

# 40A:4-45.15c

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2004 **CHAPTER:** 74

**NJSA:** 40A:4-45.15c (Establishes lower limits for yearly local budget appropriations increase)

**BILL NO:** S1702 (Substituted for A98)

**SPONSOR(S)** Lesniak and Bryant

**DATE INTRODUCED:** June 10, 2004

**COMMITTEE:** **ASSEMBLY:**  
**SENATE:** Budget and Appropriations

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:** **ASSEMBLY:** June 21, 2004

**SENATE:** June 21, 2004

**DATE OF APPROVAL:** July 1, 2004

### FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) Senate Committee Substitute enacted

#### S1702

[SPONSOR'S STATEMENT:](#) (Begins on page 14 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### A98

[SPONSOR'S STATEMENT:](#) (Begins on page 14 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"NJ puts caps on spending by towns, schools," 7-2-2004 Asbury Park Press, p.A1

"School districts spending capped," 7-2-2004 Home News Tribune, p.A1

"McGreevey signs laws that cap spending," 7-2-2004 Courier News, p.A3

P.L. 2004, CHAPTER 74, *approved July 1, 2004*  
Senate Committee Substitute for  
Senate, No. 1702

1 AN ACT concerning municipal and county budgets and amending and  
2 supplementing various parts of the statutory law.

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

6  
7 1. Section 4 of P.L.1983, c.49 (C.40A:4-45.1a) is amended to  
8 read as follows:

9 4. As used in this amendatory and supplementary act, ["index  
10 rate"] "cost-of-living adjustment" means the rate of annual percentage  
11 increase, rounded to the nearest half-percent, in the Implicit Price  
12 Deflator for State and Local Government Purchases of Goods and  
13 Services, computed and published quarterly by the United States  
14 Department of Commerce, Bureau of Economic Analysis, calculating  
15 the annual increase therein at the second and fourth quarter which  
16 occurred in the next preceding local fiscal year. Any reference to  
17 "index rate" means the "cost-of-living adjustment" defined in this  
18 section. The Director of the Division of Local Government Services  
19 shall promulgate bi-annually the [index rate] cost-of-living adjustment  
20 to apply in the next following local fiscal year.  
21 (cf: P.L.1991, c.75, s.20)

22  
23 2. Section 2 of P.L.1976, c.68 (C.40A:4-45.2) is amended to read  
24 as follows:

25 2. [Beginning with the tax year 1991] For local budget years  
26 beginning on or after July 1, 2004 municipalities[, other than those  
27 having a municipal purposes tax rate of \$0.10 or less per \$100.00,]  
28 and counties shall be prohibited from increasing their final  
29 appropriations by more than [5%] 2.5% or the [index rate] cost-of-  
30 living adjustment, whichever is less, over the previous year, except  
31 within the provisions set forth hereunder.

32 For the purpose of this section, in computing its final  
33 appropriations for the previous year, a municipality or county shall  
34 include, as part of its final appropriations:

35 a. Amounts of revenue generated by an increase in its valuations  
36 based solely on applying the preceding year's local purposes tax rate  
37 of the municipality to the assessed value of new construction or  
38 improvements, or on applying the preceding year's county tax rate to

**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 the apportionment valuation of new construction or improvements, as  
2 may be appropriate;

3 b. (Deleted by amendment, P.L.1990, c.89.)

4 c. Amounts approved by referendum, pursuant to section 1 of  
5 P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312  
6 (C.40A:4-45.19);

7 d. (Deleted by amendment, P.L.1990, c.89.)

8 e. Expenditures for the assumption of any service or function of  
9 a local public utility, a local public authority, or a special purposes  
10 district, as approved by the Local Finance Board pursuant to section  
11 3 of P.L.1983, c.49 (C.40A:4-45.13).

12 For the 1991 local budget year, the final appropriations from the  
13 prior year shall be the total appropriations for the 1990 budget year.  
14 In each local budget year in which any service, function, or portion  
15 thereof, is transferred to, or assumed by, the State or federal  
16 government from a municipal government, the municipality shall  
17 deduct from its final appropriations upon which its permissible  
18 expenditures are calculated the amount which the municipality  
19 expended for that service or function during the last full budget year,  
20 or portion thereof, throughout which the service or function so  
21 transferred was funded from appropriations in the municipal budget.

22 In each budget year subsequent to 1990, whenever any  
23 municipality shall have transferred to any local public utility, any local  
24 public authority or any special purposes district, during the  
25 immediately preceding budget year, or at any time during the current  
26 budget year prior to the final adoption of the budget, any service or  
27 function funded during the immediately preceding budget year, either  
28 partially or wholly, from appropriations in the municipal budget, the  
29 municipality shall deduct from its final appropriations upon which its  
30 permissible expenditures are calculated pursuant to this section the  
31 amount which the municipality expended for that service or function  
32 during the last full budget year throughout which the service or  
33 function so transferred was funded from appropriations in the  
34 municipal budget.

35 (cf: P.L.1990, c.89, s.1)

36

37 3. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read  
38 as follows:

39 3. In the preparation of its budget a municipality shall limit any  
40 increase in said budget to [~~5%~~] 2.5% or the [~~index rate~~] cost-of-  
41 living adjustment, whichever is less, over the previous year's final  
42 appropriations subject to the following exceptions:

43 a. (Deleted by amendment, P.L.1990, c.89.)

44 b. Capital expenditures, including appropriations for current  
45 capital expenditures, whether in the capital improvement fund or as a  
46 component of a line item elsewhere in the budget, provided that any

1 such current capital expenditure would be otherwise bondable under  
2 the requirements of N.J.S.40A:2-21 and 40A:2-22;

3 c. (1) An increase based upon emergency temporary  
4 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent  
5 situation or event which immediately endangers the health, safety or  
6 property of the residents of the municipality, and over which the  
7 governing body had no control and for which it could not plan and  
8 emergency appropriations made pursuant to N.J.S.40A:4-46.  
9 Emergency temporary appropriations and emergency appropriations  
10 shall be approved by at least two-thirds of the governing body and by  
11 the Director of the Division of Local Government Services, and shall  
12 not exceed in the aggregate 3% of the previous year's final current  
13 operating appropriations.

14 (2) (Deleted by amendment, P.L.1990, c.89.)

15 The approval procedure in this subsection shall not apply to  
16 appropriations adopted for a purpose referred to in subsection d. or j.  
17 below;

18 d. All debt service, including that of a Type I school district;

19 e. Upon the approval of the Local Finance Board in the Division  
20 of Local Government Services, amounts required for funding a  
21 preceding year's deficit;

22 f. Amounts reserved for uncollected taxes;

23 g. (Deleted by amendment, P.L.1990, c.89.)

24 h. Expenditure of amounts derived from new or increased  
25 construction, housing, health or fire safety inspection or other service  
26 fees imposed by State law, rule or regulation or by local ordinance;

27 i. Any amount approved by any referendum;

28 j. Amounts required to be paid pursuant to (1) any contract with  
29 respect to use, service or provision of any project, facility or public  
30 improvement for water, sewerage, parking, senior citizen housing or  
31 any similar purpose, or payments on account of debt service therefor,  
32 between a municipality and any other municipality, county, school or  
33 other district, agency, authority, commission, instrumentality, public  
34 corporation, body corporate and politic or political subdivision of this  
35 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60  
36 through 13:17-76) by a constituent municipality to the intermunicipal  
37 account; (3) any lease of a facility owned by a county improvement  
38 authority when the lease payment represents the proportionate amount  
39 necessary to amortize the debt incurred by the authority in providing  
40 the facility which is leased, in whole or in part; and (4) any repayments  
41 under a loan agreement entered into in accordance with the provisions  
42 of section 5 of P.L.1992, c.89;

43 k. (Deleted by amendment, P.L.1987, c.74.)

44 l. Appropriations of federal, county, independent authority or  
45 State funds, or by grants from private parties or nonprofit  
46 organizations for a specific purpose, and amounts received or to be

- 1 received from such sources in reimbursement for local expenditures.  
2 If a municipality provides matching funds in order to receive the  
3 federal, county, independent authority or State funds, or the grants  
4 from private parties or nonprofit organizations for a specific purpose,  
5 the amount of the match which is required by law or agreement to be  
6 provided by the municipality shall be excepted;
- 7 m. (Deleted by amendment, P.L.1987, c.74.)  
8 n. (Deleted by amendment, P.L.1987, c.74.)  
9 o. (Deleted by amendment, P.L.1990, c.89.)  
10 p. (Deleted by amendment, P.L.1987, c.74.)  
11 q. (Deleted by amendment, P.L.1990, c.89.)  
12 r. Amounts expended to fund a free public library established  
13 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;  
14 s. (Deleted by amendment, P.L.1990, c.89.)  
15 t. Amounts expended in preparing and implementing a housing  
16 element and fair share plan pursuant to the provisions of P.L.1985,  
17 c.222 (C.52:27D-301 et al.) and any amounts received by a  
18 municipality under a regional contribution agreement pursuant to  
19 section 12 of that act;
- 20 u. [Amounts expended to meet the standards established pursuant  
21 to the "New Jersey Public Employees' Occupational Safety and Health  
22 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);] (Deleted by amendment,  
23 P.L. , c. ) (pending before the Legislature as this bill)  
24 v. (Deleted by amendment, P.L.1990, c.89.)  
25 w. [Amounts appropriated for expenditures resulting from the  
26 impact of a hazardous waste facility as described in subsection c. of  
27 section 32 of P.L.1981, c.279 (C.13:1E-80);] (Deleted by amendment,  
28 P.L. , c. ) (pending before the Legislature as this bill)  
29 x. Amounts expended to aid privately owned libraries and reading  
30 rooms, pursuant to R.S.40:54-35;  
31 y. (Deleted by amendment, P.L.1990, c.89.)  
32 z. (Deleted by amendment, P.L.1990, c.89.)  
33 aa. Extraordinary expenses, approved by the Local Finance Board,  
34 required for the implementation of an interlocal services agreement;  
35 bb. Any expenditure mandated as a result of a natural disaster,  
36 civil disturbance or other emergency that is specifically authorized  
37 pursuant to a declaration of an emergency by the President of the  
38 United States or by the Governor;  
39 cc. Expenditures for the cost of services mandated by any order  
40 of court, by any federal or State statute, or by administrative rule,  
41 directive, order, or other legally binding device issued by a State  
42 agency which has identified such cost as mandated expenditures on  
43 certification to the Local Finance Board by the State agency;  
44 dd. Expenditures of amounts actually realized in the local budget  
45 year from the sale of municipal assets [if appropriated for  
46 non-recurring purposes or otherwise approved by the director] in

1 extraordinary cases and with the permission of the Local Finance  
2 Board;

3 ee. Any local unit which is determined to be experiencing fiscal  
4 distress pursuant to the provisions of P.L.1987, c.75  
5 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible  
6 municipality" as defined in section 3 of P.L.1987, c.75  
7 (C.52:27D-118.26), and which has available surplus pursuant to the  
8 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et  
9 seq.), may appropriate and expend an amount of that surplus approved  
10 by the director and the Local Finance Board as an exception to the  
11 spending limitation. Any determination approving the appropriation  
12 and expenditure of surplus as an exception to the spending limitations  
13 shall be based upon:

14 1) the local unit's revenue needs for the current local budget year  
15 and its revenue raising capacity;

16 2) the intended actions of the governing body of the local unit to  
17 meet the local unit's revenue needs;

18 3) the intended actions of the governing body of the local unit to  
19 expand its revenue generating capacity for subsequent local budget  
20 years;

21 4) the local unit's ability to demonstrate the source and existence  
22 of sufficient surplus as would be prudent to appropriate as an  
23 exception to the spending limitations to meet the operating expenses  
24 for the local unit's current budget year; and

25 5) the impact of utilization of surplus upon succeeding budgets of  
26 the local unit;

27 ff. ~~Amounts expended for the staffing and operation of the~~  
28 ~~municipal court] Newly authorized operating appropriations for the~~  
29 ~~municipal court or violation's bureau when approved by the vicinage~~  
30 ~~Presiding Judge of the Municipal Court after consultation with the~~  
31 ~~mayor and governing body of the municipality;~~

32 gg. ~~Amounts appropriated for the cost of administering a joint~~  
33 ~~insurance fund established pursuant to subsection b. of section 1 of~~  
34 ~~P.L.1983, c.372 (C.40A:10-36), but not including appropriations for~~  
35 ~~claims payments by local member units;] (Deleted by amendment,~~  
36 ~~P.L., c. .) (pending before the Legislature as this bill)~~

37 hh. ~~Amounts appropriated for the cost of implementing an~~  
38 ~~estimated tax billing system and the issuance of tax bills thereunder~~  
39 ~~pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);] (Deleted by~~  
40 ~~amendment, P.L. , c. .) (pending before the Legislature as this bill)~~

