

40A:4-26; Notes to 40A:2-51 et al.
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2020 **CHAPTER:** 74

NJSA: 40A:4-26; Notes to 40A:2-51 et al. (Authorizes the issuance of "coronavirus relief bonds" by municipalities and counties.)

BILL NO: A3971 (Substituted for S2475)

SPONSOR(S) Daniel R. Benson and others

DATE INTRODUCED: 5/4/2020

COMMITTEE: **ASSEMBLY:** Commerce & Economic Development

SENATE: Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 8/27/2020

SENATE: 8/27/2020

DATE OF APPROVAL: 8/31/2020

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

A3971

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

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

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2475

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

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

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: Yes (Conditional)

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"NJ towns, counties can now borrow to cover coronavirus costs." The Jersey Journal (Jersey City, NJ), September 2, 2020: 006.

"Gov. Murphy signs 'Overdose Awareness Day' resolution during COVID-19 health emergency." The Trentonian (Trenton, NJ), September 2, 2020.

RWH/CL

P.L. 2020, CHAPTER 74, *approved August 31, 2020*
Assembly, No. 3971 (*Second Reprint*)

1 AN ACT authorizing local units to issue coronavirus relief bonds
2 ²and amending various parts of the statutory law².

3

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

6

7 ²[1. a. (1) A local unit that requires moneys because of a loss
8 of revenue, unanticipated expenses, or both, which are directly
9 attributable to the COVID-19 pandemic may incur indebtedness,
10 borrow money, and authorize and issue bonds, entitled "coronavirus
11 relief bonds," in accordance with provisions governing refunding
12 bonds under the "Local Bond Law," N.J.S.40A:2-1 et seq., except
13 as otherwise provided in this act.

14 (2) A local unit shall authorize issuance of coronavirus relief
15 bonds by adoption of a refunding bond ordinance in the manner
16 prescribed for adoption of a bond ordinance, except that:

17 (a) no down payment shall be required; and

18 (b) Local Finance Board approval shall not be required, and the
19 provisions of subsection c. of N.J.S.40A:2-53, and of N.J.S.40A:2-
20 55, N.J.S.40A:2-56, and N.J.S.40A:2-57 shall not apply, unless:

21 (i) the local unit seeks to issue ¹**[debt]** bonds in an amount¹ that
22 exceeds ¹**[20%]** 30%¹ of the local unit's prior year budget; or

23 (ii) the local unit seeks to issue bonds with a longer repayment
24 term than otherwise permitted in this act.

25 (3) Coronavirus relief bonds shall be payable from, and secured
26 by a pledge of, ¹**[unlimited]**¹ ad valorem taxes ¹levied upon all the
27 taxable property within the local unit without limitation as to rate or
28 amount¹.

29 (4) In addition to the procedures for adoption of a bond
30 ordinance required under N.J.S.40A:2-17, after introduction and
31 first reading of a ¹refunding¹ bond ordinance authorizing the
32 issuance of coronavirus relief bonds, and at least one week prior to
33 the date for further consideration thereof, the local unit shall
34 prominently display on the home page of the local unit's website
35 the introduced ¹refunding¹ bond ordinance together with a summary
36 thereof, the notice of the introduction thereof, and of the date, time,
37 and place of further consideration for final passage.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACE committee amendments adopted May 7, 2020.

²Assembly amendments adopted in accordance with Governor's recommendations August 24, 2020.

1 (5) A ¹refunding¹ bond ordinance authorizing issuance of
2 coronavirus relief bonds may provide for the capitalization of the
3 interest thereon.

4 ¹[(6) A bond ordinance authorizing issuance of
5 coronavirus relief bonds shall provide that bonds and notes issued
6 under this act may be paid in full prior to full maturity without
7 incurring a penalty for early repayment.]¹

8 b. (1) Prior to authorizing the issuance of coronavirus relief
9 bonds, a local unit shall ¹[thoroughly investigate, and]¹ apply for
10 ¹[.]¹ financial assistance that may be available to the local unit
11 from the federal government, the State, and other sources to address
12 revenue shortfalls and expenditures due to the COVID-19 pandemic
13 ¹, if any¹.

14 (2) The total amount of coronavirus relief bonds that a local unit
15 may issue shall not exceed, after subtracting all amounts of
16 assistance ¹[anticipated by, available to, or]¹ provided to, the local
17 unit from the federal government, the State, and other sources to
18 address revenue shortfalls and expenditures due to the COVID-19
19 pandemic:

20 (a) the amount of lost or delayed tax and other revenues
21 experienced by the local unit due to the public health hazard created
22 by COVID-19 prior to the end of the 24th month next following the
23 end of the Public Health Emergency and State of Emergency
24 declared in the State of New Jersey due to the public health hazard
25 created by COVID-19, and

26 (b) the amount of unanticipated expenses that are incurred by
27 the local unit due to the public health hazard created by COVID-19
28 prior to the end of the 24th month next following the end of the
29 Public Health Emergency and State of Emergency declared in the
30 State of New Jersey due to the public health hazard created by
31 COVID-19.

32 c. ¹[The] In addition to the amount determined pursuant to
33 paragraph (2) of subsection b. of this section, the¹ total amount of
34 coronavirus relief bonds that a local unit may issue under
35 subsection b. of this section shall not exceed an amount that ¹[is the
36 lesser of:

37 (1) an amount that]¹ will ¹[not]¹ cause the local unit to exceed
38 its net debt limitation under N.J.S.40A:2-6, unless otherwise
39 permitted by subsection d. of N.J.S.40A:2-7 ¹[; or

40 (2) an amount that will not cause the local unit to exceed the
41 maximum amount of tax anticipation notes the local unit may issue
42 under N.J.S.40A:4-66]¹.

43 d. (1) A local unit may use the proceeds from the sale and
44 issuance of coronavirus relief bonds to address a revenue shortfall
45 experienced by the local unit which is directly attributable to the
46 COVID-19 pandemic and which occurred prior to the end of the
47 24th month next following the end of the Public Health Emergency

1 and State of Emergency declared in the State of New Jersey due to
2 the public health hazard created by COVID-19.

3 (2) A local unit may use the proceeds from the sale and issuance
4 of coronavirus relief bonds to cover the costs of unanticipated
5 expenses that are directly attributable to the COVID-19 pandemic,
6 and which were incurred by the local unit prior to the end of the
7 24th month next following the end of the Public Health Emergency
8 and State of Emergency declared in the State of New Jersey due to
9 the public health hazard created by COVID-19.

10 e. A local unit may, in anticipation of the issuance of
11 coronavirus relief bonds, borrow money and issue negotiable notes
12 from time to time, at public or private sale and may, from time to
13 time, renew these notes in accordance with the provisions of section
14 11 of P.L.2003, c.15 (C.40A:2-8.1), however, notwithstanding that
15 provision of law, a note issued in anticipation of the issuance of
16 coronavirus relief bonds may be issued for a period not exceeding
17 two years.

18 f. ¹~~["A coronavirus"]~~ Coronavirus¹ relief ¹~~["bond"]~~ bonds¹, or ¹~~["a~~
19 ~~note"]~~ notes¹ in anticipation thereof, shall be initially issued ¹~~in one~~
20 ~~or more series~~¹ prior to the end of the 24th month next following
21 the end of the Public Health Emergency and State of Emergency
22 declared in the State of New Jersey due to the public health hazard
23 created by COVID-19.

24 g. Final maturity of a coronavirus relief bond shall occur no
25 more than ten years from the initial issuance of the bond ¹~~["or the~~
26 ~~initial issuance of a note in anticipation thereof"]~~¹, however, a local
27 unit may apply to the Local Finance Board for a longer repayment
28 term. If the local unit demonstrates a need for a longer repayment
29 term to the satisfaction of the Local Finance Board, the board may
30 authorize a longer repayment term. The maturity schedule may
31 include a combination of notes and bonds ¹, and such bonds shall
32 mature in amounts, each¹ as deemed appropriate by the local unit.

33 h. The Local Finance Board shall render a decision on an
34 application for approval submitted to it pursuant to this act within
35 45 days of the submission of a complete application to the board,
36 and failure of the board to do so shall result in an approval of the
37 application.

38 i. The Division of Local Government Services may issue
39 guidelines necessary or appropriate to implement the provisions of
40 this act.

41 ¹To the extent any provision governing refunding bonds under
42 the "Local Bond Law," N.J.S.40A:2-1 et seq., conflicts with the
43 provisions of this act, the provisions of this act shall govern.

44 k. A county improvement authority may exercise its purpose and
45 power under sections 11 and 12 of P.L.1960, c.183 (C.40:37A-54
46 and C.40:37A-55) to pool loans for local governmental units within

1 the county or any beneficiary county that are refunding bonds for
2 the pooling of coronavirus relief bonds.¹²

3

4 ²1. N.J.S.40A:4-26 is amended to read as follows:

5 a. No miscellaneous revenues from any source shall be
6 included as an anticipated revenue in the budget in an amount in
7 excess of the amount actually realized in cash from the same
8 source during the next preceding fiscal year, unless the director
9 shall determine upon application by the governing body that the
10 facts clearly warrant the expectation that such excess amount will
11 actually be realized in cash during the fiscal year and shall certify
12 such determination, in writing, to the local unit.

13 b. Notwithstanding the provisions of subsection a. to the
14 contrary, when a public health emergency pursuant to the
15 “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et
16 seq.), or a state of emergency, pursuant to P.L.1942, c.251
17 (C.App.A.9-33 et seq.), or both, has been declared by the Governor
18 in response to COVID-19, the Director of the Division of Local
19 Government Services may promulgate general guidance modifying
20 the standard for anticipated revenues when the amount realized in
21 cash from the same source during the next preceding fiscal year
22 experienced reductions due to COVID-19.

23 As used in this subsection, “COVID-19” means the coronavirus
24 disease 2019, as announced by the World Health Organization on
25 February 11, 2020, and first identified in Wuhan, China.²
26 (cf: N.J.S.40A:4-26)

27

28 ²2. N.J.S.40A:4-53 is amended to read as follows:

29 40A:4-53. A local unit may adopt an ordinance authorizing
30 special emergency appropriations for the carrying out of any of the
31 following purposes:

32 a. Preparation of an approved tax map.

33 b. Preparation and execution of a complete program of
34 revaluation of real property for the use of the local assessor, or of
35 any program to update and make current any previous revaluation
36 program when such is ordered by the county board of taxation.

37 c. Preparation of a revision and codification of its ordinances.

38 d. Engagement of special consultants for the preparation, and
39 the preparation of a master plan or plans, when required to conform
40 to the planning laws of the State.

41 e. Preparation of drainage maps for flood control purposes.

42 f. Preliminary engineering studies and planning necessary for
43 the installation and construction of a sanitary sewer system.

44 g. Authorized expenses of a consolidation commission
45 established pursuant to the "Municipal Consolidation Act,"
46 P.L.1977, c.435 (C.40:43-66.35 et seq.) or sections 25 through 29 of
47 the "Uniform Shared Services and Consolidation Act," P.L.2007,
48 c.63 (C.40A:65-25 through C.40A:65-29).

1 h. Contractually required severance liabilities resulting from
2 the layoff or retirement of employees. Such liabilities shall be paid
3 without interest and, at the sole discretion of the local unit, may be
4 paid in equal annual installments over a period not to exceed five
5 years.

6 i. Preparation of a sanitary or storm system map.

7 j. Liabilities incurred to the Department of Labor and
8 Workforce Development for the reimbursement of unemployment
9 benefits paid to former employees.

10 k. Subject to approval by the Director of the Division of Local
11 Government Services, non-recurring expenses incurred by a
12 municipality to implement a consolidation with another
13 municipality, or municipalities, pursuant to the "Municipal
14 Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.); the
15 sparsely populated municipalities law, P.L.1995, c.376 (C.40:43-
16 66.78 et seq.); sections 25 through 29 of the "Uniform Shared
17 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-25
18 through C.40A:65-29); or N.J.S.40A:7-1 et seq., in the case of a
19 consolidation effectuated through the annexation of land comprising
20 an entire municipality or entire municipalities, to another
21 municipality. The director shall approve the ordinance if he or she
22 determines that the non-recurring expenses are reasonable and
23 permissible by law and that the consolidation will result in long-
24 term savings for the municipality.

