

40A: 3-1 to 10

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:3-1 to 40A:3-10 (Municipal Qualified Bond Act)

Laws of 1976 Chapter 38

Bill No. S1468

Sponsor(s) Greenberg, Dumont & Beadleston

Date Introduced May 13, 1976

Committee: Assembly -

Senate County & Municipal Government

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks.

Date of passage: Assembly June 21, 1976

Senate June 14, 1976

Date of approval June 28, 1976

Following statements are attached if available:

Sponsor statement Yes ~~No~~

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~~

Checked card catalog:  
NJ-Municipal bonds

974.90 NJ Division of Local Government Services.  
M966 New Jersey local government bonds: security through  
1976 supervision. Trenton, 1976.

-no recommendations on above legislation

10/4/76

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SENATE, No. 1468

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1976

By Senators GREENBERG, DUMONT and BEADLESTON

Referred to Committee on County and Municipal Government

AN ACT concerning municipal bonds and supplementing Title 40A  
of the New Jersey Statutes.

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

1 1. The Legislature finds and declares that:

2 a. Maintenance of strong financial credit in New Jersey municipi-  
3 palities is essential in providing necessary capital improvement  
4 or property at minimum cost, for the citizens of this State;

5 b. While the credit status of New Jersey's municipalities is  
6 sound, it can be strengthened by a pledge of State Urban Aid and  
7 Business Personal Property Tax Replacement Revenues to guar-  
8 antee debt service payments on qualified bonds;

9 c. Such a pledge should expand the market for and lower the  
10 interest costs on qualified bonds issued pursuant to the terms of  
11 this act, thus reducing the borrowing costs of participating  
12 municipalities.

13 2. For the purposes of this act, unless the context clearly requires  
14 a different meaning:

15 a. "Business Personal Property Tax Replacement Revenues"  
16 means the funds distributed to municipalities pursuant to P. L.  
17 1966, c. 135 (C. 54:11D-1 et seq.) or pursuant to any other law  
18 hereinafter enacted providing for funds to municipalities in lieu  
19 of or in substitution for or supplementing the funds presently  
20 provided pursuant to P. L. 1966, c. 135 (C. 54:11D-1 et seq.);

21 b. "Debt service" means and includes payments of principal  
22 and interest upon qualified bonds issued pursuant to the terms  
23 of this act;

24 c. "Director" means Director of the Division of Local Govern-  
25 ment Services in the Department of Community Affairs, estab-  
26 lished pursuant to P. L. 1974, c. 35 (C. 52:27D-18.1);

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

27 d. "Local Finance Board" means the Local Finance Board in  
28 the Division of Local Government Services in the Department of  
29 Community Affairs, established pursuant to P. L. 1974, c. 35  
30 (C. 52:27D-18.1);

31 e. "Paying agent" means any bank, trust company or national  
32 banking association having the power to accept and administer  
33 trusts, named or designated in any qualified bond of a municipality  
34 as the agent for the payment of the principal of and interest  
35 thereon;

36 f. "Qualified bonds" means those bonds of a municipality autho-  
37 rized and issued in conformity with the provisions of this act;

38 g. "State urban aid" means the funds made available to munici-  
39 palities pursuant to P. L. 1971, c. 64 and all acts supplementing  
40 that act or pursuant to any other law hereinafter enacted providing  
41 for funds to municipalities in lieu of or in substitution for the  
42 funds presently provided pursuant to acts supplementing  
43 P. L. 1971, c. 64.

1 3. a. Bonds issued by any municipality pursuant to provisions  
2 of this act shall be "qualified bonds" and shall be entitled to the  
3 benefit of the provisions of this act.

4 b. Whenever the governing body of a municipality determines,  
5 by passage of a bond ordinance upon first reading, to issue bonds  
6 for financing any capital improvement or property which it may  
7 lawfully make or acquire, it may file an application and a certified  
8 copy of the ordinance as passed on first reading with the local  
9 finance board to qualify the bonds pursuant to the provisions of  
10 this act. Upon receipt of any such application, the local finance  
11 board shall cause an investigation to be made, taking into considera-  
12 tion such factors as the need for the facilities to be financed from  
13 the proceeds of such proposed qualified bonds, the ability of the  
14 municipality to supply other essential public improvements and  
15 services and during the ensuing 10 years to pay punctually the  
16 principal and interest on its debts, the reasonableness of the  
17 amounts to be expended for each of the purposes or improvements  
18 to be financed pursuant to such bonds, and such other factors as  
19 the local finance board may deem necessary.