41 ii. ~~Expenditures] Subject to the approval of the Local Finance~~  
42 ~~Board, expenditures~~ related to the cost of conducting and  
43 implementing a total property tax levy sale pursuant to section 16 of  
44 P.L.1997, c.99 (C.54:5-113.5);

45 jj. Amounts expended for a length of service award program  
46 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

1       kk. Amounts expended to provide municipal services or  
2 reimbursement amounts to multifamily dwellings for the collection and  
3 disposal of solid waste generated by the residents of the multifamily  
4 dwellings. This subsection shall cease to be operative at the end of the  
5 first local budget year in which the municipality has fully phased in its  
6 reimbursement amount expenses;

7       ll. Amounts expended by a municipality under an interlocal  
8 services agreement entered into pursuant to the "Interlocal Services  
9 Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the  
10 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing  
11 body of the municipality that will receive the service may choose to  
12 allow the amount of projected annual savings to be added to the  
13 amount of final appropriations upon which its permissible expenditures  
14 are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

15       mm. Amounts expended under a joint contract pursuant to the  
16 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et  
17 seq.) entered into after the effective date of P.L.2000, c.126  
18 (C.52:13H-21 et al.). The governing body of each participating  
19 municipality may choose to allow the amount of projected annual  
20 savings to be added to the amount of final appropriations upon which  
21 its permissible expenditures are calculated pursuant to section 2 of  
22 P.L.1976, c.68 (C.40A:4-45.2);

23       nn. [Amounts expended to pay the salaries of police officers hired  
24 under the federal "Community Oriented Policing Services" program,  
25 which was enacted as part of the "Violent Crime Control and Law  
26 Enforcement Act of 1994," Pub.L.No. 103, 108 Stat. 1796 (1994);]  
27 (Deleted by amendment, P.L. , c. .) (pending before the Legislature  
28 as this bill)

29       oo. Amounts appropriated in the first three years after the  
30 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability  
31 insurance, workers' compensation insurance and employee group  
32 insurance;

33       pp. Amounts appropriated in the first three years after the  
34 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of  
35 domestic security preparedness and responses to incidents and threats  
36 to domestic security.

37       In the first full year when an existing appropriation or expenditure  
38 that is subject to budget limitations is made an exception to budget  
39 limitations, a municipality shall deduct from its final appropriations  
40 upon which its permissible expenditures are calculated pursuant to  
41 section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the  
42 municipality expended for that purpose during the last full budget year,  
43 or portion thereof, in which the purpose so excepted was funded from  
44 appropriations in the municipal budget.

45       In the first full year when an existing appropriation or expenditure  
46 that is not subject to budget limitations is made subject to budget



1 limitations, a municipality shall add to its final appropriations upon  
2 which its permissible expenditures are calculated pursuant to section  
3 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the  
4 municipality expended for that purpose during the last full budget year,  
5 or portion thereof, in which the purpose so excepted was funded from  
6 appropriations in the municipal budget.

7 (cf: P.L.2003, c.92, s.1)

8

9 4. Section 1 of P.L.1979, c.268 (C.40A:4-45.3a) is amended to  
10 read as follows:

11 1. The provisions of any other law to the contrary  
12 notwithstanding, any referendum conducted by a municipality pursuant  
13 to subsection i. of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the  
14 purpose of requesting approval for increasing the municipal budget by  
15 more than [5%] 2.5% over the previous year's final appropriations,  
16 shall be held on the last Tuesday in the month of February of the year  
17 in which the proposed increase is to take effect. The municipal budget  
18 proposing such increase shall be introduced and approved in the  
19 manner otherwise provided in N.J.S.40A:4-5 at least 20 days prior to  
20 the date on which such referendum is to be held, and shall be published  
21 in the manner otherwise provided in N.J.S.40A:4-6 at least 12 days  
22 prior to said referendum date. Notice shall be published pursuant to  
23 section 7 of P.L.1953, c.211 (C.19:57-7) on the next day following the  
24 introduction of the budget. This section shall apply only to  
25 municipalities that operate on the January 1 to December 31 fiscal  
26 year.

27 (cf: P.L.1991, c.75, s.21)

28

29 5. Section 1 of P.L.1983, c.69 (C.40A:4-45.3a1) is amended to  
30 read as follows:

31 1. Notwithstanding the provisions of Title 19 of the Revised  
32 Statutes to the contrary, referenda conducted by any municipality  
33 pursuant to subsection i. of section 3 of P.L.1976, c.68  
34 (C.40A:4-45.3), for the purpose of increasing the municipal budget by  
35 more than [5%] 2.5% over the previous year's final appropriations,  
36 may be conducted with respect to the provision of polling places and  
37 the compensation of election workers in the same manner as is  
38 provided for school elections under Title 19 of the Revised Statutes.

39 (cf: P.L.1995, c.279, s.45)

40

41 6. Section 2 of P.L.1981, c.64 (C.40A:4-45.3b) is amended to  
42 read as follows:

43 2. Notwithstanding any provisions of P.L.1976, c.68  
44 (C.40A:4-45.1 et seq.) to the contrary, municipalities shall, in budget  
45 year 1981 and in all subsequent budget years in deriving their final  
46 appropriations for the prior year upon which the [5%] 2.5% annual

1 increase permitted under section 2 of P.L.1976, c.68 (C.40A:4-45.2)  
2 is calculated, not be required to treat as exceptions to the prior year's  
3 final appropriations any appropriations of the proceeds of the sale of  
4 municipal assets which were contained in their budgets for the year  
5 1980 or for any prior budget year. In all fiscal years subsequent to  
6 budget year 1981, municipalities shall, in deriving their final  
7 appropriations for the immediately preceding budget year upon which  
8 the [5%] 2.5% annual increase is calculated, treat the amounts of the  
9 proceeds of the sale of municipal assets appropriated in their budgets  
10 for the immediately preceding year as exceptions to the final  
11 appropriations under section 3 of P.L.1976, c.68 (C.40A:4-45.3).  
12 (cf: P.L.1981, c.64, s.2)

13

14 7. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read  
15 as follows:

16 4. In the preparation of its budget, a county may not increase the  
17 county tax levy to be apportioned among its constituent municipalities  
18 in excess of [5%] 2.5% or the [index rate] cost-of-living adjustment,  
19 whichever is less, of the previous year's county tax levy, subject to the  
20 following exceptions:

21 a. The amount of revenue generated by the increase in valuations  
22 within the county, based solely on applying the preceding year's county  
23 tax rate to the apportionment valuation of new construction or  
24 improvements within the county, and such increase shall be levied in  
25 direct proportion to said valuation;

26 b. Capital expenditures, including appropriations for current  
27 capital expenditures, whether in the capital improvement fund or as a  
28 component of a line item elsewhere in the budget, provided that any  
29 such current capital expenditures would be otherwise bondable under  
30 the requirements of N.J.S.40A:2-21 and 40A:2-22;

31 c. (1) An increase based upon emergency temporary  
32 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent  
33 situation or event which immediately endangers the health, safety or  
34 property of the residents of the county, and over which the governing  
35 body had no control and for which it could not plan and emergency  
36 appropriations made pursuant to N.J.S.40A:4-46. Emergency  
37 temporary appropriations and emergency appropriations shall be  
38 approved by at least two-thirds of the governing body and by the  
39 Director of the Division of Local Government Services, and shall not  
40 exceed in the aggregate 3% of the previous year's final current  
41 operating appropriations.

42 (2) (Deleted by amendment, P.L.1990, c.89.)

43 The approval procedure in this subsection shall not apply to  
44 appropriations adopted for a purpose referred to in subsection d. or f.  
45 below;

46 d. All debt service;

- 1 e. (Deleted by amendment, P.L.1990, c.89.)
- 2 f. Amounts required to be paid pursuant to (1) any contract with  
3 respect to use, service or provision of any project, facility or public  
4 improvement for water, sewerage, parking, senior citizen housing or  
5 any similar purpose, or payments on account of debt service therefor,  
6 between a county and any other county, municipality, school or other  
7 district, agency, authority, commission, instrumentality, public  
8 corporation, body corporate and politic or political subdivision of this  
9 State; and (2) any lease of a facility owned by a county improvement  
10 authority when the lease payment represents the proportionate amount  
11 necessary to amortize the debt incurred by the authority in providing  
12 the facility which is leased, in whole or in part;
- 13 g. That portion of the county tax levy which represents funding to  
14 participate in any federal or State aid program and amounts received  
15 or to be received from federal, State or other funds in reimbursement  
16 for local expenditures. If a county provides matching funds in order  
17 to receive the federal or State or other funds, only the amount of the  
18 match which is required by law or agreement to be provided by the  
19 county shall be excepted;
- 20 h. (Deleted by amendment, P.L.1987, c.74.)
- 21 i. (Deleted by amendment, P.L.1990, c.89.)
- 22 j. (Deleted by amendment, P.L.1990, c.89.)
- 23 k. (Deleted by amendment, P.L.1990, c.89.)
- 24 l. [Amounts expended to meet the standards established pursuant  
25 to the "New Jersey Public Employees' Occupational Safety and Health  
26 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);] (Deleted by amendment,  
27 P.L. , c. ) (pending before the Legislature as this bill)
- 28 m. (Deleted by amendment, P.L.1990, c.89.)
- 29 n. (Deleted by amendment, P.L.1990, c.89.)
- 30 o. (Deleted by amendment, P.L.1990, c.89.)
- 31 p. Extraordinary expenses, approved by the Local Finance Board,  
32 required for the implementation of an interlocal services agreement;
- 33 q. Any expenditure mandated as a result of a natural disaster, civil  
34 disturbance or other emergency that is specifically authorized pursuant  
35 to a declaration of an emergency by the President of the United States  
36 or by the Governor;
- 37 r. Expenditures for the cost of services mandated by any order of  
38 court, by any federal or State statute, or by administrative rule,  
39 directive, order, or other legally binding device issued by a State  
40 agency which has identified such cost as mandated expenditures on  
41 certification to the Local Finance Board by the State agency;
- 42 s. That portion of the county tax levy which represents funding to  
43 a county college in excess of the county tax levy required to fund the  
44 county college in local budget year 1992;
- 45 t. [Amounts appropriated for the cost of administering a joint  
46 insurance fund established pursuant to subsection b. of section 1 of

1 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
2 claims payments by local member units;] (Deleted by amendment,  
3 P.L., c. .) (pending before the Legislature as this bill)

4 u. Expenditures for the administration of general public assistance  
5 pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

6 v. Amounts in a separate line item of a county budget that are  
7 expended on tick-borne disease vector management activities  
8 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

9 w. Amounts expended by a county under an interlocal services  
10 agreement entered into pursuant to the "Interlocal Services Act,"  
11 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective  
12 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended  
13 under a joint contract pursuant to the "Consolidated Municipal Service  
14 Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the  
15 effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

16 x. Amounts appropriated in the first three years after the effective  
17 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance,  
18 workers' compensation insurance and employee group insurance;

19 y. Amounts appropriated in the first three years after the effective  
20 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic  
21 security preparedness and responses to incidents and threats to  
22 domestic security.

23 In the first full year where an existing appropriation or expenditure  
24 that is subject to budget limitations is made an exception to budget  
25 limitations, a county shall deduct from its final appropriations upon  
26 which its permissible expenditures are calculated pursuant to section  
27 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county  
28 expended for that purpose during the last full budget year, or portion  
29 thereof, in which the purpose so excepted was funded from  
30 appropriations in the county budget.

31 In the first full year where an existing appropriation or expenditure  
32 that is not subject to budget limitations is made subject to budget  
33 limitations, a county shall add to its final appropriations upon which  
34 its permissible expenditures are calculated pursuant to section 2 of  
35 P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended  
36 for that purpose during the last full budget year, or portion thereof, in  
37 which the purpose so excepted was funded from appropriations in the  
38 county budget.

39 (cf: P.L.2003, c.92, s.2)

40

41 8. Section 7 of P.L.1983, c.49 (C.40A:4-45.14) is amended to  
42 read as follows:

43 7. a. Notwithstanding the provisions of section 2, 3 or 4 of  
44 P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the  
45 contrary, in any year for which the [index rate exceeds] cost-of-living  
46 adjustment is equal to or less than [5%, a municipality may, by

1 ordinance, or] 2.5%, a county may, by [ordinance or] resolution[, as  
2 appropriate,] approved by a majority vote of the full membership of  
3 the governing body, provide that in the local fiscal year to which the  
4 [ordinance or] resolution applies, [the final appropriations of the  
5 municipality, or] the tax levy of the county[, ] shall be increased by a  
6 percentage rate greater than [5%] the cost-of-living adjustment, but  
7 not to exceed [the index rate,] 3.5% over the previous year's [final  
8 appropriations, or] county tax levy [, as the case may be].

