

LEGISLATIVE FISCAL ESTIMATE:

Yes 5/31/2019

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government
Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

RWH/JA

(CORRECTED COPY)

P.L. 2019, CHAPTER 230, *approved August 9, 2019*

Assembly No. 2004 (*Third Reprint*)

1 AN ACT concerning ¹certain¹ local property tax appeals and
2 amending P.L.1975, c.361 and R.S.54:51A-8.

3

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

6

7 1. Section 2 of P.L.1975, c.361 (C.54:3-27.2) is amended to
8 read as follows:

9 2. Except as required in paragraph (2) of subsection a. of
10 section 2 of P.L.1983, c.137 (C.54:4-134), in the event that a
11 taxpayer is successful in an appeal from an assessment on real
12 property, the respective taxing district shall refund any excess taxes
13 paid, together with interest thereon from the date of payment at a
14 rate of ²**[5%]** five percent² per annum or one percentage point
15 above the prime rate assessed for each month or fraction thereof,
16 compounded annually at the end of each year, from the date the tax
17 originally was due ²or paid, whichever date is later,² until the date
18 of actual payment, whichever ²interest rate² is lesser, less any
19 amount of taxes, interest, ²**[or both]** and penalties², which may be
20 applied against delinquencies pursuant to section 2 of P.L.1983,
21 c.137 (C.54:4-134), in substantially equal payment periods and
22 substantially equal payment amounts within [60 days] three years
23 of the date of final judgment ¹in the case of nonresidential real
24 property ²; provided, however, that ³if³ the ³**[Local Finance Board**
25 may, as the board deems necessary and appropriate, promulgate
26 regulations establishing a dollar threshold below which a refund for
27 nonresidential real property shall be paid within 60 days of the date
28 of final judgment²**]** dollar amount of the refund does not exceed
29 \$100,000, the amount shall be repaid within 60 days of the final
30 judgment³. In the case of residential real property, the refund shall
31 be paid within 60 days of the date of final judgment¹.

32 ²Nothing in this section shall be construed to preclude Local
33 Finance Board approval for any municipality that has ended the
34 previous budget year with a deficit in operations caused, whether in
35 whole or in part, by obligations created from tax appeals to issue
36 notes pursuant to section 3 of P.L.2011, c.224 (C.40A:4-89).²

37 “Prime rate” means “prime rate” as that term is defined by
38 R.S.54:48-2.

39 (cf: P.L.2012, c.19, s.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.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted May 24, 2018.

²Senate SCU committee amendments adopted May 13, 2019.

³Senate SBA committee amendments adopted June 17, 2019.

1 2. R.S.54:51A-8 is amended to read as follows:

2 54:51A-8. a. Conclusiveness of judgment; changes in value;
3 effect of revaluation program. Where a judgment not subject to
4 further appeal has been rendered by the Tax Court involving real
5 property, the judgment shall be conclusive and binding upon the
6 municipal assessor and the taxing district, parties to the proceeding,
7 for the assessment year and for the two assessment years succeeding
8 the assessment year covered by the final judgment, except as to
9 changes in the value of the property occurring after the assessment
10 date. The conclusive and binding effect of the judgment shall
11 terminate with the tax year immediately preceding the year in which
12 a program for a complete revaluation or complete reassessment of
13 all real property within the district has been put into effect. If as of
14 October 1 of the pretax year, the property in question has been the
15 subject of an addition qualifying as an added assessment, a
16 condominium or cooperative conversion, a subdivision or a zoning
17 change, the conclusive and binding effect of such judgment shall
18 terminate with said pretax year.

19 b. If the assessor increases the assessment or fails to reflect on
20 the tax duplicate a county board of taxation or Tax Court judgment
21 issued prior to the final preparation of the tax duplicate in either of
22 the two years following the year for which the judgment of the Tax
23 Court was rendered and if said judgment is a final judgment not
24 subject to further appeal, the burden of proof is on the taxing
25 district to establish that the assessor acted reasonably in increasing
26 the assessment. If the Tax Court finds that the assessor did not act
27 reasonably in increasing the assessment or failed to reflect said
28 judgment on the tax duplicate, the Tax Court shall award to the
29 taxpayer reasonable counsel fees, appraisal costs and other costs
30 which shall be paid by the taxing district.

31 c. In the event that a taxpayer is successful in an appeal from
32 an assessment on ¹nonresidential¹ real property, the respective
33 taxing district shall refund any excess taxes paid, less any amount
34 of taxes, interest, ²[or both] and penalties², which may be applied
35 against delinquencies pursuant to section 2 of P.L.1983, c.137
36 (C.54:4-134), in substantially equal payment periods and
37 substantially equal payment amounts within three years of the date
38 of final judgment.

39 ¹In the event that a taxpayer is successful in an appeal from an
40 assessment on residential real property, the respective taxing district
41 shall refund any excess taxes paid, less any amount of taxes,
42 interest, ²[or both] and penalties², which may be applied against
43 delinquencies pursuant to section 2 of P.L.1983, c.137 (C.54:4-134)
44 within 60 days of the date of final judgment.¹

45 (cf: P.L.1999, c.208, s.16)

ASSEMBLY, No. 2004

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

SYNOPSIS

Permits municipality to pay property tax appeal refund in equal installments over period of three years.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A2004 KARABINCHAK

2

1 AN ACT concerning local property tax appeals and amending
2 P.L.1975, c.361 and R.S.54:51A-8.

3

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

6

7 1. Section 2 of P.L.1975, c.361 (C.54:3-27.2) is amended to
8 read as follows:

9 2. Except as required in paragraph (2) of subsection a. of
10 section 2 of P.L.1983, c.137 (C.54:4-134), in the event that a
11 taxpayer is successful in an appeal from an assessment on real
12 property, the respective taxing district shall refund any excess taxes
13 paid, together with interest thereon from the date of payment at a
14 rate of 5% per annum or one percentage point above the prime rate
15 assessed for each month or fraction thereof, compounded annually
16 at the end of each year, from the date the tax was originally due
17 until the date of actual payment, whichever is lesser, less any
18 amount of taxes, interest, or both, which may be applied against
19 delinquencies pursuant to section 2 of P.L.1983, c.137 (C.54:4-
20 134), in substantially equal payment periods and substantially equal
21 payment amounts within **[60 days]** three years of the date of final
22 judgment.

23 “Prime rate” means “prime rate” as that term is defined by
24 R.S.54:48-2.

25 (cf: P.L.2012, c.19, s.1)

26

27 2. R.S.54:51A-8 is amended to read as follows:

28 54:51A-8. a. Conclusiveness of judgment; changes in value;
29 effect of revaluation program. Where a judgment not subject to
30 further appeal has been rendered by the Tax Court involving real
31 property, the judgment shall be conclusive and binding upon the
32 municipal assessor and the taxing district, parties to the proceeding,
33 for the assessment year and for the two assessment years succeeding
34 the assessment year covered by the final judgment, except as to
35 changes in the value of the property occurring after the assessment
36 date. The conclusive and binding effect of the judgment shall
37 terminate with the tax year immediately preceding the year in which
38 a program for a complete revaluation or complete reassessment of
39 all real property within the district has been put into effect. If as of
40 October 1 of the pretax year, the property in question has been the
41 subject of an addition qualifying as an added assessment, a
42 condominium or cooperative conversion, a subdivision or a zoning
43 change, the conclusive and binding effect of such judgment shall
44 terminate with said pretax year.