25 A copy of all ordinances or resolutions as adopted relating to
26 special emergency appropriations shall be filed with the director.

27 l. The immediate preparation, response, recovery, and
28 restoration of public services during such time as a public health
29 emergency, pursuant to the "Emergency Health Powers Act,"
30 P.L.2005, c.222 (C.26:13-1 et seq.), declared in response to
31 COVID-19 remains in effect.

32 m. Notwithstanding the provisions of any law or regulation to
33 the contrary, a deficit in prior year operations experienced by any
34 municipality, utility, or enterprise during, or in the fiscal year
35 immediately following, a fiscal year in which a public health
36 emergency pursuant to the "Emergency Health Powers Act,"
37 P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency,
38 pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, has
39 been declared by the Governor in response to COVID 19, the
40 adoption of which shall be subject to approval of the Director. The
41 deficit in operations shall be certified by the chief financial officer
42 of the local unit to be directly attributable to COVID-19. The local
43 unit shall apply for any financial assistance that may be available to
44 the local unit from the federal government, the State, and other
45 sources to offset any operating deficit directly attributable to
46 COVID-19, and any such financial assistance obtained by the local
47 unit shall be utilized to offset any operating deficit. The chief
48 financial officer of a local unit seeking approval pursuant to this

1 subsection shall submit a certification approved by a majority vote
2 of the full governing body. The director shall provide a form,
3 application, schedule and process for review, approval or denial,
4 and reconsideration of the application.

5 The director shall approve or deny, in writing, any application
6 submitted pursuant to this subsection within 45 days, or the next
7 business day following the 45th day if the 45th day falls on a
8 Saturday, Sunday, or holiday. If a written decision is not rendered
9 within this time period, the application shall be deemed to be
10 approved, and the local unit may proceed to adopt the appropriate
11 resolution or ordinance. If an application is denied, the local unit
12 may resubmit the application with such changes as the local unit
13 deems appropriate, with submission and review subject to the same
14 procedures set forth in this subsection.

15 As used in this subsection, "Deficit in operations" means a
16 deficit balance reported on a local unit's "Results of Operation"
17 schedule of the annual financial statement.

18 As used in subsections l. and m., "COVID-19" means the
19 coronavirus disease 2019, as announced by the World Health
20 Organization on February 11, 2020, and first identified in Wuhan,
21 China.²

22 (cf: P.L.2017, c.101, s.1)

23

24 ²3. N.J.S.40A:4-55 is amended to read as follows:

25 After the adoption of an ordinance or resolution for special
26 emergency appropriations, the local unit shall by 2/3 vote of the
27 full governing body adopt a resolution setting forth:

28 a. The amount appropriated.

29 b. (1) Provision for the borrowing of money and the issuance
30 of "Special Emergency Notes" which may be renewed from time
31 to time, but at least 1/5 of all such notes, and the renewals thereof,
32 shall mature and be paid in each year, so that all notes and renewals
33 shall have matured and have been paid not later than the last day of
34 the fifth year following the date of the emergency resolution.

35 (2) In the case of special emergency appropriations authorized
36 pursuant to subsection m. of N.J.S.40A:4-53, a local unit shall
37 appropriate one-fifth (1/5) of the portion of the special emergency
38 directly attributable to COVID-19 in each year beginning in the
39 year after the year in which the resulting deferred charge appears in
40 the local unit's unaudited annual financial statement, such that, for
41 example, a deferred charge included in the 2021 unaudited annual
42 financial statement would have its first one-fifth (1/5) appropriation
43 in the 2022 budget, with the final one-fifth (1/5) portion of the
44 special emergency fully appropriated by no later than the last day of
45 the sixth fiscal year following the end of the fiscal year that is the
46 subject of the application. If a local unit's application for
47 certification of the special emergency under subsection m. of
48 N.J.S.40A:4-53 demonstrates that full appropriation of the COVID-

1 19 related special emergency appropriation by the last day of the
2 sixth fiscal year will cause significant fiscal distress, including, but
3 not limited to, if it would directly cause an increase in the tax levy
4 greater than 2%, an increase of greater than \$50 per average
5 assessed home in each year deferred charges appear in the local
6 unit's budget, or in the case of a utility, at least a 5% increase in
7 user fees or charges, the Local Finance Board may permit the local
8 unit to extend the repayment period up to a total of ten years on a
9 schedule determined by the Board.

10 (3) A local unit shall not borrow moneys under this section that
11 may be considered duplicative of financial assistance provided to
12 the local unit from the federal government, the State, or other
13 sources, to address the COVID-19 deficit in operations or COVID-
14 19 emergency appropriations. As used in this section, "COVID 19"
15 means the coronavirus disease 2019, as announced by the World
16 Health Organization on February 11, 2020, and first identified in
17 Wuhan, China.

18 The provisions of this chapter relating to tax anticipation notes
19 shall apply to special emergency notes.

20 c. A local unit may finance such appropriation from surplus
21 funds available or borrow money in the manner prescribed above.
22 Where any appropriation is financed from surplus funds available,
23 at least 1/5 of the amount thereof shall be included in each
24 annual budget until the appropriation has been fully provided for.
25 In the case of special emergency appropriations authorized pursuant
26 to subsection m. of N.J.S.40A:4-53, a local unit shall appropriate
27 one-fifth (1/5) of the portion of the special emergency directly
28 attributable to COVID-19 in each year beginning in the year after
29 the year in which the resulting deferred charge appears in the local
30 unit's unaudited annual financial statement, such that, for example,
31 a deferred charge included in the 2021 unaudited annual financial
32 statement would have its first one-fifth (1/5) appropriation in the
33 2022 budget, with the final one-fifth (1/5) portion of the special
34 emergency fully appropriated by no later than the last day of the
35 sixth fiscal year following the end of the fiscal year that is the
36 subject of the application. If a local unit's application for
37 certification of the special emergency under subsection m. of
38 N.J.S.40A:4-53 demonstrates that full appropriation of the COVID-
39 19 related special emergency appropriation by the last day of the
40 sixth fiscal year will cause significant fiscal distress, including, but
41 not limited to, if it would directly cause an increase in the tax levy
42 greater than 2%, an increase of greater than \$50 per average
43 assessed home in each year deferred charges appear in the local
44 unit's budget, or in the case of a utility, at least a 5% increase in
45 user fees or charges, the Local Finance Board may permit the local
46 unit to extend the repayment period up to a total of ten years on a
47 schedule determined by the Board.²

48 (cf: N.J.S.40A:4-55)

1 ²4. N.J.S.40A:4-78 is amended to read as follows:

2 40A:4-78. a. If the director finds that all requirements of law
3 and of the regulations of the local government board have been
4 met, he shall approve the budget, otherwise he shall refuse to
5 approve it.

6 The director, in refusing to approve a budget, shall not substitute
7 his discretion with respect to the amount of an appropriation when
8 such amount is not made mandatory because of the requirements of
9 law.

10 b. Notwithstanding the provisions of N.J.S.40A:4-10 and
11 N.J.S.40A:4-76 through 40A:4-79, the Local Finance Board is
12 authorized to adopt rules, pursuant to the "Administrative Procedure
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain
14 municipalities from the requirement that the director approve their
15 annual budgets and to provide instead for a system of local
16 examination and approval of such budgets by municipal officials,
17 provided that:

18 (1) the director finds that such municipalities are fiscally sound
19 and that their fiscal practices are conducted in accordance with law
20 and sound administrative practice;

21 (2) the director shall examine the budgets of such municipalities
22 in accordance with the provisions of N.J.S.40A:4-10 and
23 N.J.S.40A:4-76 through 40A:4-79, at least every third year;

24 (3) the governing body and chief financial officer of each such
25 municipality shall each file a certification with the director stating
26 that, with reference to the adopted budget of the municipality, they
27 have:

28 (a) examined the budget in the manner prescribed under
29 N.J.S.40A:4-76;

30 (b) determined that the budget complies with the requirements
31 set forth in N.J.S.40A:4-77; and

32 (c) determined that the budget complies with all other
33 provisions of law, including, but not limited to, the "Local Budget
34 Law," N.J.S.40A:4-1 et seq., P.L.1976, c.68 (C.40A:4-45.1 et seq.),
35 and the regulations of the Local Finance Board;

36 (4) all budget documents required by law or the regulations
37 adopted by the Local Finance Board shall be filed with the director
38 on a timely basis;

39 (5) other criteria and responsibilities as established by the
40 regulations adopted by the Local Finance Board are met.

41 c. The director shall act to require immediate compliance with
42 the "Local Budget Law," N.J.S.40A:4-1 et seq., if the director finds
43 that any such exemption impairs the fiscal integrity or solvency of
44 any such municipality. Any appeal of a governing body's action in
45 adopting an annual budget shall be made to the director.

46 d. If a municipality has received approval for a special
47 emergency appropriation pursuant to subsection m. of N.J.S.40A:4-
48 53, that municipality shall not be eligible for local examination and

1 approval pursuant to subsection b. of this section until the fiscal
2 year after the final appropriation is made.²

3 (cf: P.L.1996, c.113, s.13)

4
5 ²5. (New section) Notwithstanding the provisions of
6 N.J.S.40A:2-51 to the contrary, a local unit may incur indebtedness,
7 borrow money, and authorize and issue negotiable refunding bonds,
8 in any amount determined to be necessary by the local unit and
9 approved by the Local Finance Board to effect a refunding for the
10 purpose of repaying a Federal Emergency Management Agency
11 Community Disaster Loan for which the local unit executed a
12 promissory note in 2013 under the authority of section 5 of
13 P.L.1951, c.72 (C.App.A:9-62), in addition to the other purposes for
14 which it may do the same under N.J.S.40A:2-51.²

15
16 ²6. Section 2 of P.L.1969, c.130 (C.18A:24-61.2) is amended to
17 read as follows:

18 2. Notwithstanding the provisions of any other law or any debt
19 limitation or requirement for down payment or for referendum or
20 other action by legal voters, refunding bonds may be authorized and
21 issued for the purpose of paying, funding or refunding: any
22 refunded bonds; the cost of retiring the present value of the
23 unfunded accrued liability due and owing by a board of education,
24 as calculated by the system actuary for a date certain upon the
25 request of a board of education, for early retirement incentive
26 benefits granted by the board of education pursuant to P.L.1991,
27 c.231, P.L.1993, c.163 and P.L.2003, c.129; the repayment of a
28 Federal Emergency Management Agency Community Disaster Loan
29 for which the board of education executed a promissory note in
30 2013 under the authority of section 5 of P.L.1951, c.72 (C.App.A:9-
31 62); the cost of COVID-19 expenditures incurred for immediate
32 preparation, response, recovery, and restoration of public services,
33 for a period not to exceed five years; and the cost or expense of
34 issuing refunding bonds including printing, advertising, accounting,
35 financial, legal or other expense in connection therewith.
36 Obligations to be paid, funded or refunded with respect to which an
37 ordinance authorizing the issuance of refunding bonds has been
38 adopted pursuant to this act and not otherwise deductible shall be
39 excluded in calculating the net school debt of a municipality or a
40 district. Refunding bonds shall be authorized (a) in the case of any
41 county or municipality by a refunding bond ordinance enacted in
42 the manner or mode of procedure provided for adoption of a
43 refunding bond ordinance pursuant to the Local Bond Law,
44 constituting chapter 2 of Title 40A, Municipalities and Counties, of
45 the New Jersey Statutes, and (b) in the case of a Type II school
46 district by an ordinance (herein called the "refunding bond
47 ordinance") adopted by the board of education of such school
48 district as provided in this chapter. As used in this section,

1 “COVID-19” means the coronavirus disease 2019, as announced by
2 the World Health Organization on February 11, 2020, and first
3 identified in Wuhan, China.²

4 (cf: P.L.2003, c.129, s.12)

5
6 ²7. Section 6 of P.L.1983, c.313 (C.40A:5A-6) is amended to
7 read as follows:

8 6. Prior to the adoption of a bond resolution by an authority, or
9 the adoption of an ordinance or resolution of a local unit or units
10 authorizing a service contract that is part of a project financing, the
11 proposed project financing shall be submitted to the Local Finance
12 Board for its review. The Local Finance Board may adopt rules and
13 regulations, pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), to permit project financing to
15 proceed without such application and review if the project financing
16 is a refunding that will result in debt service savings on outstanding
17 bond debt. The Local Finance Board shall, in the course of its
18 review, give consideration to:

19 a. The nature, purpose, and scope of the proposed project
20 financing;

21 b. The engineering and feasibility studies prepared in
22 connection therewith;

23 c. The terms and provisions of the proposed service contracts,
24 bond resolutions and, in the instance of a negotiated offering, the
25 proposed or maximum terms and conditions of sale;

26 d. An estimate of the proposed or maximum schedule of debt
27 service payments required, and the impact thereof on the budget and
28 financial condition of the authority and of the local unit;

29 e. The estimate of the annual cost of operating and maintaining
30 the project as set forth in the engineering report or feasibility
31 studies; and

32 f. The initial rate, rent, fee, or charge schedule proposed by the
33 authority, or any other proposed method of raising the amounts
34 required to finance the operations and payments of debt service on
35 the obligations of the authority.