9 b. Notwithstanding the provisions of section 2, 3 or 4 of  
10 P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the  
11 contrary, in any year in which the [index rate] cost-of-living  
12 adjustment is equal to or less than [5%] 2.5% a municipality may, by  
13 ordinance approved by a majority vote of the full membership of the  
14 governing body, [or a county may, by ordinance or resolution, as  
15 appropriate, approved by a majority vote of the full membership of the  
16 governing body,] provide that in the local fiscal year to which the  
17 ordinance [or resolution] applies, the final appropriations of the  
18 municipality [, or the tax levy of the county,] shall be increased by a  
19 percentage rate greater than the [index rate] cost-of-living  
20 adjustment, but not to exceed [5%] 3.5% over the previous year's  
21 final appropriations[, or county tax levy, as the case may be].

22 c. The ordinance or resolution, as appropriate, shall be introduced  
23 after the beginning of the local fiscal year to which it applies and prior  
24 to the date provided by law for the introduction and approval of the  
25 annual budget of the municipality or county. The ordinance or  
26 resolution shall state the greater percentage rate to be adopted and the  
27 additional amount of increased final appropriations or tax levy which  
28 that greater percentage rate represents over that which the [5%] 2.5%  
29 rate or [index rate] cost-of-living adjustment, as appropriate  
30 represents. The ordinance or resolution may, thereafter, be adopted,  
31 after publication and a public hearing separately afforded upon 10  
32 days' notice duly published, by a majority vote of the authorized  
33 membership of the governing body. Any procedures provided in a  
34 form of local government for the exercise of veto powers by a mayor  
35 or county executive with respect to ordinances generally shall pertain.  
36 An ordinance or resolution so adopted shall, notwithstanding any other  
37 provision of law, take effect immediately upon adoption.

38 Upon adoption of the ordinance or resolution, the permissible final  
39 appropriations of the municipality, or permissible county tax levy of  
40 the county, shall be calculated for the year as provided in section 3 or  
41 4 of P.L.1976, c.68 (C.40A:4-45.3 or 40A:4-45.4), except that the  
42 percentage rate so adopted shall be used. The final appropriations or  
43 county tax levy so calculated shall be used in the immediately  
44 following year for the purposes of section 2 of P.L.1976, c.68  
45 (C.40A:4-45.2).

1 A copy of any ordinance or resolution introduced pursuant to this  
2 section shall be filed with the Director of the Division of Local  
3 Government Services within five days of introduction, and a copy of  
4 the ordinance or resolution adopted shall be filed with the director  
5 within five days of adoption.

6 In any year for which an ordinance is adopted by a municipality  
7 pursuant to this section, no referendum shall be held in that  
8 municipality pursuant to subsection i. of section 3 of P.L.1976, c.68  
9 (C.40A:4-45.3); provided that a municipality may hold a special  
10 election if required by law pursuant to that subsection.

11 (cf: P.L.1991, c.75, s.22)

12  
13 9. Section 1 of P.L.1994, c.100 (C.40A:4-45.15a) is amended to  
14 read as follows:

15 1. a. [Notwithstanding any provisions of P.L.1976, c.68  
16 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any  
17 local budget year beginning on or after January 1, 1994 for which the  
18 index rate is greater than 5%, increases its final appropriations in an  
19 amount less than that permitted under the 5% percentage rate, shall be  
20 permitted to appropriate the difference between the amount of its  
21 actual final appropriations and the amount of its permitted final  
22 appropriations under the 5% percentage rate, as an exception to its  
23 final appropriations in either of the next two succeeding years. In the  
24 year immediately following the year in which the amount of difference  
25 is so appropriated, the amount of difference shall be added to the final  
26 appropriations of the preceding year for the purposes of section 2 of  
27 P.L.1976, c.68 (C.40A:4-45.2).] (~~Deleted by amendment, P.L. \_\_\_\_\_,~~  
28 ~~c. \_\_\_\_.) (pending before the Legislature as this bill)~~

29 b. Notwithstanding any provisions of P.L.1976, c.68  
30 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any  
31 local budget year beginning on or after ~~[January 1, 1994]~~ July 1, 2004  
32 for which the ~~[index rate]~~ cost-of-living adjustment is ~~equal to or less~~  
33 ~~than [5%]~~ 2.5%, increases its final appropriations in an amount less  
34 ~~than [5%]~~ 3.5%, shall be permitted, ~~after adoption of an ordinance by~~  
35 ~~the governing body,~~ to appropriate the difference between the amount  
36 of its actual final appropriations ~~[under the 5%]~~ and the 3.5%  
37 percentage rate, as an exception to its final appropriations in either of  
38 the next two succeeding years. In the year immediately following the  
39 year in which the amount of difference is so appropriated, the amount  
40 of difference shall be added to the final appropriations of the preceding  
41 year for the purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).  
42 (cf: P.L.1994, c.100, s.1)

43  
44 10. Section 2 of P.L.1994, c.100 (C.40A:4-45.15b) is amended to  
45 read as follows:

46 2. a. [Notwithstanding any provisions of P.L.1976, c.68

1 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local  
 2 budget year beginning on or after January 1, 1993 for which the index  
 3 rate is greater than 5%, increases its final appropriations or county tax  
 4 levy in an amount less than that permitted under the 5% percentage  
 5 rate, shall be permitted to appropriate the difference between the  
 6 amount of its actual final appropriations or county tax levy and the  
 7 amount of its permitted final appropriations or county tax levy under  
 8 the 5% percentage rate, as an exception to its final appropriations or  
 9 county tax levy in either of the next two succeeding years. In the year  
 10 immediately following the year in which the amount of difference is so  
 11 appropriated, the amount of difference shall be added to the final  
 12 appropriations or county tax levy of the preceding year for the  
 13 purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).] (Deleted by  
 14 amendment, P.L. , c. .) (pending before the Legislature as this bill)

15 b. Notwithstanding any provisions of P.L.1976, c.68  
 16 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local  
 17 budget year beginning on or after January 1, [1993] 2005 for which  
 18 the [index rate] cost-of-living adjustment is equal to or less than  
 19 [5%] 2.5%, increases its final appropriations or county tax levy in an  
 20 amount less than [5%] 3.5%, shall be permitted, after adoption of a  
 21 resolution by the governing body, to appropriate the difference  
 22 between the amount of its actual final appropriations or county tax  
 23 levy [under] and the [5%] 3.5% percentage rate, as an exception to  
 24 its final appropriations or county tax levy in either of the next two  
 25 succeeding years. In the year immediately following the year in which  
 26 the amount of difference is so appropriated, the amount of difference  
 27 shall be added to the final appropriations or county tax levy of the  
 28 preceding year for the purposes of section 2 of P.L.1976, c.68  
 29 (C.40A:4-45.2).

30 (cf: P.L.1994, c.100, s.2.)

31

32 11. (New section) Notwithstanding the provisions of sections 1  
 33 and 2 of P.L.1994, c.100 (C.40A:4-45.15a and C.40A:4-45.15b) to  
 34 the contrary, the amount of difference remaining as of June 30, 2003  
 35 for appropriation in the next two succeeding local budget years shall  
 36 remain in place and be available for appropriation by a county or  
 37 municipality.

38

39 12. This act shall take effect upon the enactment into law of P.L.,  
 40 c. (C. ), P.L. , c. (C. ), and P.L. , c. (C. ) (now pending  
 41 before the Legislature as Senate Bill No. 1678 or Assembly Bill No.  
 42 100, Senate Bill No. 1701 or Assembly Bill No. 99, and Senate Bill  
 43 No. 1787 or Assembly Bill No. 97 of 2004).

44

45

46

47 Establishes lower limits for yearly local budget appropriations  
 48 increase.

**SENATE, No. 1702**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JUNE 10, 2004

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Establishes lower limits for yearly local budget appropriations increase.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning municipal and county budgets and amending  
2 various parts of the statutory law.

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.1976, c.68 (C.40A:4-45.2) is amended to read  
8 as follows:

9 2. Beginning with the tax year 1991 municipalities[, other than  
10 those having a municipal purposes tax rate of \$0.10 or less per  
11 \$100.00,] and counties shall be prohibited from increasing their final  
12 appropriations by more than [~~5%~~] 2.5% or the index rate, whichever  
13 is less, over the previous year, except within the provisions set forth  
14 hereunder.

15 For the purpose of this section, in computing its final appropriations  
16 for the previous year, a municipality or county shall include, as part of  
17 its final appropriations:

18 a. Amounts of revenue generated by an increase in its valuations  
19 based solely on applying the preceding year's local purposes tax rate  
20 of the municipality to the assessed value of new construction or  
21 improvements, or on applying the preceding year's county tax rate to  
22 the apportionment valuation of new construction or improvements, as  
23 may be appropriate;

24 b. (Deleted by amendment, P.L.1990, c.89.)

25 c. Amounts approved by referendum, pursuant to section 1 of  
26 P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312  
27 (C.40A:4-45.19);

28 d. (Deleted by amendment, P.L.1990, c.89.)

29 e. Expenditures for the assumption of any service or function of a  
30 local public utility, a local public authority, or a special purposes  
31 district, as approved by the Local Finance Board pursuant to section  
32 3 of P.L.1983, c.49 (C.40A:4-45.13).

33 For the 1991 local budget year, the final appropriations from the  
34 prior year shall be the total appropriations for the 1990 budget year.  
35 In each local budget year in which any service, function, or portion  
36 thereof, is transferred to, or assumed by, the State or federal  
37 government from a municipal government, the municipality shall  
38 deduct from its final appropriations upon which its permissible  
39 expenditures are calculated the amount which the municipality  
40 expended for that service or function during the last full budget year,  
41 or portion thereof, throughout which the service or function so  
42 transferred was funded from appropriations in the municipal budget.

43 In each budget year subsequent to 1990, whenever any municipality

**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 shall have transferred to any local public utility, any local public  
2 authority or any special purposes district, during the immediately  
3 preceding budget year, or at any time during the current budget year  
4 prior to the final adoption of the budget, any service or function  
5 funded during the immediately preceding budget year, either partially  
6 or wholly, from appropriations in the municipal budget, the  
7 municipality shall deduct from its final appropriations upon which its  
8 permissible expenditures are calculated pursuant to this section the  
9 amount which the municipality expended for that service or function  
10 during the last full budget year throughout which the service or  
11 function so transferred was funded from appropriations in the  
12 municipal budget.

13 (cf: P.L.1990, c.89, s.1)

14

15 2. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read  
16 as follows:

17 3. In the preparation of its budget a municipality shall limit any  
18 increase in said budget to ~~5%~~ 2.5% or the index rate, whichever is  
19 less, over the previous year's final appropriations subject to the  
20 following exceptions:

21 a. (Deleted by amendment, P.L.1990, c.89.)

22 b. Capital expenditures, including appropriations for current capital  
23 expenditures, whether in the capital improvement fund or as a  
24 component of a line item elsewhere in the budget, provided that any  
25 such current capital expenditure would be otherwise bondable under  
26 the requirements of N.J.S.40A:2-21 and 40A:2-22;

27 c. (1) An increase based upon emergency temporary appropriations  
28 made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event  
29 which immediately endangers the health, safety or property of the  
30 residents of the municipality, and over which the governing body had  
31 no control and for which it could not plan and emergency  
32 appropriations made pursuant to N.J.S.40A:4-46. Emergency  
33 temporary appropriations and emergency appropriations shall be  
34 approved by at least two-thirds of the governing body and by the  
35 Director of the Division of Local Government Services, and shall not  
36 exceed in the aggregate 3% of the previous year's final current  
37 operating appropriations.

38 (2) (Deleted by amendment, P.L.1990, c.89.)