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.

A2004 KARABINCHAK

1 **b.** If the assessor increases the assessment or fails to reflect on
2 the tax duplicate a county board of taxation or Tax Court judgment
3 issued prior to the final preparation of the tax duplicate in either of
4 the two years following the year for which the judgment of the Tax
5 Court was rendered and if said judgment is a final judgment not
6 subject to further appeal, the burden of proof is on the taxing
7 district to establish that the assessor acted reasonably in increasing
8 the assessment. If the Tax Court finds that the assessor did not act
9 reasonably in increasing the assessment or failed to reflect said
10 judgment on the tax duplicate, the Tax Court shall award to the
11 taxpayer reasonable counsel fees, appraisal costs and other costs
12 which shall be paid by the taxing district.

13 **c.** In the event that a taxpayer is successful in an appeal from
14 an assessment on real property, the respective taxing district shall
15 refund any excess taxes paid, less any amount of taxes, interest, or
16 both, which may be applied against delinquencies pursuant to
17 section 2 of P.L.1983, c.137 (C.54:4-134), in substantially equal
18 payment periods and substantially equal payment amounts within
19 three years of the date of final judgment.

20 (cf: P.L.1999, c.208, s.16)

21

22 3. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill requires that, in the event a taxpayer is successful in a
28 real property tax appeal, the taxing district in which the real
29 property is located shall pay to the taxpayer any excess taxes paid,
30 plus interest charged at an annual rate of 5% or one percentage
31 point above the prime rate, within three years of the date of the final
32 judgment, whichever is lesser. Current law requires full payment of
33 any taxes paid, including interest calculated at an annual rate of 5%,
34 within 60 days of the final judgment.

35 This legislation is intended to relieve municipalities of paying
36 property tax appeal refunds within a relatively short period of time.
37 The sponsor notes that many municipal governments are
38 experiencing fiscal pressures due to increases in costs and revenue
39 constraints. This bill would allow municipalities to better manage
40 the payment of property tax refunds by budgeting for them over a
41 defined period of time.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2004

STATE OF NEW JERSEY

DATED: MAY 10, 2018

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 2004.

This bill requires that, in the event a taxpayer is successful in a real property tax appeal, the taxing district in which the real property is located shall pay to the taxpayer any excess taxes paid, plus interest charged at an annual rate of five percent or one percentage point above the prime rate, within three years of the date of the final judgment, whichever is lesser. Current law requires full payment of any taxes paid, including interest calculated at an annual rate of five percent, within 60 days of the final judgment.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2004

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 2019

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 2004 (1R), with committee amendments.

This bill, as amended, revises how a taxing district has to provide a refund to a taxpayer who is successful in a property tax appeal. Under current law, a refund of excess taxes paid has to be repaid with interest calculated at an annual rate of five percent and within 60 days of the final judgment for both residential and nonresidential property. The bill provides that for any property, the taxing district has to pay interest calculated at an annual rate of either five percent or one percentage point above the prime rate, whichever rate is lesser. The bill also provides that for a nonresidential property, the municipality would have to refund these excess taxes within three years, except that the Local Finance Board would be authorized to establish a dollar threshold below which a refund for nonresidential property would have to be paid within 60 days of the date of final judgment.

As reported, this bill is identical to Senate Bill No. 2673, as also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to authorize the Local Finance Board to establish a dollar threshold below which a refund for nonresidential property would have to be paid within 60 days of the date of final judgment.

The committee also amended the bill to clarify that its provisions would not preclude Local Finance Board approval for any municipality that has ended the previous budget year with a deficit in operations caused, whether in whole or in part, by obligations created from tax appeals to issue notes pursuant to section 3 of P.L.2011, c.224 (C.40A:4-89).

In addition, the committee made technical amendments so that the bill conforms to current practice with respect to property tax appeal refunds.

Lastly, the committee amended the bill to make it applicable to appeals filed after the bill's date of enactment.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint] **ASSEMBLY, No. 2004**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2004 (2R).

Assembly Bill No. 2004 (2R), with committee amendments, revises how a taxing district must provide a refund to a taxpayer who is successful in a property tax appeal. Under current law, a refund of excess taxes paid must be repaid with interest calculated at an annual rate of five percent and within 60 days of the final judgment for both residential and nonresidential property. The bill provides that for any property, the taxing district has to pay interest calculated at an annual rate of either five percent or one percentage point above the prime rate, whichever is less. The bill also requires that for a nonresidential property, the municipality must refund these excess taxes within three years, except that if the dollar amount of the recovery is below \$100,000, the excess taxes paid and interest thereon must be paid within 60 days of the final judgment.

As amended and reported, Assembly Bill No. 2004 (2R) is identical to Senate Bill No. 2673 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The amendments provide that in the case of a successful appeal from an assessment on nonresidential real property, if the dollar amount of the recovery is below \$100,000, the excess taxes paid and interest thereon must be paid within 60 days of the final judgment. The amendments omit the provision granting the Local Finance Board the ability to promulgate regulations establishing such a dollar threshold, below which refunds were to be paid within 60 days of final judgment.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill would result in a marginal increase in municipal revenues and a potential decrease in municipal expenditures. The bill extends the

period of time in which municipalities are required to refund certain successful nonresidential property tax appeals from 60 days to three years of the date of final judgment. The bill is expected to marginally increase municipal revenue by prolonging the accumulation of interest on the outstanding balance of certain excess tax collections which have yet to be refunded.

Assuming that municipalities hold excess tax collections in interest-bearing accounts, interest would continue to accrue on the balance of excess nonresidential property tax collections that remain unpaid after the 60-day period in which those monies are currently required to be refunded. Additionally, the bill could result in local cost savings by potentially reducing the rate of interest that is applied to excess tax collections and refunded to taxpayers. The bill could also reduce certain municipal expenditures to the extent that the extended repayment period eliminates the necessity to finance tax appeal liabilities through the issuance of debt. However, the OLS lacks sufficient information to quantify the bill's anticipated impact on municipal expenditures.

