

# 40A:4-39

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 1999 **CHAPTER:** 292

**NJSA:** 40A:4-39 (Recreation trust funds)

**BILL NO:** A1793

**SPONSOR(S):** DiGaetano

**DATE INTRODUCED:** March 2, 1998

**COMMITTEE:** **ASSEMBLY:** Local Government

**SENATE:** Community and Urban Affairs

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** March 29, 1999

**SENATE:** October 25, 1999

**DATE OF APPROVAL:** December 23, 1999

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL:** Senate Committee Substitute enacted

**SPONSORS STATEMENT:** (Begins on page 2 of original bill) Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

### FOLLOWING WERE PRINTED:

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

P.L. 1999, CHAPTER 292, *approved December 23, 1999*  
Senate Committee Substitute for  
Assembly, No. 1793

1 **AN ACT** authorizing the use of dedicated revenues for recreational  
2 purposes, amending N.J.S.40A:4-39 and supplementing chapter 48  
3 of Title 40 of the Revised Statutes.

4

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

7

8 1. N.J.S.40A:4-39 is amended to read as follows:

9 40A:4-39. a. In the budget of any local unit, dedicated revenues  
10 anticipated during the fiscal year from any dog tax, dog license,  
11 revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license,  
12 sinking fund for term bonds, bequest, escheat, federal grant, motor  
13 vehicle fine dedicated to road repairs, relocation costs deposited into  
14 a revolving relocation assistance fund established pursuant to section  
15 2 of P.L.1987, c.98 (C.20:4-4.1a), fee revenues collected in  
16 connection with recreation programs operated pursuant to section 2  
17 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
18 receipts from franchise assessments levied pursuant to section 4 of  
19 P.L.1995, c.173 (C.40A:12A-53) to be retained by the municipality,  
20 refund payments from a joint insurance fund deposited into a joint  
21 insurance revolving fund established pursuant to section 12 of  
22 P.L.1996, c.113 (C.40A:10-36.2) and, subject to the prior written  
23 consent of the director, other items of like character when the revenue  
24 is not subject to reasonably accurate estimate in advance, may be  
25 included in said budget by annexing to said budget a statement in  
26 substantially the following form:

27 "The dedicated revenues anticipated during the year .....  
28 from ..... (here insert one or more of the sources above, as the case  
29 may be) are hereby anticipated as revenue and are hereby appropriated  
30 for the purposes to which said revenue is dedicated by statute or other  
31 legal requirement."

32 b. Dedicated revenues included in accordance with this section  
33 shall be available for expenditure by the local unit as and when  
34 received in cash during the fiscal year. The inclusion of such dedicated  
35 revenues shall be subject to the approval of the director, who may  
36 require such explanatory statements or data in connection therewith as  
37 the director deems advisable for the information and protection of the  
38 public.

39 (cf: P.L.1996, c.113, s.11)

**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       2. (New section) Any county or municipality which has not  
2 established a board of recreation commissioners may, by resolution,  
3 establish a recreation trust fund into which shall be deposited any fees  
4 paid by individuals to offset the costs of operating county or municipal  
5 recreational programs. Those amounts expended from the fund shall  
6 be utilized exclusively for the purpose of operating those programs for  
7 which fees are collected and to refund payments made by program  
8 participants.

9

10       3. The Director of the Division of Local Government Services in  
11 the Department of Community Affairs shall promulgate those rules and  
12 regulations, pursuant to the "Administrative Procedure Act,"  
13 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the  
14 purposes of this act.

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16       4. This act shall take effect immediately.

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21       \_\_\_\_\_  
22 Authorizes creation of non-lapsing recreation trust funds by counties  
and municipalities.

**ASSEMBLY, No. 1793**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED MARCH 2, 1998

**Sponsored by:**

**Assemblyman PAUL DIGAETANO**

**District 36 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Permits establishment of recreation trust fund by municipality without board of recreation commissioners.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/8/1999)**

1 AN ACT concerning municipal recreation trust funds and  
2 supplementing chapter 12 of Title 40 of the Revised Statutes.

