

40A:4-45. 3

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:4-45.3; 40A:4-45.4; 40A:4-45.4a ("Caps"--Municipal--exempt expenditures for utilities, oil, gasoline)

LAWS 1981 CHAPTER 56

Bill No. S734

Sponsor(s) Graves and others

Date Introduced Pre-filed

Committee: Assembly -----

Senate County and Municipal Government

Amended during passage Yes ~~NO~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Feb. 23, 1981

Senate Jan. 29, 1981

Date of approval March 3, 1981

Following statements are attached if available:

Sponsor statement Yes ~~NO~~ (Below)

Committee Statement: Assembly ~~YES~~ No

Senate Yes ~~NO~~

Fiscal Note ~~YES~~ No

Veto Message ~~YES~~ No

Message on signing ~~YES~~ No

Following were printed:

Reports Yes ~~NO~~

Hearings Yes ~~NO~~

Sponsors' statement:

This bill exempts from the municipal "Caps" increases occurring after 1979 in expenditures for contributions required by State law to fund State administered retirement systems; for insurance premiums; and for public utility, fuel oil, gasoline or heating oil charges.

(over)

6/22/81

Report cited in Senate Committee statement:

974.90 New Jersey. Legislature. Joint Committee on  
T235 State Tax Policy.  
1979a Report...June, 1979. Trenton, 1979.

Hearings:

974.90 New Jersey. Legislature. Joint Committee on  
T235 State Tax Policy.  
1978b Public hearings, held 6-19-78....Nov. 9, 1978.  
New Jersey, 1978.

[OFFICIAL COPY REPRINT]

SENATE, No. 734

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senators GRAVES, ERRICHETTI, RODGERS, CAUFIELD,  
HAMILTON and HIRKALA

AN ACT to amend *\*and supplement\** "An act to place limits on expenditures by counties and municipalities and supplementing Title 40A of the New Jersey Statutes," approved August 18, 1976 (P. L. 1976, c. 68).

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

1 1. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended 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% over the previous year's final  
5 appropriations subject to the following exceptions:

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

10 b. Capital expenditures **\*[funded by any source other than the**  
11 **local property tax, and programs funded wholly or in part by**  
12 **Federal or State funds in which the financial share of the munici-**  
13 **pality is not required to increase the final appropriations by more**  
13A **than 5%;]** *\*including appropriations for current capital expendi-*  
13B *tures whether in the capital improvement fund, or as a component*  
13C *of a line item elsewhere in the budget, provided that any such*  
13D *current capital expenditure would be otherwise bondable under the*  
13E *requirements of N. J. S. 40A:2-21 and 40A:2-22;\**

14 c. **\*[An increase based upon an ordinance declaring an emergency**  
15 **situation according to the definition provided in N. J. S. 40A:4-46**  
16 **approved by at least two-thirds of the governing body and approved**  
17 **by the Local Finance Board; provided, however, that all such emer-**  
18 **gency authorizations shall not exceed, in the aggregate, 3% of**  
19 **current and utility operating appropriations made in the budget**

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

20 adopted for that year, and provided further that nothing herein  
 21 provided shall be applicable to any emergency appropriation reso-  
 22 lution adopted pursuant to N. J. S. 40A :4-46 for a purpose referred  
 23 to in d. or j. below; **¶** \* *An increase based upon: (1) emergency tem-*  
 23A *porary appropriations made pursuant to N. J. S. 40A:4-20 to meet*  
 23B *an urgent situation or event which immediately endangers the*  
 23C *health, safety or property of the residents of the municipality, and*  
 23D *over which the governing body had no control and for which it*  
 23E *could not plan; (2) emergency appropriations made pursuant to*  
 23F *N. J. S. 40A:4-46 and special emergency appropriations made pur-*  
 23G *suant to N. J. S. 40A:4-53; or (3) special emergency appropriations*  
 23H *made pursuant to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22*  
 23I *(C. 40A:4-55.1) or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13).*  
 23J *Emergency temporary appropriations, special emergency appro-*  
 23K *priations and emergency appropriations under (1) and (2) above*  
 23L *shall be approved by at least two-thirds of the governing body and*  
 23M *by the Director of the Division of Local Government Services, and*  
 23N *shall not exceed in the aggregate 3% of the previous year's final*  
 23O *current operating appropriations. Special emergency appropria-*  
 23P *tions under (3) above shall be approved by at least two-thirds of the*  
 23Q *governing body, and shall not exceed in the aggregate 3% of the*  
 23R *previous year's final current operating appropriations. Neither*  
 23S *procedure shall apply to appropriations adopted for a purpose re-*  
 23T *ferred to in subsections d. or j. below.\**