STATEMENT TO
ASSEMBLY, No. 2004

with Assembly Floor Amendments
(Proposed by Assemblyman KARABINCHAK)

ADOPTED: MAY 24, 2018

These amendments extend the period of time in which a municipality is required to refund the excess collection of nonresidential property taxes following a successful tax appeal to within three years of the date of final judgment. A municipality would refund these excess property tax collections in substantially equal payment periods and in substantially equal payment amounts. The amendments maintain the current statutory time period of 60 days in which municipalities are required to refund the excess taxes paid on residential property following a successful tax appeal.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2004

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 6, 2018

SUMMARY

- Synopsis:** Requires municipality to pay nonresidential property tax appeal refunds in equal installments over period of three years.
- Type of Impact:** Potential decrease in local costs; marginal increase in local revenue.
- Agencies Affected:** Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost	Indeterminate Potential Decrease		
Local Revenue	Indeterminate Marginal Increase		

- The Office of Legislative Services (OLS) estimates that the enactment of the amended bill would result in an indeterminate marginal increase in municipal revenues and an indeterminate potential decrease in municipal expenditures. The amended bill proposes to extend the period of time in which municipalities are required to refund successful nonresidential property tax appeals from 60 days to three years of the date of final judgment.
- The amended bill is expected to result in a marginal increase in municipal revenue due to the prolonged accumulation of interest on the outstanding balance of certain excess tax collections which have yet to be refunded. Assuming that municipalities hold the balance of excess taxes in interest-bearing accounts, interest would continue to accrue on the remaining balance of excess nonresidential property tax collections that is held after the 60-day period in which those monies are currently required to be refunded.
- The amended bill could result in local cost savings by potentially reducing the rate of interest that is applied to excess tax collections and refunded to taxpayers. Under the amended bill, this rate would equal the lesser of: (1) five percent annually, which is the currently required interest rate; or (2) one percent above the prime rate assessed for each month, compounded annually. Local savings would only occur if the five percent interest rate exceeds the value of one percent above the prime rate. Because the OLS cannot predict the value of future prime rates, it cannot determine if, and to what extent, these local savings would occur.

BILL DESCRIPTION

The amended bill provides that when certain taxpayers are successful in real property tax appeals, the taxing district (i.e., municipality) in which the real property is located is required to refund the taxpayer the excess tax payment, plus interest, in equal payment amounts and in equal payment periods, within three years of the date of final judgment. In the event of a successful tax appeal, current law provides that a municipality is required to refund all excess property tax collections, plus interest at an annual rate of five percent, within 60 days of the final judgment.

The amended bill extends the period of tax appeal repayment from 60 days to three years of the date of final judgment for nonresidential property taxpayers. The amended bill provides that in the event of a successful residential property tax appeal, the municipality is still required to refund the excess tax collections within 60 days of the date of final judgment.

The amended bill also potentially reduces the rate of interest that is applied to excess property tax collections and refunded to taxpayers from five percent annually to the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually at the end of each year, from the date the tax was originally due until the date of actual payment. As used in the amended bill, “prime rate” means the average predominant prime rate, as determined by the Board of Governors of the Federal Reserve System, quoted as of December 1 of the calendar year immediately preceding the calendar year in which the payment was due.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the enactment of the amended bill would result in a marginal increase in revenues and a potential decrease in expenditures for municipalities subject to successful property tax appeals. Enactment of the amended bill also would diffuse, over a three-year period of time, the financial impact on municipalities that is associated with refunding successful, nonresidential property tax appeals. As a result, the extended tax appeal repayment period could provide increased municipal budget flexibility and potentially reduce local costs associated with the issuance of tax appeal refunding bonds. However, the OLS is unable to determine if, and to what extent, local savings would occur due to the amended bill.

Local Revenue

The amended bill is expected to result in a marginal increase in municipal revenues due to the prolonged accumulation of interest on the outstanding balance of certain excess property tax collections which have yet to be refunded. Current law provides that municipalities are required to refund the all excess property tax collections, including those concerning residential and nonresidential real property, together with interest, within 60 days of the date of final judgment. The amended bill provides that municipalities are to refund the excess tax collections on nonresidential real property, in equal payment amounts and in equal payment periods, within

three years of the date of final judgment. The amended bill maintains the current repayment period of 60 days in the event of a successful tax appeal on the assessment of residential real property.

As a result of the extended period of tax appeal repayment, municipalities may continue to accumulate interest on the remaining portion of excess nonresidential real property tax collections after the 60-day period in which those monies are currently required to be refunded. Assuming that municipal tax collections, including the outstanding balance of tax appeal obligations, are held in interest-bearing accounts, the provisions of the amended bill would specifically allow municipalities to accumulate interest on the remaining balance of those excess tax collections that have yet to be refunded within the three-year repayment period. Because potential revenue increases are dependent on the total amount of tax appeal refunds and the refunding schedule of each settlement, the OLS is unable to quantify the anticipated increase in municipal revenues.

Local Costs

The amended bill also could result in a potential reduction in municipal expenditures by lowering the rate of interest that is applied the balance of excess property tax collections and refunded to taxpayers. After a successful property tax appeal, current law requires the municipality to refund the amount of the excess payment, plus interest at an annual rate of five percent.

Under the amended bill, this rate of interest would be potentially reduced to equal the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually. As a result, municipalities could pay a lesser amount of interest to certain taxpayers if the interest rate is set at one percent above the prime rate. If the value of one percentage point above the prime rate exceeds the five percent interest rate, municipalities would continue to pay the current five percent annual rate, and interest payments would not be impacted by the amended bill.

Given that the prime rate on December 1, 2017 was 4.4 percent, the provisions of the amended bill would not impact local interest payments towards tax appeals due and payable in calendar year 2018, as the currently required five percent annual rate would be less than the alternative annual rate of 5.4 percent (i.e., one percentage point above the prime rate). However, because the OLS cannot predict: (1) the Federal Reserve's future determination of prime rates; and (2) the total volume of future tax appeal refunds; it is unable to quantify the amended bill's long-term impact on municipal interest payments.

Local Budgeting

The amended bill would diffuse, over a three-year period of time, the fiscal impact of refunding successful nonresidential property tax appeals on municipalities. As a result, the amended bill may provide increased municipal budget flexibility, especially for those municipalities with large tax appeal obligations. In particular, the extended repayment period could allow municipalities to incorporate the balance of certain actual tax appeal liabilities into the calculation of annual property tax levies. At present, municipalities generally cannot budget for actual tax appeal liabilities because municipal budgets are passed prior to the settlement of tax appeals.

By providing for the gradual refunding of excess taxes, the amended bill also could reduce the extent to which municipalities finance tax appeal refunds through the issuance of debt. Specifically, the provisions of the amended bill could reduce expenditures for any municipality that, in the event of a successful nonresidential property tax appeal: (1) would be required to issue tax appeal refunding bonds if the repayment period remained 60 days; and (2) would not be

required to issue bonds, and service the resulting debt, if the repayment period was extended to three years. These potential savings would be attributable to eliminating the costs of bond issuance, including payment for bond counsel and the cost of interest on the bond's principal balance. However, the OLS is unable to predict whether the provisions of this amended bill would actually reduce the issuance of municipal tax appeal refunding bonds in this State.