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

6  
7 1. A municipality which does not have a board of recreation  
8 commissioners may establish a recreation trust fund. When a  
9 recreation trust fund has been established pursuant to this section  
10 those moneys directed by the municipal governing body which are  
11 collected as admission to, or as service charges for recreation activities  
12 or classes, or for the use of facilities or equipment at a municipal park,  
13 playground or place of public resort and recreation, shall be paid over  
14 to the municipal treasurer and be deposited in the recreation trust  
15 fund. The trust fund shall be under the control of the municipal  
16 governing body and used for the purpose of defraying the expenses of  
17 improving, acquiring, maintaining or policing the playgrounds and  
18 recreation places and also may be used to provide for recreation  
19 programs, including outdoor exhibitions, concerts, games and  
20 contests. The municipal governing body may also appropriate  
21 additional monies for deposit into the recreation trust fund. Monies  
22 in the recreation trust fund shall be considered dedicated revenues for  
23 the purposes of the "Local Budget Law," N.J.S.40A:4-1 et seq.

24

25 2. This act shall take effect immediately.

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STATEMENT

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30 This bill would permit any municipality to establish a recreation  
31 trust fund. Currently, only municipalities that have created a board of  
32 recreation commissioners may have a recreation trust fund. Certain  
33 monies, as specified by the municipal governing body, collected as  
34 admission fees or services charges for recreation activities or classes,  
35 or for the use of recreation areas would be deposited into the  
36 recreation trust fund to be used to defray the expenses of improving,  
37 acquiring, maintaining or policing those areas and could also be used  
38 to provide recreation programs such as outdoor exhibitions, concerts,  
39 games and contests. The municipal governing body would also have  
40 the power to appropriate money in the municipal budget for deposit  
41 into the trust fund. Monies in the recreation trust fund would be  
42 treated as dedicated revenues for the purposes of the "Local Budget  
43 Law," N.J.S.40A:4-1 et seq.

ASSEMBLY LOCAL GOVERNMENT AND HOUSING  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1793**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 9, 1998

The Assembly Local Government and Housing Committee reports favorably Assembly Bill No. 1793.

This bill would permit any municipality to establish a recreation trust fund. Currently, only municipalities that have created a board of recreation commissioners may have a recreation trust fund pursuant to R.S.40:12-8. Under this bill, certain monies, as specified by the municipal governing body, collected as admission fees or services charges for recreation activities or classes, or for the use of recreation areas would be deposited into the recreation trust fund to be used to defray the expenses of improving, acquiring, maintaining or policing those areas and could also be used to provide recreation programs such as outdoor exhibitions, concerts, games and contests. The municipal governing body would also have the power to appropriate money in the municipal budget for deposit into the trust fund. Monies in the recreation trust fund would be treated as dedicated revenues for the purposes of the "Local Budget Law," N.J.S.40A:4-1 et seq.

By authorizing the creation of special trust funds for recreational purposes in counties and municipalities without boards of recreation commissioners, this bill gives those local units the leeway necessary to hire part-time employees to operate recreational programs in accordance with local demand for such activities. In so doing, the bill allows for cost savings by local units which might otherwise be encouraged to hire full-time employees to fulfill a function, the demand for which could fluctuate considerably over time in light of demographic shifts.

The allowance for such funds in the "dedication by rider" portion of the budget allows for the continuation of these funds beyond the one-year budget cycle otherwise provided for in "Local Budget Law" and prevents the lapsing of these funds into the municipal budget surplus at the end of any given budget year.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1793

# STATE OF NEW JERSEY

DATED: JUNE 7, 1999

The Senate Community and Urban Affairs Committee reports favorably Senate Committee Substitute for Assembly Bill No. 1793.

The substitute would authorize any county or municipality which has not established a board of recreation commissioners to establish a recreation trust fund into which shall be deposited any fees paid by individuals to offset the costs of operating county or municipal recreational programs.

Under R.S.40:12-8, only those counties or municipalities which have established boards of recreation commissioners are authorized to create a special fund to be used to defray the expenses of improving, maintaining or policing playgrounds and recreation spaces.

By authorizing the creation of special trust funds for recreational purposes in counties and municipalities without boards of recreation commissioners, this bill gives those local units the leeway necessary to hire part-time employees to operate recreational programs in accordance with local demand for such activities. In so doing, the bill allows for cost savings by local units which might otherwise be encouraged to hire full-time employees to fulfill a function, the demand for which could fluctuate considerably over time in light of demographic shifts.