- 24 d. All debt service, including that of a Type I school district;  
 25 e. Amounts required for funding a preceding year's deficit;  
 26 f. Amounts reserved for uncollected taxes;  
 27 g. Expenditures mandated after the effective date of this act  
 28 pursuant to State or Federal law;  
 29 h. Expenditure of amounts derived from new or increased service  
 30 fees imposed by ordinance, or derived from the sale of municipal  
 31 assets;  
 32 i. When approved by referendum; **[or]**  
 33 j. Amounts required to be paid pursuant to any contract with  
 34 respect to use, services or provision of any project, facility or  
 35 public improvement for water, sewer, solid waste, parking, senior  
 36 citizen housing or any similar purpose, or payments on account of  
 37 debt service therefor, between a municipality and any other  
 38 municipality, county, school or other district, agency, authority,  
 39 commission, instrumentality, public corporation, body corporate  
 40 and politic or political subdivision of this State. With respect to  
 41 the amounts required to be paid for senior citizen housing in the  
 42 above cited political subdivisions or bodies, the exceptions shall

43 be subject to the review and approval of the Local Finance Board;

44 k. \***[Contributions required by State law to fund State adminis-**  
 45 *tered retirement systems;]*\* \*Amounts required to be paid by any  
 46 constituent municipality of the Hackensack Meadowlands District  
 47 established pursuant to article 2 of the "Hackensack Meadowlands  
 48 Reclamation and Development Act," (P. L. 1968, c. 404; C. 13:17-4)  
 49 to the intermunicipal account established pursuant to article 9 of  
 50 said act (C. 13:17-60 through 13:17-76);\*

51 l. \***[Amounts required to fund any increase in insurance premi-**  
 52 *ums or in an insurance fund for the purposes authorized by chapter*  
 53 *10 of Title 40A of the New Jersey Statutes;]*\* \*Programs funded  
 54 wholly or in part by Federal or State funds and amounts received  
 55 or to be received from Federal, State or other funds in reimburse-  
 56 ment for local expenditures; or\*

57 m. Amounts \***[required]**\* \*expended\* to fund any increase in  
 58 public utility, fuel oil, gasoline or heating oil charges \*which exceeds  
 59 by more than 10% the previous year's final expenditures for such  
 60 purposes\*.

1 2. \***[This act shall take effect immediately and shall be applicable**  
 2 to fiscal years beginning after December 31, 1979.]\* \*Section 4 of  
 3 P. L. 1976, c. 68 (C. 40A:4-45.4) is amended to read as follows:

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

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

13 b. Capital expenditures **[funded by any source other than the**  
 14 **county tax levy]** *including appropriations for current capital*  
 15 *expenditures whether in the capital improvement fund, or as a*  
 16 *component of a line item elsewhere in the budget, provided that*  
 17 *any such current capital expenditure would be otherwise bondable*  
 18 *under the requirements of N. J. S. 40A:2-21 and 40A:2-22;*

19 c. **[An increase based upon a resolution making an emergency**  
 20 **appropriation according to the definition provided in N. J. S.**  
 21 **40A:4-46 approved by at least two-thirds of the board of chosen**  
 22 **freeholders of the county and, except as to an emergency appro-**  
 23 **priation for a purpose referred to in d. or f. below, where pertinent,**  
 24 **approved by the county executive]** *An increase based upon: (1)*  
 25 *emergency temporary appropriations made pursuant to N. J. S.*

26 40A:4-20 to meet an urgent situation or event which immediately  
 27 endangers the health, safety or property of the residents of the  
 28 county, and over which the governing body had no control and for  
 29 which it could not plan; (2) emergency appropriations made pur-  
 30 suant to N. J. S. 40A:4-46 and special emergency appropriations  
 31 made pursuant to N. J. S. 40A:4-53; or (3) special emergency  
 32 appropriations made pursuant to N. J. S. 40A:4-54, section 1 of  
 33 P. L. 1961, c. 22 (C. 40A:4-55.1), or section 1 of P. L. 1968, c. 194  
 34 (C. 40A:4-55.13). Emergency temporary appropriations, special  
 35 emergency appropriations and emergency appropriations under  
 36 (1) and (2) above shall be approved by at least two-thirds of the  
 37 governing body and, where appropriate, approved by the chief  
 38 executive officer of the county, and further approved by the Di-  
 39 rector of the Division of Local Government Services, and shall not  
 40 exceed in the aggregate 3% of the previous year's final current  
 41 operating appropriations. Special emergency appropriations under  
 42 (3) above shall be approved by at least two-thirds of the governing  
 43 body, and, where appropriate, approved by the chief executive  
 44 officer of the county, and shall not exceed in the aggregate 3% of the  
 45 previous year's final current operating appropriations. Neither  
 46 procedure shall apply to appropriations adopted for a purpose  
 47 referred to in subsections d. or f. below;

48 d. All debt service;

49 e. Expenditures mandated after the effective date of this act  
 50 pursuant to State or Federal law;

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

62 g. That portion of the county tax levy which represents funding  
 63 to participate in any Federal or State aid program and amounts  
 64 received or to be received from Federal, State or other funds in  
 65 reimbursement for local expenditures; or

66 h. Amounts expended to fund any increase in public utility, fuel  
 67 oil, gasoline or heating oil charges which exceeds by more than 10%  
 68 the previous year's final expenditures for such purposes.

