

40A: 4-45.12 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:4-45.12 et al (Cap law - revises municipal spending limitations)

LAWS OF: 1983

CHAPTER: 49

Bill No: S2016

Sponsor(s): Lynch and others

Date Introduced: December 16, 1982

Committee: Assembly: ---

Senate: County and Municipal Government

Amended during passage: Yes Substituted for A2255 (not attached since identical to S2016).
Amendments during passage denoted by asterisks.

Date of Passage: Assembly: January 11, 1983

Senate: December 20, 1982

Date of Approval: January 31, 1983

Following statements are attached if available:

Sponsor statement: Yes Also attached: Senate amendments, adopted 1-24-83 (with statement) and Assembly amendments, adopted 1-11-83 (with statement)

Committee statement: Assembly No

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: Yes

Hearings: NO

(over)

Report referred to in sponsors' statement:

974.90 New Jersey. Local Expenditure Limitations Technical Review Commission.
M966 Report... November, 1982. Trenton, 1982.
1982a

SENATE, No. 2016
STATE OF NEW JERSEY

INTRODUCED DECEMBER 16, 1982

By Senators LYNCH, RODGERS, CAUFIELD, ORECHIO
and HIRKALA

Referred to Committee on County and Municipal Government

AN ACT concerning limitations imposed upon increases in municipal
final appropriations and county tax levies, and amending and
supplementing P. L. 1976, c. 68.

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

1 1. (New section) The Legislature finds that the constraints
2 placed upon local government by P. L. 1976, c. 68 (C. 40A:4-45.1
3 et seq.) are successfully accomplishing their purpose of controlling
4 the growth in the cost of local government.

5 The Legislature finds, however, that a uniform fixed percentage
6 limitation on increases in expenditures has not adequately reflected
7 either national economic trends or the differing needs of the various
8 local governments of the State. As a result, local governments
9 have been unevenly affected in their ability to provide necessary
10 services to their residents.

11 The Legislature, therefore, determines that P. L. 1976, c. 68
12 requires adjustment to provide for an annually variable percentage
13 limitation which more accurately reflects annual nationwide in-
14 creases in the basic costs of governmental operations, to provide
15 a mechanism whereby local officials and taxpayers can examine the
16 particular needs of their community and determine whether or

**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.

17 not the use of this limitation more nearly addresses those needs,
18 and to modify several features of the law which have proven to
19 be arbitrary or to result in unintended effects on the structure of
20 local government.

1 2. Section 2 of P. L. 1976, c. 68 (C. 40A :4-45.2) is amended to read
2 as follows:

3 2. Beginning with the tax year 1977 municipalities other than
4 those having a municipal purposes tax [levy] rate of \$0.10 or less
5 per \$100.00 and counties shall be prohibited from increasing their
6 final appropriations by more than 5% *or the index rate, whichever*
7 *is less*, over the previous year except within the provisions set
8 forth hereunder.

9 For the purpose of this section, in computing its final appropria-
10 tions for the previous year, a municipality *or county* shall include,
11 as part of its final appropriations:

12 a. Amounts of revenue generated by an increase in its valuations
13 based solely on applying the preceding year's local purposes tax
14 rate of the municipality to the assessed value of new construction
15 or improvements, *or on applying the preceding year's county tax*
16 *rate to the apportionment valuation of new construction or im-*
17 *provements, as may be appropriate;*

18 b. Revenues derived in the previous year from new service fees,
19 or from any increase in any previously imposed service fees im-
20 posed by ordinance;

21 c. Amounts approved by referendum, pursuant to subsection i.
22 of section 3 of P. L. 1976, c. 68 (C. 40A :4-45.3) and section 1 of
23 P. L. 1979, c. 268 (C. 40A :4-45.3a);

24 d. *Increased revenue received in the preceding year from pay-*
25 *ments in lieu of taxes on any property owned by a tax-exempt public*
26 *entity, to the extent that the payment is excepted pursuant to sub-*
27 *section n. of section 3 of P. L. 1976, c. 68 (C. 40A :4-45.3).*

28 In each budget year subsequent to 1981, *and in the case of a*
29 *county in each budget year subsequent to 1982*, whenever any mu-
30 nicipality *or county* shall have transferred to any local public
31 utility, any local public authority or any special purposes district,
32 during the immediately preceding budget year, or at any time
33 during the current budget year prior to the final adoption of the
34 budget, any service or function funded during the immediately
35 preceding budget year, either partially or wholly from appropria-
36 tions in the municipal *or county* budget, the municipality *or county*
37 shall deduct from its final appropriations upon which its permissi-
38 ble expenditures are calculated, *or upon which its permissible*
39 *county tax levy is calculated*, pursuant to this section the amount

40 which the municipality or county expended for that service or
41 function during the last full budget year throughout which the
42 service or function so transferred was funded from appropriations
43 in the municipal or county budget.

1 3. (New section) a. In any budget year subsequent to 1982,
2 whenever a county or municipality shall have lawfully assumed,
3 during the immediately preceding budget year, or at any time
4 during the current budget year prior to the final adoption of the
5 budget, the provision of any service or function funded during the
6 immediately preceding budget year wholly by a local public utility,
7 a local public authority or a special purposes district, and where
8 the provision of that service or function by the county or munici-
9 pality is the result of the lawful dissolution of the public utility,
10 public authority, or special services district previously providing
11 the service or function, the county or municipality shall add to the
12 final appropriations for the current budget year upon which its
13 permissible expenditures are calculated, or upon which its per-
14 missible county tax levy is calculated, the amount certified by the
15 Local Finance Board for appropriation by the county or munici-
16 pality to fund that service or function in the current budget year.

17 b. In any budget year subsequent to 1982, whenever a county
18 shall have lawfully assumed, during the immediately preceding
19 budget year, or at any time during the current budget year prior
20 to the final adoption of the budget, the provision of any service
21 or function funded during the immediately preceding budget year
22 wholly or partially by one or more municipalities within the county
23 from appropriations in the municipal budget, the county shall add
24 to the final appropriations for the current year upon which its
25 permissible county tax levy is calculated the amount certified by
26 the Local Finance Board for appropriation by the county to fund
27 that service or function in the current budget year.

28 c. The Local Finance Board shall approve the assumption of
29 any service or function for the purpose of its eligibility under the
30 provisions of this section. The board shall approve the assump-
31 tion if it finds: that the assumption was lawfully made; that the
32 assumption does not deleteriously affect the health, safety or
33 welfare of the residents of a county or municipality; and that the
34 assumption represents an efficient and feasible means of providing
35 the service or function. The board shall, in approving the assump-
36 tion, certify to the county or municipality assuming the service
37 or function the amount of appropriation to fund the service or
38 function which shall be eligible for the provisions of this section.

1 4. (New section) As used in this amendatory and supplementary

2 act, "index rate" means the rate of annual percentage increase,
3 rounded to the nearest half-percent, in the Implicit Price Deflator
4 for State and Local Government Purchases of Goods and Services,
5 computed and published quarterly by the United States Department
6 of Commerce, Bureau of Economic Analysis, calculating the annual
7 increase therein at the second quarter which occurred in the next
8 preceding local budget year. The Director of the Division of Local
9 Government Services shall promulgate annually, on or before
10 October 1, the index rate to apply in the next following local budget
11 year.

1 5. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended to
2 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;

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

16 c. An increase based upon: (1) emergency temporary appropria-
17 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-
18 tion or event which immediately endangers the health, safety or
19 property of the residents of the municipality, and over which the
20 governing body had no control and for which it could not plan; (2)
21 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
22 special emergency appropriations made pursuant to N. J. S.
23 40A:4-53; or (3) special emergency appropriations made pursuant
24 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1)
25 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
26 temporary appropriations, special emergency appropriations and
27 emergency appropriations under (1) and (2) above shall be
28 approved by at least two-thirds of the governing body and by the
29 Director of the Division of Local Government Services, and shall
30 not exceed in the aggregate 3% of the previous year's final current
31 operating appropriations. Special emergency appropriations under
32 (3) above shall be approved by at least two-thirds of the governing
33 body, and shall not exceed in the aggregate 3% of the previous

34 year's final current operating appropriations. Neither procedure
34A shall apply to appropriations adopted for a purpose referred to in
35 subsections 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, services 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 of
49 debt service therefor, between a municipality and any other
50 municipality, county, school or other district, agency, authority,
51 commission, instrumentality, public corporation, body corporate
52 and politic or political subdivision of this State. With respect to
53 the amounts required to be paid for senior citizen housing in the
54 above cited political subdivisions or bodies, the exceptions shall
55 be subject to 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
59 Development 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; [or]

65 m. Amounts [expended] *appropriated* to fund any increase in
66 public utility, fuel oil, gasoline or heating oil charges which exceeds
67 by more than 10% the [previous year's final expenditures for such
68 purposes] *amount produced by subtracting from the amount*
69 *appropriated in the previous year for these purposes that amount*
70 *which was excepted pursuant to this subsection in that previous*
71 *year;*

72 n. *Increased revenue from payments in lieu of taxes on any prop-*
73 *erty owned by a tax-exempt public entity, to the extent that the pay-*
74 *ment received for any single property exceeds the amount of real*
75 *property taxes received on that property in the year immediately*

76 prior to acquisition by the public entity, or, in the case of State
 77 property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.), to the
 78 extent that the total State payment exceeds the amount of the pay-
 79 ment received in the 1982 budget year;

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

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

1 6. Section 4 of P. L. 1976, c. 68 (C. 40A:4-45.4) is amended to
 2 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 expenditure 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
 20A or property of the residents of the county, and over which the
 21 governing body had no control and for which it could not plan; (2)
 22 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
 23 special emergency appropriations made pursuant to N. J. S.
 24 40A:4-53; or (3) special emergency appropriations made pursuant
 25 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1),
 26 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
 27 temporary appropriations, special emergency appropriations and
 28 emergency appropriations under (1) and (2) above shall be
 29 approved by at least two-thirds of the governing body and, where
 30 appropriate, approved by the chief executive officer of the county,

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

41 d. All debt service;

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

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

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

59 h. Amounts **[expended]** *appropriated* to fund any increase in
60 public utility, fuel oil, gasoline or heating oil charges which exceeds
61 by more than 10% the **[previous year's final expenditures for such**
62 **purposes]** *amount produced by subtracting from the amount*
63 *appropriated in the previous year for these purposes that amount*
64 *which was excepted pursuant to this subsection in that previous*
65 *year;*

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

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

1 7. (New section) Notwithstanding the provisions of sections 2, 3
2 or 4 of P. L. 1976, c. 68 (C. 40A :4-45.2, 40A :4-45.3 and 40A :4-45.4)
3 to the contrary, in any year for which the index rate exceeds 5%,
4 a municipality may, by ordinance, or a county may, by ordinance or
5 resolution, as appropriate, provide that in the local budget year to
6 which the ordinance or resolution applies, the final appropriations
7 of the municipality, or the tax levy of the county, shall be increased
8 by a percentage rate, greater than 5% but not to exceed the index
9 rate, over the previous year's final appropriations, or county tax
10 levy, as the case may be.