39 The approval procedure in this subsection shall not apply to  
40 appropriations adopted for a purpose referred to in subsection d. or j.  
41 below;

42 d. All debt service, including that of a Type I school district;

43 e. Upon the approval of the Local Finance Board in the Division  
44 of Local Government Services, amounts required for funding a  
45 preceding year's deficit;

46 f. Amounts reserved for uncollected taxes;

- 1 g. (Deleted by amendment, P.L.1990, c.89.)
- 2 h. Expenditure of amounts derived from new or increased  
3 construction, housing, health or fire safety inspection or other service  
4 fees imposed by State law, rule or regulation or by local ordinance;
- 5 i. Any amount approved by any referendum;
- 6 j. Amounts required to be paid pursuant to (1) any contract with  
7 respect to use, service or provision of any project, facility or public  
8 improvement for water, sewerage, parking, senior citizen housing or  
9 any similar purpose, or payments on account of debt service therefor,  
10 between a municipality and any other municipality, county, school or  
11 other district, agency, authority, commission, instrumentality, public  
12 corporation, body corporate and politic or political subdivision of this  
13 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60  
14 through 13:17-76) by a constituent municipality to the intermunicipal  
15 account; (3) any lease of a facility owned by a county improvement  
16 authority when the lease payment represents the proportionate amount  
17 necessary to amortize the debt incurred by the authority in providing  
18 the facility which is leased, in whole or in part; and (4) any repayments  
19 under a loan agreement entered into in accordance with the provisions  
20 of section 5 of P.L.1992, c.89;
- 21 k. (Deleted by amendment, P.L.1987, c.74.)
- 22 l. Appropriations of federal, county, independent authority or State  
23 funds, or by grants from private parties or nonprofit organizations for  
24 a specific purpose, and amounts received or to be received from such  
25 sources in reimbursement for local expenditures. If a municipality  
26 provides matching funds in order to receive the federal, county,  
27 independent authority or State funds, or the grants from private parties  
28 or nonprofit organizations for a specific purpose, the amount of the  
29 match which is required by law or agreement to be provided by the  
30 municipality shall be excepted;
- 31 m. (Deleted by amendment, P.L.1987, c.74.)
- 32 n. (Deleted by amendment, P.L.1987, c.74.)
- 33 o. (Deleted by amendment, P.L.1990, c.89.)
- 34 p. (Deleted by amendment, P.L.1987, c.74.)
- 35 q. (Deleted by amendment, P.L.1990, c.89.)
- 36 r. Amounts expended to fund a free public library established  
37 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 38 s. (Deleted by amendment, P.L.1990, c.89.)
- 39 t. Amounts expended in preparing and implementing a housing  
40 element and fair share plan pursuant to the provisions of P.L.1985,  
41 c.222 (C.52:27D-301 et al.) and any amounts received by a  
42 municipality under a regional contribution agreement pursuant to  
43 section 12 of that act;
- 44 u. [Amounts expended to meet the standards established pursuant  
45 to the "New Jersey Public Employees' Occupational Safety and Health  
46 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);] (Deleted by amendment,

- 1 P.L. , c. .) (pending before the Legislature as this bill)  
2 v. (Deleted by amendment, P.L.1990, c.89.)  
3 w. [Amounts appropriated for expenditures resulting from the  
4 impact of a hazardous waste facility as described in subsection c. of  
5 section 32 of P.L.1981, c.279 (C.13:1E-80);] (Deleted by amendment,  
6 P.L. , c. .) (pending before the Legislature as this bill)  
7 x. Amounts expended to aid privately owned libraries and reading  
8 rooms, pursuant to R.S.40:54-35;  
9 y. (Deleted by amendment, P.L.1990, c.89.)  
10 z. (Deleted by amendment, P.L.1990, c.89.)  
11 aa. Extraordinary expenses, approved by the Local Finance Board,  
12 required for the implementation of an interlocal services agreement;  
13 bb. Any expenditure mandated as a result of a natural disaster, civil  
14 disturbance or other emergency that is specifically authorized pursuant  
15 to a declaration of an emergency by the President of the United States  
16 or by the Governor;  
17 cc. Expenditures for the cost of services mandated by any order of  
18 court, by any federal or State statute, or by administrative rule,  
19 directive, order, or other legally binding device issued by a State  
20 agency which has identified such cost as mandated expenditures on  
21 certification to the Local Finance Board by the State agency;  
22 dd. Expenditures of amounts actually realized in the local budget  
23 year from the sale of municipal assets [if appropriated for  
24 non-recurring purposes or otherwise approved by the director] in  
25 extraordinary cases and with the permission of the Local Finance  
26 Board;  
27 ee. Any local unit which is determined to be experiencing fiscal  
28 distress pursuant to the provisions of P.L.1987, c.75  
29 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible  
30 municipality" as defined in section 3 of P.L.1987, c.75  
31 (C.52:27D-118.26), and which has available surplus pursuant to the  
32 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et  
33 seq.), may appropriate and expend an amount of that surplus approved  
34 by the director and the Local Finance Board as an exception to the  
35 spending limitation. Any determination approving the appropriation  
36 and expenditure of surplus as an exception to the spending limitations  
37 shall be based upon:  
38 1) the local unit's revenue needs for the current local budget year  
39 and its revenue raising capacity;  
40 2) the intended actions of the governing body of the local unit to  
41 meet the local unit's revenue needs;  
42 3) the intended actions of the governing body of the local unit to  
43 expand its revenue generating capacity for subsequent local budget  
44 years;  
45 4) the local unit's ability to demonstrate the source and existence  
46 of sufficient surplus as would be prudent to appropriate as an

- 1 exception to the spending limitations to meet the operating expenses  
2 for the local unit's current budget year; and
- 3 5) the impact of utilization of surplus upon succeeding budgets of  
4 the local unit;
- 5 ff. [Amounts expended for the staffing and operation of the  
6 municipal court] Newly authorized operating appropriations for the  
7 municipal court or violation's bureau when approved by the vicinage  
8 Presiding Judge of the Municipal Court after consultation with the  
9 mayor and governing body of the municipality;
- 10 gg. [Amounts appropriated for the cost of administering a joint  
11 insurance fund established pursuant to subsection b. of section 1 of  
12 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
13 claims payments by local member units;] (Deleted by amendment, P.L.  
14 , c. .) (pending before the Legislature as this bill)
- 15 hh. [Amounts appropriated for the cost of implementing an  
16 estimated tax billing system and the issuance of tax bills thereunder  
17 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);] (Deleted by  
18 amendment, P.L. , c. .) (pending before the Legislature as this bill)
- 19 ii. [Expenditures] Subject to the approval of the Local Finance  
20 Board, expenditures related to the cost of conducting and  
21 implementing a total property tax levy sale pursuant to section 16 of  
22 P.L.1997, c.99 (C.54:5-113.5);
- 23 jj. Amounts expended for a length of service award program  
24 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);
- 25 kk. Amounts expended to provide municipal services or  
26 reimbursement amounts to multifamily dwellings for the collection  
27 and disposal of solid waste generated by the residents of the  
28 multifamily dwellings. This subsection shall cease to be operative at  
29 the end of the first local budget year in which the municipality has fully  
30 phased in its reimbursement amount expenses;
- 31 ll. Amounts expended by a municipality under an interlocal services  
32 agreement entered into pursuant to the "Interlocal Services Act,"  
33 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective  
34 date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of  
35 the municipality that will receive the service may choose to allow the  
36 amount of projected annual savings to be added to the amount of final  
37 appropriations upon which its permissible expenditures are calculated  
38 pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);
- 39 mm. Amounts expended under a joint contract pursuant to the  
40 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et  
41 seq.) entered into after the effective date of P.L.2000, c.126  
42 (C.52:13H-21 et al.). The governing body of each participating  
43 municipality may choose to allow the amount of projected annual  
44 savings to be added to the amount of final appropriations upon which  
45 its permissible expenditures are calculated pursuant to section 2 of  
46 P.L.1976, c.68 (C.40A:4-45.2);

1 nn. [Amounts expended to pay the salaries of police officers hired  
2 under the federal "Community Oriented Policing Services" program,  
3 which was enacted as part of the "Violent Crime Control and Law  
4 Enforcement Act of 1994," Pub.L.No. 103, 108 Stat. 1796 (1994);]  
5 (Deleted by amendment, P.L. , c. ) (pending before the Legislature  
6 as this bill)

7 oo. Amounts appropriated in the first three years after the effective  
8 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance,  
9 workers' compensation insurance and employee group insurance;

10 pp. Amounts appropriated in the first three years after the effective  
11 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic  
12 security preparedness and responses to incidents and threats to  
13 domestic security;

14 qq. Appropriations for funding normal and accrued liability  
15 contributions to State administered pension programs.

16 In the first full year when an existing appropriation or expenditure  
17 that is subject to budget limitations is made an exception to budget  
18 limitations, a municipality shall deduct from its final appropriations  
19 upon which its permissible expenditures are calculated pursuant to  
20 section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the  
21 municipality expended for that purpose during the last full budget year,  
22 or portion thereof, in which the purpose so excepted was funded from  
23 appropriations in the municipal budget.

24 In the first full year when an existing appropriation or expenditure  
25 that is not subject to budget limitations is made subject to budget  
26 limitations, a municipality shall add to its final appropriations upon  
27 which its permissible expenditures are calculated pursuant to section  
28 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the  
29 municipality expended for that purpose during the last full budget year,  
30 or portion thereof, in which the purpose so excepted was funded from  
31 appropriations in the municipal budget.

32 (cf: P.L.2003, c.92, s.1)

33

34 3. Section 1 of P.L.1979, c.268 (C.40A:4-45.3a) is amended to  
35 read as follows:

36 1. The provisions of any other law to the contrary notwithstanding,  
37 any referendum conducted by a municipality pursuant to subsection i.  
38 of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the purpose of  
39 requesting approval for increasing the municipal budget by more than  
40 ~~[5%]~~ 2.5% over the previous year's final appropriations, shall be held  
41 on the last Tuesday in the month of February of the year in which the  
42 proposed increase is to take effect. The municipal budget proposing  
43 such increase shall be introduced and approved in the manner  
44 otherwise provided in N.J.S.40A:4-5 at least 20 days prior to the date  
45 on which such referendum is to be held, and shall be published in the  
46 manner otherwise provided in N.J.S.40A:4-6 at least 12 days prior to

1 said referendum date. Notice shall be published pursuant to section 7  
2 of P.L.1953, c.211 (C.19:57-7) on the next day following the  
3 introduction of the budget. This section shall apply only to  
4 municipalities that operate on the January 1 to December 31 fiscal  
5 year.

6 (cf: P.L.1991, c.75, s.21)

7

8 4. Section 1 of P.L.1983, c.69 (C.40A:4-45.3a1) is amended to  
9 read as follows:

10 1. Notwithstanding the provisions of Title 19 of the Revised  
11 Statutes to the contrary, referenda conducted by any municipality  
12 pursuant to subsection i. of section 3 of P.L.1976, c.68  
13 (C.40A:4-45.3), for the purpose of increasing the municipal budget by  
14 more than ~~[5%]~~ 2.5% over the previous year's final appropriations,  
15 may be conducted with respect to the provision of polling places and  
16 the compensation of election workers in the same manner as is  
17 provided for school elections under Title 19 of the Revised Statutes.  
18 (cf: P.L.1995, c.279, s.45)

19

20 5. Section 2 of P.L.1981, c.64 (C.40A:4-45.3b) is amended to read  
21 as follows:

22 2. Notwithstanding any provisions of P.L.1976, c.68  
23 (C.40A:4-45.1 et seq.) to the contrary, municipalities shall, in budget  
24 year 1981 and in all subsequent budget years in deriving their final  
25 appropriations for the prior year upon which the ~~[5%]~~ 2.5% annual  
26 increase permitted under section 2 of P.L.1976, c.68 (C.40A:4-45.2)  
27 is calculated, not be required to treat as exceptions to the prior year's  
28 final appropriations any appropriations of the proceeds of the sale of  
29 municipal assets which were contained in their budgets for the year  
30 1980 or for any prior budget year. In all fiscal years subsequent to  
31 budget year 1981, municipalities shall, in deriving their final  
32 appropriations for the immediately preceding budget year upon which  
33 the ~~[5%]~~ 2.5% annual increase is calculated, treat the amounts of the  
34 proceeds of the sale of municipal assets appropriated in their budgets  
35 for the immediately preceding year as exceptions to the final  
36 appropriations under section 3 of P.L.1976, c.68 (C.40A:4-45.3).

37 (cf: P.L.1981, c.64, s.2)

38

39 6. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read  
40 as follows:

41 4. In the preparation of its budget, a county may not increase the  
42 county tax levy to be apportioned among its constituent municipalities  
43 in excess of ~~[5%]~~ 2.5% or the index rate, whichever is less, of the  
44 previous year's county tax levy, subject to the following exceptions:

45 a. The amount of revenue generated by the increase in valuations  
46 within the county, based solely on applying the preceding year's county

1 tax rate to the apportionment valuation of new construction or  
2 improvements within the county, and such increase shall be levied in  
3 direct proportion to said valuation;

4 b. Capital expenditures, including appropriations for current capital  
5 expenditures, whether in the capital improvement fund or as a  
6 component of a line item elsewhere in the budget, provided that any  
7 such current capital expenditures would be otherwise bondable under  
8 the requirements of N.J.S.40A:2-21 and 40A:2-22;

9 c. (1) An increase based upon emergency temporary appropriations  
10 made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event  
11 which immediately endangers the health, safety or property of the  
12 residents of the county, and over which the governing body had no  
13 control and for which it could not plan and emergency appropriations  
14 made pursuant to N.J.S.40A:4-46. Emergency temporary  
15 appropriations and emergency appropriations shall be approved by at  
16 least two-thirds of the governing body and by the Director of the  
17 Division of Local Government Services, and shall not exceed in the  
18 aggregate 3% of the previous year's final current operating  
19 appropriations.

