

40:48H-2
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2015 **CHAPTER:** 171

NJSA: 40:48H-2 (Permits Newark to use rental car tax proceeds over three-year period to help reduce its "cash deficit for preceding year" appropriation and operational deficit.)

BILL NO: A3393 (Substituted for S2167 (1R))

SPONSOR(S) Spencer, L. Grace, and others

DATE INTRODUCED: June 9, 2014

COMMITTEE: **ASSEMBLY:** State and Local Government
Budget

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 12/3/2015

SENATE: 12/7/2015

DATE OF APPROVAL: December 9, 2015

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

A3393

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes State and Local Gov
Budget

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 7/6/2015
12/14/2015

S2167 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes Comm & Urban Aff

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE:

No

VETO MESSAGE:

Yes

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

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HEARINGS:

No

NEWSPAPER ARTICLES:

No

end

P.L.2015, CHAPTER 171, *approved December 9, 2015*
Assembly, No. 3393 (*Second Reprint*)

1 AN ACT concerning certain local tax proceeds and amending
2 P.L.2009, c.90.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 20 of P.L.2009, c.90 (C.40:48H-2) is amended to
8 read as follows:

9 20. a. A municipality having a population in excess of 100,000
10 and within which is located a commercial airport which provides for
11 a minimum of 10 regularly scheduled commercial airplane flights
12 per day, or a municipality in which any portion of such an airport is
13 located, by ordinance, may impose a tax on the rental of motor
14 vehicles on such rental transactions that occur within a designated
15 industrial zone of the municipality. Such tax shall be imposed on
16 the person, corporation, or other legal entity that is permitted the
17 use of a motor vehicle that it does not own for a period of time that
18 is less than one year, in exchange for the payment of a fee, and shall
19 be collected on behalf of the municipality by the person collecting
20 such rental fee, in accordance with such procedures as shall be
21 established in the ordinance imposing the tax.

22 The local motor vehicle rental tax rate imposed under an
23 ordinance adopted pursuant to this section shall not exceed five
24 percent of the total amount of the fee charged for the rental of the
25 motor vehicle, excluding any taxes and surcharges. After the
26 adoption of an ordinance, a municipality may subsequently amend
27 the ordinance from time to time to adjust the boundaries of the
28 industrial zone or, subject to the provisions of section 26 of
29 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
30 modified rate shall not exceed five percent of the total amount of
31 the fee charged for the rental of the motor vehicle, excluding any
32 taxes and surcharges.

33 An ordinance establishing a local motor vehicle rental tax, or
34 modifying the rate of that tax, shall take effect on the first day of
35 the month immediately following the date on which the ordinance
36 becomes legally in force and effect.

37 b. As used in this section:

38 "Eligible purposes" means (1) the payment or reimbursement of
39 costs of any "redevelopment project" or other undertaking in
40 furtherance of a "redevelopment plan" in any "area in need of
41 redevelopment" or "area in need of rehabilitation" within the

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ASL committee amendments adopted June 4, 2015.

²Assembly amendments adopted in accordance with Governor's recommendations November 9, 2015.

1 municipality (including, but not limited to, redevelopment projects
2 and undertakings located within the industrial zone), as such terms
3 are defined in the "Local Redevelopment and Housing Law",
4 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal
5 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
6 payment or reimbursement, within or relating to any urban
7 enterprise zone located within the municipality, of such costs as are
8 enumerated in the definition of "project" as contained in subsection
9 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
10 reference to the zone assistance fund or the zone development
11 corporation, (4) the payment of bonds issued for any of the
12 foregoing purposes, (5) planning, evaluation, negotiation, and other
13 preliminary expenses relating to any of the foregoing purposes, and
14 (6) costs of administration and enforcement, including costs and
15 expenses of the municipality incurred in collecting the tax.

16 "Industrial zone" means such portion or portions of the
17 municipality, which may be identified by reference to zoning
18 districts, census tracts, or both, not exceeding in the aggregate 50
19 percent of the territory of the municipality, as is determined by the
20 municipality to be an area having, or intended to have,
21 predominantly industrial, port, airport, and related uses.

22 "Motor vehicle" means any automobile, truck, van, bus, or
23 similar conveyance that is intended primarily for passenger (as
24 distinct from cargo) use, and meeting the requirements of the State
25 for operation on public roads.

26 "Rental of motor vehicle" means any contract or agreement by
27 which a person, corporation, or other legal entity is permitted the
28 use of a motor vehicle that it does not own for a period of time that
29 is less than one year in exchange for the payment of a fee. A rental
30 transaction is deemed to occur at the location at which such person,
31 corporation, or other legal entity takes possession of the motor
32 vehicle.

33 "Rental tax account" means the dedicated trust account
34 established by a municipality pursuant to subsection c. of this
35 section.

36 "Tax proceeds" means amounts collected pursuant to any tax
37 imposed pursuant to sections 19 through 27 of P.L.2009,
38 c.90 (C.40:48H-1 et seq.).