20 c. If such investigation shows to the satisfaction of the local  
21 finance board that such municipality should be entitled to issue  
22 qualified bonds pursuant to the provisions of this act, the local  
23 finance board may by resolution determine that such municipality  
24 is entitled to issue qualified bonds. In considering any ordinance  
25 submitted to it and before endorsing its consent thereon, the local

26 finance board may require the governing body of any municipality  
 27 to adopt resolutions restricting or limiting any future proceedings  
 28 with respect to the authorization of bonds or other matters deemed  
 29 by the local finance board to affect any estimate made or to be  
 30 made by it in accordance with subsection b. hereof. Every resolu-  
 31 tion so adopted shall constitute a valid and binding obligation of  
 32 such municipality running to and enforceable by, and releasable by  
 33 the local finance board.

34 d. Within 60 days after the submission to it of an application  
 35 made in accordance with subsection b. the local finance board shall  
 36 cause its consent to be endorsed upon the ordinance authorizing  
 37 the issuance of qualified bonds, if it shall be satisfied and record by  
 38 resolution that the municipality is entitled to issue qualified bonds.  
 39 If the local finance board is not so satisfied, it shall cause its  
 40 disapproval to be endorsed upon such ordinance within said period  
 41 of 60 days.

42 *\*\*e. If the governing body of a municipality shall determine by*  
 43 *resolution that a maturity schedule for its qualified bonds, other*  
 44 *than the maturity schedule approved by the local finance board pur-*  
 45 *suant to section 3, is in the best interest of said municipality, it may*  
 46 *make application to the local finance board setting forth such belief*  
 47 *and the grounds therefor and requesting approval of a schedule of*  
 48 *maturities for such qualified bonds set forth in the application.*  
 49 *Within 60 days after submission to the local finance board of such*  
 50 *application, the local finance board shall cause its approval to be*  
 51 *endorsed thereon if it shall be satisfied, and shall record by resolu-*  
 52 *tion its findings, that the belief set forth in such application is well*  
 53 *founded and that the issuance of the bonds pursuant to the revised*  
 54 *maturity schedule in such application would not materially impair*  
 55 *the credit of the municipality or substantially reduce its ability,*  
 56 *during the ensuing 10 years, to pay punctually the principal of and*  
 57 *interest on its debts and supply essential public improvements and*  
 58 *services. If the local finance board is not so satisfied, it shall cause*  
 59 *its disapproval to be endorsed on such copy within said period of*  
 60 *60 days.\*\**

1 4. a. All qualified bonds when issued shall contain a recital to  
 2 the effect that they are issued pursuant to *\*Title 40 of the Revised*  
 3 *Statutes or\** Title 40A of the New Jersey Statutes and are entitled  
 4 to the benefits of the provisions of this act. Except as otherwise  
 5 provided in this act, all qualified bonds shall be authorized and  
 6 issued in the manner provided for in *\*Title 40 or\** Title 40A. Quali-  
 7 fied bonds shall mature not later than 30 years from their date of

8 issuance without regard to any limitations as to maturities or  
 9 amounts of annual installments for bonds as provided in *\*Title 40*  
 9A *or\** Title 40A.

10 b. The proceedings of the municipality authorizing the issuance  
 11 of qualified bonds may contain such covenants and provisions for  
 12 protecting and enforcing the rights and remedies of the bondholders  
 13 as may be reasonable and proper and not in violation of law,  
 14 including covenants restricting the issuance of additional qualified  
 15 bonds.

1 5. Any municipality which has authorized qualified bonds may  
 2 issue **\*\*[temporary notes or loan bonds]\*\*** **\*\*bond anticipation**  
 3 **notes\*\*** (hereinafter "notes") in anticipation of the issuance of  
 4 permanent qualified bonds to the extent permitted by the pro-  
 5 visions of Title 40A or any other applicable laws, subject to such  
 6 additional terms or conditions with respect to such notes as may  
 7 be fixed or required by the local finance board to insure that funds  
 8 are borrowed only as needed to meet required payments for con-  
 9 struction, reconstruction, development, extension, improvement, or  
 10 acquisition of the facilities or improvements to be financed by the  
 11 issuance of permanent qualified bonds.