36 Notwithstanding any other provision of law to the contrary, an
37 authority may, upon application to, and review and approval by, the
38 Local Finance Board, incur indebtedness, borrow money, and
39 authorize and issue negotiable refunding bonds to cover the cost of
40 COVID-19 expenditures incurred for immediate preparation,
41 response, recovery, and restoration of public services for a period
42 not to exceed five years. As used herein, “COVID-19” means the
43 coronavirus disease 2019, as announced by the World Health
44 Organization on February 11, 2020, and first identified in Wuhan,
45 China.

46 The Local Finance Board may examine the estimates,
47 computations or calculations made in connection with the
48 submission, may require the production of papers, documents,

1 witnesses or information, may make or cause to be made an audit or
2 investigation and may take any other action which it may deem
3 necessary to its review of the submission.²

4 (cf: P.L.2015, c.95, s.17)

5
6 ²8. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
7 read as follows:

8 11. a. The purposes of every authority shall be (a) provision
9 within the county or any beneficiary county of public facilities for
10 use by the State, the county or any beneficiary county, or any
11 municipality in any such county, or any two or more or any
12 subdivisions, departments, agencies or instrumentalities of any of
13 the foregoing for any of their respective governmental purposes, (b)
14 provision within the county or any beneficiary county of public
15 facilities for use as convention halls, or the rehabilitation,
16 improvement or enlargement of any convention hall, including
17 appropriate and desirable appurtenances located within the
18 convention hall or near, adjacent to or over it within boundaries
19 determined at the discretion of the authority, including but not
20 limited to office facilities, commercial facilities, community service
21 facilities, parking facilities, hotel facilities and other facilities for
22 the accommodation and entertainment of tourists and visitors, (c)
23 provision within the county or any beneficiary county of structures,
24 franchises, equipment and facilities for operation of public
25 transportation or for terminal purposes, including development and
26 improvement of port terminal structures, facilities and equipment
27 for public use in counties in, along or through which a navigable
28 river flows, (d) provision within the county or any beneficiary
29 county of structures or other facilities used or operated by the
30 authority or any governmental unit in connection with, or relative to
31 development and improvement of, aviation for military or civilian
32 purposes, including research in connection therewith, and including
33 structures or other facilities for the accommodation of passengers,
34 (e) provision within the county or any beneficiary county of a
35 public facility for a combination of governmental and
36 nongovernmental uses; provided that not more than 50% of the
37 usable space in any such facility shall be made available for
38 nongovernmental use under a lease or other agreement by or with
39 the authority, (f) acquisition of any real property within the county
40 or any beneficiary county, with or without the improvements
41 thereof or thereon or personal property appurtenant or incidental
42 thereto, from the United States of America or any department,
43 agency or instrumentality heretofore or hereafter created,
44 designated or established by or for it, and the clearance,
45 development or redevelopment, improvement, use or disposition of
46 the acquired lands and premises in accordance with the provisions
47 and for the purposes stated in this act, including the construction,
48 reconstruction, demolition, rehabilitation, conversion, repair or

1 alteration of improvements on or to said lands and premises, and
2 structures and facilities incidental to the foregoing as may be
3 necessary, convenient or desirable, (g) acquisition, construction,
4 maintenance and operation of garbage and solid waste disposal
5 systems for the purpose of collecting and disposing of garbage,
6 solid waste or refuse matter, whether owned or operated by any
7 person, the authority or any other governmental unit, within or
8 without the county or any beneficiary county, (h) the improvement,
9 furtherance and promotion of the tourist industries and recreational
10 attractiveness of the county or any beneficiary county through the
11 planning, acquisition, construction, improvement, maintenance and
12 operation of facilities for the recreation and entertainment of the
13 public, which facilities may include, without being limited to, a
14 center for the performing and visual arts, (i) provision of loans and
15 other financial assistance and technical assistance for the
16 construction, reconstruction, demolition, rehabilitation, conversion,
17 repair or alteration of buildings or facilities designed to provide
18 decent, safe and sanitary dwelling units for persons of low and
19 moderate income in need of housing, including the acquisition of
20 land, equipment or other real or personal properties which the
21 authority determines to be necessary, convenient or desirable
22 appurtenances, all in accordance with the provisions of this act, as
23 amended and supplemented, (j) planning, initiating and carrying out
24 redevelopment projects for the elimination, and for the prevention
25 of the development or spread of blighted, deteriorated or
26 deteriorating areas and the disposition, for uses in accordance with
27 the objectives of the redevelopment project, of any property or part
28 thereof acquired in the area of such project, (k) any combination or
29 combinations of the foregoing or following, and (l) subject to the
30 prior approval of the Local Finance Board, the planning, design,
31 acquisition, construction, improvement, renovation, installation,
32 maintenance and operation of facilities or any other type of real or
33 personal property within the county for a corporation or other
34 person organized for any one or more of the purposes described in
35 subsection a. of N.J.S.15A:2-1 except those facilities or any other
36 type of real or personal property which can be financed pursuant to
37 the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A
38 county improvement authority shall also have as its purpose the
39 pooling of loans for any local governmental units within the county
40 or any beneficiary county that are refunding bonds in order to
41 achieve more favorable interest rates and terms for those local
42 governmental units.

43 b. In a fiscal year in which a public health emergency, pursuant
44 to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1
45 et seq.), a state of emergency, pursuant to P.L.1942, c.251
46 (C.App.A.9-33 et seq.), or both has been declared by the Governor
47 in response to COVID-19 and during the next following fiscal year,
48 a county improvement authority shall also have as its purpose the

1 pooling of special emergency notes issued by the county or any
2 beneficiary county, or by any local governmental unit within the
3 county or any beneficiary county, pursuant to N.J.S.40A:4-55 for
4 purposes of financing a special emergency appropriation authorized
5 for the purpose set forth in subsections l. and m. of N.J.S.40A:4-
6 53.²
7 (cf: P.L.2002, c.42, s.8)
8

9 ²⁹. Section 37 of P.L.1960, c.183 (C.40:37A-80) is amended to
10 read as follows:

11 37. a. For the purpose of aiding an authority in the planning,
12 undertaking, acquisition, construction, financing or operation of any
13 facility which the authority is authorized to undertake pursuant to
14 section 11 of P.L.1960, c.183 (C.40:37A-54), the county or any
15 beneficiary county may, pursuant to resolution duly adopted by its
16 governing body, or any municipality in the county or beneficiary
17 county may, by ordinance of its governing body, in the manner
18 provided for adoption of a bond ordinance as provided in the local
19 bond law and with or without consideration and upon such terms
20 and conditions as may be agreed to by and between the county or
21 beneficiary county or the municipality and the authority,
22 unconditionally guarantee the punctual payment of the principal of
23 and interest on any bonds of the authority. Any guaranty of bonds
24 of an authority made pursuant to this section shall be evidenced by
25 endorsement thereof on such bonds, executed in the name of the
26 county or beneficiary county or the municipality and on its behalf
27 by such officer thereof as may be designated in the resolution or
28 ordinance authorizing such guaranty, and such county or
29 municipality shall thereupon and thereafter be obligated to pay the
30 principal of and interest on said bonds in the same manner and to
31 the same extent as in the case of bonds issued by it. Any such
32 guaranty of bonds of an authority may be made, and any resolution
33 authorizing such guaranty may be adopted, notwithstanding any
34 statutory debt or other limitations, including particularly any
35 limitation or requirement under or pursuant to the local bond law,
36 but the principal amount of bonds so guaranteed, shall, after their
37 issuance, be included in the gross debt of such county or
38 municipality for the purpose of determining the indebtedness of
39 such county or municipality under or pursuant to the local bond
40 law. The principal amount of said bonds so guaranteed and
41 included in gross debt shall be deducted and is hereby declared to
42 be and to constitute a deduction from such gross debt under and for
43 all the purposes of said local bond law (a) from and after the time of
44 issuance of said bonds until the end of the fiscal year beginning
45 next after the completion of acquisition or construction of the
46 facility to be financed from the proceeds of such bonds and (b) in
47 any annual debt statement filed pursuant to said local bond law as
48 of the end of said fiscal year or any subsequent fiscal year if the

1 revenues or other receipts or moneys of the authority in such year
2 are sufficient to pay its expenses of operation and maintenance in
3 such year and all amounts payable in such year on account of the
4 principal and interest on all such guaranteed bonds, all bonds of any
5 such county or any municipality issued as provided in section 36 of
6 P.L.1960, c.183 (C.40:37A-79), and all bonds of the authority
7 issued under this act.

8 b. For the purpose of aiding an authority in the issuance of
9 bonds pursuant to subsection b. of section 11 of P.L.1960, c.183
10 (C.40:37A-54), the county or any beneficiary county may, pursuant
11 to a resolution duly adopted by its governing body, unconditionally
12 guarantee the punctual payment of the principal of and interest on
13 any bonds of the authority issued for purposes of the pooling of
14 notes issued pursuant to subsection b. of N.J.S.40A:4-55. Any
15 guaranty of bonds of an authority made pursuant to this subsection
16 shall be evidenced by endorsement thereof on such bonds, executed
17 in the name of the county or beneficiary county and on its behalf by
18 such officer thereof as may be designated in the resolution or
19 ordinance authorizing such guaranty, and such county shall
20 thereupon and thereafter be obligated to pay the principal of and
21 interest on said bonds in the same manner and to the same extent as
22 in the case of bonds issued by it. Any such guaranty of bonds of an
23 authority may be made, and any resolution authorizing such
24 guaranty may be adopted, notwithstanding any statutory debt or
25 other limitations, including particularly any limitation or
26 requirement under or pursuant to the local bond law, but the
27 principal amount of bonds so guaranteed, shall, after their issuance,
28 be included in the gross debt of such county for the purpose of
29 determining the indebtedness of such county under or pursuant to
30 the local bond law. The principal amount of the notes guaranteed
31 and included in gross debt pursuant to this subsection shall be
32 deducted and is hereby declared to be and to constitute a deduction
33 from such gross debt under and for all the purposes of the local
34 bond law.²

35 (cf: P.L.1994, c.76, s.10)

36
37 ²[2.] 10.² This act shall take effect immediately.

38
39
40
41
42 Authorizes the issuance of "coronavirus relief bonds" by
43 municipalities and counties.