39 c. The Director of the Division of Taxation in the Department
40 of the Treasury may require, by regulation, that all taxes collected
41 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
42 seq.) be collected in the same manner as surcharges are collected
43 under section 28 of P.L.2009, c.90 (C.40:48G-2). **Revenues**
44 Except as provided hereafter, revenues that are collected and
45 distributed back to the municipality shall be deposited into a trust
46 account established by the municipality and dedicated exclusively
47 to the purpose of funding one or more eligible purposes. Revenues
48 that are collected during tax years ¹**[2014 through 2016]** 2015

1 through 2017¹ for distribution back to a municipality having a
2 population in excess of 270,000, according to the 2010 federal
3 decennial census, ²~~shall~~ may² be deposited into the current fund
4 of that municipality and ²~~shall~~ may, to the extent not already
5 allocated for eligible purposes,² be used to reduce the appropriation
6 for "cash deficit ¹~~for~~ of¹ preceding year" pursuant to
7 N.J.S.40A:4-42, or to address its operational deficit identified at the
8 beginning of the local budget year or through the annual financial
9 statement. In tax year ¹~~2017~~ 2018¹ and thereafter, ²up to² 50
10 percent of the revenues annually collected ²~~shall be deposited into~~
11 the municipality's trust account for eligible purposes, and the
12 remaining 50 percent shall] may² be deposited into the current fund
13 and used to reduce the appropriation for "cash deficit for preceding
14 year" or to address its operational deficit ², and the remainder shall
15 be deposited into the municipality's trust account for eligible
16 purposes². In the case of any assignment pursuant to section 23 of
17 P.L.2009, c.90 (C.40:48H-5), the terms of such assignment shall
18 include the agreement of the municipality to enforce collection of
19 the taxes in such manner as provided therein, and may provide for
20 direct payment of all or a portion of the tax proceeds to a bond
21 trustee. In addition to tax proceeds, there shall be deposited into the
22 rental tax account such other moneys as may, from time to time, be
23 directed by law to be deposited therein.

24 (cf: P.L.2009, c.90, s.20)

25

26 This act shall take effect immediately ²~~and shall be retroactive~~
27 to January 1, ¹~~2014~~ 2015¹.] ²

28

29

30

31

32 _____
33 Permits Newark to use rental car tax proceeds over three-year
34 period to help reduce its "cash deficit for preceding year"
appropriation and operational deficit.

ASSEMBLY, No. 3393

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 9, 2014

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Co-Sponsored by:

Assemblywoman Jasey and Assemblyman Giblin

SYNOPSIS

Permits Newark to use rental car tax proceeds over three-year period to help reduce its "cash deficit for preceding year" appropriation and operational deficit.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2014)

1 AN ACT concerning certain local tax proceeds and amending
2 P.L.2009, c.90.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 20 of P.L.2009, c.90 (C.40:48H-2) is amended to
8 read as follows:

9 20. a. A municipality having a population in excess of 100,000
10 and within which is located a commercial airport which provides for
11 a minimum of 10 regularly scheduled commercial airplane flights
12 per day, or a municipality in which any portion of such an airport is
13 located, by ordinance, may impose a tax on the rental of motor
14 vehicles on such rental transactions that occur within a designated
15 industrial zone of the municipality. Such tax shall be imposed on
16 the person, corporation, or other legal entity that is permitted the
17 use of a motor vehicle that it does not own for a period of time that
18 is less than one year, in exchange for the payment of a fee, and shall
19 be collected on behalf of the municipality by the person collecting
20 such rental fee, in accordance with such procedures as shall be
21 established in the ordinance imposing the tax.

22 The local motor vehicle rental tax rate imposed under an
23 ordinance adopted pursuant to this section shall not exceed five
24 percent of the total amount of the fee charged for the rental of the
25 motor vehicle, excluding any taxes and surcharges. After the
26 adoption of an ordinance, a municipality may subsequently amend
27 the ordinance from time to time to adjust the boundaries of the
28 industrial zone or, subject to the provisions of section 26 of
29 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
30 modified rate shall not exceed five percent of the total amount of
31 the fee charged for the rental of the motor vehicle, excluding any
32 taxes and surcharges.

33 An ordinance establishing a local motor vehicle rental tax, or
34 modifying the rate of that tax, shall take effect on the first day of
35 the month immediately following the date on which the ordinance
36 becomes legally in force and effect.

37 b. As used in this section:

38 "Eligible purposes" means (1) the payment or reimbursement of
39 costs of any "redevelopment project" or other undertaking in
40 furtherance of a "redevelopment plan" in any "area in need of
41 redevelopment" or "area in need of rehabilitation" within the
42 municipality (including, but not limited to, redevelopment projects
43 and undertakings located within the industrial zone), as such terms
44 are defined in the "Local Redevelopment and Housing Law",
45 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal

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 underlined thus is new matter.

1 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
2 payment or reimbursement, within or relating to any urban
3 enterprise zone located within the municipality, of such costs as are
4 enumerated in the definition of "project" as contained in subsection
5 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
6 reference to the zone assistance fund or the zone development
7 corporation, (4) the payment of bonds issued for any of the
8 foregoing purposes, (5) planning, evaluation, negotiation, and other
9 preliminary expenses relating to any of the foregoing purposes, and
10 (6) costs of administration and enforcement, including costs and
11 expenses of the municipality incurred in collecting the tax.

12 "Industrial zone" means such portion or portions of the
13 municipality, which may be identified by reference to zoning
14 districts, census tracks, or both, not exceeding in the aggregate 50
15 percent of the territory of the municipality, as is determined by the
16 municipality to be an area having, or intended to have,
17 predominantly industrial, port, airport, and related uses.