1 3. (New section) No transfer of funds which is authorized by  
2 N. J. S. 40A:4-58 shall be made from an appropriation which is  
3 not subject to limitation pursuant to section 3 or 4 of P. L. 1976,  
4 c. 68 (C. 40A:4-45.3 and 40A:4-45.4) to an appropriation which is  
5 subject to such limitation.

1 4. This act shall take effect immediately and shall be retroactive  
2 to January 1, 1981.\*

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SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
**SENATE, No. 734**  
with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 22, 1981

Senate Bill No. 734, as amended by the committee at the request of the sponsor, would exempt from the Local Budget Caps Law (P. L. 1976, c. 68; C. 40A:4-45.1 et seq.) amounts expended by municipalities or counties to fund any increase in public utility, fuel oil, gasoline or heating oil charges which exceeds by more than 10% the previous year's final expenditures for those purposes.

The amended bill also:

a. Exempts "pay-as-you-go" capital expenditures, as well as capital expenditures funded from sources other than the local property tax, as recommended by the Joint Tax Policy Commission;

b. Exempts expenditures funded wholly or in part by Federal or State funds, or for which reimbursement is provided by Federal, State or other funds, as such exemption is currently being interpreted pursuant to Attorney General's Formal Opinion No. 3 (1977), as recommended by the Joint Tax Policy Commission;

c. Redefines the type of, and the review and approval process for, emergency appropriations which may be outside the cap, to:

(1) Include all emergency appropriations, adopted at any time of the year before or after the budget is adopted, as exceptions to the cap. Thus, emergency appropriations under N. J. S. 40A:4-46 adopted after the budget is adopted, emergency temporary appropriations under N. J. S. 40A:4-20 adopted prior to final adoption of the budget, and special emergency appropriations under N. J. S. 40A:4-53, N. J. S. 40A:4-54, N. J. S. 40A:4-55.1 and N. J. S. 40A:4-55.13 adopted generally after the budget are all excepted. This provision should substantially alleviate the confusion over the administration of the emergency appropriations exceptions, and remove unnecessary restrictions on when local units may adopt such emergency appropriations;

(2) Restrict emergency temporary appropriations under N. J. S. 40A:4-20 to those which are made to meet truly urgent emergency situations or events over which the governing body had no control and for which it could not plan;



(3) Limit the aggregate amount of emergency temporary appropriations (N. J. S. 40A:4-20), emergency appropriations (N. J. S. 40A:4-46), and special emergency appropriations under N. J. S. 40A:4-53, to 3% of the previous year's current operating appropriations;

(4) Require approval by two-thirds of the governing body, and by the Division of Local Government Services (rather than the Local Finance Board in the current law) for those appropriations listed in (3) above;

(5) Create a second category of emergencies, with special status, for special emergency appropriations adopted under N. J. S. 40A:4-54, N. J. S. A. 40A:4-55.1 and N. J. S. A. 40A:4-55.13, which are limited under the "Local Budget Law" to specific unforeseen, extraordinary expenses. N. J. S. 40A:4-54 pertains to extraordinary, unforeseen expenses for repair of streets, roads or bridges damaged by hurricane or flood; N. J. S. A. 40A:4-55.1 pertains to extraordinary expenses for repair of streets, roads or bridges damaged by snow, ice, frost or floods; N. J. S. A. 40A:4-55.13 pertains to costs arising from a public exigency caused by civil disturbances. The committee finds these to be truly extraordinary expenses, narrowly constructed, which local units would be unlikely to make on an annual basis. They are subjected to a 3% limitation, in the aggregate, separate from the usual 3% emergency appropriations limit ((3) above). The special emergency would be required to be adopted by a two-thirds majority of the governing body, but would not be subject to Local Government Services approval.

The committee amendments to this bill are identical to those it previously recommended in its Committee Substitute for Senate Bills 77, 399, 440 and 770, except that these amendments do not include: (1) a provision for a county referendum on "caps" increase; or, (2) an extension of the 5% county tax levy "cap" to the county library tax and the county health department tax.

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