ASSEMBLY, No. 3971

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblywoman Reynolds-Jackson and Assemblyman Verrelli

SYNOPSIS

Authorizes the issuance of "coronavirus relief bonds" by municipalities and counties.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/7/2020)

1 AN ACT authorizing local units to issue coronavirus relief bonds.

2

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

5

6 1. a. (1) A local unit that requires moneys because of a loss
7 of revenue, unanticipated expenses, or both, which are directly
8 attributable to the COVID-19 pandemic may incur indebtedness,
9 borrow money, and authorize and issue bonds, entitled "coronavirus
10 relief bonds," in accordance with provisions governing refunding
11 bonds under the "Local Bond Law," N.J.S.40A:2-1 et seq., except
12 as otherwise provided in this act.

13 (2) A local unit shall authorize issuance of coronavirus relief
14 bonds by adoption of a refunding bond ordinance in the manner
15 prescribed for adoption of a bond ordinance, except that:

16 (a) no down payment shall be required; and

17 (b) Local Finance Board approval shall not be required, and the
18 provisions of subsection c. of N.J.S.40A:2-53, and of N.J.S.40A:2-
19 55, N.J.S.40A:2-56, and N.J.S.40A:2-57 shall not apply, unless:

20 (i) the local unit seeks to issue debt that exceeds 20% of the
21 local unit's prior year budget; or

22 (ii) the local unit seeks to issue bonds with a longer repayment
23 term than otherwise permitted in this act.

24 (3) Coronavirus relief bonds shall be payable from, and secured
25 by a pledge of, unlimited ad valorem taxes.

26 (4) In addition to the procedures for adoption of a bond
27 ordinance required under N.J.S.40A:2-17, after introduction and
28 first reading of a bond ordinance authorizing the issuance of
29 coronavirus relief bonds, and at least one week prior to the date for
30 further consideration thereof, the local unit shall prominently
31 display on the home page of the local unit's website the introduced
32 bond ordinance together with a summary thereof, the notice of the
33 introduction thereof, and of the date, time, and place of further
34 consideration for final passage.

35 (5) A bond ordinance authorizing issuance of coronavirus relief
36 bonds may provide for the capitalization of the interest thereon.

37 (6) A bond ordinance authorizing issuance of coronavirus relief
38 bonds shall provide that bonds and notes issued under this act may
39 be paid in full prior to full maturity without incurring a penalty for
40 early repayment.

41 b. (1) Prior to authorizing the issuance of coronavirus relief
42 bonds, a local unit shall thoroughly investigate, and apply for,
43 financial assistance that may be available to the local unit from the
44 federal government, the State, and other sources to address revenue
45 shortfalls and expenditures due to the COVID-19 pandemic.

46 (2) The total amount of coronavirus relief bonds that a local unit
47 may issue shall not exceed, after subtracting all amounts of
48 assistance anticipated by, available to, or provided to, the local unit

1 from the federal government, the State, and other sources to address
2 revenue shortfalls and expenditures due to the COVID-19
3 pandemic:

4 (a) the amount of lost or delayed tax and other revenues
5 experienced by the local unit due to the public health hazard created
6 by COVID-19 prior to the end of the 24th month next following the
7 end of the Public Health Emergency and State of Emergency
8 declared in the State of New Jersey due to the public health hazard
9 created by COVID-19, and

10 (b) the amount of unanticipated expenses that are incurred by
11 the local unit due to the public health hazard created by COVID-19
12 prior to the end of the 24th month next following the end of the
13 Public Health Emergency and State of Emergency declared in the
14 State of New Jersey due to the public health hazard created by
15 COVID-19.

16 c. The total amount of coronavirus relief bonds that a local unit
17 may issue under subsection b. of this section shall not exceed an
18 amount that is the lesser of:

19 (1) an amount that will not cause the local unit to exceed its net
20 debt limitation under N.J.S.40A:2-6, unless otherwise permitted by
21 subsection d. of N.J.S.40A:2-7; or

22 (2) an amount that will not cause the local unit to exceed the
23 maximum amount of tax anticipation notes the local unit may issue
24 under N.J.S.40A:4-66.

25 d. (1) A local unit may use the proceeds from the sale and
26 issuance of coronavirus relief bonds to address a revenue shortfall
27 experienced by the local unit which is directly attributable to the
28 COVID-19 pandemic and which occurred prior to the end of the
29 24th month next following the end of the Public Health Emergency
30 and State of Emergency declared in the State of New Jersey due to
31 the public health hazard created by COVID-19.

32 (2) A local unit may use the proceeds from the sale and issuance
33 of coronavirus relief bonds to cover the costs of unanticipated
34 expenses that are directly attributable to the COVID-19 pandemic,
35 and which were incurred by the local unit prior to the end of the
36 24th month next following the end of the Public Health Emergency
37 and State of Emergency declared in the State of New Jersey due to
38 the public health hazard created by COVID-19.

39 e. A local unit may, in anticipation of the issuance of
40 coronavirus relief bonds, borrow money and issue negotiable notes
41 from time to time, at public or private sale and may, from time to
42 time, renew these notes in accordance with the provisions of section
43 11 of P.L.2003, c.15 (C.40A:2-8.1), however, notwithstanding that
44 provision of law, a note issued in anticipation of the issuance of
45 coronavirus relief bonds may be issued for a period not exceeding
46 two years.

47 f. A coronavirus relief bond, or a note in anticipation thereof,
48 shall be initially issued prior to the end of the 24th month next

1 following the end of the Public Health Emergency and State of
2 Emergency declared in the State of New Jersey due to the public
3 health hazard created by COVID-19.

4 g. Final maturity of a coronavirus relief bond shall occur no
5 more than ten years from the initial issuance of the bond or the
6 initial issuance of a note in anticipation thereof, however, a local
7 unit may apply to the Local Finance Board for a longer repayment
8 term. If the local unit demonstrates a need for a longer repayment
9 term to the satisfaction of the Local Finance Board, the board may
10 authorize a longer repayment term. The maturity schedule may
11 include a combination of notes and bonds as deemed appropriate by
12 the local unit.

13 h. The Local Finance Board shall render a decision on an
14 application for approval submitted to it pursuant to this act within
15 45 days of the submission of a complete application to the board,
16 and failure of the board to do so shall result in an approval of the
17 application.

18 i. The Division of Local Government Services may issue
19 guidelines necessary or appropriate to implement the provisions of
20 this act.

21

22 2. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill would allow counties and municipalities to borrow
28 moneys (through the issuance of bonds and notes) to cover the
29 revenue shortfalls and additional costs that are directly attributable
30 to the COVID-19 pandemic. Municipalities and counties are
31 experiencing revenue shortfalls and expense overruns because of
32 the COVID-19 pandemic, and these fiscal consequences of the
33 pandemic are likely to continue. Local units of government have
34 significant fixed statutory expenses and provide essential services.
35 The costs of providing many essential services is likely to increase
36 as a result of the COVID-19 pandemic. Collection of revenues is
37 likely to decrease during the pandemic and for a period of time
38 afterwards.

39 This bill would establish a new financing mechanism to enable
40 local units to borrow money to address the costs attributable to
41 increased expenses and revenue shortfalls due to the COVID-19
42 pandemic, and to pay back that money over a 10-year period.

43 Under the bill, a local unit that requires moneys because of a loss
44 of revenue, unanticipated expenses, or both, which are directly
45 attributable to the COVID-19 pandemic may incur indebtedness,
46 borrow money, and authorize and issue "coronavirus relief bonds."
47 Coronavirus relief bonds would be payable from, and secured by a
48 pledge of, unlimited ad valorem taxes.

1 The process for authorizing the issuance of bonds under this bill
2 would follow the process currently applicable to the issuance of
3 refunding bonds under the “Local Bond Law,” N.J.S.40A:2-1 et
4 seq., except that a local unit will not be required to secure Local
5 Finance Board approval unless:

- 6 • the local unit seeks to issue debt that exceeds 20% of the
7 local unit’s prior year budget; or
- 8 • the local unit seeks to issue bonds with a repayment term
9 longer than 10 years.

10 In addition to the procedures for adoption of a bond ordinance
11 required under the Local Bond Law, after introduction and first
12 reading of a bond ordinance authorizing the issuance of coronavirus
13 relief bonds, and at least one week prior to the date set for further
14 consideration, a local unit must display the introduced bond
15 ordinance on the home page of its website together with a summary
16 of the ordinance, notice of introduction of the ordinance, and of the
17 date, time, and place of further consideration for final passage of
18 the ordinance. The bill provides that bonds and notes issued under
19 the bill may be paid in full prior to full maturity without incurring a
20 penalty for early repayment.

21 The bill requires a local unit, prior to authorizing the issuance of
22 coronavirus relief bonds, to thoroughly investigate, and apply for,
23 financial assistance that may be available to the local unit from the
24 federal government, the State, and other sources to address revenue
25 shortfalls and expenditures due to the COVID-19 pandemic. The
26 bill sets forth criteria for determining the total amount of
27 coronavirus relief bonds that a local unit may issue.

28 First, a local unit must subtract all amounts of assistance
29 anticipated by, available to, or provided to, the local unit from the
30 federal government, the State, and other sources to address revenue
31 shortfalls and expenditures due to the COVID-19 pandemic.
32 Second, the local unit must determine the amount of lost or delayed
33 tax and other revenues experienced by the local unit, and the
34 amount of unanticipated expenses that are incurred by the local
35 unit, due to COVID-19 within 24 months after the end of the Public
36 Health Emergency and State of Emergency declared in New Jersey
37 due to COVID-19. The bill then limits that amount by providing
38 that the debt cannot cause the local unit to exceed its net debt
39 limitation under the Local Bond Law or cause the local unit to
40 exceed the maximum amount of tax anticipation notes it may issue
41 under the Local Budget Law.

42 Under the bill, a local unit may use the proceeds from the sale
43 and issuance of coronavirus relief bonds to address a revenue
44 shortfall experienced by the local unit, and to cover the costs of
45 unanticipated expenses that are directly attributable to the COVID-
46 19 pandemic and which occurred within 24 months after the end of
47 the Public Health Emergency and State of Emergency declared in
48 New Jersey due to COVID-19.

A3971 BENSON, COUGHLIN

6

1 The bill authorizes a local unit, in anticipation of the issuance of
2 coronavirus relief bonds, to borrow money and issue and renew
3 negotiable notes in accordance with the provisions of the Local
4 Bond Law, however, the bill allows a note issued in anticipation of
5 the issuance of coronavirus relief bonds to be issued for a period not
6 exceeding two years.

7 The bill provides that a coronavirus relief bond, or a note in
8 anticipation thereof, must be initially issued within 24 months after
9 the end of the Public Health Emergency and State of Emergency
10 declared in New Jersey due to COVID-19.

11 Final maturity of a coronavirus relief bond must be within ten
12 years from the initial issuance of the bond or the initial issuance of
13 a note in anticipation thereof. However, a local unit may apply to
14 the Local Finance Board for a longer repayment term. If the local
15 unit demonstrates a need for a longer repayment term to the
16 satisfaction of the Local Finance Board, the board may authorize a
17 longer repayment term. The maturity schedule may include a
18 combination of notes and bonds as deemed appropriate by the local
19 unit.

20 The bill requires the Local Finance Board to render a decision on
21 an application for approval submitted to it under the bill within 45
22 days of the submission of a complete application to the board.
23 Failure of the board to act on an application within that timeframe
24 will result in an approval of the application.

25 The bill authorizes the Division of Local Government Services to
26 issue guidelines necessary or appropriate to implement the bill's
27 provisions.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3971

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 2020

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 3971.

This bill, as amended by the committee, would allow counties and municipalities to borrow moneys (through the issuance of bonds and notes) to cover the revenue shortfalls and additional costs that are directly attributable to the COVID-19 pandemic.

Municipalities and counties are experiencing revenue shortfalls and expense overruns because of the COVID-19 pandemic, and these fiscal consequences of the pandemic are likely to continue. Local units of government have significant fixed statutory expenses and provide essential services. The costs of providing many essential services is likely to increase as a result of the COVID-19 pandemic. Collection of revenues is likely to decrease during the pandemic and for a period of time afterwards.

This bill would establish a new financing mechanism to enable local units to borrow money to address the costs attributable to increased expenses and revenue shortfalls due to the COVID-19 pandemic, and to pay back that money over a 10-year period.