The allowance for such funds in the "dedication by rider" portion of the budget allows for the continuation of these funds beyond the one-year budget cycle otherwise provided for in "Local Budget Law." Without this amendment, these funds would lapse into the municipal budget surplus at the end of any given budget year.

*Office of the Governor*  
**NEWS RELEASE**

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RELEASE: December 23, 1999

## **Governor Signs Bill Protecting Senior Citizens from Fraud And Murder Victims' Rights, Among Other Legislation**

Governor Christie Whitman today signed "Nielsa's Law" which amends the murder statute in New Jersey to permit the display of a photograph of a murder victim at the sentencing portion of the murder trial. The Governor also signed the Senior Citizens Fraudulent Claims Act that seeks to amend the New Jersey Consumer Fraud Act to impose heightened penalties against individuals who defraud senior citizens.

### **Neilsa's Law**

"The passage of Nielsa's Law doesn't bring back Nielsa Mason or ease the tremendous pain and suffering of the Mason family, but I believe the bill will ensure that murder victims, who obviously can't be present at trial, are represented in a dignified matter," said Gov. Whitman. "It's something the Mason family wanted at the trial on their murdered daughter's behalf - and we listened to their pleas to make the system more accommodating for survivors."

This bill amends the murder statute to permit the display of a photograph of a murder victim at the sentencing portion of the murder trial, in capital and non-capital murders. It would authorize such a photograph to be shown to a jury during the death penalty phase of a capital case, as well as to a judge during the sentencing portion of a non-capital case.

It also amends the law that permits crime victims to make "victim impact" statements to the sentencing court - authorizing victims to display photographs as part of their victim impact statements to the court in homicide cases.

Under previous law, victims could make victim impact statements to the sentencing court and to the penalty phase jury in a death penalty case. The law was silent as to whether photographs could be displayed and, as a result, some courts permitted such displays while others prohibited them in the absence of statutory guidance on this subject. Nielsa's Law authorizes the Supreme Court to issue court rules governing these displays to ensure uniformity regarding the photo's size, the permissible duration of the display and where in the courtroom the display may take place.

Nielsa's Law, **A-17**, was sponsored by Assembly Members Jack Collins (R-Salem/Cumberland/Gloucester) and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senators Diane B. Allen (R-Burlington/Camden), Dr. Gerald Cardinale (R-Bergen) and Raymond J. Zane (D-Salem/Cumberland/Gloucester).

### **Senior Citizens Fraudulent Claims Act**

Referring to her passage of the Senior Citizens Fraudulent Claims Act, Gov. Whitman said "We need to protect the many faces in our New Jersey family - and that includes our elderly family members. Our state has one of the largest senior citizen populations in the nation - and it's growing. That's why I applaud this Act and its goal of protecting our seniors from fraud."

Introduced following a Feb.1997 report by the Division of Consumer Affairs' Elder Fraud Task Force, the Senior Citizens Fraudulent Claims Act applies to seniors over 60 years old and aims to amend the New Jersey Consumer Fraud Act through enhanced penalties for fraud.

If the Attorney General's Office were to successfully bring an action to enforce the Consumer Fraud Act on behalf of a senior citizen, the courts will now have to order restitution at twice the amount wrongfully acquired from the senior citizen. Also, any person who fails to make such a court-ordered restitution is subject to punishment for criminal contempt. The bill amends the Consumer Fraud Act to clarify that any penalties imposed under the Act are to be exclusive of (and in addition to) any monies or property that are ordered to be paid or restored.

The Senior Citizens Fraudulent Claims Act legislation, **A- 1512**, was sponsored by Assembly Members Joseph R. Malone (R-Burlington/Monmouth/Ocean) and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senator Norman M. Robertson (R- Essex/Passaic).

In addition, Gov. Whitman signed today these pieces of legislation:

**S-1235**, sponsored by Senators Dr. Gerald Cardinale (R-Bergen) and Leonard T. Connors (R-Atlantic/Burlington/Ocean) and Assemblyman John V. Kelly (R-Bergen/Essex/Passaic), clarifies the 30-year rent control exemption for certain rental multiple dwelling units constructed without initial mortgage financing. The bill's purpose is to increase the availability of newly constructed rental housing for New Jersey residents and clarify the original intent of the Legislature in providing this exemption when it was enacted in 1987.