Section: Local Government

*Analyst: Joseph A. Pezzulo
Assistant Research Analyst*

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

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. 2004

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MAY 31, 2019

SUMMARY

- Synopsis:** Requires municipality to pay nonresidential property tax appeal refunds in equal installments over period of three years.
- Type of Impact:** Potential decrease in local costs; marginal increase in local revenue.
- Agencies Affected:** Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost		Indeterminate Potential Decrease	
Local Revenue		Indeterminate Marginal Increase	

- The Office of Legislative Services (OLS) estimates that the bill would result in a marginal increase in municipal revenues and a potential decrease in municipal expenditures. The bill extends the period of time in which municipalities are required to refund certain successful nonresidential property tax appeals from 60 days to three years of the date of final judgment.
- The bill is expected to marginally increase municipal revenue by prolonging the accumulation of interest on the outstanding balance of certain excess tax collections which have yet to be refunded. Assuming that municipalities hold excess tax collections in interest-bearing accounts, interest would continue to accrue on the balance of excess nonresidential property tax collections that remain unpaid after the 60-day period in which those monies are currently required to be refunded.
- Additionally, the bill could result in local cost savings by potentially reducing the rate of interest that is applied to excess tax collections and refunded to taxpayers. The bill could also reduce certain municipal expenditures to the extent that the extended repayment period eliminates the necessity to finance tax appeal liabilities through the issuance of debt. However, the OLS lacks sufficient information to quantify the bill's anticipated impact on municipal expenditures.

- The bill also permits the Local Finance Board to establish a dollar threshold below which municipalities would continue to repay successful nonresidential tax appeals within 60 days. As a result, the impact of the bill on municipal finances would be minimized depending on the threshold established by the Local Finance Board, with a higher threshold resulting in a reduced fiscal impact.

BILL DESCRIPTION

The bill provides that when certain taxpayers are successful in property tax appeals, the municipality would be required to refund the excess tax payment, plus interest, in equal payment amounts and in equal payment periods within three years of the date of final judgment. In the event of a successful tax appeal, current law provides that a municipality is required to refund all excess property tax collections, plus interest at an annual rate of five percent, within 60 days of the final judgment.

The bill extends the period of tax appeal repayment from 60 days to three years following the date of final judgment for nonresidential property taxpayers. The bill provides that in the event of a successful residential property tax appeal, the municipality is still required to refund the excess tax collections within 60 days of the date of final judgment. However, the bill also permits the Local Finance Board to establish a dollar threshold below which municipalities would continue to repay successful nonresidential property tax appeals within 60 days.

The bill also revises the interest rate that is applied to excess property tax collections and refunded to taxpayers. Currently, the interest rate is required to equal five percent. Under the bill, the interest rate would equal the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually at the end of each year, from the date the tax was originally due or paid, whichever is later, until the date of actual repayment. As used in the bill, “prime rate” means the average predominant prime rate, as determined by the Board of Governors of the Federal Reserve System, quoted as of December 1 of the calendar year immediately preceding the calendar year in which the payment was due.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill would result in a marginal increase in revenues and a potential decrease in expenditures for municipalities that incur nonresidential property tax appeal liabilities. Specifically, the bill would diffuse, over a three-year period of time, the financial impact of refunding certain nonresidential property tax appeals. As a result, the extended tax appeal repayment period could provide increased municipal budget flexibility and potentially reduce local costs associated with the issuance of tax appeal refunding bonds. However, the OLS lacks sufficient information to quantify the impact of the bill on local finances.

Local Revenue

The bill is expected to marginally increase municipal revenues by prolonging the accumulation of interest on the outstanding balance of excess nonresidential property tax collections which have yet to be refunded. Under current law, municipalities are required to refund the all excess property tax collections, including those of residential and nonresidential taxpayers, together with interest, within 60 days of the date of final judgment. The bill instead requires municipalities to refund excess nonresidential property tax collections within three years of the date of final judgment, provided that the tax appeal liability exceeds the threshold established by the Local Finance Board. The bill maintains the current repayment period of 60 days in the event of a successful tax appeal concerning the assessment of residential real property.

As a result of the extended period of tax appeal repayment, municipalities may continue to accumulate interest on the portion of excess nonresidential real property tax collections that remains unpaid after the 60-day period in which those monies are currently required to be refunded. Assuming that municipal property tax collections, including the outstanding balance of tax appeal liabilities, are held in interest-bearing accounts, the bill would allow municipalities to accumulate interest on the balance of excess non-residential property tax collections that remains unpaid during the three-year repayment period. However, the OLS is unable to quantify the anticipated increase in municipal revenues, because such increases will depend on: (1) the total amount of eligible tax appeal liabilities, (2) the repayment schedule of each settlement, and (3) the interest rate of each account in which excess tax collections are held.

Local Costs

The bill could also reduce municipal expenditures by lowering the interest rate that is assessed upon the balance of excess property tax collections and refunded to taxpayers. After a successful property tax appeal, current law requires the municipality to refund the amount of the excess payment, plus interest at an annual rate of five percent.

Under the bill, this rate of interest would be potentially reduced to equal the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually. Accordingly, if the value of one percentage point above the prime rate exceeds five percent, municipalities would continue to pay the current five percent annual rate, and interest payments would not be impacted by the bill. However, if the prime rate was less than 4.0 percent on December 1 of the preceding year, municipalities would be required to pay a lower interest rate and thereby incur reduced tax appeal liabilities as a result of the bill.

According to the Division of Taxation in the Department of the Treasury, the prime rate was 5.25 percent on December 1, 2018. As a result, the bill would not impact the interest rate applied towards tax appeals due and payable in calendar year 2019, because the current five percent interest rate would be less than the alternative rate of 6.25 percent (i.e., one percentage point above the prime rate). However, the OLS cannot predict: (1) the Federal Reserve's future determination of prime rates; and (2) the principal balance of future tax appeal liabilities upon which interest would accrue. Consequently, the OLS is unable to quantify the long-term impact of the bill on municipal interest payments.

Local Budgeting

The bill would diffuse, over a three-year period, the fiscal impact of refunding successful nonresidential property tax appeals that exceed the threshold established by the Local Finance Board. As a result, the bill may provide increased municipal budget flexibility, especially for those municipalities with large nonresidential property tax appeal liabilities. In particular, the extended repayment period could allow municipalities to incorporate the balance of

nonresidential property tax appeal liabilities into the calculation of annual property tax levies. At present, municipalities generally cannot budget for tax appeal liabilities because municipal budgets are passed prior to the settlement of tax appeals.

By providing for the gradual repayment of excess taxes, the bill also reduces the necessity for municipalities to finance tax appeals through the issuance of debt. Specifically, the bill could reduce expenditures for any municipality that, in the event of a successful nonresidential property tax appeal: (1) would be required to issue tax appeal refunding bonds if the repayment period remained 60 days; and (2) would not be required to issue bonds, and service the resulting debt, if the repayment period was extended to three years. These potential savings would be attributable to eliminating the costs of bond issuance, including payment for bond counsel and the cost of interest on the bond's principal balance. However, the OLS is unable to predict the extent to which the bill would reduce the issuance of municipal tax appeal refunding bonds.