20 (2) (Deleted by amendment, P.L.1990, c.89.)

21 The approval procedure in this subsection shall not apply to  
22 appropriations adopted for a purpose referred to in subsection d. or f.  
23 below;

24 d. All debt service;

25 e. (Deleted by amendment, P.L.1990, c.89.)

26 f. Amounts required to be paid pursuant to (1) any contract with  
27 respect to use, service or provision of any project, facility or public  
28 improvement for water, sewerage, parking, senior citizen housing or  
29 any similar purpose, or payments on account of debt service therefor,  
30 between a county and any other county, municipality, school or other  
31 district, agency, authority, commission, instrumentality, public  
32 corporation, body corporate and politic or political subdivision of this  
33 State; and (2) any lease of a facility owned by a county improvement  
34 authority when the lease payment represents the proportionate amount  
35 necessary to amortize the debt incurred by the authority in providing  
36 the facility which is leased, in whole or in part;

37 g. That portion of the county tax levy which represents funding to  
38 participate in any federal or State aid program and amounts received  
39 or to be received from federal, State or other funds in reimbursement  
40 for local expenditures. If a county provides matching funds in order  
41 to receive the federal or State or other funds, only the amount of the  
42 match which is required by law or agreement to be provided by the  
43 county shall be excepted;

44 h. (Deleted by amendment, P.L.1987, c.74.)

45 i. (Deleted by amendment, P.L.1990, c.89.)

46 j. (Deleted by amendment, P.L.1990, c.89.)



- 1 k. (Deleted by amendment, P.L.1990, c.89.)
- 2 l. Amounts expended to meet the standards established pursuant to  
3 the "New Jersey Public Employees' Occupational Safety and Health  
4 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 5 m. (Deleted by amendment, P.L.1990, c.89.)
- 6 n. (Deleted by amendment, P.L.1990, c.89.)
- 7 o. (Deleted by amendment, P.L.1990, c.89.)
- 8 p. Extraordinary expenses, approved by the Local Finance Board,  
9 required for the implementation of an interlocal services agreement;
- 10 q. Any expenditure mandated as a result of a natural disaster, civil  
11 disturbance or other emergency that is specifically authorized pursuant  
12 to a declaration of an emergency by the President of the United States  
13 or by the Governor;
- 14 r. Expenditures for the cost of services mandated by any order of  
15 court, by any federal or State statute, or by administrative rule,  
16 directive, order, or other legally binding device issued by a State  
17 agency which has identified such cost as mandated expenditures on  
18 certification to the Local Finance Board by the State agency;
- 19 s. That portion of the county tax levy which represents funding to  
20 a county college in excess of the county tax levy required to fund the  
21 county college in local budget year 1992;
- 22 t. Amounts appropriated for the cost of administering a joint  
23 insurance fund established pursuant to subsection b. of section 1 of  
24 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
25 claims payments by local member units;
- 26 u. Expenditures for the administration of general public assistance  
27 pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- 28 v. Amounts in a separate line item of a county budget that are  
29 expended on tick-borne disease vector management activities  
30 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);
- 31 w. Amounts expended by a county under an interlocal services  
32 agreement entered into pursuant to the "Interlocal Services Act,"  
33 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective  
34 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended  
35 under a joint contract pursuant to the "Consolidated Municipal Service  
36 Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the  
37 effective date of P.L.2000, c.126 (C.52:13H-21 et al.);
- 38 x. Amounts appropriated in the first three years after the effective  
39 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance,  
40 workers' compensation insurance and employee group insurance;
- 41 y. Amounts appropriated in the first three years after the effective  
42 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic  
43 security preparedness and responses to incidents and threats to  
44 domestic security.
- 45 In the first full year where an existing appropriation or expenditure  
46 that is subject to budget limitations is made an exception to budget

1 limitations, a county shall deduct from its final appropriations upon  
2 which its permissible expenditures are calculated pursuant to section  
3 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county  
4 expended for that purpose during the last full budget year, or portion  
5 thereof, in which the purpose so excepted was funded from  
6 appropriations in the county budget.

7 In the first full year where an existing appropriation or expenditure  
8 that is not subject to budget limitations is made subject to budget  
9 limitations, a county shall add to its final appropriations upon which  
10 its permissible expenditures are calculated pursuant to section 2 of  
11 P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended  
12 for that purpose during the last full budget year, or portion thereof, in  
13 which the purpose so excepted was funded from appropriations in the  
14 county budget.

15 (cf: P.L.2003, c.92, s.2)

16

17 7. Section 7 of P.L.1983, c.49 (C.40A:4-45.14) is amended to read  
18 as follows:

19 7. a. Notwithstanding the provisions of section 2, 3 or 4 of  
20 P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the  
21 contrary, in any year for which the index rate [~~exceeds~~] is less than  
22 5%, [~~a municipality may, by ordinance, or~~] a county may, by  
23 ordinance or resolution, as appropriate, approved by a majority vote  
24 of the full membership of the governing body, provide that in the local  
25 fiscal year to which the ordinance or resolution applies, [~~the final~~  
26 ~~appropriations of the municipality, or~~] the tax levy of the county[,]  
27 shall be increased by a percentage rate greater than [~~5%~~] the index  
28 rate, but not to exceed [~~the index rate,~~] 5% over the previous year's  
29 [~~final appropriations, or~~] county tax levy[, as the case may be].

30 b. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976,  
31 c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the contrary, in any  
32 year in which the index rate is equal to or less than [~~5%~~] 2.5% a  
33 municipality may, by ordinance approved by a majority vote of the full  
34 membership of the governing body, [~~or a county may, by ordinance or~~  
35 ~~resolution, as appropriate, approved by a majority vote of the full~~  
36 ~~membership of the governing body,~~] provide that in the local fiscal  
37 year to which the ordinance [~~or resolution~~] applies, the final  
38 appropriations of the municipality[, or the tax levy of the county,]  
39 shall be increased by a percentage rate greater than the index rate, but  
40 not to exceed [~~5%~~] 3.5% over the previous year's final  
41 appropriations[, or county tax levy, as the case may be].

42 c. The ordinance or resolution, as appropriate, shall be introduced  
43 after the beginning of the local fiscal year to which it applies and prior  
44 to the date provided by law for the introduction and approval of the  
45 annual budget of the municipality or county. The ordinance or

1 resolution shall state the greater percentage rate to be adopted and the  
2 additional amount of increased final appropriations or tax levy which  
3 that greater percentage rate represents over that which the ~~[5%]~~ 2.5%  
4 rate or index rate, as appropriate represents. The ordinance or  
5 resolution may, thereafter, be adopted, after publication and a public  
6 hearing separately afforded upon 10 days' notice duly published, by a  
7 majority vote of the authorized membership of the governing body.  
8 Any procedures provided in a form of local government for the  
9 exercise of veto powers by a mayor or county executive with respect  
10 to ordinances generally shall pertain. An ordinance or resolution so  
11 adopted shall, notwithstanding any other provision of law, take effect  
12 immediately upon adoption.

13 Upon adoption of the ordinance or resolution, the permissible final  
14 appropriations of the municipality, or permissible county tax levy of  
15 the county, shall be calculated for the year as provided in section 3 or  
16 4 of P.L.1976, c.68 (C.40A:4-45.3 or 40A:4-45.4), except that the  
17 percentage rate so adopted shall be used. The final appropriations or  
18 county tax levy so calculated shall be used in the immediately  
19 following year for the purposes of section 2 of P.L.1976, c.68  
20 (C.40A:4-45.2).

21 A copy of any ordinance or resolution introduced pursuant to this  
22 section shall be filed with the Director of the Division of Local  
23 Government Services within five days of introduction, and a copy of  
24 the ordinance or resolution adopted shall be filed with the director  
25 within five days of adoption.

26 In any year for which an ordinance is adopted by a municipality  
27 pursuant to this section, no referendum shall be held in that  
28 municipality pursuant to subsection i. of section 3 of P.L.1976, c.68  
29 (C.40A:4-45.3); provided that a municipality may hold a special  
30 election if required by law pursuant to that subsection.  
31 (cf: P.L.1991, c.75, s.22)

32  
33 8. Section 1 of P.L.1994, c.100 (C.40A:4-45.15a) is amended to  
34 read as follows:

35 1. a. [Notwithstanding any provisions of P.L.1976, c.68  
36 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any  
37 local budget year beginning on or after January 1, 1994 for which the  
38 index rate is greater than 5%, increases its final appropriations in an  
39 amount less than that permitted under the 5% percentage rate, shall be  
40 permitted to appropriate the difference between the amount of its  
41 actual final appropriations and the amount of its permitted final  
42 appropriations under the 5% percentage rate, as an exception to its  
43 final appropriations in either of the next two succeeding years. In the  
44 year immediately following the year in which the amount of difference  
45 is so appropriated, the amount of difference shall be added to the final  
46 appropriations of the preceding year for the purposes of section 2 of

1 P.L.1976, c.68 (C.40A:4-45.2).] (Deleted by amendment, P.L. , c.  
2 .) (pending before the Legislature as this bill)

3 b. Notwithstanding any provisions of P.L.1976, c.68  
4 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any  
5 local budget year beginning on or after January 1, 1994 for which the  
6 index rate is equal to or less than [5%] 2.5%, increases its final  
7 appropriations in an amount less than [5%] 3.5%, shall be permitted,  
8 after adoption of an ordinance by the governing body, to appropriate  
9 the difference between the amount of its actual final appropriations  
10 [under the 5%] and the 3.5% percentage rate, as an exception to its  
11 final appropriations in either of the next two succeeding years. In the  
12 year immediately following the year in which the amount of difference  
13 is so appropriated, the amount of difference shall be added to the final  
14 appropriations of the preceding year for the purposes of section 2 of  
15 P.L.1976, c.68 (C.40A:4-45.2).

16 (cf: P.L.1994, c.100, s.1)

17

18 9. Section 2 of P.L.1994, c.100 (C.40A:4-45.15b) is amended to  
19 read as follows:

20 2. a. [Notwithstanding any provisions of P.L.1976, c.68  
21 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local  
22 budget year beginning on or after January 1, 1993 for which the index  
23 rate is greater than 5%, increases its final appropriations or county tax  
24 levy in an amount less than that permitted under the 5% percentage  
25 rate, shall be permitted to appropriate the difference between the  
26 amount of its actual final appropriations or county tax levy and the  
27 amount of its permitted final appropriations or county tax levy under  
28 the 5% percentage rate, as an exception to its final appropriations or  
29 county tax levy in either of the next two succeeding years. In the year  
30 immediately following the year in which the amount of difference is so  
31 appropriated, the amount of difference shall be added to the final  
32 appropriations or county tax levy of the preceding year for the  
33 purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).] (Deleted by  
34 amendment, P.L. , c. .) (pending before the Legislature as this bill)

35 b. Notwithstanding any provisions of P.L.1976, c.68  
36 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local  
37 budget year beginning on or after January 1, 1993 for which the index  
38 rate is less than 5%, increases its final appropriations or county tax  
39 levy in an amount less than 5%, shall be permitted to appropriate the  
40 difference between the amount of its actual final appropriations or  
41 county tax levy [under] and the 5% percentage rate, as an exception  
42 to its final appropriations or county tax levy in either of the next two  
43 succeeding years. In the year immediately following the year in which  
44 the amount of difference is so appropriated, the amount of difference  
45 shall be added to the final appropriations or county tax levy of the  
46 preceding year for the purposes of section 2 of P.L.1976, c.68  
47 (C.40A:4-45.2).

48 (cf: P.L.1994, c.100, s.2.)

1       10. Section 5 of P.L.2003, c.108 (C. 40A:4-45.43) is amended to  
2 read as follows:

3       5. In addition to the exceptions to the limits on increases [to  
4 municipal appropriations set forth in section 3 of P.L.1976, c.68  
5 (C.40A:4-45.3) and] to the county tax levy set forth in section 4 of  
6 P.L.1976, c.68 (C.40A:4-45.4), appropriations that represent  
7 expenditures made by a [municipality or] county for the purpose of  
8 funding normal and accrued liability contributions to the Public  
9 Employees' Retirement System of New Jersey due in the State fiscal  
10 years 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09, or to the  
11 Police and Firemen's Retirement System due in the State fiscal years  
12 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08, shall be exempt  
13 from the limits on increases [to municipal appropriations and to the  
14 limits on increases] to the county tax levy in county budgets[,  
15 respectively,] for the local budget year in which those contributions  
16 are due.  
17 (cf: P.L.2003, c.108, s.5)

18

19       11. This act shall take effect immediately.