**S-1808**, sponsored by Senator Dr. Gerald Cardinale (R-Bergen) and Assembly Members Jeffrey W. Moran (R-Atlantic/Burlington/Ocean) and Anthony Impreveduto (D-Bergen/Hudson), exempts fair market value commercial leases and terminal rental adjustment clause (TRAC) leases from the provisions of the "Consumer Protection Leasing Act." The initiative is designed to increase leasing opportunities for State businesses as it recognizes that the consumer protections in the Act are not needed for businesses that establish "bargained-for" contracts. Most other states, including New York and California, exempt commercial leases from their leasing statutes.

**ACS, A-1352 and A-200**, sponsored by Assembly Members Carol J. Murphy (R-Essex/Morris/Passaic), Alan M. Augustine (R-Middlesex/Morris/Somerset/Union), George F. Geist (R-Camden/Gloucester), Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and Charles K. Zisa (D-Bergen) and Senator John J. Matheussen (R-Camden/Gloucester), clarifies the crime of hindering a prosecution. Hindering is a crime of the third or fourth degree, or a disorderly persons offense, depending on the underlying circumstances. The bill amends the statute to say that hindering: 1) is when a person provides false information to a police officer regardless of whether the information is volunteered or is in response to an inquiry; (2) applies when false information is provided to hinder

detention or investigation of a criminal defense; and (3) includes false information given to a police officer connected with a violation of the motor vehicle laws and a civil State investigator in connection with the violation of the Fraud Prevention Act.

**SCS, A-1793**, sponsored by Assemblyman Paul DiGaetano (R-Bergen/Essex/Passaic), authorizes the creation of a non-lapsing recreation trust fund by counties and municipalities that have not established a board of recreation commissioners. The fund is to be used to offset the costs of operating county or municipal recreational programs. Currently, only counties or municipalities with an established board of recreation commissioners can create a dedicated fund for recreational purposes. The bill gives flexibility to those who do not wish to establish a full board of commissioners.

**A-1172**, sponsored by Assemblywoman Connie Myers (R-Warren/Hunterdon/Mercer) and Senators Diane B. Allen (R-Burlington/Camden) and William E. Schluter (R-Warren/Hunterdon/Mercer), creates procedures for the takeover of certain small sewer companies. The bill allows the Department of Environmental Protection and the Board of Public Utilities to order the takeover of a small sewer company where there is a record of significant, unresolved environmental violations. Currently, the BPU can order the takeover of a small water company by another public or private entity, if it determines that the former can't adequately serve its customers.

This legislation authorizes the DEP and BPU to order the acquisition of both a small water company and a small sewer company if either company has a record of significant, unresolved violations, provided both companies serve a common residential development, were established by a developer to service that development and are under common control and ownership.

Entities taking over a small water sewer company will not be held liable for prior environmental liabilities, including penalties or levies against the previous owner. Public entities will be given expedited access to capital financing provided by the Environmental Infrastructure Trust for upgrades necessary for the proper operation of the small sewer of water company.

**A-2395**, sponsored by Assembly Members David C. Russo (R-Bergen/Passaic) and John S. Wisniewski (D-Middlesex) and Senator Joseph A. Palaia (R-Monmouth), provides certain protections for dismissed non-tenured, certified school employees whose names are required to be maintained on a list. The list, maintained by the State Board of Examiners, contains the names and Social Security numbers of these employees, and the reason for dismissal.

The bill clarifies existing law by providing that a name will only be placed on the list if the employee is dismissed prior to the end of the year for just cause as a result of misconduct in office. If a disciplinary grievance arbitration is conducted, an employee's name can only be placed on the list if just cause due to misconduct is found by the arbitrator.

Also, an employee must be notified if his or her name is placed on the list and must be told when a chief school administrator seeks such information. The bill limits those who can obtain information from this list and says that a person may petition their name being included on the list to the Commissioner of Education. Finally, upon application a person's name will be removed if it has been on the list for at least three years.

Governor Whitman conditionally vetoed this legislation in June of this year. The Governor's recommendations were met and the legislation now clarifies the role of the Commissioner of Education. Specifically, the Commissioner can rule on whether a name is properly on a list, however it does not expand his jurisdiction in determining misconduct.