Local Finance Board Threshold

The bill also permits the Local Finance Board to establish a dollar threshold below which municipalities would continue to refund nonresidential property tax appeal liabilities within 60 days of final judgment. As a result, the impact of the bill on municipal finances would be minimized depending on the threshold established by the Local Finance Board, with a higher threshold resulting in a reduced fiscal impact. For example, if the Local Finance Board established the threshold at \$1.0 million, and each successful nonresidential property tax appeal in a municipality resulted in a tax appeal liability not exceeding \$1.0 million, then the municipality would not be impacted by the bill, because each tax appeal would continue to be refunded within 60 days of judgment, as provided under current law. Given that the OLS cannot predict whether, and in what amount, the Local Finance Board would establish a threshold, the OLS is unable to determine the extent to which municipalities will be impacted by the bill.

Section: Local Government
Analyst: Joseph A. Pezzulo
Associate Research 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.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

ASSEMBLY, No. 2004

**STATE OF NEW JERSEY
218th LEGISLATURE**

DATED: JUNE 25, 2019

SUMMARY

- Synopsis:** Requires municipality to pay nonresidential property tax appeal refunds in equal installments over period of three years.
- Type of Impact:** Potential decrease in local costs; marginal increase in local revenue.
- Agencies Affected:** Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost		Indeterminate Potential Decrease	
Local Revenue		Indeterminate Marginal Increase	

- The Office of Legislative Services (OLS) estimates that the bill would result in a marginal increase in municipal revenues and a potential decrease in municipal expenditures. The bill extends the period of time in which municipalities are required to refund certain successful nonresidential property tax appeals from 60 days to three years of the date of final judgment.
- The bill is expected to marginally increase municipal revenue by prolonging the accumulation of interest on the outstanding balance of certain excess tax collections which have yet to be refunded. Assuming that municipalities hold excess tax collections in interest-bearing accounts, interest would continue to accrue on the balance of excess nonresidential property tax collections that remain unpaid after the 60-day period in which those monies are currently required to be refunded.
- Additionally, the bill could result in local cost savings by potentially reducing the rate of interest that is applied to excess tax collections and refunded to taxpayers. The bill could also reduce certain municipal expenditures to the extent that the extended repayment period eliminates the necessity to finance tax appeal liabilities through the issuance of debt. However, the OLS lacks sufficient information to quantify the bill's anticipated impact on municipal expenditures.

- The bill would only extend the tax appeal repayment period for nonresidential property taxpayers whose tax appeal refunds exceed \$100,000. As a result, the impact of the bill on municipal finances will be minimized depending on the extent to which a municipality's nonresidential property tax appeal liabilities do not exceed this threshold.

BILL DESCRIPTION

The bill provides that when certain taxpayers are successful in property tax appeals, the municipality would be required to refund the excess tax payment, plus interest, in equal payment amounts and in equal payment periods within three years of the date of final judgment. In the event of a successful tax appeal, current law provides that a municipality is required to refund all excess property tax collections, plus interest at an annual rate of five percent, within 60 days of the final judgment.

The bill extends the period of tax appeal repayment from 60 days to three years following the date of final judgment for any nonresidential property taxpayer whose tax appeal refund exceeds \$100,000. The bill provides that in the event of a successful residential property tax appeal, or a successful nonresidential property tax appeal that does not exceed \$100,000, the municipality is still required to refund the excess tax collections within 60 days of the date of final judgment.

The bill also revises the interest rate that is applied to excess property tax collections and refunded to taxpayers. Currently, the interest rate is required to equal five percent. Under the bill, the interest rate would equal the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually at the end of each year, from the date the tax was originally due or paid, whichever is later, until the date of actual repayment. As used in the bill, "prime rate" means the average predominant prime rate, as determined by the Board of Governors of the Federal Reserve System, quoted as of December 1 of the calendar year immediately preceding the calendar year in which the payment was due.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill would result in a marginal increase in revenues and a potential decrease in expenditures for municipalities that incur nonresidential property tax appeal liabilities. Specifically, the bill would diffuse, over a three-year period of time, the financial impact of refunding certain nonresidential property tax appeals. As a result, the extended tax appeal repayment period could provide increased municipal budget flexibility and potentially reduce local costs associated with the issuance of tax appeal refunding bonds. However, the OLS lacks sufficient information to quantify the impact of the bill on local finances.

Local Revenue

The bill is expected to marginally increase municipal revenues by prolonging the accumulation of interest on the outstanding balance of excess nonresidential property tax

collections which have yet to be refunded. Under current law, municipalities are required to refund the all excess property tax collections, including those of residential and nonresidential taxpayers, with interest, within 60 days of the date of final judgment. The bill instead requires municipalities to refund excess nonresidential property tax collections within three years of the date of final judgment, provided that the tax appeal refund exceeds \$100,000. The bill maintains the current repayment period of 60 days in the event of any other successful tax appeal.

As a result of the extended period of tax appeal repayment, municipalities may continue to accumulate interest on the portion of excess nonresidential real property tax collections that remains unpaid after the 60-day period in which those monies are currently required to be refunded. Assuming that municipal property tax collections, including the outstanding balance of tax appeal liabilities, are held in interest-bearing accounts, the bill would allow municipalities to accumulate interest on the balance of excess non-residential property tax collections that remains unpaid during the three-year repayment period. However, the OLS is unable to quantify the anticipated increase in municipal revenues, because such increases will depend on: (1) the total amount of eligible tax appeal liabilities; (2) the repayment schedule of each settlement; and (3) the interest rate of each account in which excess tax collections are held.

Local Costs

The bill could also reduce municipal expenditures by lowering the interest rate that is assessed upon the balance of excess property tax collections and refunded to taxpayers. After a successful property tax appeal, current law requires the municipality to refund the amount of the excess payment, plus interest at an annual rate of five percent.

Under the bill, this rate of interest would be potentially reduced to equal the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually. Accordingly, if the value of one percentage point above the prime rate exceeds five percent, municipalities would continue to pay the current five percent annual rate, and interest payments would not be impacted by the bill. However, if the prime rate was less than 4.0 percent on December 1 of the preceding year, municipalities would be required to pay a lower interest rate and thereby incur reduced tax appeal liabilities as a result of the bill.

According to the Division of Taxation in the Department of the Treasury, the prime rate was 5.25 percent on December 1, 2018. As a result, the bill would not impact the interest rate applied towards tax appeals due and payable in calendar year 2019, because the current five percent interest rate would be less than the alternative rate of 6.25 percent (i.e., one percentage point above the prime rate). However, the OLS cannot predict: (1) the Federal Reserve's future determination of prime rates; and (2) the principal balance of future tax appeal liabilities upon which interest would accrue. Consequently, the OLS is unable to quantify the long-term impact of the bill on municipal interest payments.