11 The ordinance or resolution, as appropriate, shall be introduced
12 after January 1 of the local budget year to which it applies and
13 prior to the date provided by law for the introduction and approval
14 of the annual budget of the municipality or county. The ordinance
15 or resolution shall state the greater percentage rate to be adopted
16 and the additional amount of increased final appropriations or tax
17 levy which that greater percentage rate represents over that which
18 the 5% rate represents, and the individual appropriations items to
19 which the additional amount applies setting forth for each appli-
20 cable appropriations item the amount to be appropriated: a. if the
21 the greater percentage rate is adopted; and b. if the greater per-
22 centage rate is not adopted. The ordinance or resolution may,
23 thereafter, be adopted, after publication and a public hearing
24 separately afforded upon 10 days notice duly published, by a
25 majority vote of the authorized membership of the governing body.
26 Any procedures provided in a form of local government for the
27 exercise of veto powers by a mayor or county executive with
28 respect to ordinances generally shall pertain. An ordinance or
29 resolution so adopted shall, notwithstanding any other provision of
30 law, take effect immediately upon adoption.

31 Upon adoption of the ordinance or resolution, the permissible
32 final appropriations of the municipality, or permissible county
33 tax levy of the county, shall be calculated for the year as provided
34 in section 3 or 4 of P. L. 1976, c. 68 (C. 40A :4-45.3 or 40A :4-45.4),
35 except that the percentage rate so adopted shall be used. The final
36 appropriations or county tax levy so calculated shall be used in the
37 immediately following year for the purposes of section 2 of P. L.
38 1976, c. 68 (C. 40A :4-45.2).

39 A copy of any ordinance or resolution introduced pursuant to
40 this section shall be filed with the Director of the Division of Local
41 Government Services within five days of introduction, and a copy
42 of the ordinance or resolution adopted shall be filed with the
43 director within five days of adoption.

44 In any year for which an ordinance or resolution is adopted by a
45 municipality pursuant to this section, no referendum shall be held
46 in that municipality pursuant to subsection i. of section 3 of P. L.
47 1976, c. 68 (C. 40A:4-45.3i).

1 8. (New section) Notwithstanding any provisions of P. L. 1976,
2 c. 68 (40A:4-45.1 et seq.) to the contrary, a municipality or county,
3 which, in any year subsequent to 1982 for which the index rate is
4 greater than 5%, increases its final appropriations or county tax
5 levy in an amount less than that permitted under the 5% percentage
6 rate, shall be permitted to appropriate the difference between the
7 amount of its actual final appropriations or county tax levy and the
8 amount of its permitted final appropriations or county tax levy
9 under the 5% percentage rate, as an exception to its final appropria-
10 tions or county tax levy in either of the next two succeeding years.
11 In the year immediately following the year in which the amount of
12 difference is so appropriated, the amount of difference shall be
13 added to the final appropriations or county tax levy of the preceding
14 year for the purposes of section 2 of P. L. 1976, c. 68 (C.
15 40A:4-45.2).

1 9. (New section) In any public referendum conducted by a mu-
2 nicipality pursuant to subsection i. of section 3 of P. L. 1976, c. 68
3 (C. 40A:4-45.3i.), the public question to be submitted to the voters
4 at the referendum election shall state only the amount by which the
5 final appropriations of the municipality shall be increased by more
6 than the permissible level over the previous year's final appropria-
7 tions if the question is approved by the voters, and the percentage
8 rate of increase which that amount represents over the permissible
9 rate. There shall be set forth in an accompanying explanatory state-
10 ment a list of the appropriations line items to which the increased
11 amount shall apply and such other relevant information as the
12 governing body may wish to include therein.

13 A resolution adopted by a municipality to authorize the conduct
14 of such a referendum shall set forth, in addition to the above, the
15 amount to be appropriated for each applicable appropriations
16 item: a. if the referendum question is approved by the voters; and
17 b. if the referendum question is disapproved by the voters.

1 10. (New section) a. There is established a commission to be
2 known as the Local Expenditure Limitations Advisory Commission.
3 The commission shall consist of 10 members, three of whom shall
4 be appointed by the Governor, three of whom shall be appointed
5 by the President of the Senate, three of whom shall be appointed
6 by the Speaker of the General Assembly, and one of whom shall be
7 the Director of the Division of Local Government Services, who

8 shall serve ex officio. Each member so appointed shall possess ex-
9 pertise in local government, local finance or economic analysis, and
10 no member shall be a nominee for, or hold, an elective office during
11 his period of service on the commission.

12 b. Members of the commission shall serve for a term of four
13 years. Vacancies in the membership of the commission shall be
14 filled in the same manner as the original appointment, but for the
15 unexpired term. Members of the commission shall serve without
16 compensation, but shall be reimbursed for traveling and other ex-
17 penses incurred in the performance of their duties, within the limits
18 of funds appropriated or otherwise made available to the com-
19 mission.

20 c. The commission shall select from among its members a chair-
21 man and a vice chairman, and shall select a secretary, who need
22 not be a member of the commission.

23 d. It shall be the duty of the commission to conduct a continuing
24 review of the provisions of P. L. 1976, c. 68 (C. 40A: 4-45.1 et seq.),
25 and to collect and assemble information and data on the effects of
26 that law upon counties, municipalities and property taxpayers of
27 this State. In the course of its review, the commission shall give
28 particular attention: to the role which that law plays in controlling
29 the relative balance between property taxes and other sources of
30 local revenue; to any economic developments, and any executive
31 or legislative or judicial actions, which may affect that relative
32 balance or the efficacy of the law; and to any unforeseen effects of
33 the law on the financial stability or efficiency of local governments.

34 e. The commission shall report annually, on or before October 1,
35 to the Governor and the Legislature on the above matters, and shall
36 include in that report information and data with respect to at least
37 the following matters:

38 (1) The utilization by counties and municipalities of the local
39 ordinance option and referendum option provided by the law for
40 the purpose of permitting local governments to exceed the limita-
41 tions on increases in final appropriations or county tax levies, in-
42 cluding data for each instance of utilization, and data on current
43 and cumulative increases in categories of appropriations items
44 taken under each of these options;

45 (2) A list of instances of services or functions for which eligi-
46 bility was extended under section 3 of this amendatory and supple-
47 mentary act, and information and cumulative data on categories of
48 services or functions assumed in various service or function areas,
49 and on transfers of services or functions between types of local
50 public entities;

51 (3) The utilization by counties and municipalities of the pro-
52 visions of section 8 of this amendatory and supplementary act; and

53 (4) A statement of the index rate to apply in the next following
54 local budget year, and any alterations which have occurred in the
55 method of calculation of that index rate since enactment, including
56 any recommendations for legislation to compensate for any effects
57 of those alterations.

58 f. The commission shall be entitled to call to its assistance such
59 personnel of any State agency, county, municipality or political
60 subdivision as it may require in order to perform its duties under
61 this act. The commission may make use of existing studies, surveys,
62 plans, data and other materials in the possession of any State
63 agency, or any county, municipality or political subdivision of the
64 State. Each State agency, county, municipality and political sub-
65 division of the State shall make any information or materials
66 available to the commission as it may require to perform its respon-
67 sibilities under this act. The commission may meet and hold hear-
68 ings at such places and times as it shall designate.

1 11. Section 7 of P. L. 1976, c. 68 is amended to read as follows:

2 7. This act shall take effect immediately and be applicable to the
3 tax years beginning in 1977 and shall expire December 31, [1982]
4 1986.

1 12. This act shall take effect immediately.

STATEMENT

The Local Budget Caps Law (P. L. 1976, c. 68; C. 40A:4-45.1 et seq.) has an expiration date of December 31, 1982. This expiration date was inserted to require the Legislature to review periodically the effects of that law. A thorough review of the law has been completed by two commissions: the Local Budgetary Limitations Review Commission ("Caps Commission") and the Local Budgetary Limitations Technical Review Commission ("Technical Commission"). This bill, as well as, Senate Bill No. 2015 of 1982, represent the recommendations of the Technical Commission, as modified by the Caps Commission, for the extension of that law through December 31, 1986.

In its November 1982 report, the Technical Commission stated its conclusion that "the basic structure of the local CAP law remains appropriate and represents a reasonable policy for restraint of growth in local expenditures/tax levies while making sufficient allowance for local service provision. However, the commission also concludes that if the CAP law is to be extended beyond its

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December 31, 1982 expiration date, it is in need of changes to improve the flexibility of the respective CAP formulas, to make them more responsive to short-term changes in fiscal and economic conditions and local needs. The commission strongly believes these changes are essential if the CAP law is to be successful in attaining its two-fold (sic) goal of financial restraint without undue impairment of service provision capability. If the CAP law is extended beyond 1982 without these alterations, the commission is apprehensive that financial restraint will result in reductions in local services exceeding the original intent of the law.”

The modifications made by the Caps Commission reflect its conclusion that, while some local governments have been severely affected in their ability to provide necessary services, the constraints of the CAP law have been felt unevenly among local governments. The modifications also reflect the Caps Commission’s caution that greater CAPS flexibility should not provide the State with an “automatic safety valve” to pass greater service funding responsibilities onto the local property tax. Therefore, decisions to permit greater increases in local spending over the 5% limit should be made in the context of a local mechanism whereby local officials and taxpayers can examine the particular needs of their community and determine whether or not a spending increase is justified.

*Technical Commission Recommendations as Modified by the
Caps Commission*

1. *Index Rate*—The Technical Commission recommended that the current 5% fixed cap rate be replaced with a flexible rate determined by the percentage increase in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services. The annual cap rate would be computed by a two year moving average of the rate of change in the index. The 5% rate would be maintained as a floor or minimum cap rate.

The recommended Implicit Price Deflator is published by the United States Department of Commerce, and represents the inflation rate for purchases of goods and services typically purchased by State and local governments, nationwide. This index is less subject to large annual fluctuations than the Consumer Price Index, which is heavily weighted toward housing costs, and includes typical consumer items, such as entertainment, food and beverages, personal care, etc., which do not relate to local governments. The Technical Commission wished to guard even more against large annual fluctuations by using a two year moving average, and to guard in particular against large fluctuations downward by main-

maintaining the 5% as a floor below which the rate could not go. The index rate, or CAP percentage, under the Technical Commission recommendation would be 8.1% for 1983.

The Caps Commission modifications set forth in this bill accept the concept of a flexible rate determined by the percentage increase in the Implicit Price Deflator, but provide for its adoption by a local government on a local ordinance optional basis. The local unit's annual cap rate would be 5% or the index rate, whichever shall be less, unless the governing body shall adopt, after public hearing, an ordinance, by a majority vote of the full membership, to go to the index rate exceeding 5%. The referendum option would be retained for increases above the index rate.

The Caps Commission rejected the concept of a 5% floor or minimum rate. If the index rate goes below 5%, the cap rate would go down to that level. Also, since the index rate is on a local option basis, the index should be calculated on a current year basis. The index rate under the bill would be 7.4% for 1983.

In order to promote local examination of the need for utilizing this option, the bill requires that any ordinance to adopt the index rate, and any resolution to provide for a referendum to exceed the cap, shall state the amount of the increase to be added to each appropriations item in the budget for which the increase shall be used. The ordinance or resolution shall state the amount to be expended on these individual line items: (1) if the increase is adopted; and (2) if the increase is not adopted. In addition, the bill would require that in a cap referendum the public question shall state only the amount of the increase proposed above the cap, and the line items to which the increase amount applies.

