

40A:5-2; 40A:5-14

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:5-2; 40A:5-14 (Cash management plans--required for local units)

LAWS OF: 1983

CHAPTER: 8

Bill No.: S1368

Sponsor(s): Russo

Date Introduced: May 10, 1982

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: Yes // Amendments denoted during passage denoted by asterisks

Date of Passage: Assembly: Dec. 6, 1982

Senate: Sept. 16, 1982

Date of Approval: Jan. 18, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: YES ~~No~~

Following were printed:

Reports: /// No

Hearings: /// No

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[OFFICIAL COPY REPRINT]
SENATE, No. 1368

STATE OF NEW JERSEY

INTRODUCED MAY 10, 1982

By Senator RUSSO

Referred to Committee on County and Municipal Government

AN ACT concerning the "Local Fiscal Affairs Law," and amending N. J. S. 40A:5-2 and N. J. S. 40A:5-14.

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

1 1. N. J. S. 40A:5-2 is amended to read as follows:

2 40A:5-2. As used in this chapter and any act amendatory to and
 3 supplementary thereto unless the context indicates otherwise:

4 "local unit" means any county, municipality, special district or
 5 any public body corporate and politic created or established under
 6 any law of this State by or on behalf of any one or more counties
 7 or municipalities, or any board, commissions, departments or
 8 agency of any of the foregoing having custody of funds, but shall
 9 not include a school district;

10 "governing body" means the ***[board of chosen freeholders]***
 11 *governing body* of a county or the commission, council, board
 12 or body having control of the finances of a municipality or any
 13 other local unit as defined herein;

14 "chief financial officer" means the director of revenue and
 15 finance, comptroller, treasurer, collector or other financial officer
 16 of a **[municipality or the treasurer of a county;]** local unit;

17 "chief executive officer" means the ***[mayor, commissioner or**
 18 **director of a local unit;]*** *county executive, county manager,
 18A county supervisor or president of the board of chosen freeholders,
 18B as appropriate to the form of government of a county, or the
 18C mayor, manager or commissioner, as appropriate to the form of
 18D government of a municipality, or the chairman, president, director
 18E or other chief executive officer of any other local unit;*

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:

*—Senate committee amendments adopted June 23, 1982.

19 "warrant" means the draft or check of any local unit used in
 20 warranting disbursement of moneys and shall, in every instance,
 21 be evidenced by the issuance of a check of the local unit. In no
 22 instance shall it be necessary for the local unit to refer to, or
 23 issue, a check separate and distinct from the warrant;

24 "check" means the instrument by which moneys of any local
 25 unit are disbursed.

1 2. N. J. S. 40A :5-14 is amended to read as follows :

2 40A :5-14. [Each local unit shall designate as a depository for its
 3 moneys a public depository as defined in section 1 of P. L. 1970,
 4 c. 236 (C. 17 :9-41), or the State of New Jersey Cash Management
 5 Fund established pursuant to section 1 of P. L. 1977, c. 281 (C.
 6 52:18A-90.4), or any combination thereof. Except as otherwise
 7 provided in this section, any public depository so designated pur-
 8 suant to this section shall be one which will allow, to the extent
 9 permitted by State and Federal law, interest on balances of moneys
 10 deposited therewith. The Director of the Division of Local Gov-
 11 ernment Services shall, by rule or regulation, require that all
 12 moneys deposited with such depository in such accounts as the
 13 Director may require, shall accrue interest from a specific time
 14 after deposit, or from such lesser time as the local unit and the
 15 depository may agree. These rules and regulations shall be de-
 16 signed so as to assure to the greatest extent practicable the invest-
 17 ment of local funds in interest bearing accounts and may be ad-
 18 justed from time to time in order to reflect changes in federal or
 19 State law or regulations. The director may provide for variance
 20 from the rules and regulations for the handling of small sums of
 21 money as he shall define. Whenever any such public depository
 22 shall agree to perform for the local unit specific services which
 23 would not be sufficiently compensated by deposit on the terms
 24 generally required by the director, the local unit may agree to
 25 maintain in a separate noninterest bearing account with the deposi-
 26 tory a predetermined amount sufficient to compensate for the
 27 agreed upon services. The agreement shall be in writing and shall
 28 be subject to the annual audit conducted pursuant to N. J. S.
 29 40A :5-4. The agreement and the audit shall be in accordance with
 30 procedures and criteria established by the director.

31 The official charged with the custody of such moneys shall deposit
 32 them in the depository or depositories so designated and shall
 33 thereafter be relieved of any liability or loss of such moneys due
 34 to the insolvency or closing of the depository or depositories.

