 j. Amounts expended for the conduct of any special election re-  
72 quired by law to be held at a time other than the time of the  
73 general election; *or*

74 *k. Amounts appropriated to fund any increase in the cost of pro-*  
75 *viding liability insurance coverage for the county, its departments,*

76 boards, agencies, commissions, officers, employees or servants which  
77 exceeds by more than 10% the amount produced by subtracting  
78 from the amount appropriated in the previous year for those pur-  
79 poses that amount which was expected pursuant to this subsection  
80 in that previous year.\*\*\* \*\*This act shall take effect immediately  
81 and shall apply to the 1986 local budget year and thereafter.\*\*

1     \*\*[[2.] \*3.\* This act shall take effect January 1 next follow-  
2 ing enactment.]\*\*

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## STATEMENT

This bill accords municipalities a "cap" exception for certain increases in the costs of providing liability insurance coverage. Under the provisions of the bill, a municipality would be entitled to a "cap" exception for any increase in the costs of providing liability insurance coverage for itself, its departments, boards, agencies, commissions, officers, employees or servant and, if coverage was provided in the previous year, for the volunteer fire department, incorporated fire companies or incorporated volunteer first aid, emergency, rescue or ambulance squads which exceeds by more than 10% the amount the municipality appropriated for liability insurance coverage in the previous year, minus the amount of any exception for liability insurance costs the municipality may have taken in that year.

A 4090 (1985)



ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE  
STATEMENT TO  
**ASSEMBLY, No. 4090**  

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**STATE OF NEW JERSEY**  

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DATED: DECEMBER 5, 1985

Assembly Bill No. 4090 permits municipalities to take a "cap" exception for certain increases in the cost of providing liability insurance coverage.

Under P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) municipalities must include all costs for liability insurance within the capped portion of their budgets. Recently many municipalities have experienced vastly increased premiums for liability insurance coverage. Policy cancellations have also become a problem of increasing proportions.

Currently, other "cap" exceptions exist for costs which municipalities cannot control. Fuel costs, which have also been subject to unforeseeable increases may be taken as "cap" exceptions. When the "cap law" was revised in 1983, however, liability insurance costs had not emerged as a problem.

Assembly Bill No. 4090 amends P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) to provide that a municipality would be entitled to a "cap" exception for increases which exceed by more than 10% the amount the municipality appropriated for liability insurance coverage in the previous year.

The Assembly committee amendments extend the same "cap" exception to counties which face the same difficulties in obtaining and funding liability insurance.

The committee reported the bill favorably.

OK  
H.K.  
1/7/86

Amendments  
note A4090 OK  
3,3301-85

Assembly Amendments  
(proposed by Assemblyman Otlowski, 1/6/86)  
to

Assembly Bill No. 4090 OCR  
(sponsored by Assemblyman Otlowski)

Amend:

Page  
1  
1-3

Sec. Title  
Line 1  
1-102

Omit "amending" insert "supplementing"; after "c. 68" insert "(C. 40A:4-45.3)  
Omit "and county" "certain municipal and county insurance costs" insert  
"appropriations by municipalities"  
After "1." on line 1 omit these lines in their entirety, insert ~~new section~~ as follows:

"a. Notwithstanding the provisions of section 3 of P.L. 1976, c. 68 (C. 40A:4-45.3) to the contrary, a municipality which incurs increased costs due to an increase in the premium of any municipal insurance policy may expend funds as may be necessary to defer those increased costs as an exception to the spending limitations imposed by P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.) in the year in which those increased costs are first incurred.

b. Notwithstanding the provisions of section 2 of P.L. 1976, c. 68 (C. 40A:4-45.2) to the contrary, in the year following the year in which an exception is taken pursuant to subsection a. of this section, the amount excepted in that year for increased insurance costs shall be included by the municipality as part of its final appropriations for the previous year for the purpose of calculating its permissible increase in final appropriations for the current budget year."

3-5 2 1-80

Omit these lines in their entirety and insert "This act shall take effect immediately and shall apply to the 1986 local budget year and thereafter."

5 3 1-2

Omit these lines in their entirety

STATEMENT

These amendments permit a municipality which incurs any increased insurance costs to annually expend moneys necessary to defer those costs outside of the municipal budget "cap." Each annual "cap" exception shall be allowed for the year in which the excepted cost increases are first incurred; no "roll back" is intended. In this respect, the amendments parallel the intent of the exception provided for county nursing home cost increases under P.L. 1984, c. 227 (C. 40A:4-45.24).

The amount of each year's "cap" exception shall be incorporated in the previous year's base on which current year "caps" are calculated. The amended bill applies to the 1986 local budget year and each succeeding local budget year.

With the exception of updating the first year of applicability, the amendments conform the bill identical to Senate Bill 3301 of 1985. make

✓

T.P.