Under the bill, as amended, a local unit that requires moneys because of a loss of revenue, unanticipated expenses, or both, which are directly attributable to the COVID-19 pandemic may incur indebtedness, borrow money, and authorize and issue "coronavirus relief bonds." Coronavirus relief bonds would be payable from, and secured by a pledge of, ad valorem taxes levied upon all the taxable property within the local unit without limitation as to rate or amount.

The process for authorizing the issuance of bonds under this bill would follow the process currently applicable to the issuance of refunding bonds under the "Local Bond Law," N.J.S.40A:2-1 et seq., except that a local unit will not be required to secure Local Finance Board approval unless:

- the local unit seeks to issue bonds in an amount that exceeds 30% of the local unit's prior year budget; or

- the local unit seeks to issue bonds with a repayment term longer than 10 years.

To the extent any provision governing refunding bonds under the “Local Bond Law,” conflicts with the bill’s provisions, the provisions of the bill would control.

In addition to the procedures for adoption of a bond ordinance required under the Local Bond Law, after introduction and first reading of a refunding bond ordinance authorizing the issuance of coronavirus relief bonds, and at least one week prior to the date set for further consideration, a local unit must display the introduced refunding bond ordinance on the home page of its website together with a summary of the ordinance, notice of introduction of the ordinance, and of the date, time, and place of further consideration for final passage of the ordinance.

The bill, as amended, requires a local unit, prior to authorizing the issuance of coronavirus relief bonds, to apply for financial assistance that may be available to the local unit from the federal government, the State, and other sources to address revenue shortfalls and expenditures due to the COVID-19 pandemic, if any. The bill, as amended, sets forth criteria for determining the total amount of coronavirus relief bonds that a local unit may issue.

First, a local unit must subtract all amounts of assistance provided to the local unit from the federal government, the State, and other sources to address revenue shortfalls and expenditures due to the COVID-19 pandemic. Second, the local unit must determine the amount of lost or delayed tax and other revenues experienced by the local unit, and the amount of unanticipated expenses that are incurred by the local unit, due to COVID-19 within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19. The bill then limits that amount by providing that the total amount of coronavirus relief bonds that a local unit may issue cannot cause the local unit to exceed its net debt limitation under the Local Bond Law.

Under the bill, as amended, a local unit may use the proceeds from the sale and issuance of coronavirus relief bonds to address a revenue shortfall experienced by the local unit, and to cover the costs of unanticipated expenses, that are directly attributable to the COVID-19 pandemic and which occurred within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19.

The bill, as amended, authorizes a local unit, in anticipation of the issuance of coronavirus relief bonds, to borrow money and issue and renew negotiable notes in accordance with the provisions of the Local Bond Law, however, the bill allows a note issued in anticipation of the issuance of coronavirus relief bonds to be issued for a period not exceeding two years.

The bill, as amended, provides that coronavirus relief bonds, or notes in anticipation thereof, must be initially issued within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19.

Final maturity of a coronavirus relief bond must be within ten years from the initial issuance of the bond. However, a local unit may apply to the Local Finance Board for a longer repayment term. If the local unit demonstrates a need for a longer repayment term to the satisfaction of the Local Finance Board, the board may authorize a longer repayment term. The maturity schedule may include a combination of notes and bonds as deemed appropriate by the local unit, and bonds will mature in amounts deemed appropriate by the local unit.

The bill, as amended, requires the Local Finance Board to render a decision on an application for approval submitted to it under the bill within 45 days of the submission of a complete application to the board. Failure of the board to act on an application within that timeframe will result in an approval of the application.

The bill, as amended, provides that a county improvement authority may exercise its purpose and power under sections 11 and 12 of P.L.1960, c.183 (C.40:37A-54 and C.40:37A-55) to pool loans for local governmental units within the county or any beneficiary county that are refunding bonds for the pooling of coronavirus relief bonds.

The bill, as amended, authorizes the Division of Local Government Services to issue guidelines necessary or appropriate to implement the bill's provisions.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- Change a bill provision that would require Local Finance Board approval of a proposed bond ordinance so that Local Finance Board approval will be required if the local unit seeks to issue bonds in an amount that exceeds 30%, instead of 20%, of the local unit's prior year budget.
- Clarify that coronavirus relief bonds will be payable from, and secured by a pledge of, ad valorem taxes levied upon all the taxable property within the local unit without limitation as to rate or amount.
- Delete from the bill a provision that would have required a bond ordinance authorizing issuance of coronavirus relief bonds to provide that bonds and notes issued under the bill may be paid in full prior to full maturity without incurring a penalty for early repayment.
- Delete provisions that require a local unit to "thoroughly investigate" the availability of other types of financial assistance related to the COVID-19 pandemic, and that require

a local unit to subtract from the amount of coronavirus relief bonds a local unit may issue, amounts of assistance “anticipated by, or available to” the local unit. After these deletions, the bill will require a local unit: prior to authorizing the issuance of coronavirus relief bonds, to apply for financial assistance that may be available to it to address revenue shortfalls and expenditures due to the COVID-19 pandemic, if any; and when determining the total amount of coronavirus relief bonds that a local unit may issue, to first subtract all amounts of assistance provided to the local unit from the federal government, the State, and other sources to address revenue shortfalls and expenditures due to the COVID-19 pandemic.

- Delete from the bill one of the thresholds related to the total amount of bonds a local unit can issue under the bill. Specifically, the amendments delete a provision providing that the total amount of coronavirus relief bonds that a local unit may issue shall not exceed an amount that will not cause the local unit to exceed the maximum amount of tax anticipation notes the local unit may issue. After this deletion, the bill will still limit the total amount of coronavirus relief bonds that a local unit may issue by providing that the issuance cannot cause the local unit to exceed its net debt limitation under the Local Bond Law.
- Provide that coronavirus relief bonds may be issued in one or more series.
- Provide that final maturity of a coronavirus relief bond will be determined based upon the initial issuance of the bond, and not on the initial issuance of a note in anticipation thereof.
- Clarify that to the extent any provision governing refunding bonds under the “Local Bond Law” conflicts with provisions of the bill, the provisions of the bill will govern.
- Clarify that a county improvement authority may pool coronavirus relief bonds for local governmental units located within the county or any beneficiary county.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3971

STATE OF NEW JERSEY

DATED: JULY 28, 2020

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3971 (1R).

This bill would allow counties and municipalities to borrow moneys (through the issuance of bonds and notes) to cover the revenue shortfalls and additional costs that are directly attributable to the COVID-19 pandemic.

Municipalities and counties are experiencing revenue shortfalls and expense overruns because of the COVID-19 pandemic, and these fiscal consequences of the pandemic are likely to continue. Local units of government have significant fixed statutory expenses and provide essential services. The costs of providing many essential services is likely to increase as a result of the COVID-19 pandemic. Collection of revenues is likely to decrease during the pandemic and for a period of time afterwards.

This bill would establish a new financing mechanism to enable local units to borrow money to address the costs attributable to increased expenses and revenue shortfalls due to the COVID-19 pandemic, and to pay back that money over a 10-year period.

Under the bill, a local unit that requires moneys because of a loss of revenue, unanticipated expenses, or both, which are directly attributable to the COVID-19 pandemic may incur indebtedness, borrow money, and authorize and issue "coronavirus relief bonds." Coronavirus relief bonds would be payable from, and secured by a pledge of, ad valorem taxes levied upon all the taxable property within the local unit without limitation as to rate or amount.

The process for authorizing the issuance of bonds under this bill would follow the process currently applicable to the issuance of refunding bonds under the "Local Bond Law," N.J.S.40A:2-1 et seq., except that a local unit will not be required to secure Local Finance Board approval unless:

- the local unit seeks to issue bonds in an amount that exceeds 30% of the local unit's prior year budget; or
- the local unit seeks to issue bonds with a repayment term longer than 10 years.

To the extent any provision governing refunding bonds under the “Local Bond Law,” conflicts with the bill’s provisions, the provisions of the bill would control.

In addition to the procedures for adoption of a bond ordinance required under the Local Bond Law, after introduction and first reading of a refunding bond ordinance authorizing the issuance of coronavirus relief bonds, and at least one week prior to the date set for further consideration, a local unit must display the introduced refunding bond ordinance on the home page of its website together with a summary of the ordinance, notice of introduction of the ordinance, and of the date, time, and place of further consideration for final passage of the ordinance.

The bill requires a local unit, prior to authorizing the issuance of coronavirus relief bonds, to apply for financial assistance that may be available to the local unit from the federal government, the State, and other sources to address revenue shortfalls and expenditures due to the COVID-19 pandemic, if any. The bill, as amended, sets forth criteria for determining the total amount of coronavirus relief bonds that a local unit may issue.

First, a local unit must subtract all amounts of assistance provided to the local unit from the federal government, the State, and other sources to address revenue shortfalls and expenditures due to the COVID-19 pandemic. Second, the local unit must determine the amount of lost or delayed tax and other revenues experienced by the local unit, and the amount of unanticipated expenses that are incurred by the local unit, due to COVID-19 within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19. The bill then limits that amount by providing that the total amount of coronavirus relief bonds that a local unit may issue cannot cause the local unit to exceed its net debt limitation under the Local Bond Law.

Under the bill a local unit may use the proceeds from the sale and issuance of coronavirus relief bonds to address a revenue shortfall experienced by the local unit, and to cover the costs of unanticipated expenses, that are directly attributable to the COVID-19 pandemic and which occurred within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19.

The bill authorizes a local unit, in anticipation of the issuance of coronavirus relief bonds, to borrow money and issue and renew negotiable notes in accordance with the provisions of the Local Bond Law, however, the bill allows a note issued in anticipation of the issuance of coronavirus relief bonds to be issued for a period not exceeding two years.

The bill provides that coronavirus relief bonds, or notes in anticipation thereof, must be initially issued within 24 months after the

end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19.

Final maturity of a coronavirus relief bond must be within ten years from the initial issuance of the bond. However, a local unit may apply to the Local Finance Board for a longer repayment term. If the local unit demonstrates a need for a longer repayment term to the satisfaction of the Local Finance Board, the board may authorize a longer repayment term. The maturity schedule may include a combination of notes and bonds as deemed appropriate by the local unit, and bonds will mature in amounts deemed appropriate by the local unit.

The bill requires the Local Finance Board to render a decision on an application for approval submitted to it under the bill within 45 days of the submission of a complete application to the board. Failure of the board to act on an application within that timeframe will result in an approval of the application.

The bill provides that a county improvement authority may exercise its purpose and power under sections 11 and 12 of P.L.1960, c.183 (C.40:37A-54 and C.40:37A-55) to pool loans for local governmental units within the county or any beneficiary county that are refunding bonds for the pooling of coronavirus relief bonds.

The bill authorizes the Division of Local Government Services to issue guidelines necessary or appropriate to implement the bill's provisions.

As reported by the committee, Assembly Bill No. 3971(1R) is identical to Senate Bill No. 2475, which also was reported by the committee on this date.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

SENATE, No. 2475

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator VIN GOPAL

District 11 (Monmouth)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senators Greenstein, Bateman, Madden, Sacco, Ruiz and Turner

SYNOPSIS

Authorizes the issuance of "coronavirus relief bonds" by municipalities and counties.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/28/2020)

1 AN ACT authorizing local units to issue coronavirus relief bonds.

2

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

5

6 1. a. (1) A local unit that requires moneys because of a loss of
7 revenue, unanticipated expenses, or both, which are directly
8 attributable to the COVID-19 pandemic may incur indebtedness,
9 borrow money, and authorize and issue bonds, entitled "coronavirus
10 relief bonds," in accordance with provisions governing refunding
11 bonds under the "Local Bond Law," N.J.S.40A:2-1 et seq., except
12 as otherwise provided in this act.