2. *Exemption for Decreases in Federal and State Aid*—The Technical Commission recommended that a new cap exemption be provided for decreases after 1982 in federal or State general purposes aid. This federal and State aid is currently permitted to be expended as a cap exemption. This new exemption would permit local governments to make up for losses in this aid by using local revenue sources, which are not cap exempt. Federal General Revenue Sharing and State Municipal Purposes Tax Assistance Aid are the two major sources of this noncategorical aid.

The Caps Commission modifications set forth in this bill provide a cap exemption for decreases after 1982 in federal general purposes aid, but only for those decreases not replaced by increased federal or State general purposes aid. No exception shall be provided for decreases in State general purposes aid, since this should be addressed in any particular legislation providing for those decreases.

3. *“Banking” of Unused Cap Leeway*—The Technical Commission recommended that local governments be permitted to carry forward or “bank” their unused cap leeway—the difference between actual municipal final appropriations/county tax levy and the amount permitted by the cap—for a two-year period. This is designed to provide an incentive for local units not to budget up to their cap maximum in any one year simply to avoid losing that permissible growth in future years. Under the recommendation, any spending or tax levy leeway allowed by the cap formula, but not budgeted for in that year, could be used in either of the next two succeeding years.

The Caps Commission modification set forth in this bill confines the “banking” of cap leeway to amounts below the amount permitted by the 5% cap rate. A local government could use this unused cap leeway in a future year, instead of utilizing the local ordinance option, or could “bank” that cap leeway in case the index rate falls below 5% in a future year. The provision as modified should encourage better long-term budget planning by local governments.

4. *Adjustment for Transfers of Functions*—The Technical Commission recommended that the local cap law be brought into conformity with the State cap law, by providing for an adjustment to the cap bases, if transfers of functions or services and responsibility for funding occur between governmental units. The commission recommended base increases for the governmental unit newly assuming the function or service, and base decreases for the governmental unit formerly funding the function or service.

The Caps Commission modifications set forth in the bill provide for adjustment of the cap base to reflect transfers of financing responsibility for a service or function—only in the following instances: (1) the assumption by a local unit of any function or service previously performed by a local authority, public utility, or special services district; (2) the assumption by a county of any function or service previously performed by a municipality. The first would reverse the incentive to establish authorities and special districts previously provided by the Cap law. The second is compatible with the direction of the “Optional County Charter Law,” P. L. 1972, c. 154 (C. 40:41A-1 et seq.) and should be made only in the county cap base.

The modifications reflect the Caps Commission’s strong belief that any cap adjustment for transfer of functions between the State and local governments should be addressed in any particular legislation providing for those transfers.

5. *Referendum Costs Exemption*—The Technical Commission recommended that an exception be provided for the costs of holding a referendum to exceed the cap.

The Caps Commission modifications set forth in the bill extend this recommendation to provide an exception for the costs of holding any special election required to be held at a time other than the general election or regular municipal election. These special elections would include caps referendum elections, charter change elections, referendum elections on salary increases, recall elections, vacancy elections, etc. All of these special elections share the common characteristic of being outside the local budget planning process, and of being in most instances voter initiated. In most instances, the laws providing for these special elections direct that the general election or regular municipal election be used if practicable, but provide for a special election where this is not practicable.

6. *Extension of Caps Law*—The Technical Commission recommended continued extension of the law on an experimental basis, to expire on December 31, 1985.

The Caps Commission modification set forth in the bill provides for a four year extension, to expire on December 31, 1986.

7. In addition to the above, the bill includes three recommendations of the Caps Commission, not included in the Technical Commission recommendations:

a. That payments in lieu of taxes received from any tax-exempt public entity shall be treated on the same basis as revenues derived from new ratables, to the extent that the payment exceeds the amount of taxes received on the property in the year immediately prior to acquisition, or, in the case of State-owned property, to the extent that the payment exceeds the amount of the payment received in 1982. In the past, these revenues have been required to be expended within the Cap to reduce property taxes. The bill would permit increases in these revenues to be expended in the future to provide increased services to State-owned or other tax-exempt property, which is the purpose of a payment in lieu of taxes.

b. A clarification of the language of the current caps exemption for increases in utility and energy costs provided by P. L. 1981, c. 56. The language inserted here reflects the manner in which the Division of Local Government Services has administered that exemption.

c. That a permanent Technical Advisory Commission be established to continuously monitor the effects of the law and to provide the Governor and Legislature with information and data on the

law. The commission would consist of persons having expertise in local government, local finance or economic analysis, and no member shall be an elected official. The commission would report annually, on or before October 1, to the Governor and Legislature on the use by counties and municipalities of the local ordinance option and referendum option provided by the cap law, including data on increases in appropriations items taken under these options. The report shall also include a review of the use of the "banking" of cap leeway, and an enumeration of any transfers of functions for which an exception was provided for the current year. The report would also include a statement of the index rate to apply in the next local budget year, and any alterations which have occurred in the method of calculation of the index rate, including any recommendations for legislation to compensate for any effects of those alterations.

JAN 11 1983

to

ARTICLE

SENATE Bill No. 2016 (typed copy)

JAN 11 1983

Sec.	Line
7	48
7	After 51

Omit "or resolution"

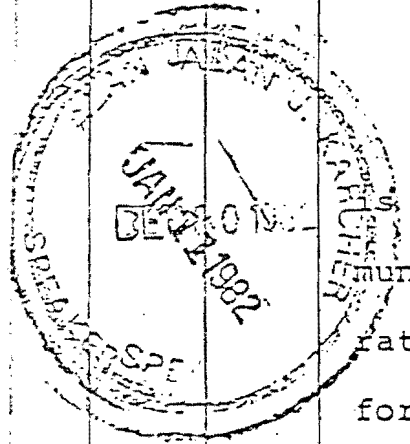
"No municipality adopting an ordinance pursuant to this section shall, in the year for which that ordinance is adopted, be entitled to the exception authorized pursuant to subsection m. of section 3 of P.L. 1976, c. 68 (C.40A:4-45.3a).

No county adopting an ordinance or resolution, as appropriate, pursuant to this section shall, in the year for which that ordinance or resolution is adopted, be entitled to the exception authorized pursuant to subsection h. of section 4 of P.L. 1976, c. 68 (C.40A:4-45.4b)."

STATEMENT

The purpose of these Assembly Amendments is to provide that in any year in which a county or municipality decides to use the index for its cap rate, it shall not be entitled to a cap exemption for the amounts it expended to fund any increase in public utility, fuel oil, gasoline or heating oil charges which exceed by more than 10% its previous year's final expenditures for those purposes.

This Assembly Amendment would bring the provisions of S-2016 into conformity with the provisions of A-2255 Aca.



[ASSEMBLY REPRINT]

SENATE, No. 2016

STATE OF NEW JERSEY

INTRODUCED DECEMBER 16, 1982

By Senators LYNCH, RODGERS, CAUFIELD, ORECHIO
and HIRKALA

Referred to Committee on County and Municipal Government

AN ACT concerning limitations imposed upon increases in municipal
final appropriations and county tax levies, and amending and
supplementing P. L. 1976, c. 68.

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

1 1. (New section) The Legislature finds that the constraints
2 placed upon local government by P. L. 1976, c. 68 (C. 40A:4-45.1
3 et seq.) are successfully accomplishing their purpose of controlling
4 the growth in the cost of local government.

5 The Legislature finds, however, that a uniform fixed percentage
6 limitation on increases in expenditures has not adequately reflected
7 either national economic trends or the differing needs of the various
8 local governments of the State. As a result, local governments
9 have been unevenly affected in their ability to provide necessary
10 services to their residents.

11 The Legislature, therefore, determines that P. L. 1976, c. 68
12 requires adjustment to provide for an annually variable percentage
13 limitation which more accurately reflects annual nationwide in-
14 creases in the basic costs of governmental operations, to provide
15 a mechanism whereby local officials and taxpayers can examine the
16 particular needs of their community and determine whether or
17 not the use of this limitation more nearly addresses those needs,
18 and to modify several features of the law which have proven to
19 be arbitrary or to result in unintended effects on the structure of
20 local government.

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 amendment adopted January 11, 1983.

1 2. Section 2 of P. L. 1976, c. 68 (C. 40A:4-45.2) is amended to read
2 as follows:

3 2. Beginning with the tax year 1977 municipalities other than
4 those having a municipal purposes tax [levy] rate of \$0.10 or less
5 per \$100.00 and counties shall be prohibited from increasing their
6 final appropriations by more than 5% or the index rate, whichever
7 is less, over the previous year except within the provisions set
8 forth hereunder.

9 For the purpose of this section, in computing its final appropria-
10 tions for the previous year, a municipality or county shall include,
11 as part of its final appropriations:

12 a. Amounts of revenue generated by an increase in its valuations
13 based solely on applying the preceding year's local purposes tax
14 rate of the municipality to the assessed value of new construction
15 or improvements, or on applying the preceding year's county tax
16 rate to the apportionment valuation of new construction or im-
17 provements, as may be appropriate;

18 b. Revenues derived in the previous year from new service fees,
19 or from any increase in any previously imposed service fees im-
20 posed by ordinance;

21 c. Amounts approved by referendum, pursuant to subsection i.
22 of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) and section 1 of
23 P. L. 1979, c. 268 (C. 40A:4-45.3a);

24 d. Increased revenue received in the preceding year from pay-
25 ments in lieu of taxes on any property owned by a tax-exempt public
26 entity, to the extent that the payment is excepted pursuant to sub-
27 section n. of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3).

28 In each budget year subsequent to 1981, and in the case of a
29 county in each budget year subsequent to 1982, whenever any mu-
30 nicipality or county shall have transferred to any local public
31 utility, any local public authority or any special purposes district,
32 during the immediately preceding budget year, or at any time
33 during the current budget year prior to the final adoption of the
34 budget, any service or function funded during the immediately
35 preceding budget year, either partially or wholly from appropria-
36 tions in the municipal or county budget, the municipality or county
37 shall deduct from its final appropriations upon which its permissi-
38 ble expenditures are calculated, or upon which its permissible
39 county tax levy is calculated, pursuant to this section the amount
40 which the municipality or county expended for that service or
41 function during the last full budget year throughout which the
42 service or function so transferred was funded from appropriations
43 in the municipal or county budget.

1 3. (New section) a. In any budget year subsequent to 1982,
2 whenever a county or municipality shall have lawfully assumed,
3 during the immediately preceding budget year, or at any time
4 during the current budget year prior to the final adoption of the
5 budget, the provision of any service or function funded during the
6 immediately preceding budget year wholly by a local public utility,
7 a local public authority or a special purposes district, and where
8 the provision of that service or function by the county or munic-
9 pality is the result of the lawful dissolution of the public utility,
10 public authority, or special services district previously providing
11 the service or function, the county or municipality shall add to the
12 final appropriations for the current budget year upon which its
13 permissible expenditures are calculated, or upon which its per-
14 missible county tax levy is calculated, the amount certified by the
15 Local Finance Board for appropriation by the county or munic-
16 pality to fund that service or function in the current budget year.