18 "Motor vehicle" means any automobile, truck, van, bus, or
19 similar conveyance that is intended primarily for passenger (as
20 distinct from cargo) use, and meeting the requirements of the State
21 for operation on public roads.

22 "Rental of motor vehicle" means any contract or agreement by
23 which a person, corporation, or other legal entity is permitted the
24 use of a motor vehicle that it does not own for a period of time that
25 is less than one year in exchange for the payment of a fee. A rental
26 transaction is deemed to occur at the location at which such person,
27 corporation, or other legal entity takes possession of the motor
28 vehicle.

29 "Rental tax account" means the dedicated trust account
30 established by a municipality pursuant to subsection c. of this
31 section.

32 "Tax proceeds" means amounts collected pursuant to any tax
33 imposed pursuant to sections 19 through 27 of P.L.2009, c.90
34 (C.40:48H-1 et seq.).

35 c. The Director of the Division of Taxation in the Department
36 of the Treasury may require, by regulation, that all taxes collected
37 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
38 seq.) be collected in the same manner as surcharges are collected
39 under section 28 of P.L.2009, c.90 (C.40:48G-2). **【Revenues】**
40 Except as provided hereafter, revenues that are collected and
41 distributed back to the municipality shall be deposited into a trust
42 account established by the municipality and dedicated exclusively
43 to the purpose of funding one or more eligible purposes. Revenues
44 that are collected during tax years 2014 through 2016 for
45 distribution back to a municipality having a population in excess of
46 270,000, according to the 2010 federal decennial census, shall be
47 deposited into the current fund of that municipality and shall be
48 used to reduce the appropriation for "cash deficit for preceding

1 year" pursuant to N.J.S.40A:4-42, or to address its operational
2 deficit identified at the beginning of the local budget year or
3 through the annual financial statement. In tax year 2017 and
4 thereafter, 50 percent of the revenues annually collected shall be
5 deposited into the municipality's trust account for eligible purposes,
6 and the remaining 50 percent shall be deposited into the current
7 fund and used to reduce the appropriation for "cash deficit for
8 preceding year" or to address its operational deficit. In the case of
9 any assignment pursuant to section 23 of P.L.2009, c.90 (C.40:48H-
10 5), the terms of such assignment shall include the agreement of the
11 municipality to enforce collection of the taxes in such manner as
12 provided therein, and may provide for direct payment of all or a
13 portion of the tax proceeds to a bond trustee. In addition to tax
14 proceeds, there shall be deposited into the rental tax account such
15 other moneys as may, from time to time, be directed by law to be
16 deposited therein.

17 (cf: P.L.2009, c.90, s.20)

18

19 2. This act shall take effect immediately and shall be
20 retroactive to January 1, 2014.

21

22

23

STATEMENT

24

25 This bill would permit the City of Newark to use its rental car
26 tax proceeds to reduce its appropriation for its "cash deficit for
27 preceding year" required by N.J.S.40A:4-42 or to reduce its annual
28 operational (structural) deficit. Under section 20 of P.L.2009, c.90,
29 the cities of Newark and Elizabeth were permitted to collect a rental
30 car tax, subject to a requirement that those proceeds be used for
31 redevelopment purposes. Under current economic conditions, and
32 for the foreseeable future, it is more important for Newark to be
33 able to use these revenues to address its cash deficit and operational
34 deficit problems than to use these funds for redevelopment
35 purposes. New Jersey's cash basis system for municipal budgeting
36 requires that when a municipality completes a budget year with a
37 cash deficit, meaning the amount by which its liabilities and cash
38 disbursements for lawful yearly expenditures exceed the cash
39 receipts in a budget year, the amount of the deficit has to be
40 included as an appropriation in the following year's budget in order
41 to cause the shortfall to be raised in that succeeding year. One
42 hundred percent of the rental car tax proceeds would be applied to
43 address the cash deficit problem during the three-year period from
44 2014 through 2016. After that period, half of the rental car tax
45 collections would continue to be used to address the cash deficit
46 and operational deficit problems, while the remaining half would be
47 used for redevelopment purposes.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3393

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 4, 2015

The Assembly State and Local Government Committee reports favorably and with committee amendment Assembly Bill No. 3393.

This bill permits the City of Newark to use its rental car tax proceeds to reduce its appropriation for its "cash deficit of preceding year" required by N.J.S.40A:4-42 or to reduce its annual operational (structural) deficit. Under section 20 of P.L.2009, c.90, the cities of Newark and Elizabeth were permitted to collect a rental car tax, subject to a requirement that those proceeds be used for redevelopment purposes. Under current economic conditions, and for the foreseeable future, it is more important for Newark to be able to use these revenues to address its cash deficit and operational deficit problems than to use these funds for redevelopment purposes. New Jersey's cash basis system for municipal budgeting requires that when a municipality completes a budget year with a cash deficit, meaning the amount by which its liabilities and cash disbursements for lawful yearly expenditures exceed the cash receipts in a budget year, the amount of the deficit has to be included as an appropriation in the following year's budget in order to cause the shortfall to be raised in that succeeding year.