1 6. a. Each municipality which issues qualified bonds shall certify  
 2 to the State Treasurer the name and address of the paying agent,  
 3 the maturity schedule, interest rate and dates of payment of debt  
 4 service on such qualified bonds within 10 days after the date of  
 5 issuance of such qualified bonds. After receipt of such certificate  
 6 the State Treasurer shall**\*\*[**, commencing with the month next  
 7 following the month in which such certification is received and in  
 8 each month thereafter up to and including the month in which the  
 9 last installment of debt service is payable on such qualified  
 10 bonds,**]\*\*** withhold from the amount of business personal prop-  
 11 erty tax replacement revenues and State urban aid payable to such  
 12 municipality **\*\*[during such month,]\*\*** an amount of such business  
 13 personal property tax replacement revenues and State urban aid  
 14 which**\*\*[**, when added to the other amounts withheld or to be with-  
 15 held in each month,**]\*\*** will be sufficient to pay the debt service on  
 16 such qualified bonds as the same shall mature and become due. The  
 17 State Treasurer shall, on or before each principal and interest  
 18 payment date, forward such withheld amounts to the paying agent  
 19 for such qualified bonds for deposit to the account established with  
 20 such paying agent for the purpose of paying the debt service on  
 21 such qualified bonds. **\*\*[All]\*\*** **\*\*From the time withheld by the**  
 22 **State Treasurer all\*\*** such business personal property tax replace-

23 ment revenue and State urban aid **\*\*[forwarded]\*\*** *\*\*so withheld*  
 24 *and paid or to be paid\*\** to and held by the paying agent shall be  
 25 exempt from being levied upon, taken, sequestered or applied  
 26 toward paying the debts of the municipality other than for payment  
 27 of debt service on such qualified bonds. **\*\*[The]\*\*** *\*\*From the*  
 28 *time withheld by the State Treasurer the\*\** business personal prop-  
 29 erty tax replacement revenue and State urban aid so **\*\*[held by]\*\***  
 29A *\*\*withheld and paid or to be paid to\*\** the paying agent shall be  
 29B deemed to be held in trust for the sole purpose of paying the debt  
 29C service on such qualified bonds.

30 b. The State of New Jersey hereby covenants with the pur-  
 31 chasers, holders and owners, from time to time, of qualified bonds  
 32 that it will not repeal, revoke, rescind, modify or amend the provi-  
 33 sions of subsection a. of this section so as to create any lien or  
 34 charge on or pledge, assignment, diversion, withholding payment  
 35 or other use of or deduction from any business personal property  
 36 tax replacement revenues or State urban aid to be apportioned  
 37 and paid to any paying agent of qualified bonds which is prior in  
 38 time or superior in right to the payment required by subsection a.  
 39 of this section; provided, however, that nothing herein contained  
 40 shall be deemed or construed to require the State of New Jersey  
 41 to continue to make payments of business personal property tax  
 42 replacement revenues or State urban aid or to limit or prohibit  
 43 the State from repealing or amending any law heretofore or here-  
 44 inafter enacted for the payment or apportionment of said revenues  
 45 or aid or the manner, time, or amount thereof.

46 c. The certification to the State Treasurer as to amount payable  
 47 in any year for debt service on such qualified bonds shall be fully  
 48 conclusive as to such qualified bonds from and after the time of  
 49 issuance of such qualified bonds notwithstanding any irregularity,  
 50 omission or failure as to compliance with any of the provisions  
 51 of this act with respect to such qualified bonds provided that such  
 52 qualified bonds contain a recital to the effect that they are entitled  
 53 to the benefits of the provisions of this act. All persons shall be  
 54 forever estopped from denying that such qualified bonds are  
 55 entitled to the benefits of the provisions of this act.