17 b. In any budget year subsequent to 1982, whenever a county
18 shall have lawfully assumed, during the immediately preceding
19 budget year, or at any time during the current budget year prior
20 to the final adoption of the budget, the provision of any service
21 or function funded during the immediately preceding budget year
22 wholly or partially by one or more municipalities within the county
23 from appropriations in the municipal budget, the county shall add
24 to the final appropriations for the current year upon which its
25 permissible county tax levy is calculated the amount certified by
26 the Local Finance Board for appropriation by the county to fund
27 that service or function in the current budget year.

28 c. The Local Finance Board shall approve the assumption of
29 any service or function for the purpose of its eligibility under the
30 provisions of this section. The board shall approve the assump-
31 tion if it finds: that the assumption was lawfully made; that the
32 assumption does not deleteriously affect the health, safety or
33 welfare of the residents of a county or municipality; and that the
34 assumption represents an efficient and feasible means of providing
35 the service or function. The board shall, in approving the assump-
36 tion, certify to the county or municipality assuming the service
37 or function the amount of appropriation to fund the service or
38 function which shall be eligible for the provisions of this section.

1 4. (New section) As used in this amendatory and supplementary
2 act, "index rate" means the rate of annual percentage increase,
3 rounded to the nearest half-percent, in the Implicit Price Deflator
4 for State and Local Government Purchases of Goods and Services,
5 computed and published quarterly by the United States Department

6 of Commerce, Bureau of Economic Analysis, calculating the annual
7 increase therein at the second quarter which occurred in the next
8 preceding local budget year. The Director of the Division of Local
9 Government Services shall promulgate annually, on or before
10 October 1, the index rate to apply in the next following local budget
11 year.

1 5. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended to
2 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;

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

16 c. An increase based upon: (1) emergency temporary appropria-
17 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-
18 tion or event which immediately endangers the health, safety or
19 property of the residents of the municipality, and over which the
20 governing body had no control and for which it could not plan; (2)
21 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
22 special emergency appropriations made pursuant to N. J. S.
23 40A:4-53; or (3) special emergency appropriations made pursuant
24 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1)
25 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
26 temporary appropriations, special emergency appropriations and
27 emergency appropriations under (1) and (2) above shall be
28 approved by at least two-thirds of the governing body and by the
29 Director of the Division of Local Government Services, and shall
30 not exceed in the aggregate 3% of the previous year's final current
31 operating appropriations. Special emergency appropriations under
32 (3) above shall be approved by at least two-thirds of the governing
33 body, and shall not exceed in the aggregate 3% of the previous
34 year's final current operating appropriations. Neither procedure
34A shall apply to appropriations adopted for a purpose referred to in
35 subsections 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, services 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 of
49 debt service therefor, between a municipality and any other
50 municipality, county, school or other district, agency, authority,
51 commission, instrumentality, public corporation, body corporate
52 and politic or political subdivision of this State. With respect to
53 the amounts required to be paid for senior citizen housing in the
54 above cited political subdivisions or bodies, the exceptions shall
55 be subject to 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
59 Development 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; **[or]**
- 65 m. Amounts **[expended]** *appropriated* to fund any increase in
66 public utility, fuel oil, gasoline or heating oil charges which exceeds
67 by more than 10% the **[previous year's final expenditures for such
68 purposes]** *amount produced by subtracting from the amount
69 appropriated in the previous year for these purposes that amount
70 which was excepted pursuant to this subsection in that previous
71 year;*
- 72 n. *Increased revenue from payments in lieu of taxes on any prop-
73 erty owned by a tax-exempt public entity, to the extent that the pay-
74 ment received for any single property exceeds the amount of real
75 property taxes received on that property in the year immediately
76 prior to acquisition by the public entity, or, in the case of State
77 property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.), to the
78 extent that the total State payment exceeds the amount of the pay-
79 ment received in the 1982 budget year;*

80 o. *Any decrease in amounts received pursuant to any federal*
 81 *general purposes aid program from the amounts received in local*
 82 *budget year 1982, after deducting from the decrease any amount of*
 83 *new or increased federal or State general purposes aid explicitly*
 84 *provided for the purpose of replacing the decrease in federal aid; or*
 85 p. *Amounts expended for the conduct of a special election re-*
 86 *quired by law to be held at a time other than the time of the general*
 87 *election or the time of a regular municipal election.*

1 6. Section 4 of P. L. 1976, c. 68 (C. 40A:4-45.4) is amended to
 2 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 expenditure 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
 20A or property of the residents of the county, and over which the
 21 governing body had no control and for which it could not plan; (2)
 22 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
 23 special emergency appropriations made pursuant to N. J. S.
 24 40A:4-53; or (3) special emergency appropriations made pursuant
 25 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1),
 26 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
 27 temporary appropriations, special emergency appropriations and
 28 emergency appropriations under (1) and (2) above shall be
 29 approved by at least two-thirds of the governing body and, where
 30 appropriate, approved by the chief executive officer of the county,
 31 and further approved by the Director of the Division of Local
 32 Government Services, and shall not exceed in the aggregate 3% of
 33 the previous year's final current operating appropriations. Special
 34 emergency appropriations under (3) above shall be approved by

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

41 d. All debt service;

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

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

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

59 h. Amounts **[expended]** *appropriated* to fund any increase in
 60 public utility, fuel oil, gasoline or heating oil charges which exceeds
 61 by more than 10% the **[previous year's final expenditures for such**
 62 **purposes]** *amount produced by subtracting from the amount*
 63 *appropriated in the previous year for these purposes that amount*
 64 *which was excepted pursuant to this subsection in that previous*
 65 *year;*

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

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

1 7. (New section) Notwithstanding the provisions of sections 2, 3
 2 or 4 of P. L. 1976, c. 68 (C. 40A :4-45.2, 40A :4-45.3 and 40A :4-45.4)
 3 to the contrary, in any year for which the index rate exceeds 5%,

4 a municipality may, by ordinance, or a county may, by ordinance or
5 resolution, as appropriate, provide that in the local budget year to
6 which the ordinance or resolution applies, the final appropriations
7 of the municipality, or the tax levy of the county, shall be increased
8 by a percentage rate, greater than 5% but not to exceed the index
9 rate, over the previous year's final appropriations, or county tax
10 levy, as the case may be.

11 The ordinance or resolution, as appropriate, shall be introduced
12 after January 1 of the local budget year to which it applies and
13 prior to the date provided by law for the introduction and approval
14 of the annual budget of the municipality or county. The ordinance
15 or resolution shall state the greater percentage rate to be adopted
16 and the additional amount of increased final appropriations or tax
17 levy which that greater percentage rate represents over that which
18 the 5% rate represents, and the individual appropriations items to
19 which the additional amount applies setting forth for each appli-
20 cable appropriations item the amount to be appropriated: a. if the
21 the greater percentage rate is adopted; and b. if the greater per-
22 centage rate is not adopted. The ordinance or resolution may,
23 thereafter, be adopted, after publication and a public hearing
24 separately afforded upon 10 days notice duly published, by a
25 *two-thirds* majority vote of the authorized membership of the
26 governing body. Any procedures provided in a form of local govern-
27 ment for the exercise of veto powers by a mayor or county executive
28 with respect to ordinances generally shall pertain. An ordinance or
29 resolution so adopted shall, notwithstanding any other provision of
30 law, take effect immediately upon adoption.

31 Upon adoption of the ordinance or resolution, the permissible
32 final appropriations of the municipality, or permissible county
33 tax levy of the county, shall be calculated for the year as provided
34 in section 3 or 4 of P. L. 1976, c. 68 (C. 40A:4-45.3 or 40A:4-45.4),
35 except that the percentage rate so adopted shall be used. The final
36 appropriations or county tax levy so calculated shall be used in the
37 immediately following year for the purposes of section 2 of P. L.
38 1976, c. 68 (C. 40A:4-45.2).

39 A copy of any ordinance or resolution introduced pursuant to
40 this section shall be filed with the Director of the Division of Local
41 Government Services within five days of introduction, and a copy
42 of the ordinance or resolution adopted shall be filed with the
43 director within five days of adoption.

44 In any year for which an ordinance or resolution is adopted by a
45 municipality pursuant to this section, no referendum shall be held
46 in that municipality pursuant to subsection i. of section 3 of P. L.
47 1976, c. 68 (C. 40A:4-45.3i).

1 8. (New section) Notwithstanding any provisions of P. L. 1976,
2 c. 68 (40A:4-45.1 et seq.) to the contrary, a municipality or county,
3 which, in any year subsequent to 1982 for which the index rate is
4 greater than 5%, increases its final appropriations or county tax
5 levy in an amount less than that permitted under the 5% percentage
6 rate, shall be permitted to appropriate the difference between the
7 amount of its actual final appropriations or county tax levy and the
8 amount of its permitted final appropriations or county tax levy
9 under the 5% percentage rate, as an exception to its final appropria-
10 tions or county tax levy in either of the next two succeeding years.
11 In the year immediately following the year in which the amount of
12 difference is so appropriated, the amount of difference shall be
13 added to the final appropriations or county tax levy of the preceding
14 year for the purposes of section 2 of P. L. 1976, c. 68 (C.
15 40A:4-45.2).

1 9. (New section) In any public referendum conducted by a mu-
2 nicipality pursuant to subsection i. of section 3 of P. L. 1976, c. 68
3 (C. 40A:4-45.3i.), the public question to be submitted to the voters
4 at the referendum election shall state only the amount by which the
5 final apporpriations of the municipality shall be increased by more
6 than the permissible level over the previous year's final appropria-
7 tions if the question is approved by the voters, and the percentage
8 rate of increase which that amount represents over the permissible
9 rate. There shall be set forth in an accompanying explanatory state-
10 ment a list of the appropriations line items to which the increased
11 amount shall apply and such other relevant information as the
12 governing body may wish to include therein.

13 A resolution adopted by a municipality to authorize the conduct
14 of such a referendum shall set forth, in addition to the above, the
15 amount to be appropriated for each applicable appropriations
16 item: a. if the referendum question is approved by the voters; and
17 b. if the referendum question is disapproved by the voters.

1 10. (New section) a. There is established a commission to be
2 known as the Local Expenditure Limitations Advisory Commission.
3 The commission shall consist of 10 members, three of whom shall
4 be appointed by the Governor, three of whom shall be appointed
5 by the President of the Senate, three of whom shall be appointed
6 by the Speaker of the General Assembly, and one of whom shall be
7 the Director of the Division of Local Government Services, who
8 shall serve ex officio. Each member so appointed shall possess ex-
9 pertise in local government, local finance or economic analysis, and
10 no member shall be a nominee for, or hold, an elective office during
11 his period of service on the commission.

12 b. Members of the commission shall serve for a term of four
13 years. Vacancies in the membership of the commission shall be
14 filled in the same manner as the original appointment, but for the
15 unexpired term. Members of the commission shall serve without
16 compensation, but shall be reimbursed for traveling and other ex-
17 penses incurred in the performance of their duties, within the limits
18 of funds appropriated or otherwise made available to the com-
19 mission.

20 c. The commission shall select from among its members a chair-
21 man and a vice chairman, and shall select a secretary, who need
22 not be a member of the commission.