The amended bill requires one hundred percent of the rental car tax proceeds would be applied to address the cash deficit problem during the three-year period from 2015 through 2017. After that period, half of the rental car tax collections would continue to be used to address the cash deficit and operational deficit problems, while the remaining half would be used for redevelopment purposes.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- Require one hundred percent of the rental car tax revenues to be applied to the cash deficit from 2015 through 2017;

- Require fifty percent of the rental car tax revenues to be applied to the cash deficit beginning in 2018 and in each thereafter; and
- Make a technical correction to term “cash deficit of preceding year.”

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3393

STATE OF NEW JERSEY

DATED: JUNE 23, 2015

The Assembly Budget Committee reports favorably Assembly Bill No. 3393 (1R).

This bill permits the City of Newark to use its rental car tax proceeds to reduce its appropriation for its cash deficit of the preceding year as required by N.J.S.40A:4-42 or to reduce its annual operational (structural) deficit.

Under section 20 of P.L.2009, c.90, the cities of Newark and Elizabeth were permitted to collect a rental car tax, subject to a requirement that those proceeds be used for redevelopment purposes. Under current economic conditions, and for the foreseeable future, it is more important for Newark to be able to use the revenues to address its cash deficit and operational deficit problems than to use these funds for redevelopment purposes. New Jersey's cash basis system for municipal budgeting requires that when a municipality completes a budget year with a cash deficit, meaning the amount by which its liabilities and cash disbursements for lawful yearly expenditures exceed the cash receipts in a budget year, the amount of the deficit has to be included as an appropriation in the following year's budget in order to cause the shortfall to be raised in that succeeding year.

The bill requires one hundred percent of the rental car tax proceeds to be applied to address the cash deficit problem during the three-year period from 2015 through 2017. After that period, half of the rental car tax collections would continue to be used to address the cash deficit and operational deficit problems, while the remaining half would be used for redevelopment purposes.

FISCAL IMPACT:

According to Newark's annual financial statements for 2010 through 2014, Newark collected approximately \$8 million annually in rental car tax revenues, which would become available for deficit reduction during the 2015 – 2017 period under the bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3393

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JULY 6, 2015

SUMMARY

- Synopsis:** Permits Newark to use rental car tax proceeds over three-year period to help reduce its “cash deficit for preceding year” appropriation and operational deficit.
- Type of Impact:** No fiscal impact.
- Agencies Affected:** City of Newark

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Revenue	No Fiscal Impact – See comments below		

- The Office of Legislative Services (OLS) concludes that the enactment of Assembly Bill No. 3393 (1R) will have no impact on the finances of the City of Newark.
- The bill requires local motor vehicle rental tax revenues, which are currently deposited into a dedicated trust fund, to be deposited in the current fund in order to reduce Newark’s cash deficit.
- The reallocation of local motor vehicle rental tax revenue would allow Newark to realize \$8 million in current fund revenue from 2015 through 2017 and \$4 million in current fund revenue in 2018. Under current law, local motor vehicle tax revenues are reserved for specific economic development purposes.
- Newark reported a 2014 cash deficit of \$22.3 million. The “Local Budget Law” (N.J.S.40A:4-1 et seq.) requires the entire deficit to be included as an appropriation to ‘cash deficit of preceding year’ in the city’s 2015 budget.

BILL DESCRIPTION

Assembly Bill No. 3393 (1R) of 2014 permits the City of Newark to use its rental car tax proceeds to either reduce its appropriations for its “cash deficit of preceding year” required by N.J.S.40A:4-42 or to reduce its annual operational (structural) deficit. New Jersey’s cash basis system for municipal budgeting requires that when a municipality completes a budget year with a cash deficit (the amount by which its liabilities and cash disbursements for lawful yearly expenditures exceed the cash receipts and other realized revenues in a budget year), the amount of the deficit must be included as an appropriation to “cash deficit of preceding year” in the following year’s budget in order to cause the shortfall to be raised in that succeeding year. Under the bill, all local motor vehicle rental tax revenues would be applied to reduce the cash deficit during the three-year period from 2015 to 2017. In tax year 2018 and thereafter, 50 percent of the local motor vehicle rental tax revenue would be used to address the cash deficit and operational deficit problem,s while the remaining 50 percent would be used for redevelopment purposes.

Sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 to C.40:48H-9) allow the cities of Newark and Elizabeth to impose and collect a local motor vehicle rental tax of up to five percent of the total amount of the fee charged for the rental of a motor vehicle, excluding any taxes and surcharges. These revenues are anticipated as dedicated revenues and may be used to support six eligible purposes including, but not limited to, the payment or reimbursement of costs associated with redevelopment projects, payments or reimbursement of costs for projects within an urban enterprise zone, the payment of principal and interest on bonds issued to finance any of the eligible purposes, preliminary expenses (i.e., planning and site evaluation) related to any of the eligible purposes, and the costs of administering and enforcing of the motor vehicle rental tax ordinance.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the enactment of Assembly Bill No. 3393 (1R) would provide \$8 million in current fund revenue to Newark in tax (calendar) years 2015 through 2017 and \$4 million in current fund revenue to Newark in tax (calendar year) 2018 and in each year thereafter. This legislation permits Newark to use local motor vehicle rental tax revenues, which are currently deposited into a dedicated trust account, to help close a deficit in its current fund. According to Sheet 21 (“Analysis of Current Fund Balance - December 31, 2014”) of Newark’s 2014 Annual Financial Statement, Newark reported a deficit in cash surplus of \$56.8 million. (This is the sum of a cash deficit of \$22.4 million and deferred charges totaling \$34.4 million.) The annual financial statement is an unaudited report of the municipality’s finances submitted to the State by February 10 each year.