Local Budgeting

The bill would diffuse, over a three-year period, the fiscal impact of refunding successful nonresidential property tax appeals that exceed \$100,000. As a result, the bill may provide increased municipal budget flexibility, especially for those municipalities with large nonresidential property tax appeal liabilities. In particular, the extended repayment period could allow municipalities to incorporate the balance of nonresidential property tax appeal liabilities into the calculation of annual property tax levies. At present, municipalities generally cannot budget for tax appeal liabilities because municipal budgets are passed prior to the settlement of tax appeals.

By providing for the gradual repayment of excess taxes, the bill also reduces the necessity for municipalities to finance tax appeals through the issuance of debt. Specifically, the bill could

reduce expenditures for any municipality that, in the event of a successful nonresidential property tax appeal: (1) would be required to issue tax appeal refunding bonds if the repayment period remained 60 days; and (2) would not be required to issue bonds, and service the resulting debt, if the repayment period was extended to three years. These potential savings would be attributable to eliminating the costs of bond issuance, including payment for bond counsel and the cost of interest on the bond's principal balance. However, the OLS is unable to predict the extent to which the bill would reduce the issuance of municipal tax appeal refunding bonds.

Section: Local Government

*Analyst: Joseph A. Pezzulo
Associate Research 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. 2673

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 11, 2018

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

Permits municipality to pay property tax appeal refund in equal installments over period of three years.

CURRENT VERSION OF TEXT

As introduced.



S2673 DIEGNAN

2

1 AN ACT concerning local property tax appeals and amending
2 P.L.1975, c.361 and R.S.54:51A-8.

3

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

6

7 1. Section 2 of P.L.1975, c.361 (C.54:3-27.2) is amended to
8 read as follows:

9 2. Except as required in paragraph (2) of subsection a. of
10 section 2 of P.L.1983, c.137 (C.54:4-134), in the event that a
11 taxpayer is successful in an appeal from an assessment on real
12 property, the respective taxing district shall refund any excess taxes
13 paid, together with interest thereon from the date of payment at a
14 rate of 5% per annum or one percentage point above the prime rate
15 assessed for each month or fraction thereof, compounded annually
16 at the end of each year, from the date the tax was originally due
17 until the date of actual payment, whichever is lesser, less any
18 amount of taxes, interest, or both, which may be applied against
19 delinquencies pursuant to section 2 of P.L.1983, c.137 (C.54:4-
20 134), in substantially equal payment periods and substantially equal
21 payment amounts within **[60 days]** three years of the date of final
22 judgment.

23 “Prime rate” means “prime rate” as that term is defined by
24 R.S.54:48-2.

25 (cf: P.L.2012, c.19, s.1)

26

27 2. R.S.54:51A-8 is amended to read as follows:

28 54:51A-8. a. Conclusiveness of judgment; changes in value;
29 effect of revaluation program. Where a judgment not subject to
30 further appeal has been rendered by the Tax Court involving real
31 property, the judgment shall be conclusive and binding upon the
32 municipal assessor and the taxing district, parties to the proceeding,
33 for the assessment year and for the two assessment years succeeding
34 the assessment year covered by the final judgment, except as to
35 changes in the value of the property occurring after the assessment
36 date. The conclusive and binding effect of the judgment shall
37 terminate with the tax year immediately preceding the year in which
38 a program for a complete revaluation or complete reassessment of
39 all real property within the district has been put into effect. If as of
40 October 1 of the pretax year, the property in question has been the
41 subject of an addition qualifying as an added assessment, a
42 condominium or cooperative conversion, a subdivision or a zoning
43 change, the conclusive and binding effect of such judgment shall
44 terminate with said pretax year.

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 **b.** If the assessor increases the assessment or fails to reflect on
2 the tax duplicate a county board of taxation or Tax Court judgment
3 issued prior to the final preparation of the tax duplicate in either of
4 the two years following the year for which the judgment of the Tax
5 Court was rendered and if said judgment is a final judgment not
6 subject to further appeal, the burden of proof is on the taxing
7 district to establish that the assessor acted reasonably in increasing
8 the assessment. If the Tax Court finds that the assessor did not act
9 reasonably in increasing the assessment or failed to reflect said
10 judgment on the tax duplicate, the Tax Court shall award to the
11 taxpayer reasonable counsel fees, appraisal costs and other costs
12 which shall be paid by the taxing district.

13 **c.** In the event that a taxpayer is successful in an appeal from
14 an assessment on real property, the respective taxing district shall
15 refund any excess taxes paid, less any amount of taxes, interest, or
16 both, which may be applied against delinquencies pursuant to
17 section 2 of P.L.1983, c.137 (C.54:4-134), in substantially equal
18 payment periods and substantially equal payment amounts within
19 three years of the date of final judgment.

20 (cf: P.L.1999, c.208, s.16)

21

22 3. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill requires that, in the event a taxpayer is successful in a
28 real property tax appeal, the taxing district in which the real
29 property is located shall pay to the taxpayer any excess taxes paid,
30 plus interest charged at an annual rate of 5% or one percentage
31 point above the prime rate, within three years of the date of the final
32 judgment, whichever is lesser. Current law requires full payment of
33 any taxes paid, including interest calculated at an annual rate of 5%,
34 within 60 days of the final judgment.

35 This legislation is intended to relieve municipalities of paying
36 property tax appeal refunds within a relatively short period of time.
37 The sponsor notes that many municipal governments are
38 experiencing fiscal pressures due to increases in costs and revenue
39 constraints. This bill would allow municipalities to better manage
40 the payment of property tax refunds by budgeting for them over a
41 defined period of time.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2673

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 2019

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2673, with committee amendments.

This bill, as amended, revises how a taxing district has to provide a refund to a taxpayer who is successful in a property tax appeal. Under current law, a refund of excess taxes paid has to be repaid with interest calculated at an annual rate of five percent and within 60 days of the final judgment for both residential and nonresidential property. The bill provides that for any property, the taxing district has to pay interest calculated at an annual rate of either five percent or one percentage point above the prime rate, whichever rate is lesser. The bill also provides that for a nonresidential property, the municipality would have to refund these excess taxes within three years, except that the Local Finance Board would be authorized to establish a dollar threshold below which a refund for nonresidential property would have to be paid within 60 days of the date of final judgment.

As amended and reported, this bill is identical to Assembly Bill No. 2004(1R), as also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to limit to nonresidential property the three-year extended period in which a municipality is required to refund excess property taxes collected following a successful tax appeal. The amendments maintain the current statutory time period of 60 days in which municipalities are required to refund the excess taxes paid on residential property following a successful tax appeal.

The committee also amended the bill to authorize the Local Finance Board to establish a dollar threshold below which a refund for nonresidential property would have to be paid within 60 days of the date of final judgment.

The committee further amended the bill to clarify that its provisions would not preclude Local Finance Board approval for any municipality that has ended the previous budget year with a deficit in operations caused, whether in whole or in part, by obligations created from tax appeals to issue notes pursuant to section 3 of P.L.2011, c.224 (C.40A:4-89).

In addition, the committee made technical amendments so that the bill conforms to current practice with respect to property tax appeal refunds.

Lastly, the committee amended the bill to make it applicable to appeals filed after the bill's date of enactment.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2673

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2673 (1R).