23 d. It shall be the duty of the commission to conduct a continuing
24 review of the provisions of P. L. 1976, c. 68 (C. 40A: 4-45.1 et seq.),
25 and to collect and assemble information and data on the effects of
26 that law upon counties, municipalities and property taxpayers of
27 this State. In the course of its review, the commission shall give
28 particular attention: to the role which that law plays in controlling
29 the relative balance between property taxes and other sources of
30 local revenue; to any economic developments, and any executive
31 or legislative or judicial actions, which may affect that relative
32 balance or the efficacy of the law; and to any unforeseen effects of
33 the law on the financial stability or efficiency of local governments.

34 e. The commission shall report annually, on or before October 1,
35 to the Governor and the Legislature on the above matters, and shall
36 include in that report information and data with respect to at least
37 the following matters:

38 (1) The utilization by counties and municipalities of the local
39 ordinance option and referendum option provided by the law for
40 the purpose of permitting local governments to exceed the limita-
41 tions on increases in final appropriations or county tax levies, in-
42 cluding data for each instance of utilization, and data on current
43 and cumulative increases in categories of appropriations items
44 taken under each of these options;

45 (2) A list of instances of services or functions for which eligi-
46 bility was extended under section 3 of this amendatory and supple-
47 mentary act, and information and cumulative data on categories of
48 services or functions assumed in various service or function areas,
49 and on transfers of services or functions between types of local
50 public entities;

51 (3) The utilization by counties and municipalities of the pro-
52 visions of section 8 of this amendatory and supplementary act; and

53 (4) A statement of the index rate to apply in the next following
54 local budget year, and any alterations which have occurred in the

55 method of calculation of that index rate since enactment, including
56 any recommendations for legislation to compensate for any effects
57 of those alterations.

58 f. The commission shall be entitled to call to its assistance such
59 personnel of any State agency, county, municipality or political
60 subdivision as it may require in order to perform its duties under
61 this act. The commission may make use of existing studies, surveys,
62 plans, data and other materials in the possession of any State
63 agency, or any county, municipality or political subdivision of the
64 State. Each State agency, county, municipality and political sub-
65 division of the State shall make any information or materials
66 available to the commission as it may require to perform its respon-
67 sibilities under this act. The commission may meet and hold hear-
68 ings at such places and times as it shall designate.

1 11. Section 7 of P. L. 1976, c. 68 is amended to read as follows:

2 7. This act shall take effect immediately and be applicable to the
3 tax years beginning in 1977 and shall expire December 31, **[1982]**
4 *1986*.

1 12. This act shall take effect immediately.

OK
JAK

ADOPTED

JAN 24 1983

SENATE Amendments

to

Senate Bill No. 2016 (Assembly Bill)
(with Assembly Amendments adopted
January 11, 1983)
(by Senator Lynch, sponsor)

Amend:

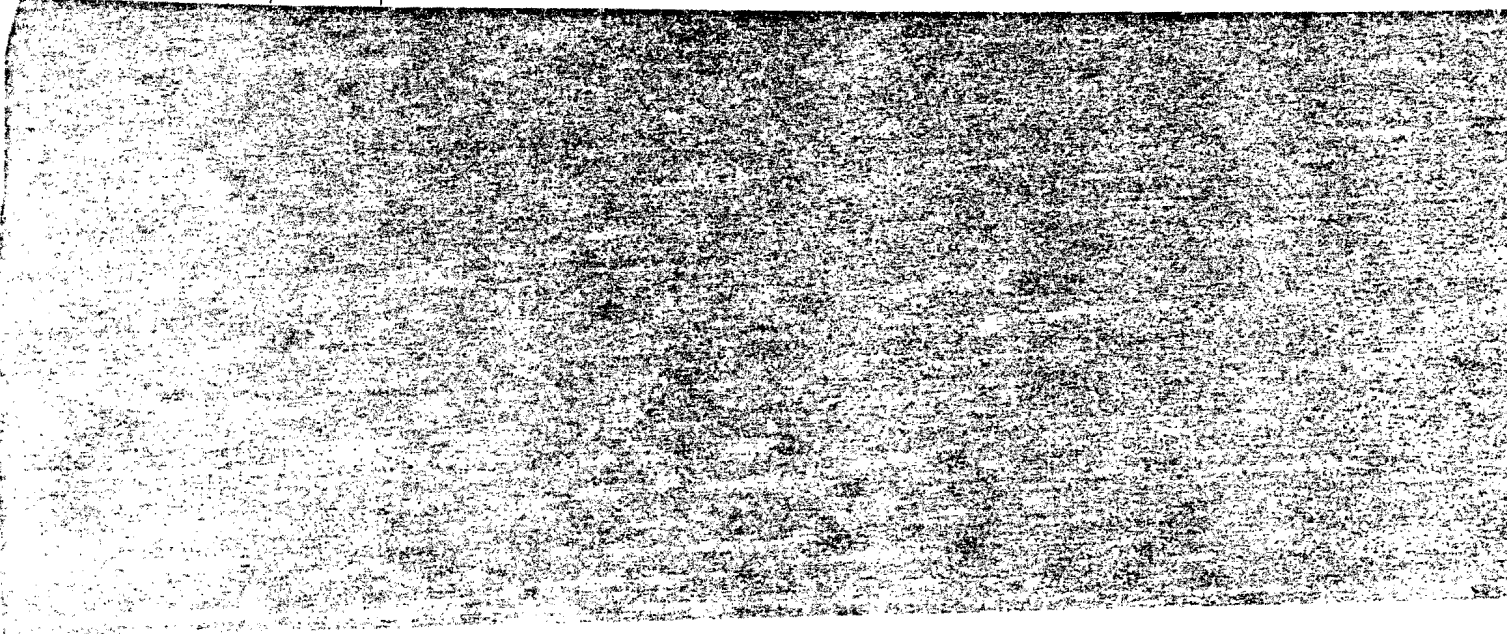
Page	Sec.	Line
8	7	25 24

Omit ~~the~~ "two-thirds"

~~(Inserted by Assembly Amendments adopted
January 11, 1983)~~

STATEMENT

This amendment deletes the requirement inserted by the General Assembly, that the local governing body pass by a 2/3rds majority an ordinance or resolution to adopt the index rate. This amendment restores the requirement of a majority vote of the governing body, contained in the bill as it passed the Senate.



[SENATE REPRINT
TO
ASSEMBLY REPRINT]
SENATE, No. 2016

STATE OF NEW JERSEY

INTRODUCED DECEMBER 16, 1982

By Senators LYNCH, RODGERS, CAUFIELD, ORECHIO
and HIRKALA

Referred to Committee on County and Municipal Government

AN ACT concerning limitations imposed upon increases in municipal
final appropriations and county tax levies, and amending and
supplementing P. L. 1976, c. 68.

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

1 1. (New section) The Legislature finds that the constraints
2 placed upon local government by P. L. 1976, c. 68 (C. 40A:4-45.1
3 et seq.) are successfully accomplishing their purpose of controlling
4 the growth in the cost of local government.

5 The Legislature finds, however, that a uniform fixed percentage
6 limitation on increases in expenditures has not adequately reflected
7 either national economic trends or the differing needs of the various
8 local governments of the State. As a result, local governments
9 have been unevenly affected in their ability to provide necessary
10 services to their residents.

11 The Legislature, therefore, determines that P. L. 1976, c. 68
12 requires adjustment to provide for an annually variable percentage
13 limitation which more accurately reflects annual nationwide in-
14 creases in the basic costs of governmental operations, to provide
15 a mechanism whereby local officials and taxpayers can examine the
16 particular needs of their community and determine whether or
17 not the use of this limitation more nearly addresses those needs,
18 and to modify several features of the law which have proven to
19 be arbitrary or to result in unintended effects on the structure of
20 local government.

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 amendments adopted January 11, 1983.

**—Senate amendment adopted January 24, 1983.

1 2. Section 2 of P. L. 1976, c. 68 (C. 40A:4-45.2) is amended to read
2 as follows:

3 2. Beginning with the tax year 1977 municipalities other than
4 those having a municipal purposes tax [levy] rate of \$0.10 or less
5 per \$100.00 and counties shall be prohibited from increasing their
6 final appropriations by more than 5% or the index rate, whichever
7 is less, over the previous year except within the provisions set
8 forth hereunder.

9 For the purpose of this section, in computing its final appropria-
10 tions for the previous year, a municipality or county shall include,
11 as part of its final appropriations:

12 a. Amounts of revenue generated by an increase in its valuations
13 based solely on applying the preceding year's local purposes tax
14 rate of the municipality to the assessed value of new construction
15 or improvements, or on applying the preceding year's county tax
16 rate to the apportionment valuation of new construction or im-
17 provements, as may be appropriate;

18 b. Revenues derived in the previous year from new service fees,
19 or from any increase in any previously imposed service fees im-
20 posed by ordinance;

21 c. Amounts approved by referendum, pursuant to subsection i.
22 of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) and section 1 of
23 P. L. 1979, c. 268 (C. 40A:4-45.3a);

24 d. Increased revenue received in the preceding year from pay-
25 ments in lieu of taxes on any property owned by a tax-exempt public
26 entity, to the extent that the payment is excepted pursuant to sub-
27 section n. of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3).

28 In each budget year subsequent to 1981, and in the case of a
29 county in each budget year subsequent to 1982, whenever any mu-
30 nicipality or county shall have transferred to any local public
31 utility, any local public authority or any special purposes district,
32 during the immediately preceding budget year, or at any time
33 during the current budget year prior to the final adoption of the
34 budget, any service or function funded during the immediately
35 preceding budget year, either partially or wholly from appropria-
36 tions in the municipal or county budget, the municipality or county
37 shall deduct from its final appropriations upon which its permissi-
38 ble expenditures are calculated, or upon which its permissible
39 county tax levy is calculated, pursuant to this section the amount
40 which the municipality or county expended for that service or
41 function during the last full budget year throughout which the
42 service or function so transferred was funded from appropriations
43 in the municipal or county budget.

1 3. (New section) a. In any budget year subsequent to 1982,
2 whenever a county or municipality shall have lawfully assumed,
3 during the immediately preceding budget year, or at any time
4 during the current budget year prior to the final adoption of the
5 budget, the provision of any service or function funded during the
6 immediately preceding budget year wholly by a local public utility,
7 a local public authority or a special purposes district, and where
8 the provision of that service or function by the county or munic-
9 pality is the result of the lawful dissolution of the public utility,
10 public authority, or special services district previously providing
11 the service or function, the county or municipality shall add to the
12 final appropriations for the current budget year upon which its
13 permissible expenditures are calculated, or upon which its per-
14 missible county tax levy is calculated, the amount certified by the
15 Local Finance Board for appropriation by the county or munic-
16 pality to fund that service or function in the current budget year.

17 b. In any budget year subsequent to 1982, whenever a county
18 shall have lawfully assumed, during the immediately preceding
19 budget year, or at any time during the current budget year prior
20 to the final adoption of the budget, the provision of any service
21 or function funded during the immediately preceding budget year
22 wholly or partially by one or more municipalities within the county
23 from appropriations in the municipal budget, the county shall add
24 to the final appropriations for the current year upon which its
25 permissible county tax levy is calculated the amount certified by
26 the Local Finance Board for appropriation by the county to fund
27 that service or function in the current budget year.