In 2018 and each year thereafter the amount of local motor vehicle rental tax revenues that may be anticipated in the municipal current fund declines 50 percent while the other 50 percent will be deposited in the rental tax account. Newark will not experience any loss of revenues, but the bill will affect the purposes for which motor vehicles rental tax revenues may be used. This

legislation will have a *budgetary* impact rather than a *fiscal* impact on the City of Newark. Local motor vehicle tax revenues will not be used to support new municipal expenditures but requiring these monies to be used to close the municipality's cash deficit means that Newark will have less to spend for eligible economic development purposes in 2015, 2016, and 2017. Allowing Newark to anticipate local motor vehicle tax revenues in its current budget will not reduce the required appropriation for "cash deficit of preceding year," but it may reduce the city's reliance on other sources of revenue, such as property taxes or State Aid, to close the gap between revenues and expenditures.

The annual municipal budget displays anticipated and actual revenue collection information for current fund revenues only. Dedicated revenues anticipated during the fiscal year are appropriated for their statutory purposes through a special budget provision known as a "dedication by rider" (see N.J.S.40A:4-39). Revenue and expenditure data for dedicated monies are reported in the annual financial statement and the annual audit (which must be completed within six months of the close of the fiscal year.). According to revenue data reported by the City of Newark in its annual financial statements for calendar years 2011 through 2014, Newark collected an average of \$8.3 million in motor vehicle rental tax revenues per year. The motor rental tax trust fund had a balance of approximately \$4 million at the end of calendar year 2014.

In its 2013 Annual Financial Statement Newark reported a total deficit of \$80 million (the sum a \$30 million cash deficit and a revenue short of \$50 million for the current fund, water utility, and sewer utility). According to *Newark Star-Ledger* Newark closed its deficit by paying off its cash deficit over a 10-year period, reducing the appropriation for the reserve for uncollected taxes, accepting Transitional Aid to Localities, increasing business taxes and fees, increasing the municipal property tax levy, increasing other tax collections, and miscellaneous measures, such as not hiring new employees to fill vacant positions and contributing less to its unemployment insurance reserve. The OLS notes that Newark is under State financial supervision pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) and the Transitional Aid to Localities program.

Section: Local Government
Analyst: Scott A. Brodsky
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3393

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: DECEMBER 14, 2015

SUMMARY

- Synopsis:** Permits Newark to use rental car tax proceeds over three-year period to help reduce its “cash deficit for proceeding year” appropriation and operational deficit.
- Type of Impact:** No fiscal impact.
- Agencies Affected:** City of Newark

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Revenue	No Fiscal Impact – See comments below		

- The Office of Legislative Services (OLS) concludes that the enactment of Assembly Bill No. 3393 (2R) will have no impact on the finances of the City of Newark.
- The bill permits local motor vehicle rental tax revenues, which are currently deposited into a dedicated trust fund, to be deposited in the current fund in order to reduce Newark’s cash deficit.
- The reallocation of local motor vehicle rental tax revenue allows Newark to realize up to \$8 million in current fund revenue from 2015 through 2017 and up to \$4 million in current fund revenue in 2018 and thereafter. Under current law, local motor vehicle rental tax revenues are reserved for specific economic development purposes.
- Newark reported a 2014 cash deficit of \$22.3 million. The “Local Budget Law” (N.J.S.40A:4-1 et seq.) requires the entire deficit to be included as an appropriation to “cash deficit of preceding year” in the city’s 2015 budget.

BILL DESCRIPTION

Assembly Bill No. 3393 (2R) of 2014 permits the City of Newark to use its rental car tax proceeds to either reduce its appropriations for its “cash deficit of preceding year” required by

N.J.S.40A:4-42 or to reduce its annual operational (structural) deficit. New Jersey's cash basis system for municipal budgeting requires that when a municipality completes a budget year with a cash deficit (the amount by which its liabilities and cash disbursements for lawful yearly expenditures exceed the cash receipts and other realized revenues in a budget year), the amount of the deficit must be included as an appropriations to "cash deficit of proceeding year" in the following year's budget in order to cause the shortfall to be raised on that succeeding year.

Under the bill, the City of Newark may apply all local motor vehicle rental tax revenues, to the extent these funds are not already allocated for eligible economic development purposes, to reduce the cash deficit- during the three-year period from 2015 to 2017. In tax year 2018 and thereafter, 50 percent of the local motor vehicle rental tax revenue may be used to address the cash deficit and operational deficit problems while the remainder would be used for eligible economic development purposes.

Sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 to 4048H-9) allow the cities of Newark and Elizabeth to impose and collect a local motor vehicle rental tax of up to five percent of the total amount of the fee charged for the rental of a motor vehicle, excluding any other taxes and surcharges. These revenues are dedicated for six eligible purposes, including but not limited to, the payment or reimbursement of costs associated with redevelopment projects, payment or reimbursement of costs for projects with an urban enterprise zone, the payment of principal and interest on bonds issued to finance any of the eligible purposes, preliminary expenses (i.e., planning and site evaluation) related to any of the eligible purposes, and the costs of administering and enforcing the motor vehicle rental tax ordinance.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the enactment of Assembly Bill No. 3393 (2R) would make up to \$8 million in current fund revenue available to Newark in tax (calendar) years 2015 through 2017 and up to \$4 million in current revenue to Newark in tax (calendar) year 2018 and in each year thereafter. This legislation permits Newark to use local motor vehicle rental tax revenue, which are currently deposited into a dedicated trust account, to help close a deficit in its current fund. According to Sheet 21 ("Analysis of Current Fund Balance – December 31, 2014") of Newark's 2014 Annual Financial Statement, Newark reported a deficit in cash surplus of \$56.8 million. This is the sum of a cash deficit of \$22.4 million and deferred charges totaling \$34.4 million. The annual financial statement is an unaudited report of the municipality's finances submitted to the State by February 10 each year.

In 2018 and in each year thereafter, the maximum amount of local motor vehicle rental tax revenues that may be anticipated in the municipal current fund declines to 50 percent while any remaining funds will be deposited in the rental tax account. Newark will not experience any loss of revenues, but the bill will affect the purposes for which motor vehicle rental tax revenues may be used. This legislation will have a *budgetary* impact rather than a *fiscal* impact on the City of Newark. Local motor vehicle rental tax revenues will not be used to support new municipal expenditures but allowing these monies to be used to close the municipality's cash deficit means

that Newark may have less to spend for eligible economic development purposes in 2015, 2016, and 2017. Allowing Newark to anticipate local motor vehicle rental tax revenues in its current budget will not reduce the appropriation for “cash deficit of preceding year,” but it may reduce the city’s reliance on other sources of revenue, such as property taxes or State Aid, to close the gap between revenues and expenditures.

The annual municipal budget displays anticipated and actual revenue collection information for current fund revenues only. Dedicated revenues anticipated during the fiscal year are appropriated for their statutory purposes through a special budget provision known as a “dedication by rider” (see N.J.S.40A:4-39). Revenue and expenditure data for dedicated monies are reported in the annual financial statement and the annual audit (which must be completed within six months of the close of the fiscal year). According to revenue data reported by the City of Newark in its annual financial statements for calendar years 2011 through 2014, Newark collected an average of \$8.3 million in motor vehicle rental tax revenues per year. The motor vehicle rental tax trust fund had a balance of approximately \$4 million at the end of calendar year 2014.

In its 2013 Annual Financial Statement, Newark reported a total deficit of \$80 million (the sum of a \$30 million cash deficit and a revenue shortfall of \$50 million in the current fund, water utility fund, and sewer utility fund). According to the *Newark Star-Ledger* Newark closed its deficit by paying off its cash deficit over a 10-year period, reducing the appropriation for the reserve for uncollected taxes, accepting Transitional Aid to Localities, increasing business taxes and fees, increasing the municipal property tax levy, increasing other tax collections, and miscellaneous measures, such as not hiring new employees to fill vacant positions and contributing less to its unemployment insurance reserve. The OLS notes that Newark is under State financial supervision pursuant to the “Local Government Supervision Act (1947),” P.L.1947, c.151 (C52:27BB-1 et seq.) and the Transitional Aid to Localities program.

Section: *Local Government*

Analyst: *Scott A. Brodsky*
 Senior Fiscal Analyst

Approved: *Frank W. Haines III*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2167

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 9, 2014

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator M. TERESA RUIZ

District 29 (Essex)

Co-Sponsored by:

Senator Stack

SYNOPSIS

Permits Newark to use rental car tax proceeds over three-year period to help reduce its "cash deficit for preceding year" appropriation and operational deficit.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/2/2014)

1 AN ACT concerning certain local tax proceeds and amending
2 P.L.2009, c.90.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 20 of P.L.2009, c.90 (C.40:48H-2) is amended to
8 read as follows:

9 20. a. A municipality having a population in excess of 100,000
10 and within which is located a commercial airport which provides for
11 a minimum of 10 regularly scheduled commercial airplane flights
12 per day, or a municipality in which any portion of such an airport is
13 located, by ordinance, may impose a tax on the rental of motor
14 vehicles on such rental transactions that occur within a designated
15 industrial zone of the municipality. Such tax shall be imposed on
16 the person, corporation, or other legal entity that is permitted the
17 use of a motor vehicle that it does not own for a period of time that
18 is less than one year, in exchange for the payment of a fee, and shall
19 be collected on behalf of the municipality by the person collecting
20 such rental fee, in accordance with such procedures as shall be
21 established in the ordinance imposing the tax.

22 The local motor vehicle rental tax rate imposed under an
23 ordinance adopted pursuant to this section shall not exceed five
24 percent of the total amount of the fee charged for the rental of the
25 motor vehicle, excluding any taxes and surcharges. After the
26 adoption of an ordinance, a municipality may subsequently amend
27 the ordinance from time to time to adjust the boundaries of the
28 industrial zone or, subject to the provisions of section 26 of
29 P.L.2009, c.90 (C.40:48H-8), to modify the tax rate; however, the
30 modified rate shall not exceed five percent of the total amount of
31 the fee charged for the rental of the motor vehicle, excluding any
32 taxes and surcharges.