20

21

22

#### STATEMENT

23

24       The local budget cap law, P.L.1976, c.68 (C.40A:4-45.1 et seq.),  
25 currently limits, with certain exceptions, the amount of annual increase  
26 in municipal and county appropriations to 5% of the previous year's  
27 final appropriations, or the index rate, whichever is less. However,  
28 whenever the index rate is less than 5%, the governing body of the  
29 municipality or county may, by ordinance or resolution as appropriate,  
30 increase its appropriations by up to 5%. Furthermore, whenever the  
31 index rate is higher than 5%, the local governing body may adopt an  
32 ordinance or resolution to increase its appropriations by a percentage  
33 higher than 5%, but not above the index rate. Any increases above  
34 those allowed under the statutes require local voter approval through  
35 a referendum.

36       This bill amends the existing requirements to lower the budget cap  
37 limits to 2.5% or the index rate, whichever is less. Additionally, this  
38 bill allows a municipality, by ordinance, to increase its appropriations  
39 by up to 3.5% whenever the index rate is equal to or less than 2.5%.  
40 A county may adopt a resolution to increase its appropriations by up  
41 to 5% whenever the index rate is less than 5%. This bill eliminates the  
42 option to match an index rate greater than 5% by ordinance or  
43 resolution, but does not alter the option of adopting higher increases  
44 through a referendum.

45       This bill amends various sections of the statutory law to make them  
46 consistent with the budget limits proposed, including the cap banking  
47 provisions. Additionally, this bill eliminates certain exceptions to the  
48 municipal budget cap and creates one additional exception.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1702**

# **STATE OF NEW JERSEY**

DATED: JUNE 17, 2004

The Senate Budget and Appropriations Committee reports favorably a committee substitute for Senate Bill No. 1702.

This committee substitute amends various sections of the local budget cap law, P.L.1976, c.68 (C.40A:4-45.1 et seq.), to establish lower limits for yearly increases in municipal and county appropriations. The intent of the bill is to freeze, with certain limited exceptions, the amount of annual increase in municipal and county appropriations at 2.5% of the previous year's final appropriations, or at the cost-of-living adjustment, whichever is less.

Under current law, the amount of annual appropriations increase over the previous year's final appropriations is limited to 5% or the index rate, whichever is less, with certain exceptions. However, whenever the index rate is less than 5%, current law allows the governing body of the municipality or county to increase its appropriations up to the 5% rate by adoption of an ordinance or resolution, as appropriate. Whenever the index rate is higher than 5%, the local governing body may increase its appropriations by a percentage higher than 5%, but not above the index rate. Any increases above those allowed under the current statutes require local voter approval through a referendum.

This substitute bill lowers the budget cap limits to 2.5% or the cost-of-living adjustment, whichever is less. Additionally, the bill allows municipalities, by ordinance and counties, by resolution, to increase appropriations by up to 3.5% whenever the cost-of-living adjustment is equal to or less than 2.5%. The bill eliminates the option to match the index rate through an ordinance or resolution, as appropriate, whenever it is greater than the statutory cap rate, but does not alter the option of adopting higher increases through a referendum. The bill also replaces the term, "index rate" with the term, "cost-of-living adjustment" in the local budget cap law.

Finally, the bill amends various sections of the statutory law to make them consistent with the budget limits proposed, including the cap banking provisions, and eliminates certain exceptions to the municipal and county budget cap.

The bill will take effect as law upon the enactment of Senate Bill

No. 1678 or Assembly Bill No. 100, Senate Bill 1701 or Assembly Bill No. 99, and Senate Bill No. 1787 or Assembly Bill No. 97 of 2004.

The provisions of this committee substitute are identical to those of Assembly Committee Substitute for Assembly, No. 98, now pending in the General Assembly.

**FISCAL IMPACT**

This bill is not certified as having a fiscal impact.

# ASSEMBLY, No. 98

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 14, 2004

**Sponsored by:**

**Assemblyman JOSEPH J. ROBERTS, JR.**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Establishes lower limits for yearly local budget appropriations increase.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning municipal and county budgets and amending  
2 various parts of the statutory law.

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.1976, c.68 (C.40A:4-45.2) is amended to read  
8 as follows:

9 2. Beginning with the tax year 1991 municipalities[, other than  
10 those having a municipal purposes tax rate of \$0.10 or less per  
11 \$100.00,] and counties shall be prohibited from increasing their final  
12 appropriations by more than ~~5%~~ 2.5% or the index rate, whichever  
13 is less, over the previous year, except within the provisions set forth  
14 hereunder.

15 For the purpose of this section, in computing its final appropriations  
16 for the previous year, a municipality or county shall include, as part of  
17 its final appropriations:

18 a. Amounts of revenue generated by an increase in its valuations  
19 based solely on applying the preceding year's local purposes tax rate  
20 of the municipality to the assessed value of new construction or  
21 improvements, or on applying the preceding year's county tax rate to  
22 the apportionment valuation of new construction or improvements, as  
23 may be appropriate;

24 b. (Deleted by amendment, P.L.1990, c.89.)

25 c. Amounts approved by referendum, pursuant to section 1 of  
26 P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312  
27 (C.40A:4-45.19);

28 d. (Deleted by amendment, P.L.1990, c.89.)

29 e. Expenditures for the assumption of any service or function of a  
30 local public utility, a local public authority, or a special purposes  
31 district, as approved by the Local Finance Board pursuant to section  
32 3 of P.L.1983, c.49 (C.40A:4-45.13).

33 For the 1991 local budget year, the final appropriations from the  
34 prior year shall be the total appropriations for the 1990 budget year.  
35 In each local budget year in which any service, function, or portion  
36 thereof, is transferred to, or assumed by, the State or federal  
37 government from a municipal government, the municipality shall  
38 deduct from its final appropriations upon which its permissible  
39 expenditures are calculated the amount which the municipality  
40 expended for that service or function during the last full budget year,  
41 or portion thereof, throughout which the service or function so  
42 transferred was funded from appropriations in the municipal budget.

43 In each budget year subsequent to 1990, whenever any municipality

**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 shall have transferred to any local public utility, any local public  
2 authority or any special purposes district, during the immediately  
3 preceding budget year, or at any time during the current budget year  
4 prior to the final adoption of the budget, any service or function  
5 funded during the immediately preceding budget year, either partially  
6 or wholly, from appropriations in the municipal budget, the  
7 municipality shall deduct from its final appropriations upon which its  
8 permissible expenditures are calculated pursuant to this section the  
9 amount which the municipality expended for that service or function  
10 during the last full budget year throughout which the service or  
11 function so transferred was funded from appropriations in the  
12 municipal budget.

13 (cf: P.L.1990, c.89, s.1)

14

15 2. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read  
16 as follows:

17 3. In the preparation of its budget a municipality shall limit any  
18 increase in said budget to ~~5%~~ 2.5% or the index rate, whichever is  
19 less, over the previous year's final appropriations subject to the  
20 following exceptions:

21 a. (Deleted by amendment, P.L.1990, c.89.)

22 b. Capital expenditures, including appropriations for current capital  
23 expenditures, whether in the capital improvement fund or as a  
24 component of a line item elsewhere in the budget, provided that any  
25 such current capital expenditure would be otherwise bondable under  
26 the requirements of N.J.S.40A:2-21 and 40A:2-22;

27 c. (1) An increase based upon emergency temporary  
28 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent  
29 situation or event which immediately endangers the health, safety or  
30 property of the residents of the municipality, and over which the  
31 governing body had no control and for which it could not plan and  
32 emergency appropriations made pursuant to N.J.S.40A:4-46.  
33 Emergency temporary appropriations and emergency appropriations  
34 shall be approved by at least two-thirds of the governing body and by  
35 the Director of the Division of Local Government Services, and shall  
36 not exceed in the aggregate 3% of the previous year's final current  
37 operating appropriations.

38 (2) (Deleted by amendment, P.L.1990, c.89.)

39 The approval procedure in this subsection shall not apply to  
40 appropriations adopted for a purpose referred to in subsection d. or j.  
41 below;

42 d. All debt service, including that of a Type I school district;

43 e. Upon the approval of the Local Finance Board in the Division  
44 of Local Government Services, amounts required for funding a  
45 preceding year's deficit;

46 f. Amounts reserved for uncollected taxes;

- 1 g. (Deleted by amendment, P.L.1990, c.89.)
- 2 h. Expenditure of amounts derived from new or increased  
3 construction, housing, health or fire safety inspection or other service  
4 fees imposed by State law, rule or regulation or by local ordinance;
- 5 i. Any amount approved by any referendum;
- 6 j. Amounts required to be paid pursuant to (1) any contract with  
7 respect to use, service or provision of any project, facility or public  
8 improvement for water, sewerage, parking, senior citizen housing or  
9 any similar purpose, or payments on account of debt service therefor,  
10 between a municipality and any other municipality, county, school or  
11 other district, agency, authority, commission, instrumentality, public  
12 corporation, body corporate and politic or political subdivision of this  
13 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60  
14 through 13:17-76) by a constituent municipality to the intermunicipal  
15 account; (3) any lease of a facility owned by a county improvement  
16 authority when the lease payment represents the proportionate amount  
17 necessary to amortize the debt incurred by the authority in providing  
18 the facility which is leased, in whole or in part; and (4) any repayments  
19 under a loan agreement entered into in accordance with the provisions  
20 of section 5 of P.L.1992, c.89;
- 21 k. (Deleted by amendment, P.L.1987, c.74.)
- 22 l. Appropriations of federal, county, independent authority or State  
23 funds, or by grants from private parties or nonprofit organizations for  
24 a specific purpose, and amounts received or to be received from such  
25 sources in reimbursement for local expenditures. If a municipality  
26 provides matching funds in order to receive the federal, county,  
27 independent authority or State funds, or the grants from private parties  
28 or nonprofit organizations for a specific purpose, the amount of the  
29 match which is required by law or agreement to be provided by the  
30 municipality shall be excepted;
- 31 m. (Deleted by amendment, P.L.1987, c.74.)
- 32 n. (Deleted by amendment, P.L.1987, c.74.)
- 33 o. (Deleted by amendment, P.L.1990, c.89.)
- 34 p. (Deleted by amendment, P.L.1987, c.74.)
- 35 q. (Deleted by amendment, P.L.1990, c.89.)
- 36 r. Amounts expended to fund a free public library established  
37 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 38 s. (Deleted by amendment, P.L.1990, c.89.)
- 39 t. Amounts expended in preparing and implementing a housing  
40 element and fair share plan pursuant to the provisions of P.L.1985,  
41 c.222 (C.52:27D-301 et al.) and any amounts received by a  
42 municipality under a regional contribution agreement pursuant to  
43 section 12 of that act;
- 44 u. [Amounts expended to meet the standards established pursuant  
45 to the "New Jersey Public Employees' Occupational Safety and Health  
46 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);] (Deleted by amendment,

- 1 P.L. , c. ) (pending before the Legislature as this bill)  
2 v. (Deleted by amendment, P.L.1990, c.89.)  
3 w. [Amounts appropriated for expenditures resulting from the  
4 impact of a hazardous waste facility as described in subsection c. of  
5 section 32 of P.L.1981, c.279 (C.13:1E-80);] (Deleted by amendment,  
6 P.L. , c. ) (pending before the Legislature as this bill)  
7 x. Amounts expended to aid privately owned libraries and reading  
8 rooms, pursuant to R.S.40:54-35;  
9 y. (Deleted by amendment, P.L.1990, c.89.)  
10 z. (Deleted by amendment, P.L.1990, c.89.)  
11 aa. Extraordinary expenses, approved by the Local Finance Board,  
12 required for the implementation of an interlocal services agreement;  
13 bb. Any expenditure mandated as a result of a natural disaster, civil  
14 disturbance or other emergency that is specifically authorized pursuant  
15 to a declaration of an emergency by the President of the United States  
16 or by the Governor;  
17 cc. Expenditures for the cost of services mandated by any order of  
18 court, by any federal or State statute, or by administrative rule,  
19 directive, order, or other legally binding device issued by a State  
20 agency which has identified such cost as mandated expenditures on  
21 certification to the Local Finance Board by the State agency;  
22 dd. Expenditures of amounts actually realized in the local budget  
23 year from the sale of municipal assets [if appropriated for  
24 non-recurring purposes or otherwise approved by the director] in  
25 extraordinary cases and with the permission of the Local Finance  
26 Board;  
27 ee. Any local unit which is determined to be experiencing fiscal  
28 distress pursuant to the provisions of P.L.1987, c.75  
29 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible  
30 municipality" as defined in section 3 of P.L.1987, c.75  
31 (C.52:27D-118.26), and which has available surplus pursuant to the  
32 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et  
33 seq.), may appropriate and expend an amount of that surplus approved  
34 by the director and the Local Finance Board as an exception to the  
35 spending limitation. Any determination approving the appropriation  
36 and expenditure of surplus as an exception to the spending limitations  
37 shall be based upon:  
38 1) the local unit's revenue needs for the current local budget year  
39 and its revenue raising capacity;  
40 2) the intended actions of the governing body of the local unit to  
41 meet the local unit's revenue needs;  
42 3) the intended actions of the governing body of the local unit to  
43 expand its revenue generating capacity for subsequent local budget  
44 years;  
45 4) the local unit's ability to demonstrate the source and existence  
46 of sufficient surplus as would be prudent to appropriate as an