35 The Director of the Division of Local Government Services
 36 shall promulgate such rules and regulations as may be necessary

37 to implement this act. The rules and regulations may provide for
 38 monitoring by the Division of Local Government Services of com-
 39 pliance with this act, and for reporting to, and direct oversight by,
 40 the division in any instance when the director believes compliance
 41 would be otherwise not forthcoming, all in accordance with the
 42 investigatory and other powers and duties of the director and
 43 division set forth in the "Local Government Supervision Act
 44 (1947)," P. L. 1947, c. 151 (C. 52:27BB-1 et seq.).】

45 *Each local unit shall adopt a cash management plan and shall*
 46 *deposit its funds pursuant to that plan. The cash management*
 47 *plan shall include the designation of a depository or depositories*
 48 *as defined in section 1 of P. L. 1970, c. 236 (C. 17:9-41) and may*
 49 *permit deposits in such depository or depositories as permitted in*
 50 *section 4 of P. L. 1970, c. 236 (C. 17:9-44). In lieu of designating*
 51 *a depository or in addition to the designation, the cash manage-*
 52 *ment plan may provide that the local unit make deposits with the*
 53 *State of New Jersey Cash Management Fund established pursuant*
 54 *to section 1 of P. L. 1977, c. 281 (C. 52:18A-90.4). The cash man-*
 55 *agement plan shall be designed to assure to the extent practicable*
 56 *the investment of local funds in interest bearing accounts and may*
 57 *be ***[adjusted]*** *modified* from time to time in order to reflect*
 58 *changes in federal or state law or regulations. The cash manage-*
 59 *ment plan shall be subject to the annual audit conducted pursuant*
 59A *to N. J. S. 40A:5-4.*

60 *The official charged with the custody of moneys of a local unit*
 61 *shall deposit them as designated by the cash management plan and*
 62 *shall thereafter be relieved of any liability or loss of such moneys*
 63 *due to the insolvency or closing of any depository ***[designed]****
 64 **designated* in the cash management plan.*

1 3. This act shall take effect immediately.

CORRECTED COPY
SENATE No. 1368

STATE OF NEW JERSEY

INTRODUCED MAY 10, 1982

By Senator RUSSO

Referred to Committee on County and Municipal Government

AN ACT concerning the "Local Fiscal Affairs Law," and amend-
ing N. J. S. 40A:5-2 and N. J. S. 40A:5-14.

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2 *of New Jersey:*

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5 any public body corporate and politic created or established under
6 any law of this State by or on behalf of any one or more counties
7 or municipalities, or any board, commissions, departments or
8 agency of any of the foregoing having custody of funds, but shall
9 not include a school district;

10 "governing body" means the board of chosen freeholders of
11 a county or the commission, council, board or body having con-
12 trol of the finances of a municipality or any other local unit as
13 defined herein;

14 "chief financial officer" means the director of revenue and
15 finance, comptroller, treasurer, collector or other financial officer
16 of a [municipality or the treasurer of a county;] *local unit*;

17 "chief executive officer" means the mayor, commissioner or
18 director of a local unit;

19 "warrant" means the draft or check of any local unit used in
20 warranting disbursement of moneys and shall, in every instance,
21 be evidenced by the issuance of a check of the local unit. In no
22 instance shall it be necessary for the local unit to refer to, or
23 issue, a check separate and distinct from the warrant;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
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5 Fund established pursuant to section 1 of P. L. 1977, c. 281 (C.
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7 provided in this section, any public depository so designated pur-
8 suant to this section shall be one which will allow, to the extent
9 permitted by State and Federal law, interest on balances of moneys
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11 ernment Services shall, by rule or regulation, require that all
12 moneys deposited with such depository in such accounts as the
13 Director may require, shall accrue interest from a specific time
14 after deposit, or from such lesser time as the local unit and the
15 depository may agree. These rules and regulations shall be de-
16 signed so as to assure to the greatest extent practicable the invest-
17 ment of local funds in interest bearing accounts and may be ad-
18 justed from time to time in order to reflect changes in federal or
19 State law or regulations. The director may provide for variance
20 from the rules and regulations for the handling of small sums of
21 money as he shall define. Whenever any such public depository
22 shall agree to perform for the local unit specific services which
23 would not be sufficiently compensated by deposit on the terms
24 generally required by the director, the local unit may agree to
25 maintain in a separate noninterest bearing account with the deposi-
26 tory a predetermined amount sufficient to compensate for the
27 agreed upon services. The agreement shall be in writing and shall
28 be subject to the annual audit conducted pursuant to N. J. S.
29 40A :5-4. The agreement and the audit shall be in accordance with
30 procedures and criteria established by the director.

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32 them in the depository or depositories so designated and shall
33 thereafter be relieved of any liability or loss of such moneys due
34 to the insolvency or closing of the depository or depositories.