1 7. Nothing contained in this act shall be construed to relieve any  
 2 municipality of the obligation imposed on it by law to include in its  
 3 annual budget amounts necessary to pay, in each year, the principal  
 4 and interest maturing and becoming due on any qualified bonds  
 5 issued by such municipality; provided, however, that to the extent  
 6 of the amounts withheld from business personal property tax

7 replacement revenues and State urban aid payable to such municipi-  
8 pality and forwarded to the paying agent for such qualified bonds  
9 pursuant to section 6, such budgeted amounts, to the extent not  
10 needed to pay debt service on such qualified bonds, may be applied  
11 to the payment of the operating expenses of such municipality for  
12 such year; and provided, further, that in any year in which business  
13 personal property tax replacement revenues or State urban aid  
14 is not appropriated, such budgeted amounts shall be used to pay  
15 the debt service maturing and becoming due in such year on such  
16 qualified bonds of the municipality.

1 8. The provisions of this act shall not be construed to prohibit  
2 any municipality from applying for authorization to issue qualified  
3 bonds pursuant to the terms of this act in connection with the  
4 construction, reconstruction, development, extension, improvement  
5 or acquisition of any capital improvement or property notwith-  
6 standing that the construction, reconstruction, development, exten-  
7 sion, improvement or acquisition was authorized, approved or com-  
8 menced prior to the effective date of this act.

1 9. If any clause, sentence, paragraph, section or part of this act  
2 shall be adjudged by any court of competent jurisdiction to be  
3 invalid, such judgment shall not affect, impair or invalidate the  
4 remainder thereof, but shall be confined in its operation to the  
5 clause, sentence, paragraph, section or part thereof directly  
6 involved in the controversy in which such judgment shall have been  
7 rendered.

1 10. This act shall be known and may be cited as the "Municipal  
2 Qualified Bond Act."

1 11. This act shall take effect immediately.

S1468 (1976)

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6 involved in the controversy in which such judgment shall have been  
7 rendered.

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2 Qualified Bond Act."

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STATEMENT

This legislation would strengthen the security of New Jersey municipal bonds by pledging State urban aid and business personal property tax replacement revenues to guarantee the principal and interest on qualified bonds. It is designed to enhance the market appeal of municipal bonds and to bring down the borrowing costs for participating municipalities.

Any municipality may apply to the local finance board for authorization to issue qualified bonds. After approval by the local finance board, the municipality may issue "qualified bonds." On notification of the debt service payment schedule for such bonds, the State Treasurer withholds from the State urban aid and business personal property replacement revenues allocated to the issuing municipality, the amount necessary to make each payment and pays over this amount directly to the paying agent. The participating municipality continues to raise the amount necessary to meet its bond obligations—but transfers it to current expenses to replace the State urban aid and business personal property replacement revenues applied to debt service.

Without additional risk to the State or participating municipalities, this legislation will enlarge the security behind and reduce the interest charges on qualified municipal bonds.



SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**SENATE, No. 1468**

with Senate committee amendments

—◆—  
**STATE OF NEW JERSEY**  
—◆—

DATED: JUNE 3, 1976

Senate Bill No. 1468 the "Municipal Qualified Bond Act", provides for guarantees and payment of debt service under certain circumstances by the State on "qualified bonds" issued by any municipality in the State in accordance with the provisions of this bill. According to the sponsor's statement on the bill, the purpose of this bill is to improve the marketability of New Jersey municipal bonds by providing additional security for and reducing interest charges on qualified municipal bonds.

The procedure for qualifying municipal bonds is as follows:

Upon first reading of a municipal bond ordinance for the financing of any capital improvement or acquisition of property, the governing body may file an application, along with a certified copy of the ordinance passed on first reading, with the local finance board. The local finance board shall evaluate the proposed bond offering in terms of:

- (1) The need for facilities to be so financed;
- (2) The ability of the municipality to supply other essential public improvements and services during the ensuing 10 years, and to make punctual payments on its debts;
- (3) The reasonableness of the proposed expenditures under the bond ordinance; and
- (4) Such other factors as the local finance board may deem necessary.