Senate Bill No. 2673 (1R), with committee amendments, revises how a taxing district must provide a refund to a taxpayer who is successful in a property tax appeal. Under current law, a refund of excess taxes paid must be repaid with interest calculated at an annual rate of five percent and within 60 days of the final judgment for both residential and nonresidential property. The bill provides that for any property, the taxing district has to pay interest calculated at an annual rate of either five percent or one percentage point above the prime rate, whichever is less. The bill also requires that for a nonresidential property, the municipality must refund these excess taxes within three years, except that if the dollar amount of the recovery is below \$100,000, the excess taxes paid and interest thereon must be paid within 60 days of the final judgment.

As amended and reported, Senate Bill No. 2673 (1R) is identical to Assembly Bill No. 2004 (2R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The amendments provide that in the case of a successful appeal from an assessment on nonresidential real property, if the dollar amount of the recovery is below \$100,000, the excess taxes paid and interest thereon must be paid within 60 days of the final judgment. The amendments omit the provision granting the Local Finance Board the ability to promulgate regulations establishing such a dollar threshold, below which refunds were to be paid within 60 days of final judgment.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill would result in a marginal increase in municipal revenues and a potential decrease in municipal expenditures. The bill extends the period of time in which municipalities are required to refund certain

successful nonresidential property tax appeals from 60 days to three years of the date of final judgment. The bill is expected to marginally increase municipal revenue by prolonging the accumulation of interest on the outstanding balance of certain excess tax collections which have yet to be refunded.

Assuming that municipalities hold excess tax collections in interest-bearing accounts, interest would continue to accrue on the balance of excess nonresidential property tax collections that remain unpaid after the 60-day period in which those monies are currently required to be refunded. Additionally, the bill could result in local cost savings by potentially reducing the rate of interest that is applied to excess tax collections and refunded to taxpayers. The bill could also reduce certain municipal expenditures to the extent that the extended repayment period eliminates the necessity to finance tax appeal liabilities through the issuance of debt. However, the OLS lacks sufficient information to quantify the bill's anticipated impact on municipal expenditures.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2673

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MAY 31, 2019

SUMMARY

- Synopsis:** Requires municipality to pay nonresidential property tax appeal refunds in equal installments over period of three years.
- Type of Impact:** Potential decrease in local costs; marginal increase in local revenue.
- Agencies Affected:** Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost	Indeterminate Potential Decrease		
Local Revenue	Indeterminate Marginal Increase		

- The Office of Legislative Services (OLS) estimates that the bill would result in a marginal increase in municipal revenues and a potential decrease in municipal expenditures. The bill extends the period of time in which municipalities are required to refund certain successful nonresidential property tax appeals from 60 days to three years of the date of final judgment.
- The bill is expected to marginally increase municipal revenue by prolonging the accumulation of interest on the outstanding balance of certain excess tax collections which have yet to be refunded. Assuming that municipalities hold excess tax collections in interest-bearing accounts, interest would continue to accrue on the balance of excess nonresidential property tax collections that remain unpaid after the 60-day period in which those monies are currently required to be refunded.
- Additionally, the bill could result in local cost savings by potentially reducing the rate of interest that is applied to excess tax collections and refunded to taxpayers. The bill could also reduce certain municipal expenditures to the extent that the extended repayment period eliminates the necessity to finance tax appeal liabilities through the issuance of debt. However, the OLS lacks sufficient information to quantify the bill's anticipated impact on municipal expenditures.

- The bill also permits the Local Finance Board to establish a dollar threshold below which municipalities would continue to repay successful nonresidential tax appeals within 60 days. As a result, the impact of the bill on municipal finances would be minimized depending on the threshold established by the Local Finance Board, with a higher threshold resulting in a reduced fiscal impact.

BILL DESCRIPTION

The bill provides that when certain taxpayers are successful in property tax appeals, the municipality would be required to refund the excess tax payment, plus interest, in equal payment amounts and in equal payment periods within three years of the date of final judgment. In the event of a successful tax appeal, current law provides that a municipality is required to refund all excess property tax collections, plus interest at an annual rate of five percent, within 60 days of the final judgment.

The bill extends the period of tax appeal repayment from 60 days to three years following the date of final judgment for nonresidential property taxpayers. The bill provides that in the event of a successful residential property tax appeal, the municipality is still required to refund the excess tax collections within 60 days of the date of final judgment. However, the bill also permits the Local Finance Board to establish a dollar threshold below which municipalities would continue to repay successful nonresidential property tax appeals within 60 days.

The bill also revises the interest rate that is applied to excess property tax collections and refunded to taxpayers. Currently, the interest rate is required to equal five percent. Under the bill, the interest rate would equal the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually at the end of each year, from the date the tax was originally due or paid, whichever is later, until the date of actual repayment. As used in the bill, “prime rate” means the average predominant prime rate, as determined by the Board of Governors of the Federal Reserve System, quoted as of December 1 of the calendar year immediately preceding the calendar year in which the payment was due.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill would result in a marginal increase in revenues and a potential decrease in expenditures for municipalities that incur nonresidential property tax appeal liabilities. Specifically, the bill would diffuse, over a three-year period of time, the financial impact of refunding certain nonresidential property tax appeals. As a result, the extended tax appeal repayment period could provide increased municipal budget flexibility and potentially reduce local costs associated with the issuance of tax appeal refunding bonds. However, the OLS lacks sufficient information to quantify the impact of the bill on local finances.

Local Revenue

The bill is expected to marginally increase municipal revenues by prolonging the accumulation of interest on the outstanding balance of excess nonresidential property tax collections which have yet to be refunded. Under current law, municipalities are required to refund the all excess property tax collections, including those of residential and nonresidential taxpayers, together with interest, within 60 days of the date of final judgment. The bill instead requires municipalities to refund excess nonresidential property tax collections within three years of the date of final judgment, provided that the tax appeal liability exceeds the threshold established by the Local Finance Board. The bill maintains the current repayment period of 60 days in the event of a successful tax appeal concerning the assessment of residential real property.

As a result of the extended period of tax appeal repayment, municipalities may continue to accumulate interest on the portion of excess nonresidential real property tax collections that remains unpaid after the 60-day period in which those monies are currently required to be refunded. Assuming that municipal property tax collections, including the outstanding balance of tax appeal liabilities, are held in interest-bearing accounts, the bill would allow municipalities to accumulate interest on the balance of excess non-residential property tax collections that remains unpaid during the three-year repayment period. However, the OLS is unable to quantify the anticipated increase in municipal revenues, because such increases will depend on: (1) the total amount of eligible tax appeal liabilities, (2) the repayment schedule of each settlement, and (3) the interest rate of each account in which excess tax collections are held.

Local Costs

The bill could also reduce municipal expenditures by lowering the interest rate that is assessed upon the balance of excess property tax collections and refunded to taxpayers. After a successful property tax appeal, current law requires the municipality to refund the amount of the excess payment, plus interest at an annual rate of five percent.