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36 shall promulgate such rules and regulations as may be necessary
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39 pliance with this act, and for reporting to, and direct oversight by,
40 the division in any instance when the director believes compliance
41 would be otherwise not forthcoming, all in accordance with the

42 investigatory and other powers and duties of the director and
 43 division set forth in the "Local Government Supervision Act
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 54 *to section 1 of P. L. 1977, c. 281 (C. 52:18A-90.4). The cash man-*
 55 *agement plan shall be designed to assure to the extent practicable*
 56 *the investment of local funds in interest bearing accounts and may*
 57 *be adjusted from time to time in order to reflect changes in federal*
 58 *or state law or regulations. The cash management plan shall be*
 59 *subject to the annual audit conducted pursuant to N. J. S. 40A:5-4.*
 60 *The official charged with the custody of moneys of a local unit*
 61 *shall deposit them as designated by the cash management plan and*
 62 *shall thereafter be relieved of any liability or loss of such moneys*
 63 *due to the insolvency or closing of any depository designed in the*
 64 *cash management plan.*

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to amend the "Local Fiscal Affairs Law" to ensure that every local unit fulfills the purpose of P. L. 1981, c. 196, while at the same time giving every local autonomous unit the right to flexibly operate its investments in accordance with the unique conditions within its area.

To bolster the purpose of chapter 196 the bill adds the requirement that every local unit have a "cash management plan." It also specifically defines what local units are subject to section 14 of the "Local Fiscal Affairs Law" and adds local special districts which have not been covered to day for consistency purposes.

By eliminating from chapter 196 a provision that the components of a local unit's financial program be established in accordance with uniform statewide regulations, the bill allows every local unit to use its own creativity, allows it to respond better to local competitive pressures among various depository institutions, and

allows local units to deal with the unique nature of compensating balances for depository services in a manner that would be most beneficial to local units and the taxpayers they serve.

As a control mechanism, the bill requires that the cash management plan be subject to the local unit's annual audit as required by law.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1368

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1982

Senate Bill No. 1368 OCR amends section 2 of the "Local Fiscal Affairs Law" (N. J. S. 40A:5-2) to require each local unit to adopt a cash management plan and to deposit its funds according to the provisions of that plan.

The provisions of this bill apply not only to counties and municipalities, but also to independent local authorities, commissions, special districts and agencies.

The bill eliminates the regulatory responsibilities of the Division of Local Government Services in the area of local cash management which had been authorized pursuant to the provisions of P. L. 1981, c. 196.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1368

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 28, 1982

Senate Bill No. 1368 amends N. J. S. 40A:5-2 of the "Local Fiscal Affairs Law" to require local units to adopt cash management plans, and to deposit funds pursuant to the plan. The bill effectively repeals P. L. 1981, c. 196, which amended that section to require local units to deposit funds according to rules and regulations of the Division of Local Government Services and to utilize interest bearing accounts where practicable. This bill eliminates division regulation of local cash management, and, according to the sponsor, gives "every local autonomous unit the right to flexibly operate its investments in accordance with the unique conditions within the area."

The bill also subjects independent local authorities, commissions, special districts and agencies to the "Local Fiscal Affairs Law."

The Senate committee amendments are clarifying in nature. They supply a definition of "chief executive officer" which acknowledges the various forms of government under which counties and municipalities may be governed.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: PAUL WOLCOTT

TUESDAY, JANUARY 18, 1983

Governor Thomas H. Kean today signed legislation that is central to the Administration's program for redevelopment of the Hudson River Waterfront.

The bill, S-1687, sponsored by State Senator Nicholas LaRocca, (D-Hudson), authorized the Port Authority of New York and New Jersey to engage in waterfront development projects in the Port District.

The bill designates Hoboken as the site of the first project to be undertaken by the Port Authority under the terms of the bill. The development would be accomplished in cooperation with private investors.

Identical legislation is currently pending in the New York State Legislature. Both states must enact the bill in order to authorize the new program.

"I eagerly await the action of the New York Legislature on this important legislation, so that we can move ahead with the needed economic development that this bill will foster," Kean said. "It is an opportunity for both states to benefit from the financial strength and development expertise of the authority."

In addition to authorizing the Port Authority to initiate development projects, the bill requires that any project proposed in either state have the approval of county and local authorities.

The Governor also signed the following bills:

S-762, sponsored by State Senator Francis J. McManimon, (D-Mercer), which provides for licensing acupuncturists and creates the Acupuncture Examining Board.

S-1368, sponsored by State Senator John F. Russo, (D-Ocean), which requires local units of government to adopt a cash management plan and subjects independent local authorities, commissions, special districts and agencies to the Local Fiscal Affairs Law.