If the proposed bond ordinance is found to be satisfactory, the local finance board may, by resolution, authorize the municipality to issue qualified bonds. As a condition of such authorization or grant of consent, the local finance board may require the applicant municipality to adopt resolutions restricting future proceedings concerning authorization of bonds or on other matters which the board feels would affect any estimate on which the board's approval is based, and such resolutions shall be a binding obligation on the municipality. The local finance

board shall approve or disapprove an application for the issuance of qualified bonds within 60 days of its submission.

All qualified bonds shall, except as otherwise provided in Senate Bill No. 1468, be issued pursuant to the Local Bond Law, and the qualified bonds when issued shall contain a recital of that fact and that the qualified bonds are entitled to the provisions of Senate Bill No. 1468 (subsection 4a.), which recital shall bar any challenge to entitlement under Senate Bill 1468 for failure to comply with any provisions thereunder (subsection 6c.).

Each municipality issuing qualified bonds shall certify to the State Treasurer the information required in subsection 6a within 10 days of the issuing of the qualified bonds. Beginning with the month next following receipt of certification, and in each month thereafter until payment of the final installment on debt service, the State Treasurer shall withhold from the business personal property tax replacement revenues and State urban aid, or any payments substituted in lieu thereof, an amount sufficient to make debt service payments on the qualified bonds when due and payable. All such moneys shall be used solely for the purpose of making debt service payments on the qualified bonds (subsection 6a), and the State hereby covenants "not to create any lien or charge on, or pledge, assignment, diversion, withholding payment or other use of or deduction from any such moneys "to be apportioned and paid to any paying agent of qualified bonds" which is superior in right to previously issued qualified bonds. The State, however, retains the right to alter payments or amend or repeal any law providing for the payment or apportionment of State moneys pursuant to the Municipal Qualified Bond Act (subsection 6b).

Moneys shall be provided in the annual budget of the municipality in an amount sufficient to make debt service payments on any qualified bonds when due and payable. Moneys so budgeted shall be used to make up any deficiencies in State replacement revenues or urban aid in that year; provided, however, that whenever such revenues and aid are sufficient to meet such payments, the municipality may use the budgeted amount to cover annual operating expenses (section 7).

Qualified bonds shall mature not later than 30 years from the date of issuance, notwithstanding any provisions of law in Title 40A of the New Jersey Statutes to the contrary (subsection 4a; cf. N. J. S. 40A:2-22). Temporary notes in anticipation of the issuance of permanent qualified bonds may be issued in accordance with applicable law, but shall be subject to such conditions as may be fixed by the local finance board in order to assure that funds are borrowed only as needed to meet required payments (section 5). A municipality issuing

qualified bonds may covenant with the bondholders to restrict the issuance of additional qualified bonds in order to secure the rights of the bondholders (subsection 4b).

Section 8 allows municipalities to apply for authorization for the issuance of qualified bonds for any eligible project approved or commenced prior to the effective date of Senate Bill 1468.

The Senate committee amendments to section 4 of the bill are intended to assure that any municipal bonds issued pursuant to Title 40 of the Revised Statutes would be eligible for qualification under the Municipal Qualified Bond Act.

JUNE 28, 1976

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne today signed into law two bills designed to significantly reduce interest costs for municipalities and local Boards of Education.

One bill, S-1468, sponsored by Senator Martin L. Greenberg, D-Essex, pledges state aid payments to the principal and interest on municipal bonds.

A companion measure, S-1469, also sponsored by Senator Greenberg, provides the same guarantee for bonds issued by local school boards.

Byrne said the legislation, which is believed to be the first of its kind in the country, will provide substantially more protection for municipal and school board bonds, and could result in savings of millions of dollars.

"This gives us the strongest package of security behind any local bonds in the country," said State Treasurer Richard C. Leone.

The legislation provides for the state to make direct payment on municipal and school board bonds from funds withheld from state aid.

The municipality would continue to raise the money needed to make the bond payments, but would use it for current expenses to replace the state aid.

The new program is optional on the part of municipalities and school boards.

The Governor also signed into law the following bills:

S-1205, sponsored by Senator Anne C. Martindell, D-Mercer, which permits the State Health Benefits Commission to purchase various health care benefits that a public employer has determined to provide employees not included in collective negotiations units.

( )

100 W. State Street  
Trenton, N. J.

JUL 2 1976

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