33 An ordinance establishing a local motor vehicle rental tax, or
34 modifying the rate of that tax, shall take effect on the first day of
35 the month immediately following the date on which the ordinance
36 becomes legally in force and effect.

37 b. As used in this section:

38 "Eligible purposes" means (1) the payment or reimbursement of
39 costs of any "redevelopment project" or other undertaking in
40 furtherance of a "redevelopment plan" in any "area in need of
41 redevelopment" or "area in need of rehabilitation" within the
42 municipality (including, but not limited to, redevelopment projects
43 and undertakings located within the industrial zone), as such terms
44 are defined in the "Local Redevelopment and Housing Law",
45 P.L.1992, c.79 (C.40A:12A-1 et al.), (2) the making of municipal

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 underlined thus is new matter.

1 subsidies or contributions as authorized by P.L.1992, c.79, (3) the
2 payment or reimbursement, within or relating to any urban
3 enterprise zone located within the municipality, of such costs as are
4 enumerated in the definition of "project" as contained in subsection
5 c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without
6 reference to the zone assistance fund or the zone development
7 corporation, (4) the payment of bonds issued for any of the
8 foregoing purposes, (5) planning, evaluation, negotiation, and other
9 preliminary expenses relating to any of the foregoing purposes, and
10 (6) costs of administration and enforcement, including costs and
11 expenses of the municipality incurred in collecting the tax.

12 "Industrial zone" means such portion or portions of the
13 municipality, which may be identified by reference to zoning
14 districts, census tracks, or both, not exceeding in the aggregate 50
15 percent of the territory of the municipality, as is determined by the
16 municipality to be an area having, or intended to have,
17 predominantly industrial, port, airport, and related uses.

18 "Motor vehicle" means any automobile, truck, van, bus, or
19 similar conveyance that is intended primarily for passenger (as
20 distinct from cargo) use, and meeting the requirements of the State
21 for operation on public roads.

22 "Rental of motor vehicle" means any contract or agreement by
23 which a person, corporation, or other legal entity is permitted the
24 use of a motor vehicle that it does not own for a period of time that
25 is less than one year in exchange for the payment of a fee. A rental
26 transaction is deemed to occur at the location at which such person,
27 corporation, or other legal entity takes possession of the motor
28 vehicle.

29 "Rental tax account" means the dedicated trust account
30 established by a municipality pursuant to subsection c. of this
31 section.

32 "Tax proceeds" means amounts collected pursuant to any tax
33 imposed pursuant to sections 19 through 27 of P.L.2009, c.90
34 (C.40:48H-1 et seq.).

35 c. The Director of the Division of Taxation in the Department
36 of the Treasury may require, by regulation, that all taxes collected
37 pursuant to sections 19 through 27 of P.L.2009, c.90 (C.40:48H-1 et
38 seq.) be collected in the same manner as surcharges are collected
39 under section 28 of P.L.2009, c.90 (C.40:48G-2). **【Revenues】**
40 Except as provided hereafter, revenues that are collected and
41 distributed back to the municipality shall be deposited into a trust
42 account established by the municipality and dedicated exclusively
43 to the purpose of funding one or more eligible purposes. Revenues
44 that are collected during tax years 2014 through 2016 for
45 distribution back to a municipality having a population in excess of
46 270,000, according to the 2010 federal decennial census, shall be
47 deposited into the current fund of that municipality and shall be
48 used to reduce the appropriation for "cash deficit for preceding

1 year" pursuant to N.J.S.40A:4-42, or to address its operational
2 deficit identified at the beginning of the local budget year or
3 through the annual financial statement. In tax year 2017 and
4 thereafter, 50 percent of the revenues annually collected shall be
5 deposited into the municipality's trust account for eligible purposes,
6 and the remaining 50 percent shall be deposited into the current
7 fund and used to reduce the appropriation for "cash deficit for
8 preceding year" or to address its operational deficit. In the case of
9 any assignment pursuant to section 23 of P.L.2009, c.90 (C.40:48H-
10 5), the terms of such assignment shall include the agreement of the
11 municipality to enforce collection of the taxes in such manner as
12 provided therein, and may provide for direct payment of all or a
13 portion of the tax proceeds to a bond trustee. In addition to tax
14 proceeds, there shall be deposited into the rental tax account such
15 other moneys as may, from time to time, be directed by law to be
16 deposited therein.

17 (cf: P.L.2009, c.90, s.20)

18

19 2. This act shall take effect immediately and shall be
20 retroactive to January 1, 2014.

21

22

23

STATEMENT

24

25 This bill would permit the City of Newark to use its rental car
26 tax proceeds to reduce its appropriation for its "cash deficit for
27 preceding year" required by N.J.S.40A:4-42 or to reduce its annual
28 operational (structural) deficit. Under section 20 of P.L.2009, c.90,
29 the cities of Newark and Elizabeth were permitted to collect a rental
30 car tax, subject to a requirement that those proceeds be used for
31 redevelopment purposes. Under current economic conditions, and
32 for the foreseeable future, it is more important for Newark to be
33 able to use these revenues to address its cash deficit and operational
34 deficit problems than to use these funds for redevelopment
35 purposes. New Jersey's cash basis system for municipal budgeting
36 requires that when a municipality completes a budget year with a
37 cash deficit, meaning the amount by which its liabilities and cash
38 disbursements for lawful yearly expenditures exceed the cash
39 receipts in a budget year, the amount of the deficit has to be
40 included as an appropriation in the following year's budget in order
41 to cause the shortfall to be raised in that succeeding year. One
42 hundred percent of the rental car tax proceeds would be applied to
43 address the cash deficit problem during the three-year period from
44 2014 through 2016. After that period, half of the rental car tax
45 collections would continue to be used to address the cash deficit
46 and operational deficit problems, while the remaining half would be
47 used for redevelopment purposes.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2167

STATE OF NEW JERSEY

DATED: OCTOBER 27, 2014

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2167.