13 (2) A local unit shall authorize issuance of coronavirus relief
14 bonds by adoption of a refunding bond ordinance in the manner
15 prescribed for adoption of a bond ordinance, except that:

16 (a) no down payment shall be required; and

17 (b) Local Finance Board approval shall not be required, and the
18 provisions of subsection c. of N.J.S.40A:2-53, and of N.J.S.40A:2-
19 55, N.J.S.40A:2-56, and N.J.S.40A:2-57 shall not apply, unless:

20 (i) the local unit seeks to issue bonds in an amount that exceeds
21 30% of the local unit's prior year budget; or

22 (ii) the local unit seeks to issue bonds with a longer repayment
23 term than otherwise permitted in this act.

24 (3) Coronavirus relief bonds shall be payable from, and secured
25 by a pledge of, ad valorem taxes levied upon all the taxable
26 property within the local unit without limitation as to rate or
27 amount.

28 (4) In addition to the procedures for adoption of a bond
29 ordinance required under N.J.S.40A:2-17, after introduction and
30 first reading of a refunding bond ordinance authorizing the
31 issuance of coronavirus relief bonds, and at least one week prior to
32 the date for further consideration thereof, the local unit shall
33 prominently display on the home page of the local unit's website
34 the introduced refunding bond ordinance together with a summary
35 thereof, the notice of the introduction thereof, and of the date, time,
36 and place of further consideration for final passage.

37 (5) A refunding bond ordinance authorizing issuance of
38 coronavirus relief bonds may provide for the capitalization of the
39 interest thereon.

40 b. (1) Prior to authorizing the issuance of coronavirus relief
41 bonds, a local unit shall apply for financial assistance that may be
42 available to the local unit from the federal government, the State,
43 and other sources to address revenue shortfalls and expenditures
44 due to the COVID-19 pandemic, if any.

45 (2) The total amount of coronavirus relief bonds that a local unit
46 may issue shall not exceed, after subtracting all amounts of
47 assistance provided to, the local unit from the federal government,

1 the State, and other sources to address revenue shortfalls and
2 expenditures due to the COVID-19 pandemic:

3 (a) the amount of lost or delayed tax and other revenues
4 experienced by the local unit due to the public health hazard created
5 by COVID-19 prior to the end of the 24th month next following the
6 end of the Public Health Emergency and State of Emergency
7 declared in the State of New Jersey due to the public health hazard
8 created by COVID-19, and

9 (b) the amount of unanticipated expenses that are incurred by
10 the local unit due to the public health hazard created by COVID-19
11 prior to the end of the 24th month next following the end of the
12 Public Health Emergency and State of Emergency declared in the
13 State of New Jersey due to the public health hazard created by
14 COVID-19.

15 c. In addition to the amount determined pursuant to paragraph
16 (2) of subsection b. of this section, the total amount of coronavirus
17 relief bonds that a local unit may issue under subsection b. of this
18 section shall not exceed an amount that will cause the local unit to
19 exceed its net debt limitation under N.J.S.40A:2-6, unless otherwise
20 permitted by subsection d. of N.J.S.40A:2-7.

21 d. (1) A local unit may use the proceeds from the sale and
22 issuance of coronavirus relief bonds to address a revenue shortfall
23 experienced by the local unit which is directly attributable to the
24 COVID-19 pandemic and which occurred prior to the end of the
25 24th month next following the end of the Public Health Emergency
26 and State of Emergency declared in the State of New Jersey due to
27 the public health hazard created by COVID-19.

28 (2) A local unit may use the proceeds from the sale and issuance
29 of coronavirus relief bonds to cover the costs of unanticipated
30 expenses that are directly attributable to the COVID-19 pandemic,
31 and which were incurred by the local unit prior to the end of the
32 24th month next following the end of the Public Health Emergency
33 and State of Emergency declared in the State of New Jersey due to
34 the public health hazard created by COVID-19.

35 e. A local unit may, in anticipation of the issuance of
36 coronavirus relief bonds, borrow money and issue negotiable notes
37 from time to time, at public or private sale and may, from time to
38 time, renew these notes in accordance with the provisions of section
39 11 of P.L.2003, c.15 (C.40A:2-8.1), however, notwithstanding that
40 provision of law, a note issued in anticipation of the issuance of
41 coronavirus relief bonds may be issued for a period not exceeding
42 two years.

43 f. Coronavirus relief bonds, or notes in anticipation thereof,
44 shall be initially issued in one or more series prior to the end of the
45 24th month next following the end of the Public Health Emergency
46 and State of Emergency declared in the State of New Jersey due to
47 the public health hazard created by COVID-19.

- 1 g. Final maturity of a coronavirus relief bond shall occur no
2 more than ten years from the initial issuance of the bond, however,
3 a local unit may apply to the Local Finance Board for a longer
4 repayment term. If the local unit demonstrates a need for a longer
5 repayment term to the satisfaction of the Local Finance Board, the
6 board may authorize a longer repayment term. The maturity
7 schedule may include a combination of notes and bonds, and such
8 bonds shall mature in amounts, each as deemed appropriate by the
9 local unit.
- 10 h. The Local Finance Board shall render a decision on an
11 application for approval submitted to it pursuant to this act within
12 45 days of the submission of a complete application to the board,
13 and failure of the board to do so shall result in an approval of the
14 application.
- 15 i. The Division of Local Government Services may issue
16 guidelines necessary or appropriate to implement the provisions of
17 this act.
- 18 j. To the extent any provision governing refunding bonds
19 under the “Local Bond Law,” N.J.S.40A:2-1 et seq., conflicts with
20 the provisions of this act, the provisions of this act shall govern.
- 21 k. A county improvement authority may exercise its purpose
22 and power under sections 11 and 12 of P.L.1960, c.183 (C.40:37A-
23 54 and C.40:37A-55) to pool loans for local governmental units
24 within the county or any beneficiary county that are refunding
25 bonds for the pooling of coronavirus relief bonds.

26

- 27 2. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill would allow counties and municipalities to borrow
33 moneys (through the issuance of bonds and notes) to cover the
34 revenue shortfalls and additional costs that are directly attributable
35 to the COVID-19 pandemic. Municipalities and counties are
36 experiencing revenue shortfalls and expense overruns because of
37 the COVID-19 pandemic, and these fiscal consequences of the
38 pandemic are likely to continue. Local units of government have
39 significant fixed statutory expenses and provide essential services.
40 The costs of providing many essential services is likely to increase
41 as a result of the COVID-19 pandemic. Collection of revenues is
42 likely to decrease during the pandemic and for a period of time
43 afterwards.

44 This bill would establish a new financing mechanism to enable
45 local units to borrow money to address the costs attributable to
46 increased expenses and revenue shortfalls due to the COVID-19
47 pandemic, and to pay back that money over a 10-year period.

1 Under the bill, a local unit that requires moneys because of a loss
2 of revenue, unanticipated expenses, or both, which are directly
3 attributable to the COVID-19 pandemic may incur indebtedness,
4 borrow money, and authorize and issue "coronavirus relief bonds."
5 Coronavirus relief bonds would be payable from, and secured by a
6 pledge of, ad valorem taxes levied upon all the taxable property
7 within the local unit without limitation as to rate or amount.

8 The process for authorizing the issuance of bonds under this bill
9 would follow the process currently applicable to the issuance of
10 refunding bonds under the "Local Bond Law," N.J.S.40A:2-1 et
11 seq., except that a local unit will not be required to secure Local
12 Finance Board approval unless:

- 13 • the local unit seeks to issue bonds in an amount that exceeds
14 30% of the local unit's prior year budget; or
- 15 • the local unit seeks to issue bonds with a repayment term
16 longer than 10 years.

17 To the extent any provision governing refunding bonds under the
18 "Local Bond Law," conflicts with the bill's provisions, the
19 provisions of the bill would control.

20 In addition to the procedures for adoption of a bond ordinance
21 required under the Local Bond Law, after introduction and first
22 reading of a refunding bond ordinance authorizing the issuance of
23 coronavirus relief bonds, and at least one week prior to the date set
24 for further consideration, a local unit must display the introduced
25 refunding bond ordinance on the home page of its website together
26 with a summary of the ordinance, notice of introduction of the
27 ordinance, and of the date, time, and place of further consideration
28 for final passage of the ordinance.

29 The bill requires a local unit, prior to authorizing the issuance of
30 coronavirus relief bonds, to apply for, financial assistance that may
31 be available to the local unit from the federal government, the State,
32 and other sources to address revenue shortfalls and expenditures
33 due to the COVID-19 pandemic, if any. The bill sets forth criteria
34 for determining the total amount of coronavirus relief bonds that a
35 local unit may issue.

36 First, a local unit must subtract all amounts of assistance
37 provided to the local unit from the federal government, the State,
38 and other sources to address revenue shortfalls and expenditures
39 due to the COVID-19 pandemic. Second, the local unit must
40 determine the amount of lost or delayed tax and other revenues
41 experienced by the local unit, and the amount of unanticipated
42 expenses that are incurred by the local unit, due to COVID-19
43 within 24 months after the end of the Public Health Emergency and
44 State of Emergency declared in New Jersey due to COVID-19. The
45 bill then limits that amount by providing that the total amount of
46 coronavirus relief bonds that a local unit may issue cannot cause the
47 local unit to exceed its net debt limitation under the Local Bond
48 Law.

1 Under the bill, a local unit may use the proceeds from the sale
2 and issuance of coronavirus relief bonds to address a revenue
3 shortfall experienced by the local unit, and to cover the costs of
4 unanticipated expenses that are directly attributable to the COVID-
5 19 pandemic and which occurred within 24 months after the end of
6 the Public Health Emergency and State of Emergency declared in
7 New Jersey due to COVID-19.

8 The bill authorizes a local unit, in anticipation of the issuance of
9 coronavirus relief bonds, to borrow money and issue and renew
10 negotiable notes in accordance with the provisions of the Local
11 Bond Law, however, the bill allows a note issued in anticipation of
12 the issuance of coronavirus relief bonds to be issued for a period not
13 exceeding two years.

14 The bill provides that coronavirus relief bonds, or notes in
15 anticipation thereof, must be initially issued within 24 months after
16 the end of the Public Health Emergency and State of Emergency
17 declared in New Jersey due to COVID-19.

18 Final maturity of a coronavirus relief bond must be within ten
19 years from the initial issuance of the bond. However, a local unit
20 may apply to the Local Finance Board for a longer repayment term.
21 If the local unit demonstrates a need for a longer repayment term to
22 the satisfaction of the Local Finance Board, the board may
23 authorize a longer repayment term. The maturity schedule may
24 include a combination of notes and bonds as deemed appropriate by
25 the local unit, and bonds will mature in amounts deemed
26 appropriate by the local unit.

27 The bill provides that a county improvement authority may
28 exercise its purpose and power under sections 11 and 12 of
29 P.L.1960, c.183 (C.40:37A-54 and C.40:37A-55) to pool loans for
30 local governmental units within the county or any beneficiary
31 county that are refunding bonds for the pooling of coronavirus relief
32 bonds. The bill requires the Local Finance Board to render a
33 decision on an application for approval submitted to it under the bill
34 within 45 days of the submission of a complete application to the
35 board. Failure of the board to act on an application within that
36 timeframe will result in an approval of the application.

37 The bill authorizes the Division of Local Government Services to
38 issue guidelines necessary or appropriate to implement the bill's
39 provisions.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2475

STATE OF NEW JERSEY

DATED: JULY 28, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2475.

This bill would allow counties and municipalities to borrow moneys (through the issuance of bonds and notes) to cover the revenue shortfalls and additional costs that are directly attributable to the COVID-19 pandemic. Municipalities and counties are experiencing revenue shortfalls and expense overruns because of the COVID-19 pandemic, and these fiscal consequences of the pandemic are likely to continue. Local units of government have significant fixed statutory expenses and provide essential services. The costs of providing many essential services is likely to increase as a result of the COVID-19 pandemic. Collection of revenues is likely to decrease during the pandemic and for a period of time afterwards.

This bill would establish a new financing mechanism to enable local units to borrow money to address the costs attributable to increased expenses and revenue shortfalls due to the COVID-19 pandemic, and to pay back that money over a 10-year period.