28 c. The Local Finance Board shall approve the assumption of
29 any service or function for the purpose of its eligibility under the
30 provisions of this section. The board shall approve the assump-
31 tion if it finds: that the assumption was lawfully made; that the
32 assumption does not deleteriously affect the health, safety or
33 welfare of the residents of a county or municipality; and that the
34 assumption represents an efficient and feasible means of providing
35 the service or function. The board shall, in approving the assump-
36 tion, certify to the county or municipality assuming the service
37 or function the amount of appropriation to fund the service or
38 function which shall be eligible for the provisions of this section.

1 4. (New section) As used in this amendatory and supplementary
2 act, "index rate" means the rate of annual percentage increase,
3 rounded to the nearest half-percent, in the Implicit Price Deflator
4 for State and Local Government Purchases of Goods and Services,
5 computed and published quarterly by the United States Department

6 of Commerce, Bureau of Economic Analysis, calculating the annual
7 increase therein at the second quarter which occurred in the next
8 preceding local budget year. The Director of the Division of Local
9 Government Services shall promulgate annually, on or before
10 October 1, the index rate to apply in the next following local budget
11 year.

1 5. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended to
2 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;

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

16 c. An increase based upon: (1) emergency temporary appropria-
17 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-
18 tion or event which immediately endangers the health, safety or
19 property of the residents of the municipality, and over which the
20 governing body had no control and for which it could not plan; (2)
21 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
22 special emergency appropriations made pursuant to N. J. S.
23 40A:4-53; or (3) special emergency appropriations made pursuant
24 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1)
25 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
26 temporary appropriations, special emergency appropriations and
27 emergency appropriations under (1) and (2) above shall be
28 approved by at least two-thirds of the governing body and by the
29 Director of the Division of Local Government Services, and shall
30 not exceed in the aggregate 3% of the previous year's final current
31 operating appropriations. Special emergency appropriations under
32 (3) above shall be approved by at least two-thirds of the governing
33 body, and shall not exceed in the aggregate 3% of the previous
34 year's final current operating appropriations. Neither procedure
34A shall apply to appropriations adopted for a purpose referred to in
35 subsections 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, services 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 of
49 debt service therefor, between a municipality and any other
50 municipality, county, school or other district, agency, authority,
51 commission, instrumentality, public corporation, body corporate
52 and politic or political subdivision of this State. With respect to
53 the amounts required to be paid for senior citizen housing in the
54 above cited political subdivisions or bodies, the exceptions shall
55 be subject to 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
59 Development 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 ; **[or]**
- 65 m. Amounts **[expended]** *appropriated* to fund any increase in
66 public utility, fuel oil, gasoline or heating oil charges which exceeds
67 by more than 10% the **[previous year's final expenditures for such**
68 **purposes]** *amount produced by subtracting from the amount*
69 *appropriated in the previous year for these purposes that amount*
70 *which was excepted pursuant to this subsection in that previous*
71 *year ;*
- 72 n. *Increased revenue from payments in lieu of taxes on any prop-*
73 *erty owned by a tax-exempt public entity, to the extent that the pay-*
74 *ment received for any single property exceeds the amount of real*
75 *property taxes received on that property in the year immediately*
76 *prior to acquisition by the public entity, or, in the case of State*
77 *property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.), to the*
78 *extent that the total State payment exceeds the amount of the pay-*
79 *ment received in the 1982 budget year ;*

80 o. Any decrease in amounts received pursuant to any federal
81 general purposes aid program from the amounts received in local
82 budget year 1982, after deducting from the decrease any amount of
83 new or increased federal or State general purposes aid explicitly
84 provided for the purpose of replacing the decrease in federal aid; or
85 p. Amounts expended for the conduct of a special election re-
86 quired by law to be held at a time other than the time of the general
87 election or the time of a regular municipal election.

1 6. Section 4 of P. L. 1976, c. 68 (C. 40A:4-45.4) is amended to
2 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 expenditure 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
20a or property of the residents of the county, and over which the
21 governing body had no control and for which it could not plan; (2)
22 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
23 special emergency appropriations made pursuant to N. J. S.
24 40A:4-53; or (3) special emergency appropriations made pursuant
25 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1),
26 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
27 temporary appropriations, special emergency appropriations and
28 emergency appropriations under (1) and (2) above shall be
29 approved by at least two-thirds of the governing body and, where
30 appropriate, approved by the chief executive officer of the county,
31 and further approved by the Director of the Division of Local
32 Government Services, and shall not exceed in the aggregate 3% of
33 the previous year's final current operating appropriations. Special
34 emergency appropriations under (3) above shall be approved by

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

41 d. All debt service;

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

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

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

59 h. Amounts **[expended]** *appropriated* to fund any increase in
 60 public utility, fuel oil, gasoline or heating oil charges which exceeds
 61 by more than 10% the **[previous year's final expenditures for such**
 62 **purposes]** *amount produced by subtracting from the amount*
 63 *appropriated in the previous year for these purposes that amount*
 64 *which was excepted pursuant to this subsection in that previous*
 65 *year;*

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

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

1 7. (New section) Notwithstanding the provisions of sections 2, 3
 2 or 4 of P. L. 1976, c. 68 (C. 40A :4-45.2, 40A :4-45.3 and 40A :4-45.4)
 3 to the contrary, in any year for which the index rate exceeds 5%,

4 a municipality may, by ordinance, or a county may, by ordinance or
5 resolution, as appropriate, provide that in the local budget year to
6 which the ordinance or resolution applies, the final appropriations
7 of the municipality, or the tax levy of the county, shall be increased
8 by a percentage rate, greater than 5% but not to exceed the index
9 rate, over the previous year's final appropriations, or county tax
10 levy, as the case may be.

11 The ordinance or resolution, as appropriate, shall be introduced
12 after January 1 of the local budget year to which it applies and
13 prior to the date provided by law for the introduction and approval
14 of the annual budget of the municipality or county. The ordinance
15 or resolution shall state the greater percentage rate to be adopted
16 and the additional amount of increased final appropriations or tax
17 levy which that greater percentage rate represents over that which
18 the 5% rate represents, and the individual appropriations items to
19 which the additional amount applies setting forth for each appli-
20 cable appropriations item the amount to be appropriated: a. if the
21 the greater percentage rate is adopted; and b. if the greater per-
22 centage rate is not adopted. The ordinance or resolution may,
23 thereafter, be adopted, after publication and a public hearing
24 separately afforded upon 10 days notice duly published, by a
25 ****[two-thirds]**** majority vote of the authorized membership of
26 the governing body. Any procedures provided in a form of local
27 government for the exercise of veto powers by a mayor or county
28 executive with respect to ordinances generally shall pertain. An
29 ordinance or resolution so adopted shall, notwithstanding any other
30 provision of law, take effect immediately upon adoption.

31 Upon adoption of the ordinance or resolution, the permissible
32 final appropriations of the municipality, or permissible county
33 tax levy of the county, shall be calculated for the year as provided
34 in section 3 or 4 of P. L. 1976, c. 68 (C. 40A:4-45.3 or 40A:4-45.4),
35 except that the percentage rate so adopted shall be used. The final
36 appropriations or county tax levy so calculated shall be used in the
37 immediately following year for the purposes of section 2 of P. L.
38 1976, c. 68 (C. 40A:4-45.2).

39 A copy of any ordinance or resolution introduced pursuant to
40 this section shall be filed with the Director of the Division of Local
41 Government Services within five days of introduction, and a copy
42 of the ordinance or resolution adopted shall be filed with the
43 director within five days of adoption.

44 In any year for which an ordinance ***[or resolution]*** is adopted
45 by a municipality pursuant to this section, no referendum shall be
46 held in that municipality pursuant to subsection i. of section 3 of
47 P. L. 1976, c. 68 (C. 40A:4-45.3i).

48 *No municipality adopting an ordinance pursuant to this section
49 shall, in the year for which that ordinance is adopted, be entitled to
50 the exception authorized pursuant to subsection m. of section 3 of
51 P. L. 1976, c. 68 (C. 40A:4-45.3).

52 No county adopting an ordinance or resolution, as appropriate,
53 pursuant to this section shall, in the year for which that ordinance
54 or resolution is adopted, be entitled to the exception authorized
55 pursuant to subsection h. of section 4 of P. L. 1976, c. 68 (C.
56 40A:4-45.4).*

1 8. (New section) Notwithstanding any provisions of P. L. 1976,
2 c. 68 (40A:4-45.1 et seq.) to the contrary, a municipality or county,
3 which, in any year subsequent to 1982 for which the index rate is
4 greater than 5%, increases its final appropriations or county tax
5 levy in an amount less than that permitted under the 5% percentage
6 rate, shall be permitted to appropriate the difference between the
7 amount of its actual final appropriations or county tax levy and the
8 amount of its permitted final appropriations or county tax levy
9 under the 5% percentage rate, as an exception to its final appropria-
10 tions or county tax levy in either of the next two succeeding years.
11 In the year immediately following the year in which the amount of
12 difference is so appropriated, the amount of difference shall be
13 added to the final appropriations or county tax levy of the preceding
14 year for the purposes of section 2 of P. L. 1976, c. 68 (C.
15 40A:4-45.2).

1 9. (New section) In any public referendum conducted by a mu-
2 nicipality pursuant to subsection i. of section 3 of P. L. 1976, c. 68
3 (C. 40A:4-45.3i.), the public question to be submitted to the voters
4 at the referendum election shall state only the amount by which the
5 final apporpriations of the municipality shall be increased by more
6 than the permissible level over the previous year's final appropria-
7 tions if the question is approved by the voters, and the percentage
8 rate of increase which that amount represents over the permissible
9 rate. There shall be set forth in an accompanying explanatory state-
10 ment a list of the appropriations line items to which the increased
11 amount shall apply and such other relevant information as the
12 governing body may wish to include therein.

13 A resolution adopted by a municipality to authorize the conduct
14 of such a referendum shall set forth, in addition to the above, the
15 amount to be appropriated for each applicable appropriations
16 item: a. if the referendum question is approved by the voters; and
17 b. if the referendum question is disapproved by the voters.

1 10. (New section) a. There is established a commission to be
2 known as the Local Expenditure Limitations Advisory Commission.

3 The commission shall consist of 10 members, three of whom shall
4 be appointed by the Governor, three of whom shall be appointed
5 by the President of the Senate, three of whom shall be appointed
6 by the Speaker of the General Assembly, and one of whom shall be
7 the Director of the Division of Local Government Services, who
8 shall serve ex officio. Each member so appointed shall possess ex-
9 pertise in local government, local finance or economic analysis, and
10 no member shall be a nominee for, or hold, an elective office during
11 his period of service on the commission.

12 b. Members of the commission shall serve for a term of four
13 years. Vacancies in the membership of the commission shall be
14 filled in the same manner as the original appointment, but for the
15 unexpired term. Members of the commission shall serve without
16 compensation, but shall be reimbursed for traveling and other ex-
17 penses incurred in the performance of their duties, within the limits
18 of funds appropriated or otherwise made available to the com-
19 mission.

20 c. The commission shall select from among its members a chair-
21 man and a vice chairman, and shall select a secretary, who need
22 not be a member of the commission.