- 1 exception to the spending limitations to meet the operating expenses  
2 for the local unit's current budget year; and
- 3 5) the impact of utilization of surplus upon succeeding budgets of  
4 the local unit;
- 5 ff. [Amounts expended for the staffing and operation of the  
6 municipal court] Newly authorized operating appropriations for the  
7 municipal court or violation's bureau when approved by the vicinage  
8 Presiding Judge of the Municipal Court after consultation with the  
9 mayor and governing body of the municipality;
- 10 gg. [Amounts appropriated for the cost of administering a joint  
11 insurance fund established pursuant to subsection b. of section 1 of  
12 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
13 claims payments by local member units;] (Deleted by amendment,  
14 P.L. , c. .) (pending before the Legislature as this bill)
- 15 hh. [Amounts appropriated for the cost of implementing an  
16 estimated tax billing system and the issuance of tax bills thereunder  
17 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);] (Deleted by  
18 amendment, P.L. , c. .) (pending before the Legislature as this bill)
- 19 ii. [Expenditures] Subject to the approval of the Local Finance  
20 Board, expenditures related to the cost of conducting and  
21 implementing a total property tax levy sale pursuant to section 16 of  
22 P.L.1997, c.99 (C.54:5-113.5);
- 23 jj. Amounts expended for a length of service award program  
24 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);
- 25 kk. Amounts expended to provide municipal services or  
26 reimbursement amounts to multifamily dwellings for the collection  
27 and disposal of solid waste generated by the residents of the  
28 multifamily dwellings. This subsection shall cease to be operative at  
29 the end of the first local budget year in which the municipality has fully  
30 phased in its reimbursement amount expenses;
- 31 ll. Amounts expended by a municipality under an interlocal services  
32 agreement entered into pursuant to the "Interlocal Services Act,"  
33 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective  
34 date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of  
35 the municipality that will receive the service may choose to allow the  
36 amount of projected annual savings to be added to the amount of final  
37 appropriations upon which its permissible expenditures are calculated  
38 pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);
- 39 mm. Amounts expended under a joint contract pursuant to the  
40 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et  
41 seq.) entered into after the effective date of P.L.2000, c.126  
42 (C.52:13H-21 et al.). The governing body of each participating  
43 municipality may choose to allow the amount of projected annual  
44 savings to be added to the amount of final appropriations upon which  
45 its permissible expenditures are calculated pursuant to section 2 of  
46 P.L.1976, c.68 (C.40A:4-45.2);

1 nn. [Amounts expended to pay the salaries of police officers hired  
2 under the federal "Community Oriented Policing Services" program,  
3 which was enacted as part of the "Violent Crime Control and Law  
4 Enforcement Act of 1994," Pub.L.No. 103, 108 Stat. 1796 (1994);]  
5 (Deleted by amendment, P.L. , c. ) (pending before the Legislature  
6 as this bill)

7 oo. Amounts appropriated in the first three years after the effective  
8 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance,  
9 workers' compensation insurance and employee group insurance;

10 pp. Amounts appropriated in the first three years after the effective  
11 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic  
12 security preparedness and responses to incidents and threats to  
13 domestic security;

14 qq. Appropriations for funding normal and accrued liability  
15 contributions to State administered pension programs.

16 In the first full year when an existing appropriation or expenditure  
17 that is subject to budget limitations is made an exception to budget  
18 limitations, a municipality shall deduct from its final appropriations  
19 upon which its permissible expenditures are calculated pursuant to  
20 section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the  
21 municipality expended for that purpose during the last full budget year,  
22 or portion thereof, in which the purpose so excepted was funded from  
23 appropriations in the municipal budget.

24 In the first full year when an existing appropriation or expenditure  
25 that is not subject to budget limitations is made subject to budget  
26 limitations, a municipality shall add to its final appropriations upon  
27 which its permissible expenditures are calculated pursuant to section  
28 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the  
29 municipality expended for that purpose during the last full budget year,  
30 or portion thereof, in which the purpose so excepted was funded from  
31 appropriations in the municipal budget.

32 (cf: P.L.2003, c.92, s.1)

33

34 3. Section 1 of P.L.1979, c.268 (C.40A:4-45.3a) is amended to  
35 read as follows:

36 1. The provisions of any other law to the contrary notwithstanding,  
37 any referendum conducted by a municipality pursuant to subsection i.  
38 of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the purpose of  
39 requesting approval for increasing the municipal budget by more than  
40 **[5%]** 2.5% over the previous year's final appropriations, shall be held  
41 on the last Tuesday in the month of February of the year in which the  
42 proposed increase is to take effect. The municipal budget proposing  
43 such increase shall be introduced and approved in the manner  
44 otherwise provided in N.J.S.40A:4-5 at least 20 days prior to the date  
45 on which such referendum is to be held, and shall be published in the  
46 manner otherwise provided in N.J.S.40A:4-6 at least 12 days prior to

1 said referendum date. Notice shall be published pursuant to section 7  
2 of P.L.1953, c.211 (C.19:57-7) on the next day following the  
3 introduction of the budget. This section shall apply only to  
4 municipalities that operate on the January 1 to December 31 fiscal  
5 year.

6 (cf: P.L.1991, c.75, s.21)

7

8 4. Section 1 of P.L.1983, c.69 (C.40A:4-45.3a1) is amended to  
9 read as follows:

10 1. Notwithstanding the provisions of Title 19 of the Revised  
11 Statutes to the contrary, referenda conducted by any municipality  
12 pursuant to subsection i. of section 3 of P.L.1976, c.68  
13 (C.40A:4-45.3), for the purpose of increasing the municipal budget by  
14 more than ~~[5%]~~ 2.5% over the previous year's final appropriations,  
15 may be conducted with respect to the provision of polling places and  
16 the compensation of election workers in the same manner as is  
17 provided for school elections under Title 19 of the Revised Statutes.  
18 (cf: P.L.1995, c.279, s.45)

19

20 5. Section 2 of P.L.1981, c.64 (C.40A:4-45.3b) is amended to read  
21 as follows:

22 2. Notwithstanding any provisions of P.L.1976, c.68  
23 (C.40A:4-45.1 et seq.) to the contrary, municipalities shall, in budget  
24 year 1981 and in all subsequent budget years in deriving their final  
25 appropriations for the prior year upon which the ~~[5%]~~ 2.5% annual  
26 increase permitted under section 2 of P.L.1976, c.68 (C.40A:4-45.2)  
27 is calculated, not be required to treat as exceptions to the prior year's  
28 final appropriations any appropriations of the proceeds of the sale of  
29 municipal assets which were contained in their budgets for the year  
30 1980 or for any prior budget year. In all fiscal years subsequent to  
31 budget year 1981, municipalities shall, in deriving their final  
32 appropriations for the immediately preceding budget year upon which  
33 the ~~[5%]~~ 2.5% annual increase is calculated, treat the amounts of the  
34 proceeds of the sale of municipal assets appropriated in their budgets  
35 for the immediately preceding year as exceptions to the final  
36 appropriations under section 3 of P.L.1976, c.68 (C.40A:4-45.3).

37 (cf: P.L.1981, c.64, s.2)

38

39 6. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read  
40 as follows:

41 4. In the preparation of its budget, a county may not increase the  
42 county tax levy to be apportioned among its constituent municipalities  
43 in excess of ~~[5%]~~ 2.5% or the index rate, whichever is less, of the  
44 previous year's county tax levy, subject to the following exceptions:

45 a. The amount of revenue generated by the increase in valuations  
46 within the county, based solely on applying the preceding year's county

1 tax rate to the apportionment valuation of new construction or  
2 improvements within the county, and such increase shall be levied in  
3 direct proportion to said valuation;

4 b. Capital expenditures, including appropriations for current capital  
5 expenditures, whether in the capital improvement fund or as a  
6 component of a line item elsewhere in the budget, provided that any  
7 such current capital expenditures would be otherwise bondable under  
8 the requirements of N.J.S.40A:2-21 and 40A:2-22;

9 c. (1) An increase based upon emergency temporary  
10 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent  
11 situation or event which immediately endangers the health, safety or  
12 property of the residents of the county, and over which the governing  
13 body had no control and for which it could not plan and emergency  
14 appropriations made pursuant to N.J.S.40A:4-46. Emergency  
15 temporary appropriations and emergency appropriations shall be  
16 approved by at least two-thirds of the governing body and by the  
17 Director of the Division of Local Government Services, and shall not  
18 exceed in the aggregate 3% of the previous year's final current  
19 operating appropriations.

20 (2) (Deleted by amendment, P.L.1990, c.89.)

21 The approval procedure in this subsection shall not apply to  
22 appropriations adopted for a purpose referred to in subsection d. or f.  
23 below;

24 d. All debt service;

25 e. (Deleted by amendment, P.L.1990, c.89.)

26 f. Amounts required to be paid pursuant to (1) any contract with  
27 respect to use, service or provision of any project, facility or public  
28 improvement for water, sewerage, parking, senior citizen housing or  
29 any similar purpose, or payments on account of debt service therefor,  
30 between a county and any other county, municipality, school or other  
31 district, agency, authority, commission, instrumentality, public  
32 corporation, body corporate and politic or political subdivision of this  
33 State; and (2) any lease of a facility owned by a county improvement  
34 authority when the lease payment represents the proportionate amount  
35 necessary to amortize the debt incurred by the authority in providing  
36 the facility which is leased, in whole or in part;

37 g. That portion of the county tax levy which represents funding to  
38 participate in any federal or State aid program and amounts received  
39 or to be received from federal, State or other funds in reimbursement  
40 for local expenditures. If a county provides matching funds in order  
41 to receive the federal or State or other funds, only the amount of the  
42 match which is required by law or agreement to be provided by the  
43 county shall be excepted;

44 h. (Deleted by amendment, P.L.1987, c.74.)

45 i. (Deleted by amendment, P.L.1990, c.89.)

46 j. (Deleted by amendment, P.L.1990, c.89.)



- 1 k. (Deleted by amendment, P.L.1990, c.89.)
- 2 l. Amounts expended to meet the standards established pursuant to  
3 the "New Jersey Public Employees' Occupational Safety and Health  
4 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 5 m. (Deleted by amendment, P.L.1990, c.89.)
- 6 n. (Deleted by amendment, P.L.1990, c.89.)
- 7 o. (Deleted by amendment, P.L.1990, c.89.)
- 8 p. Extraordinary expenses, approved by the Local Finance Board,  
9 required for the implementation of an interlocal services agreement;
- 10 q. Any expenditure mandated as a result of a natural disaster, civil  
11 disturbance or other emergency that is specifically authorized pursuant  
12 to a declaration of an emergency by the President of the United States  
13 or by the Governor;
- 14 r. Expenditures for the cost of services mandated by any order of  
15 court, by any federal or State statute, or by administrative rule,  
16 directive, order, or other legally binding device issued by a State  
17 agency which has identified such cost as mandated expenditures on  
18 certification to the Local Finance Board by the State agency;
- 19 s. That portion of the county tax levy which represents funding to  
20 a county college in excess of the county tax levy required to fund the  
21 county college in local budget year 1992;
- 22 t. Amounts appropriated for the cost of administering a joint  
23 insurance fund established pursuant to subsection b. of section 1 of  
24 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
25 claims payments by local member units;
- 26 u. Expenditures for the administration of general public assistance  
27 pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- 28 v. Amounts in a separate line item of a county budget that are  
29 expended on tick-borne disease vector management activities  
30 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);
- 31 w. Amounts expended by a county under an interlocal services  
32 agreement entered into pursuant to the "Interlocal Services Act,"  
33 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective  
34 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended  
35 under a joint contract pursuant to the "Consolidated Municipal Service  
36 Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the  
37 effective date of P.L.2000, c.126 (C.52:13H-21 et al.);
- 38 x. Amounts appropriated in the first three years after the effective  
39 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance,  
40 workers' compensation insurance and employee group insurance;
- 41 y. Amounts appropriated in the first three years after the effective  
42 date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic  
43 security preparedness and responses to incidents and threats to  
44 domestic security.
- 45 In the first full year where an existing appropriation or expenditure  
46 that is subject to budget limitations is made an exception to budget

1 limitations, a county shall deduct from its final appropriations upon  
2 which its permissible expenditures are calculated pursuant to section  
3 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county  
4 expended for that purpose during the last full budget year, or portion  
5 thereof, in which the purpose so excepted was funded from  
6 appropriations in the county budget.