Under the bill, a local unit that requires moneys because of a loss of revenue, unanticipated expenses, or both, which are directly attributable to the COVID-19 pandemic may incur indebtedness, borrow money, and authorize and issue "coronavirus relief bonds." Coronavirus relief bonds would be payable from, and secured by a pledge of, ad valorem taxes levied upon all the taxable property within the local unit without limitation as to rate or amount.

The process for authorizing the issuance of bonds under this bill would follow the process currently applicable to the issuance of refunding bonds under the "Local Bond Law," N.J.S.40A:2-1 et seq., except that a local unit will not be required to secure Local Finance Board approval unless:

- the local unit seeks to issue bonds in an amount that exceeds 30% of the local unit's prior year budget; or
- the local unit seeks to issue bonds with a repayment term longer than 10 years.

To the extent any provision governing refunding bonds under the "Local Bond Law," conflicts with the bill's provisions, the provisions of the bill would control.

In addition to the procedures for adoption of a bond ordinance required under the Local Bond Law, after introduction and first

reading of a refunding bond ordinance authorizing the issuance of coronavirus relief bonds, and at least one week prior to the date set for further consideration, a local unit must display the introduced refunding bond ordinance on the home page of its website together with a summary of the ordinance, notice of introduction of the ordinance, and of the date, time, and place of further consideration for final passage of the ordinance.

The bill requires a local unit, prior to authorizing the issuance of coronavirus relief bonds, to apply for, financial assistance that may be available to the local unit from the federal government, the State, and other sources to address revenue shortfalls and expenditures due to the COVID-19 pandemic, if any. The bill sets forth criteria for determining the total amount of coronavirus relief bonds that a local unit may issue.

First, a local unit must subtract all amounts of assistance provided to the local unit from the federal government, the State, and other sources to address revenue shortfalls and expenditures due to the COVID-19 pandemic. Second, the local unit must determine the amount of lost or delayed tax and other revenues experienced by the local unit, and the amount of unanticipated expenses that are incurred by the local unit, due to COVID-19 within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19. The bill then limits that amount by providing that the total amount of coronavirus relief bonds that a local unit may issue cannot cause the local unit to exceed its net debt limitation under the Local Bond Law.

Under the bill, a local unit may use the proceeds from the sale and issuance of coronavirus relief bonds to address a revenue shortfall experienced by the local unit, and to cover the costs of unanticipated expenses that are directly attributable to the COVID-19 pandemic and which occurred within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19.

The bill authorizes a local unit, in anticipation of the issuance of coronavirus relief bonds, to borrow money and issue and renew negotiable notes in accordance with the provisions of the Local Bond Law, however, the bill allows a note issued in anticipation of the issuance of coronavirus relief bonds to be issued for a period not exceeding two years.

The bill provides that coronavirus relief bonds, or notes in anticipation thereof, must be initially issued within 24 months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19.

Final maturity of a coronavirus relief bond must be within ten years from the initial issuance of the bond. However, a local unit may apply to the Local Finance Board for a longer repayment term. If the local unit demonstrates a need for a longer repayment term to the

satisfaction of the Local Finance Board, the board may authorize a longer repayment term. The maturity schedule may include a combination of notes and bonds as deemed appropriate by the local unit, and bonds will mature in amounts deemed appropriate by the local unit.

The bill provides that a county improvement authority may exercise its purpose and power under sections 11 and 12 of P.L.1960, c.183 (C.40:37A-54 and C.40:37A-55) to pool loans for local governmental units within the county or any beneficiary county that are refunding bonds for the pooling of coronavirus relief bonds.

The bill requires the Local Finance Board to render a decision on an application for approval submitted to it under the bill within 45 days of the submission of a complete application to the board. Failure of the board to act on an application within that timeframe will result in an approval of the application.

The bill authorizes the Division of Local Government Services to issue guidelines necessary or appropriate to implement the bill's provisions.

As reported by the committee, Senate Bill No. 2475 is identical to Assembly Bill No. 3971(1R), which also was reported by the committee on this date.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

ASSEMBLY BILL NO. **3971**
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3971 (First Reprint) with my recommendations for reconsideration.

Assembly Bill No. 3971 (First Reprint) would allow counties and municipalities to borrow money, through the issuance of bonds and notes, to cover the revenue shortfalls and additional costs that are directly attributable to the COVID-19 pandemic. To accomplish this, the bill would establish a new financing mechanism, payable over a ten-year period. The process for authorizing the issuance of "coronavirus relief bonds" would follow the process currently applicable to the issuance of refunding bonds under the "Local Bond Law," N.J.S.A.40A:2-1 et seq., except that a local unit would not be required to secure Local Finance Board approval unless the local unit seeks to issue debt that exceeds twenty percent of the local unit's prior year budget or the local unit seeks to issue bonds with a repayment term longer than ten years.

The bill would further authorize a local unit, in anticipation of the issuance of coronavirus relief bonds, to borrow money and issue and renew negotiable notes in accordance with the provisions of the Local Bond Law, provided that the coronavirus relief bond, or the anticipation note, is initially issued within twenty-four months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19. Although the bill requires final maturity of the bond or anticipation note within ten years of the initial issuance, the bill would permit a local unit to apply to the Local Finance Board for a longer repayment term.

I commend the bill's sponsors for their efforts to provide local governments with an essential tool to help them maintain fiscal solvency during and in the aftermath of the COVID-19 pandemic. However, the better pathway to accomplish this result is to build upon the well-established local budgetary and debt structures in facilitating this critical relief, rather than to create a new, additional financing mechanism for this singular purpose. By incorporating into our existing local borrowing framework certain tailored modifications designed to meet local units' emergent needs, we will be able to accomplish the goal of helping address local fiscal needs resulting from the COVID-19 pandemic while maintaining the protections of existing safeguards, which will help ensure that local borrowing is conducted efficiently and responsibly.

Accordingly, my recommendations amend local borrowing laws to enable counties and towns to issue five-year special emergency notes for a broad swath of COVID-19 related costs. In addition, and to meet ongoing operational needs, I am recommending that the special emergency mechanism be expanded to permit adoption of a special emergency to address certified COVID-19 related deficits in operations. This will permit local units that verify the existence of COVID-19 related operational shortfalls to raise the associated costs in their budget over five years, or up to ten years if they can demonstrate to the Local Finance Board that repayment in five years would present a significant financial hardship. Importantly, once a special emergency is adopted, the local unit also obtains access to related short-term borrowing, which avoids excessive long-term debt but provides stable cash flow while the local unit recovers from the fiscal impacts realized during the COVID-19 crisis.

These recommended changes provide both budgetary and cash

flow relief using existing and conventional mechanisms that have been adapted to meet the unique local needs emerging during this anomalous period, while empowering local units to respond to and recover from the fiscal repercussions of this unprecedented global crisis.

Accordingly, I herewith return Assembly Bill No. 3971 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 1:

After "bonds" insert "and amending various parts of the statutory law"

Page 2, Line 5:

Insert new sections:

"1. N.J.S.40A:4-26 is amended to read as follows:

a. No miscellaneous revenues from any source shall be included as an anticipated revenue in the budget in an amount in excess of the amount actually realized in cash from the same source during the next preceding fiscal year, unless the director shall determine upon application by the governing body that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination, in writing, to the local unit.

b. Notwithstanding the provisions of subsection a. to the contrary, when a public health emergency pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, has been declared by the Governor in response to COVID-19, the Director of the Division of Local Government Services may promulgate general guidance modifying the standard for anticipated revenues when the amount realized in cash from the same source during the next preceding fiscal year experienced reductions due to COVID-19.

As used in this subsection,

"COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

(cf: N.J.S.40A:4-26)

2. N.J.S.40A:4-53 is amended to read as follows:

A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

a. Preparation of an approved tax map.

b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor, or of any program to update and make current any previous revaluation program when such is ordered by the county board of taxation.

c. Preparation of a revision and codification of its ordinances.

d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.

e. Preparation of drainage maps for flood control purposes.

f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.

g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.) or sections 25 through 29 of the "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29).

h. Contractually required severance liabilities resulting from the layoff or retirement of employees. Such

liabilities shall be paid without interest and, at the sole discretion of the local unit, may be paid in equal annual installments over a period not to exceed five years.

i. Preparation of a sanitary or storm system map.

j. Liabilities incurred to the Department of Labor and Workforce Development for the reimbursement of unemployment benefits paid to former employees.

k. Subject to approval by the Director of the Division of Local Government Services, non-recurring expenses incurred by a municipality to implement a consolidation with another municipality, or municipalities, pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.); the sparsely populated municipalities law, P.L.1995, c.376 (C.40:43-66.78 et seq.); sections 25 through 29 of the "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29); or N.J.S.40A:7-1 et seq., in the case of a consolidation effectuated through the annexation of land comprising an entire municipality or entire municipalities, to another municipality. The director shall approve the ordinance if he or she determines that the non-recurring expenses are reasonable and permissible by law and that the consolidation will result in long-term savings for the municipality.

A copy of all ordinances or resolutions as adopted relating to special emergency appropriations shall be filed with the director.

l. The immediate preparation, response, recovery, and restoration of public services during such time as a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), declared

in response to COVID-19 remains in effect.

m. Notwithstanding the provisions of any law or regulation to the contrary, a deficit in prior year operations experienced by any municipality, utility, or enterprise during, or in the fiscal year immediately following, a fiscal year in which a public health emergency pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c. 251 (C.App.A.9-33 et seq.), or both, has been declared by the Governor in response to COVID-19, the adoption of which shall be subject to approval of the Director. The deficit in operations shall be certified by the chief financial officer of the local unit to be directly attributable to COVID-19. The local unit shall apply for any financial assistance that may be available to the local unit from the federal government, the State, and other sources to offset any operating deficit directly attributable to COVID-19, and any such financial assistance obtained by the local unit shall be utilized to offset any operating deficit. The chief financial officer of a local unit seeking approval pursuant to this subsection shall submit a certification approved by a majority vote of the full governing body. The director shall provide a form, application, schedule and process for review, approval or denial, and reconsideration of the application.

The director shall approve or deny, in writing, any application submitted pursuant to this subsection within 45 days, or the next business day following the 45th day if the 45th day falls on a Saturday, Sunday, or holiday. If a written decision is not rendered within this time period, the application shall be deemed to be approved, and the local unit may proceed to adopt the

appropriate resolution or ordinance. If an application is denied, the local unit may resubmit the application with such changes as the local unit deems appropriate, with submission and review subject to the same procedures set forth in this subsection.

As used in this subsection, "Deficit in operations" means a deficit balance reported on a local unit's "Results of Operation" schedule of the annual financial statement.
(cf: P.L.2017, c.101,s.1)

As used in subsections l. and m., "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

3. N.J.S.40A:4-55 is amended to read as follows:

After the adoption of an ordinance or resolution for special emergency appropriations, the local unit shall by 2/3 vote of the full governing body adopt a resolution setting forth:

a. The amount appropriated.

b. (1) Provision for the borrowing of money and the issuance of "Special Emergency Notes" which may be renewed from time to time, but at least 1/5 of all such notes, and the renewals thereof, shall mature and be paid in each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of the emergency resolution.

(2) In the case of special emergency appropriations authorized pursuant to subsection m. of N.J.S.40A:4-53, a local unit shall appropriate one-fifth (1/5) of the portion of the special emergency directly attributable to COVID-19 in each year beginning in the year after the year in which the resulting deferred charge appears in the local unit's

unaudited annual financial statement, such that, for example, a deferred charge included in the 2021 unaudited annual financial statement would have its first one-fifth (1/5) appropriation in the 2022 budget, with the final one-fifth (1/5) portion of the special emergency fully appropriated by no later than the last day of the sixth fiscal year following the end of the fiscal year that is the subject of the application. If a local unit's application for certification of the special emergency under subsection m. of N.J.S.40A:4-53 demonstrates that full appropriation of the COVID-19 related special emergency appropriation by the last day of the sixth fiscal year will cause significant fiscal distress, including, but not limited to, if it would directly cause an increase in the tax levy greater than 2%, an increase of greater than \$50 per average assessed home in each year deferred charges appear in the local unit's budget, or in the case of a utility, at least a 5% increase in user fees or charges, the Local Finance Board may permit the local unit to extend the repayment period up to a total of ten years on a schedule determined by the Board.