23 d. It shall be the duty of the commission to conduct a continuing
24 review of the provisions of P. L. 1976, c. 68 (C. 40A: 4-45.1 et seq.),
25 and to collect and assemble information and data on the effects of
26 that law upon counties, municipalities and property taxpayers of
27 this State. In the course of its review, the commission shall give
28 particular attention: to the role which that law plays in controlling
29 the relative balance between property taxes and other sources of
30 local revenue; to any economic developments, and any executive
31 or legislative or judicial actions, which may affect that relative
32 balance or the efficacy of the law; and to any unforeseen effects of
33 the law on the financial stability or efficiency of local governments.

34 e. The commission shall report annually, on or before October 1,
35 to the Governor and the Legislature on the above matters, and shall
36 include in that report information and data with respect to at least
37 the following matters:

38 (1) The utilization by counties and municipalities of the local
39 ordinance option and referendum option provided by the law for
40 the purpose of permitting local governments to exceed the limita-
41 tions on increases in final appropriations or county tax levies, in-
42 cluding data for each instance of utilization, and data on current
43 and cumulative increases in categories of appropriations items
44 taken under each of these options;

45 (2) A list of instances of services or functions for which eligi-

46 bility was extended under section 3 of this amendatory and supple-
47 mentary act, and information and cumulative data on categories of
48 services or functions assumed in various service or function areas,
49 and on transfers of services or functions between types of local
50 public entities ;

51 (3) The utilization by counties and municipalities of the pro-
52 visions of section 8 of this amendatory and supplementary act ; and

53 (4) A statement of the index rate to apply in the next following
54 local budget year, and any alterations which have occurred in the
55 method of calculation of that index rate since enactment, including
56 any recommendations for legislation to compensate for any effects
57 of those alterations.

58 f. The commission shall be entitled to call to its assistance such
59 personnel of any State agency, county, municipality or political
60 subdivision as it may require in order to perform its duties under
61 this act. The commission may make use of existing studies, surveys,
62 plans, data and other materials in the possession of any State
63 agency, or any county, municipality or political subdivision of the
64 State. Each State agency, county, municipality and political sub-
65 division of the State shall make any information or materials
66 available to the commission as it may require to perform its respon-
67 sibilities under this act. The commission may meet and hold hear-
68 ings at such places and times as it shall designate.

1 11. Section 7 of P. L. 1976, c. 68 is amended to read as follows :

2 7. This act shall take effect immediately and be applicable to the
3 tax years beginning in 1977 and shall expire December 31, **[1982]**
4 1986.

1 12. This act shall take effect immediately.

49 83
1-31-83

[OFFICIAL COPY REPRINT]
SENATE, No. 2016

STATE OF NEW JERSEY

INTRODUCED DECEMBER 16, 1982

By Senators LYNCH, RODGERS, CAUFIELD, ORECHIO
and HIRKALA

Referred to Committee on County and Municipal Government

AN ACT concerning limitations imposed upon increases in municipal
final appropriations and county tax levies, and amending and
supplementing P. L. 1976, c. 68.

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

1 1. (New section) The Legislature finds that the constraints
2 placed upon local government by P. L. 1976, c. 68 (C. 40A:4-45.1
3 et seq.) are successfully accomplishing their purpose of controlling
4 the growth in the cost of local government.

5 The Legislature finds, however, that a uniform fixed percentage
6 limitation on increases in expenditures has not adequately reflected
7 either national economic trends or the differing needs of the various
8 local governments of the State. As a result, local governments
9 have been unevenly affected in their ability to provide necessary
10 services to their residents.

11 The Legislature, therefore, determines that P. L. 1976, c. 68
12 requires adjustment to provide for an annually variable percentage
13 limitation which more accurately reflects annual nationwide in-
14 creases in the basic costs of governmental operations, to provide
15 a mechanism whereby local officials and taxpayers can examine the
16 particular needs of their community and determine whether or
17 not the use of this limitation more nearly addresses those needs,
18 and to modify several features of the law which have proven to
19 be arbitrary or to result in unintended effects on the structure of
20 local government.

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 amendments adopted January 11, 1983.

**—Senate amendment adopted January 24, 1983.

1 2. Section 2 of P. L. 1976, c. 68 (C. 40A:4-45.2) is amended to read
2 as follows:

3 2. Beginning with the tax year 1977 municipalities other than
4 those having a municipal purposes tax [levy] rate of \$0.10 or less
5 per \$100.00 and counties shall be prohibited from increasing their
6 final appropriations by more than 5% *or the index rate, whichever*
7 *is less*, over the previous year except within the provisions set
8 forth hereunder.

9 For the purpose of this section, in computing its final appropria-
10 tions for the previous year, a municipality *or county* shall include,
11 as part of its final appropriations:

12 a. Amounts of revenue generated by an increase in its valuations
13 based solely on applying the preceding year's local purposes tax
14 rate of the municipality to the assessed value of new construction
15 or improvements, *or on applying the preceding year's county tax*
16 *rate to the apportionment valuation of new construction or im-*
17 *provements, as may be appropriate;*

18 b. Revenues derived in the previous year from new service fees,
19 or from any increase in any previously imposed service fees im-
20 posed by ordinance;

21 c. Amounts approved by referendum, pursuant to subsection i.
22 of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) and section 1 of
23 P. L. 1979, c. 268 (C. 40A:4-45.3a);

24 *d. Increased revenue received in the preceding year from pay-*
25 *ments in lieu of taxes on any property owned by a tax-exempt public*
26 *entity, to the extent that the payment is excepted pursuant to sub-*
27 *section n. of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3).*

28 In each budget year subsequent to 1981, *and in the case of a*
29 *county in each budget year subsequent to 1982*, whenever any mu-
30 nicipality *or county* shall have transferred to any local public
31 utility, any local public authority or any special purposes district,
32 during the immediately preceding budget year, or at any time
33 during the current budget year prior to the final adoption of the
34 budget, any service or function funded during the immediately
35 preceding budget year, either partially or wholly from appropria-
36 tions in the municipal *or county* budget, the municipality *or county*
37 shall deduct from its final appropriations upon which its permissi-
38 ble expenditures are calculated, *or upon which its permissible*
39 *county tax levy is calculated*, pursuant to this section the amount
40 which the municipality *or county* expended for that service or
41 function during the last full budget year throughout which the
42 service or function so transferred was funded from appropriations
43 in the municipal *or county* budget.

1 3. (New section) a. In any budget year subsequent to 1982,
2 whenever a county or municipality shall have lawfully assumed,
3 during the immediately preceding budget year, or at any time
4 during the current budget year prior to the final adoption of the
5 budget, the provision of any service or function funded during the
6 immediately preceding budget year wholly by a local public utility,
7 a local public authority or a special purposes district, and where
8 the provision of that service or function by the county or municipi-
9 pality is the result of the lawful dissolution of the public utility,
10 public authority, or special services district previously providing
11 the service or function, the county or municipality shall add to the
12 final appropriations for the current budget year upon which its
13 permissible expenditures are calculated, or upon which its per-
14 missible county tax levy is calculated, the amount certified by the
15 Local Finance Board for appropriation by the county or municipi-
16 pality to fund that service or function in the current budget year.

17 b. In any budget year subsequent to 1982, whenever a county
18 shall have lawfully assumed, during the immediately preceding
19 budget year, or at any time during the current budget year prior
20 to the final adoption of the budget, the provision of any service
21 or function funded during the immediately preceding budget year
22 wholly or partially by one or more municipalities within the county
23 from appropriations in the municipal budget, the county shall add
24 to the final appropriations for the current year upon which its
25 permissible county tax levy is calculated the amount certified by
26 the Local Finance Board for appropriation by the county to fund
27 that service or function in the current budget year.

28 c. The Local Finance Board shall approve the assumption of
29 any service or function for the purpose of its eligibility under the
30 provisions of this section. The board shall approve the assump-
31 tion if it finds: that the assumption was lawfully made; that the
32 assumption does not deleteriously affect the health, safety or
33 welfare of the residents of a county or municipality; and that the
34 assumption represents an efficient and feasible means of providing
35 the service or function. The board shall, in approving the assump-
36 tion, certify to the county or municipality assuming the service
37 or function the amount of appropriation to fund the service or
38 function which shall be eligible for the provisions of this section.

1 4. (New section) As used in this amendatory and supplementary
2 act, "index rate" means the rate of annual percentage increase,
3 rounded to the nearest half-percent, in the Implicit Price Deflator
4 for State and Local Government Purchases of Goods and Services,
5 computed and published quarterly by the United States Department

6 of Commerce, Bureau of Economic Analysis, calculating the annual
7 increase therein at the second quarter which occurred in the next
8 preceding local budget year. The Director of the Division of Local
9 Government Services shall promulgate annually, on or before
10 October 1, the index rate to apply in the next following local budget
11 year.

1 5. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended to
2 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;

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

16 c. An increase based upon: (1) emergency temporary appropria-
17 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-
18 tion or event which immediately endangers the health, safety or
19 property of the residents of the municipality, and over which the
20 governing body had no control and for which it could not plan; (2)
21 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
22 special emergency appropriations made pursuant to N. J. S.
23 40A:4-53; or (3) special emergency appropriations made pursuant
24 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1)
25 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
26 temporary appropriations, special emergency appropriations and
27 emergency appropriations under (1) and (2) above shall be
28 approved by at least two-thirds of the governing body and by the
29 Director of the Division of Local Government Services, and shall
30 not exceed in the aggregate 3% of the previous year's final current
31 operating appropriations. Special emergency appropriations under
32 (3) above shall be approved by at least two-thirds of the governing
33 body, and shall not exceed in the aggregate 3% of the previous
34 year's final current operating appropriations. Neither procedure
34A shall apply to appropriations adopted for a purpose referred to in
35 subsections 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, services 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 of
49 debt service therefor, between a municipality and any other
50 municipality, county, school or other district, agency, authority,
51 commission, instrumentality, public corporation, body corporate
52 and politic or political subdivision of this State. With respect to
53 the amounts required to be paid for senior citizen housing in the
54 above cited political subdivisions or bodies, the exceptions shall
55 be subject to 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
59 Development 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; **[or]**
- 65 m. Amounts **[expended]** *appropriated* to fund any increase in
66 public utility, fuel oil, gasoline or heating oil charges which exceeds
67 by more than 10% the **[previous year's final expenditures for such**
68 **purposes]** *amount produced by subtracting from the amount*
69 *appropriated in the previous year for these purposes that amount*
70 *which was excepted pursuant to this subsection in that previous*
71 *year;*
- 72 n. *Increased revenue from payments in lieu of taxes on any prop-*
73 *erty owned by a tax-exempt public entity, to the extent that the pay-*
74 *ment received for any single property exceeds the amount of real*
75 *property taxes received on that property in the year immediately*
76 *prior to acquisition by the public entity, or, in the case of State*
77 *property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.), to the*
78 *extent that the total State payment exceeds the amount of the pay-*
79 *ment received in the 1982 budget year;*

80 o. *Any decrease in amounts received pursuant to any federal*
 81 *general purposes aid program from the amounts received in local*
 82 *budget year 1982, after deducting from the decrease any amount of*
 83 *new or increased federal or State general purposes aid explicitly*
 84 *provided for the purpose of replacing the decrease in federal aid; or*
 85 p. *Amounts expended for the conduct of a special election re-*
 86 *quired by law to be held at a time other than the time of the general*
 87 *election or the time of a regular municipal election.*