This bill would permit the City of Newark to use its rental car tax proceeds to reduce its appropriation for its "cash deficit of preceding year" required by N.J.S.40A:4-42 or to reduce its annual operational (structural) deficit.

Under section 20 of P.L.2009, c.90 (C.40:48H-2), the cities of Newark and Elizabeth were permitted to collect a rental car tax, subject to a requirement that those proceeds be used for redevelopment purposes. Under current economic conditions, and for the foreseeable future, it is more important for Newark to be able to use these revenues to address its cash deficit and operational deficit problems than to use these funds for redevelopment purposes. New Jersey's cash basis system for municipal budgeting requires that when a municipality completes a budget year with a cash deficit, meaning the amount by which its liabilities and cash disbursements for lawful yearly expenditures exceed the cash receipts in a budget year, the amount of the deficit has to be included as an appropriation in the following year's budget in order to cause the shortfall to be raised in that succeeding year. One hundred percent of the rental car tax proceeds would be applied to address the cash deficit problem during the three-year period from 2014 through 2016. After that period, half of the rental car tax collections would continue to be used to address the cash deficit and operational deficit problems, while the remaining half would be used for redevelopment purposes.

STATEMENT TO

SENATE, No. 2167

with Senate Floor Amendments
(Proposed by Senator RICE)

ADOPTED: JUNE 29, 2015

The Senate floor amendments:

- Require one hundred percent of the rental car tax revenues to be applied to the cash deficit from 2015 through 2017;
- Require fifty percent of the rental car tax revenues to be applied to the cash deficit beginning in 2018 and in each thereafter; and
- Make a technical correction to term “cash deficit of preceding year.”

ASSEMBLY BILL NO. 3393
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3393 (First Reprint) with my recommendations for reconsideration.

Since 2009 the City of Newark has been permitted to impose certain car-rental taxes and use the money for redevelopment purposes. To address the City's current economic distress, this bill would require Newark to use that money exclusively to reduce its operational deficits for tax years 2015 through 2017. For tax years 2018 onward, half of the money collected must be used to reduce operational deficits and half must be used for redevelopment. The bill would be retroactive to January 2015.

I agree that these funds should be used to help Newark recover during these difficult economic times. As written, however, the bill's mandatory language assumes that the City will have deficits forever, and the bill's retroactivity would require the City to cancel any redevelopment projects for which it has already pledged funds. The better approach is to make the bill permissive rather than mandatory, and prospective rather than retroactive.

Accordingly, I herewith return Assembly Bill No. 3393 (First Reprint) and recommend that it be amended as follows:

- | | |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Page 3, Section 1, Line 48:</u> | Delete "shall" and insert "may" |
| <u>Page 4, Section 1, Line 1:</u> | Delete "shall" and insert "may, to the extent not already allocated for eligible purposes," |
| <u>Page 4, Section 1, Line 5:</u> | After "thereafter," insert "up to" |
| <u>Page 4, Section 1, Lines 6-7:</u> | Delete "shall be deposited into the municipality's trust account for eligible purposes, and the remaining 50 percent shall" and insert "may" |

Page 4, Section 1, Line 9:

After "operational deficit"
insert ", and the remainder
shall be deposited into the
municipality's trust account
for eligible purposes"

Page 4, Section 2, Line 20:

Delete "and shall be" and
insert "."

Page 4, Section 2, Line 21:

Delete in its entirety

[seal]

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Thomas P. Scrivo

Chief Counsel to the Governor

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Governor Christie Takes Action On Pending Legislation

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Trenton, NJ - Governor Chris Christie announced action that has been taken on the following legislation:

BILL SIGNINGS:

S-854/A-1341 (Vitale, Greenstein/Quijano, Sumter, Pinkin, Wimberly) - Requires that certain health care facilities be generator ready; allows health care facilities to qualify for NJEDA loans for cost of generators

S-2234/A-3397 (Thompson, Van Drew/Giblin, Clifton, O'Donnell) - Abolishes Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection and transfers regulation of landscape irrigation contractors to Department of Community Affairs

S-2784/A-3856 (Van Drew, Whelan/Andrzejczak, Johnson) - Provides partial exemption and maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for use tax imposition on certain boats and vessels used by resident purchasers

A-3393/S-2167 (Spencer, Pintor Marin, Caputo, Tucker/Rice, Ruiz) - Permits Newark to use rental car tax proceeds over three-year period to help reduce its "cash deficit for preceding year" appropriation and operational deficit

A-3421/S-2220 (Dancer, Mukheriji/Singer) - Revises the "Self-Funded Multiple Employer Welfare Arrangement Regulation Act"

###

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