Under the bill, this rate of interest would be potentially reduced to equal the lesser of: (1) five percent annually; or (2) one percentage point above the prime rate assessed for each month, compounded annually. Accordingly, if the value of one percentage point above the prime rate exceeds five percent, municipalities would continue to pay the current five percent annual rate, and interest payments would not be impacted by the bill. However, if the prime rate was less than 4.0 percent on December 1 of the preceding year, municipalities would be required to pay a lower interest rate and thereby incur reduced tax appeal liabilities as a result of the bill.

According to the Division of Taxation in the Department of the Treasury, the prime rate was 5.25 percent on December 1, 2018. As a result, the bill would not impact the interest rate applied towards tax appeals due and payable in calendar year 2019, because the current five percent interest rate would be less than the alternative rate of 6.25 percent (i.e., one percentage point above the prime rate). However, the OLS cannot predict: (1) the Federal Reserve's future determination of prime rates; and (2) the principal balance of future tax appeal liabilities upon which interest would accrue. Consequently, the OLS is unable to quantify the long-term impact of the bill on municipal interest payments.

Local Budgeting

The bill would diffuse, over a three-year period, the fiscal impact of refunding successful nonresidential property tax appeals that exceed the threshold established by the Local Finance Board. As a result, the bill may provide increased municipal budget flexibility, especially for those municipalities with large nonresidential property tax appeal liabilities. In particular, the extended repayment period could allow municipalities to incorporate the balance of

nonresidential property tax appeal liabilities into the calculation of annual property tax levies. At present, municipalities generally cannot budget for tax appeal liabilities because municipal budgets are passed prior to the settlement of tax appeals.

By providing for the gradual repayment of excess taxes, the bill also reduces the necessity for municipalities to finance tax appeals through the issuance of debt. Specifically, the bill could reduce expenditures for any municipality that, in the event of a successful nonresidential property tax appeal: (1) would be required to issue tax appeal refunding bonds if the repayment period remained 60 days; and (2) would not be required to issue bonds, and service the resulting debt, if the repayment period was extended to three years. These potential savings would be attributable to eliminating the costs of bond issuance, including payment for bond counsel and the cost of interest on the bond's principal balance. However, the OLS is unable to predict the extent to which the bill would reduce the issuance of municipal tax appeal refunding bonds.

Local Finance Board Threshold

The bill also permits the Local Finance Board to establish a dollar threshold below which municipalities would continue to refund nonresidential property tax appeal liabilities within 60 days of final judgment. As a result, the impact of the bill on municipal finances would be minimized depending on the threshold established by the Local Finance Board, with a higher threshold resulting in a reduced fiscal impact. For example, if the Local Finance Board established the threshold at \$1.0 million, and each successful nonresidential property tax appeal in a municipality resulted in a tax appeal liability not exceeding \$1.0 million, then the municipality would not be impacted by the bill, because each tax appeal would continue to be refunded within 60 days of judgment, as provided under current law. Given that the OLS cannot predict whether, and in what amount, the Local Finance Board would establish a threshold, the OLS is unable to determine the extent to which municipalities will be impacted by the bill.

Section: Local Government

*Analyst: Joseph A. Pezzulo
Associate Research Analyst*

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

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

Governor Murphy Takes Action on Legislation

08/9/2019

TRENTON - Today, Governor Phil Murphy signed the following bills into law:

A312 (Pinkin, Conaway, Giblin, Holley, Danielsen, Mukherji, Wimberly/Vitale, Rice) - Requires certain health care facilities to provide information concerning palliative care and hospice care services.

A841 (Land, Calabrese/Andrzejczak) - Provides for establishment of county college certificate programs to meet needs of certain regional employers.

A1700 (Dancer, Vainieri Huttie, Calabrese/Cruz-Perez, Cunningham) - Expands eligibility criteria for designating certain areas as being in need of redevelopment.

A2004 (Karabinchak, Mazzeo, Pinkin, Coughlin/Diegnan) - Requires municipality to pay certain nonresidential property tax appeal refunds in equal installments over period of three years.

A3937 (DeAngelo, Reynolds-Jackson, Verrelli/Turner) - Allows local government water system employees to reside in all municipalities served by water system.

A4115 (Benson, DeAngelo, Holley/Greenstein) - Clarifies that certain students are eligible for NJ STARS and NJ STARS II scholarship upon initial enrollment at institution of higher education on part-time basis.

A4223 (Johnson, Rooney/Weinberg, Lagana) - Requires State Treasurer to pay county prosecutor's expenses for overseeing certain law enforcement agencies.

A4938 (Tucker, Pinkin, Vainieri Huttie/Ruiz, Greenstein) - Requires DOH to establish "My Life, My Plan" program to support women of childbearing age in developing reproductive life plan.

A5021 (Quijano, Bramnick, Reynolds-Jackson, Pinkin, Downey/Vitale, Kean) - Requires Medicaid coverage for group prenatal care services under certain circumstances.

A5322 (Burzichelli, Milam, Houghtaling, Taliaferro/Sweeney, Oroho, Beach, Andrzejczak) - Establishes program for cultivation, handling, processing, transport, and sale of hemp; repeals New Jersey Industrial Hemp Pilot Program.

A5392 (Quijano, Murphy/Vitale, Scutari) - Establishes new liability standards in sexual abuse lawsuits filed against public entities and public employees.

A5595 (Milam, Houghtaling, Dancer, Wirths/Oroho, Pennacchio) - Expands eligibility for EDA small business loan program to specifically include certain farming operations and qualified dairy farmers.

S601 (Smith, Greenstein/Pinkin, McKeon) - Establishes "New Jersey Solar Panel Recycling Commission."

S781 (Sarlo, O'Scanlon/Giblin, DiMaso, Handlin) - Revises penalties for certain violations of law by public movers and warehousemen.

S984 (Vitale, Singleton/Conaway, Mukherji, Murphy) - Establishes certain requirements, including allowable fees, for provision of medical records to patients, legally authorized representatives, and authorized third parties.

S1109 (Ruiz/Munoz, Quijano) - Renames "Physician Orders for Life-Sustaining Treatment Act" as "Practitioner Orders for Life-Sustaining Treatment Act"; permits physician assistants to sign and modify POLST forms; requires continuing education concerning end-of-life care.

S1739 (Oroho, Andrzejczak/Land, Space, Milam) - Renames county corrections officers as county correctional police officers.

S2807 (Cryan, Cruz-Perez/Pinkin, Moriarty, Zwicker) - Concerns service of food or refreshments on mortuary premises.

S2858 (Gopal, Diegnan/Houghtaling, Downey, Johnson) - Prohibits issuance of certain badges to NJT board members, PANYNJ commissioners, and local and State elected officials.

S3212 (Ruiz, Rice/Pintor Marin, Holley) - Permits municipalities to establish temporary supplemental zoning boards of adjustment to address application backlogs.

S3334 (Diegnan, Vitale/Conaway, Pinkin) - Exempts certain surgical technologists from general educational and training requirements.