1 6. Section 4 of P. L. 1976, c. 68 (C. 40A:4-45.4) is amended to
 2 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 municipi-
 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 expenditure 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
 20A or property of the residents of the county, and over which the
 21 governing body had no control and for which it could not plan; (2)
 22 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
 23 special emergency appropriations made pursuant to N. J. S.
 24 40A:4-53; or (3) special emergency appropriations made pursuant
 25 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1),
 26 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
 27 temporary appropriations, special emergency appropriations and
 28 emergency appropriations under (1) and (2) above shall be
 29 approved by at least two-thirds of the governing body and, where
 30 appropriate, approved by the chief executive officer of the county,
 31 and further approved by the Director of the Division of Local
 32 Government Services, and shall not exceed in the aggregate 3% of
 33 the previous year's final current operating appropriations. Special
 34 emergency appropriations under (3) above shall be approved by

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

41 d. All debt service;

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

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

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

59 h. Amounts **[expended]** *appropriated* to fund any increase in
 60 public utility, fuel oil, gasoline or heating oil charges which exceeds
 61 by more than 10% the **[previous year's final expenditures for such**
 62 **purposes]** *amount produced by subtracting from the amount*
 63 *appropriated in the previous year for these purposes that amount*
 64 *which was excepted pursuant to this subsection in that previous*
 65 *year;*

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

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

1 7. (New section) Notwithstanding the provisions of sections 2, 3
 2 or 4 of P. L. 1976, c. 68 (C. 40A:4-45.2, 40A:4-45.3 and 40A:4-45.4)
 3 to the contrary, in any year for which the index rate exceeds 5%,

4 a municipality may, by ordinance, or a county may, by ordinance or
 5 resolution, as appropriate, provide that in the local budget year to
 6 which the ordinance or resolution applies, the final appropriations
 7 of the municipality, or the tax levy of the county, shall be increased
 8 by a percentage rate, greater than 5% but not to exceed the index
 9 rate, over the previous year's final appropriations, or county tax
 10 levy, as the case may be.

11 The ordinance or resolution, as appropriate, shall be introduced
 12 after January 1 of the local budget year to which it applies and
 13 prior to the date provided by law for the introduction and approval
 14 of the annual budget of the municipality or county. The ordinance
 15 or resolution shall state the greater percentage rate to be adopted
 16 and the additional amount of increased final appropriations or tax
 17 levy which that greater percentage rate represents over that which
 18 the 5% rate represents, and the individual appropriations items to
 19 which the additional amount applies setting forth for each appli-
 20 cable appropriations item the amount to be appropriated: a. if the
 21 the greater percentage rate is adopted; and b. if the greater per-
 22 centage rate is not adopted. The ordinance or resolution may,
 23 thereafter, be adopted, after publication and a public hearing
 24 separately afforded upon 10 days notice duly published, by a
 25 ****[two-thirds]**** majority vote of the authorized membership of
 26 the governing body. Any procedures provided in a form of local
 27 government for the exercise of veto powers by a mayor or county
 28 executive with respect to ordinances generally shall pertain. An
 29 ordinance or resolution so adopted shall, notwithstanding any other
 30 provision of law, take effect immediately upon adoption.

31 Upon adoption of the ordinance or resolution, the permissible
 32 final appropriations of the municipality, or permissible county
 33 tax levy of the county, shall be calculated for the year as provided
 34 in section 3 or 4 of P. L. 1976, c. 68 (C. 40A:4-45.3 or 40A:4-45.4),
 35 except that the percentage rate so adopted shall be used. The final
 36 appropriations or county tax levy so calculated shall be used in the
 37 immediately following year for the purposes of section 2 of P. L.
 38 1976, c. 68 (C. 40A:4-45.2).

39 A copy of any ordinance or resolution introduced pursuant to
 40 this section shall be filed with the Director of the Division of Local
 41 Government Services within five days of introduction, and a copy
 42 of the ordinance or resolution adopted shall be filed with the
 43 director within five days of adoption.

44 In any year for which an ordinance ***[or resolution]*** is adopted
 45 by a municipality pursuant to this section, no referendum shall be
 46 held in that municipality pursuant to subsection i. of section 3 of
 47 P. L. 1976, c. 68 (C. 40A:4-45.3i).

48 *No municipality adopting an ordinance pursuant to this section
 49 shall, in the year for which that ordinance is adopted, be entitled to
 50 the exception authorized pursuant to subsection m. of section 3 of
 51 P. L. 1976, c. 68 (C. 40A:4-45.3).

52 No county adopting an ordinance or resolution, as appropriate,
 53 pursuant to this section shall, in the year for which that ordinance
 54 or resolution is adopted, be entitled to the exception authorized
 55 pursuant to subsection h. of section 4 of P. L. 1976, c. 68 (C.
 56 40A:4-45.4).*

1 8. (New section) Notwithstanding any provisions of P. L. 1976,
 2 c. 68 (40A:4-45.1 et seq.) to the contrary, a municipality or county,
 3 which, in any year subsequent to 1982 for which the index rate is
 4 greater than 5%, increases its final appropriations or county tax
 5 levy in an amount less than that permitted under the 5% percentage
 6 rate, shall be permitted to appropriate the difference between the
 7 amount of its actual final appropriations or county tax levy and the
 8 amount of its permitted final appropriations or county tax levy
 9 under the 5% percentage rate, as an exception to its final appropria-
 10 tions or county tax levy in either of the next two succeeding years.
 11 In the year immediately following the year in which the amount of
 12 difference is so appropriated, the amount of difference shall be
 13 added to the final appropriations or county tax levy of the preceding
 14 year for the purposes of section 2 of P. L. 1976, c. 68 (C.
 15 40A:4-45.2).

1 9. (New section) In any public referendum conducted by a mu-
 2 nicipality pursuant to subsection i. of section 3 of P. L. 1976, c. 68
 3 (C. 40A:4-45.3i.), the public question to be submitted to the voters
 4 at the referendum election shall state only the amount by which the
 5 final apporpriations of the municipality shall be increased by more
 6 than the permissible level over the previous year's final appropria-
 7 tions if the question is approved by the voters, and the percentage
 8 rate of increase which that amount represents over the permissible
 9 rate. There shall be set forth in an accompanying explanatory state-
 10 ment a list of the appropriations line items to which the increased
 11 amount shall apply and such other relevant information as the
 12 governing body may wish to include therein.

13 A resolution adopted by a municipality to authorize the conduct
 14 of such a referendum shall set forth, in addition to the above, the
 15 amount to be appropriated for each applicable appropriations
 16 item: a. if the referendum question is approved by the voters; and
 17 b. if the referendum question is disapproved by the voters.

1 10. (New section) a. There is established a commission to be
 2 known as the Local Expenditure Limitations Advisory Commission.

3 The commission shall consist of 10 members, three of whom shall
4 be appointed by the Governor, three of whom shall be appointed
5 by the President of the Senate, three of whom shall be appointed
6 by the Speaker of the General Assembly, and one of whom shall be
7 the Director of the Division of Local Government Services, who
8 shall serve ex officio. Each member so appointed shall possess ex-
9 pertise in local government, local finance or economic analysis, and
10 no member shall be a nominee for, or hold, an elective office during
11 his period of service on the commission.

12 b. Members of the commission shall serve for a term of four
13 years. Vacancies in the membership of the commission shall be
14 filled in the same manner as the original appointment, but for the
15 unexpired term. Members of the commission shall serve without
16 compensation, but shall be reimbursed for traveling and other ex-
17 penses incurred in the performance of their duties, within the limits
18 of funds appropriated or otherwise made available to the com-
19 mission.

20 c. The commission shall select from among its members a chair-
21 man and a vice chairman, and shall select a secretary, who need
22 not be a member of the commission.

23 d. It shall be the duty of the commission to conduct a continuing
24 review of the provisions of P. L. 1976, c. 68 (C. 40A: 4-45.1 et seq.),
25 and to collect and assemble information and data on the effects of
26 that law upon counties, municipalities and property taxpayers of
27 this State. In the course of its review, the commission shall give
28 particular attention: to the role which that law plays in controlling
29 the relative balance between property taxes and other sources of
30 local revenue; to any economic developments, and any executive
31 or legislative or judicial actions, which may affect that relative
32 balance or the efficacy of the law; and to any unforeseen effects of
33 the law on the financial stability or efficiency of local governments.

34 e. The commission shall report annually, on or before October 1,
35 to the Governor and the Legislature on the above matters, and shall
36 include in that report information and data with respect to at least
37 the following matters:

38 (1) The utilization by counties and municipalities of the local
39 ordinance option and referendum option provided by the law for
40 the purpose of permitting local governments to exceed the limita-
41 tions on increases in final appropriations or county tax levies, in-
42 cluding data for each instance of utilization, and data on current
43 and cumulative increases in categories of appropriations items
44 taken under each of these options;

45 (2) A list of instances of services or functions for which eligi-

46 bility was extended under section 3 of this amendatory and supple-
 47 mentary act, and information and cumulative data on categories of
 48 services or functions assumed in various service or function areas,
 49 and on transfers of services or functions between types of local
 50 public entities ;

51 (3) The utilization by counties and municipalities of the pro-
 52 visions of section 8 of this amendatory and supplementary act; and

53 (4) A statement of the index rate to apply in the next following
 54 local budget year, and any alterations which have occurred in the
 55 method of calculation of that index rate since enactment, including
 56 any recommendations for legislation to compensate for any effects
 57 of those alterations.

58 f. The commission shall be entitled to call to its assistance such
 59 personnel of any State agency, county, municipality or political
 60 subdivision as it may require in order to perform its duties under
 61 this act. The commission may make use of existing studies, surveys,
 62 plans, data and other materials in the possession of any State
 63 agency, or any county, municipality or political subdivision of the
 64 State. Each State agency, county, municipality and political sub-
 65 division of the State shall make any information or materials
 66 available to the commission as it may require to perform its respon-
 67 sibilities under this act. The commission may meet and hold hear-
 68 ings at such places and times as it shall designate.

1 11. Section 7 of P. L. 1976, c. 68 is amended to read as follows:

2 7. This act shall take effect immediately and be applicable to the
 3 tax years beginning in 1977 and shall expire December 31, **[1982]**
 4 **1986.**

1 12. This act shall take effect immediately.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: PAUL WOLCOTT

MONDAY, JANUARY 31, 1983

Governor Thomas H. Kean today signed Senate Bill 2016, sponsored by State Senator John A. Lynch, D-Middlesex, which amends the municipal and county "caps" law.

The bill provides that the cap will be 5 percent, or the index rate of the Implicit Price Deflator (a federal index which reflects the changes in costs of local and state government services) whichever is less. If the index rate exceeds 5 percent, the municipal or county governing body would have the option to adopt a rate not to exceed the index rate by holding a public hearing and then passing by a majority vote an ordinance or resolution to so. The index rate would be based on a one year rate, rounded to the nearest one-half percent. For 1983 the rate would be 7 percent. If the option to exceed the cap rate above 5 percent is exercised, then no referendum to exceed the cap may be held.

The bill also established a cap exception for counties and municipalities for losses of federal general purpose aids after 1982 provided those losses are not replaced by increased federal or state aid.

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