7 In the first full year where an existing appropriation or expenditure  
8 that is not subject to budget limitations is made subject to budget  
9 limitations, a county shall add to its final appropriations upon which  
10 its permissible expenditures are calculated pursuant to section 2 of  
11 P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended  
12 for that purpose during the last full budget year, or portion thereof, in  
13 which the purpose so excepted was funded from appropriations in the  
14 county budget.

15 (cf: P.L.2003, c.92, s.2)

16

17 7. Section 7 of P.L.1983, c.49 (C.40A:4-45.14) is amended to read  
18 as follows:

19 7. a. Notwithstanding the provisions of section 2, 3 or 4 of  
20 P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the  
21 contrary, in any year for which the index rate [~~exceeds~~] is less than  
22 5%, [~~a municipality may, by ordinance, or~~] a county may, by  
23 ordinance or resolution, as appropriate, approved by a majority vote  
24 of the full membership of the governing body, provide that in the local  
25 fiscal year to which the ordinance or resolution applies, [~~the final~~  
26 ~~appropriations of the municipality, or~~] the tax levy of the county[,]  
27 shall be increased by a percentage rate greater than [~~5%~~] the index  
28 rate, but not to exceed [~~the index rate,~~] 5% over the previous year's  
29 [~~final appropriations, or~~] county tax levy[, as the case may be].

30 b. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976,  
31 c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the contrary, in any  
32 year in which the index rate is equal to or less than [~~5%~~] 2.5% a  
33 municipality may, by ordinance approved by a majority vote of the full  
34 membership of the governing body, [~~or a county may, by ordinance or~~  
35 ~~resolution, as appropriate, approved by a majority vote of the full~~  
36 ~~membership of the governing body,~~] provide that in the local fiscal  
37 year to which the ordinance [~~or resolution~~] applies, the final  
38 appropriations of the municipality[, or the tax levy of the county,]  
39 shall be increased by a percentage rate greater than the index rate, but  
40 not to exceed [~~5%~~] 3.5% over the previous year's final  
41 appropriations[, or county tax levy, as the case may be].

42 c. The ordinance or resolution, as appropriate, shall be introduced  
43 after the beginning of the local fiscal year to which it applies and prior  
44 to the date provided by law for the introduction and approval of the  
45 annual budget of the municipality or county. The ordinance or

1 resolution shall state the greater percentage rate to be adopted and the  
2 additional amount of increased final appropriations or tax levy which  
3 that greater percentage rate represents over that which the ~~[5%]~~ 2.5%  
4 rate or index rate, as appropriate represents. The ordinance or  
5 resolution may, thereafter, be adopted, after publication and a public  
6 hearing separately afforded upon 10 days' notice duly published, by a  
7 majority vote of the authorized membership of the governing body.  
8 Any procedures provided in a form of local government for the  
9 exercise of veto powers by a mayor or county executive with respect  
10 to ordinances generally shall pertain. An ordinance or resolution so  
11 adopted shall, notwithstanding any other provision of law, take effect  
12 immediately upon adoption.

13 Upon adoption of the ordinance or resolution, the permissible final  
14 appropriations of the municipality, or permissible county tax levy of  
15 the county, shall be calculated for the year as provided in section 3 or  
16 4 of P.L.1976, c.68 (C.40A:4-45.3 or 40A:4-45.4), except that the  
17 percentage rate so adopted shall be used. The final appropriations or  
18 county tax levy so calculated shall be used in the immediately  
19 following year for the purposes of section 2 of P.L.1976, c.68  
20 (C.40A:4-45.2).

21 A copy of any ordinance or resolution introduced pursuant to this  
22 section shall be filed with the Director of the Division of Local  
23 Government Services within five days of introduction, and a copy of  
24 the ordinance or resolution adopted shall be filed with the director  
25 within five days of adoption.

26 In any year for which an ordinance is adopted by a municipality  
27 pursuant to this section, no referendum shall be held in that  
28 municipality pursuant to subsection i. of section 3 of P.L.1976, c.68  
29 (C.40A:4-45.3); provided that a municipality may hold a special  
30 election if required by law pursuant to that subsection.  
31 (cf: P.L.1991, c.75, s.22)

32  
33 8. Section 1 of P.L.1994, c.100 (C.40A:4-45.15a) is amended to  
34 read as follows:

35 1. a. [Notwithstanding any provisions of P.L.1976, c.68  
36 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any  
37 local budget year beginning on or after January 1, 1994 for which the  
38 index rate is greater than 5%, increases its final appropriations in an  
39 amount less than that permitted under the 5% percentage rate, shall be  
40 permitted to appropriate the difference between the amount of its  
41 actual final appropriations and the amount of its permitted final  
42 appropriations under the 5% percentage rate, as an exception to its  
43 final appropriations in either of the next two succeeding years. In the  
44 year immediately following the year in which the amount of difference  
45 is so appropriated, the amount of difference shall be added to the final  
46 appropriations of the preceding year for the purposes of section 2 of

1 P.L.1976, c.68 (C.40A:4-45.2).] (Deleted by amendment, P.L. ,  
2 c. ) (pending before the Legislature as this bill)

3 b. Notwithstanding any provisions of P.L.1976, c.68  
4 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any  
5 local budget year beginning on or after January 1, 1994 for which the  
6 index rate is equal to or less than [5%] 2.5%, increases its final  
7 appropriations in an amount less than [5%] 3.5%, shall be permitted,  
8 after adoption of an ordinance by the governing body, to appropriate  
9 the difference between the amount of its actual final appropriations  
10 [under the 5%] and the 3.5% percentage rate, as an exception to its  
11 final appropriations in either of the next two succeeding years. In the  
12 year immediately following the year in which the amount of difference  
13 is so appropriated, the amount of difference shall be added to the final  
14 appropriations of the preceding year for the purposes of section 2 of  
15 P.L.1976, c.68 (C.40A:4-45.2).

16 (cf: P.L.1994, c.100, s.1)

17

18 9. Section 2 of P.L.1994, c.100 (C.40A:4-45.15b) is amended to  
19 read as follows:

20 2. a. [Notwithstanding any provisions of P.L.1976, c.68  
21 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local  
22 budget year beginning on or after January 1, 1993 for which the index  
23 rate is greater than 5%, increases its final appropriations or county tax  
24 levy in an amount less than that permitted under the 5% percentage  
25 rate, shall be permitted to appropriate the difference between the  
26 amount of its actual final appropriations or county tax levy and the  
27 amount of its permitted final appropriations or county tax levy under  
28 the 5% percentage rate, as an exception to its final appropriations or  
29 county tax levy in either of the next two succeeding years. In the year  
30 immediately following the year in which the amount of difference is so  
31 appropriated, the amount of difference shall be added to the final  
32 appropriations or county tax levy of the preceding year for the  
33 purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).] (Deleted by  
34 amendment, P.L. , c. ) (pending before the Legislature as this bill)

35 b. Notwithstanding any provisions of P.L.1976, c.68  
36 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local  
37 budget year beginning on or after January 1, 1993 for which the index  
38 rate is less than 5%, increases its final appropriations or county tax  
39 levy in an amount less than 5%, shall be permitted to appropriate the  
40 difference between the amount of its actual final appropriations or  
41 county tax levy [under] and the 5% percentage rate, as an exception  
42 to its final appropriations or county tax levy in either of the next two  
43 succeeding years. In the year immediately following the year in which  
44 the amount of difference is so appropriated, the amount of difference  
45 shall be added to the final appropriations or county tax levy of the

1 preceding year for the purposes of section 2 of P.L.1976, c.68  
2 (C.40A:4-45.2).  
3 (cf: P.L.1994, c.100, s.2.)  
4

5 10. Section 5 of P.L.2003, c.108 (C. 40A:4-45.43) is amended to  
6 read as follows:

7 5. In addition to the exceptions to the limits on increases [to  
8 municipal appropriations set forth in section 3 of P.L.1976, c.68  
9 (C.40A:4-45.3) and] to the county tax levy set forth in section 4 of  
10 P.L.1976, c.68 (C.40A:4-45.4), appropriations that represent  
11 expenditures made by a [municipality or] county for the purpose of  
12 funding normal and accrued liability contributions to the Public  
13 Employees' Retirement System of New Jersey due in the State fiscal  
14 years 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09, or to the  
15 Police and Firemen's Retirement System due in the State fiscal years  
16 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08, shall be exempt  
17 from the limits on increases [to municipal appropriations and to the  
18 limits on increases] to the county tax levy in county budgets[,  
19 respectively,] for the local budget year in which those contributions  
20 are due.

21 (cf: P.L.2003, c.108, s.5)

22

23 11. This act shall take effect immediately.

24

25

26

#### STATEMENT

27

28 The local budget cap law, P.L.1976, c.68 (C.40A:4-45.1 et seq.),  
29 currently limits, with certain exceptions, the amount of annual increase  
30 in municipal and county appropriations to 5% of the previous year's  
31 final appropriations, or the index rate, whichever is less. However,  
32 whenever the index rate is less than 5%, the governing body of the  
33 municipality or county may, by ordinance or resolution as appropriate,  
34 increase its appropriations by up to 5%. Furthermore, whenever the  
35 index rate is higher than 5%, the local governing body may adopt an  
36 ordinance or resolution to increase its appropriations by a percentage  
37 higher than 5%, but not above the index rate. Any increases above  
38 those allowed under the statutes require local voter approval through  
39 a referendum.

40 This bill amends the existing requirements to lower the budget cap  
41 limits to 2.5% or the index rate, whichever is less. Additionally, this  
42 bill allows a municipality, by ordinance, to increase its appropriations  
43 by up to 3.5% whenever the index rate is equal to or less than 2.5%.  
44 A county may adopt a resolution to increase its appropriations by up  
45 to 5% whenever the index rate is less than 5%. This bill eliminates the  
46 option to match an index rate greater than 5% by ordinance or

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15

1 resolution, but does not alter the option of adopting higher increases  
2 through a referendum.

3 This bill amends various sections of the statutory law to make them  
4 consistent with the budget limits proposed, including the cap banking  
5 provisions. Additionally, this bill eliminates certain exceptions to the  
6 municipal budget cap and creates one additional exception.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 98**

# **STATE OF NEW JERSEY**

DATED: JUNE 17, 2004

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 98.

This Assembly committee substitute amends various sections of the local budget cap law, P.L.1976, c.68 (C.40A:4-45.1 et seq.), to establish lower limits for yearly increases in municipal and county appropriations. The intent of this committee substitute is to freeze, with certain limited exceptions, the amount of annual increase in municipal and county appropriations at 2.5% of the previous year's final appropriations, or at the cost-of-living adjustment, whichever is less.

Under current law, the amount of annual appropriations increase over the previous year's final appropriations is limited to 5% or the index rate, whichever is less, with certain exceptions. However, whenever the index rate is less than 5%, current law allows the governing body of the municipality or county to increase its appropriations up to the 5% rate by adoption of an ordinance or resolution, as appropriate. Whenever the index rate is higher than 5%, the local governing body may increase its appropriations by a percentage higher than 5%, but not above the index rate. Any increases above those allowed under the current statutes require local voter approval through a referendum.

This Assembly committee substitute lowers the budget cap limits to 2.5% or the cost-of-living adjustment, whichever is less. Additionally, this committee substitute allows municipalities and counties, by ordinance or resolution, as appropriate, to increase appropriations by up to 3.5% whenever the cost-of-living adjustment is equal to or less than 2.5%. This committee substitute eliminates the option to match the index rate through an ordinance or resolution, as appropriate, whenever it is greater than the statutory cap rate, but does not alter the option of adopting higher increases through a referendum. The committee substitute also replaces the term, "index rate" with the term, "cost-of-living adjustment" in the local budget cap law.

This Assembly committee substitute also amends various sections of the statutory law to make them consistent with the budget limits

proposed, including the cap banking provisions. Additionally, this committee substitute eliminates certain exceptions to the municipal and county budget cap.

FISCAL IMPACT:

This substitute has no impact on State revenues or expenditures. At this time, the Executive branch has not provided any information concerning the fiscal impact of the provisions of this bill on local governments.