(3) A local unit shall not borrow moneys under this section that may be considered duplicative of financial assistance provided to the local unit from the federal government, the State, or other sources, to address the COVID-19 deficit in operations or COVID-19 emergency appropriations. As used in this section, "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.
(cf: P.L.2003, c.129, s.12)

The provisions of this chapter relating to tax anticipation notes shall apply to special emergency notes.

c. A local unit may finance such appropriation from surplus funds available or borrow money in the manner prescribed above. Where any appropriation is financed from surplus funds available, at least 1/5 of the amount thereof shall be included in each annual budget until the appropriation has been fully provided for. In the case of special emergency appropriations authorized pursuant to subsection m. of N.J.S.40A:4-53, a local unit shall appropriate one-fifth (1/5) of the portion of the special emergency directly attributable to COVID-19 in each year beginning in the year after the year in which the resulting deferred charge appears in the local unit's unaudited annual financial statement, such that, for example, a deferred charge included in the 2021 unaudited annual financial statement would have its first one-fifth (1/5) appropriation in the 2022 budget, with the final one-fifth (1/5) portion of the special emergency fully appropriated by no later than the last day of the sixth fiscal year following the end of the fiscal year that is the subject of the application. If a local unit's application for certification of the special emergency under subsection m. of N.J.S.40A:4-53 demonstrates that full appropriation of the COVID-19 related special emergency appropriation by the last day of the sixth fiscal year will cause significant fiscal distress, including, but not limited to, if it would directly cause an increase in the tax levy greater than 2%, an increase of greater than \$50 per average assessed home in each year deferred charges appear in the local unit's budget, or in the case of a utility, at least a 5% increase in user fees or charges, the Local Finance Board may permit the local unit to extend the repayment period up to a total of ten years on a schedule determined by the Board.

(cf: N.J.S.40A:4-55)

4. N.J.S.40A:4-78 is amended to read as follows:

a. If the director finds that all requirements of law and of the regulations of the local government board have been met, he shall approve the budget, otherwise he shall refuse to approve it.

The director, in refusing to approve a budget, shall not substitute his discretion with respect to the amount of an appropriation when such amount is not made mandatory because of the requirements of law.

b. Notwithstanding the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, the Local Finance Board is authorized to adopt rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain municipalities from the requirement that the director approve their annual budgets and to provide instead for a system of local examination and approval of such budgets by municipal officials, provided that:

(1) the director finds that such municipalities are fiscally sound and that their fiscal practices are conducted in accordance with law and sound administrative practice;

(2) the director shall examine the budgets of such municipalities in accordance with the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, at least every third year;

(3) the governing body and chief financial officer of each such municipality shall each file a certification with the director stating that, with reference to the adopted budget of the municipality, they have:

(a) examined the budget in the manner prescribed under N.J.S.40A:4-76;

(b) determined that the budget complies with the requirements set forth in N.J.S.40A:4-77; and

(c) determined that the budget complies with all other provisions of law, including, but not limited to, the "Local Budget Law," N.J.S.40A:4-1 et seq., P.L.1976, c.68 (C.40A:4-45.1 et seq.), and the regulations of the Local Finance Board;

(4) all budget documents required by law or the regulations adopted by the Local Finance Board shall be filed with the director on a timely basis;

(5) other criteria and responsibilities as established by the regulations adopted by the Local Finance Board are met.

c. The director shall act to require immediate compliance with the "Local Budget Law," N.J.S.40A:4-1 et seq., if the director finds that any such exemption impairs the fiscal integrity or solvency of any such municipality. Any appeal of a governing body's action in adopting an annual budget shall be made to the director.

d. If a municipality has received approval for a special emergency appropriation pursuant to subsection m. of N.J.S.40A:4-53, that municipality shall not be eligible for local examination and approval pursuant to subsection b of this section until the fiscal year after the final appropriation is made.

(cf: P.L.1996, c.113, s.13)

5. (New section)

Notwithstanding the provisions of N.J.S.40A:2-51 to the contrary, a local unit may incur indebtedness, borrow money, and authorize and issue negotiable refunding bonds, in any amount determined to be necessary by the local unit and approved by the Local Finance Board to effect a refunding for the purpose of repaying a Federal Emergency Management Agency

Community Disaster Loan for which the local unit executed a promissory note in 2013 under the authority of section 5 of P.L.1951, c.72 (C.App.A:9-62), in addition to the other purposes for which it may do the same under N.J.S.40A:2-51.

6. Section 2 of P.L.1969, c.130 (C.18A:24-61.2) is amended to read as follows:

2. Notwithstanding the provisions of any other law or any debt limitation or requirement for down payment or for referendum or other action by legal voters, refunding bonds may be authorized and issued for the purpose of paying, funding or refunding: any refunded bonds; the cost of retiring the present value of the unfunded accrued liability due and owing by a board of education, as calculated by the system actuary for a date certain upon the request of a board of education, for early retirement incentive benefits granted by the board of education pursuant to P.L.1991, c.231, P.L.1993, c.163 and P.L.2003, c.129; the repayment of a Federal Emergency Management Agency Community Disaster Loan for which the board of education executed a promissory note in 2013 under the authority of section 5 of P.L.1951, c.72 (C.App.A:9-62); the cost of COVID-19 expenditures incurred for immediate preparation, response, recovery, and restoration of public services, for a period not to exceed five years; and the cost or expense of issuing refunding bonds including printing, advertising, accounting, financial, legal or other expense in connection therewith. Obligations to be paid, funded or refunded with respect to which an ordinance authorizing the issuance of refunding bonds has been adopted pursuant to this act and not otherwise deductible shall be excluded in calculating the net school debt of a municipality or a district. Refunding bonds shall be authorized (a) in the case of any county or

municipality by a refunding bond ordinance enacted in the manner or mode of procedure provided for adoption of a refunding bond ordinance pursuant to the Local Bond Law, constituting chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes, and (b) in the case of a Type II school district by an ordinance (herein called the "refunding bond ordinance") adopted by the board of education of such school district as provided in this chapter. As used in this section, "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.
(cf. P.L.2003, c.129, s.12)

7. Section 6 of P.L.1983, c.313 (C.40A:5A-6) is amended to read as follows:

6. Prior to the adoption of a bond resolution by an authority, or the adoption of an ordinance or resolution of a local unit or units authorizing a service contract that is part of a project financing, the proposed project financing shall be submitted to the Local Finance Board for its review. The Local Finance Board may adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to permit project financing to proceed without such application and review if the project financing is a refunding that will result in debt service savings on outstanding bond debt. The Local Finance Board shall, in the course of its review, give consideration to:

a. The nature, purpose, and scope of the proposed project financing;

b. The engineering and feasibility studies prepared in connection therewith;

c. The terms and provisions of the proposed service contracts, bond resolutions and, in the instance of a

negotiated offering, the proposed or maximum terms and conditions of sale;

d. An estimate of the proposed or maximum schedule of debt service payments required, and the impact thereof on the budget and financial condition of the authority and of the local unit;

e. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report or feasibility studies; and

f. The initial rate, rent, fee, or charge schedule proposed by the authority, or any other proposed method of raising the amounts required to finance the operations and payments of debt service on the obligations of the authority.

Notwithstanding any other provision of law to the contrary, an authority may, upon application to, and review and approval by, the Local Finance Board, incur indebtedness, borrow money, and authorize and issue negotiable refunding bonds to cover the cost of COVID-19 expenditures incurred for immediate preparation, response, recovery, and restoration of public services for a period not to exceed five years. As used herein, "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

The Local Finance Board may examine the estimates, computations or calculations made in connection with the submission, may require the production of papers, documents, witnesses or information, may make or cause to be made an audit or investigation and may take any other action which it may deem necessary to its review of the submission.

(cf: P.L.2015, c.95, s.17)

8. Section 11 of P.L.1960,

c.183 (C.40:37A-54) is amended to read as follows:

11. a. The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (d) provision within the county or any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (e) provision within the

county or any beneficiary county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50% of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (g) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county, (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (i) provision of

loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented, (j) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, (k) any combination or combinations of the foregoing or following, and (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S.15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A county improvement authority shall also have as its purpose the pooling of loans for any local governmental units within the county or any beneficiary county that are refunding bonds in order to achieve more favorable interest rates and terms for those local governmental units.

b. In a fiscal year in which

a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), a state of emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both has been declared by the Governor in response to COVID-19 and during the next following fiscal year, a county improvement authority shall also have as its purpose the pooling of special emergency notes issued by the county or any beneficiary county, or by any local governmental unit within the county or any beneficiary county, pursuant to N.J.S.40A:4-55 for purposes of financing a special emergency appropriation authorized for the purpose set forth in subsections l. and m. of N.J.S.40A:4-53).
(cf: P.L.2002, c.42, s.8)

9. Section 37 of P.L.1960, c.183 (C.40:37A-80) is amended to read as follows:

37. a. For the purpose of aiding an authority in the planning, undertaking, acquisition, construction, financing or operation of any facility which the authority is authorized to undertake pursuant to section 11 of P.L.1960, c.183 (C.40:37A-54), the county or any beneficiary county may, pursuant to resolution duly adopted by its governing body, or any municipality in the county or beneficiary county may, by ordinance of its governing body, in the manner provided for adoption of a bond ordinance as provided in the local bond law and with or without consideration and upon such terms and conditions as may be agreed to by and between the county or beneficiary county or the municipality and the authority, unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority. Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the county or beneficiary county or the municipality and on its behalf by such officer thereof as may be designated in the resolution or ordinance authorizing such guaranty, and such county or municipality shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of an authority may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county or municipality for the purpose of determining the indebtedness of such county or municipality under or pursuant to the local bond

law. The principal amount of said bonds so guaranteed and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of said local bond law (a) from and after the time of issuance of said bonds until the end of the fiscal year beginning next after the completion of acquisition or construction of the facility to be financed from the proceeds of such bonds and (b) in any annual debt statement filed pursuant to said local bond law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal and interest on all such guaranteed bonds, all bonds of any such county or any municipality issued as provided in section 36 of P.L.1960, c.183 (C. 40:37A-79), and all bonds of the authority issued under this act.

b. For the purpose of aiding an authority in the issuance of bonds pursuant to subsection b. of section 11 of P.L.1960, c.183 (C. 40:37A-54), the county or any beneficiary county may, pursuant to a resolution duly adopted by its governing body, unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority issued for purposes of the pooling of notes issued pursuant to subsection b. of N.J.S.40A:4-55. Any guaranty of bonds of an authority made pursuant to this subsection shall be evidenced by endorsement thereof on such bonds, executed in the name of the county or beneficiary county and on its behalf by such officer thereof as may be designated in the resolution or ordinance authorizing such guaranty, and such county shall thereupon and thereafter be obligated to pay the principal of and interest

on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of an authority may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county for the purpose of determining the indebtedness of such county under or pursuant to the local bond law. The principal amount of the notes guaranteed and included in gross debt pursuant to this subsection shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the local bond law."

(cf: P.L.1994, c.76, s.10)

Page 2, Section 1, Lines 6-43: Delete in their entirety
Page 3, Section 1, Lines 1-47: Delete in their entirety
Page 4, Section 1, Lines 1-41: Delete in their entirety
Page 4, Section 2, Line 43: Delete "2." and insert "10."

Respectfully,

/s/ Philip D. Murphy

Governor

[seal]

Attest:

/s/ Kate McDonnell

Deputy Chief Counsel to the Governor

Governor Murphy Takes Action on Legislation

07/31/2020

TRENTON - Today, Governor Murphy conditionally vetoed the following bill:

A-3971/S-2475 (Benson, Coughlin, DeAngelo, DeCroce/Singleton, Gopal, Scutari) Authorizes the issuance of "coronavirus relief bonds" by municipalities and counties.

[Copy of Statement](#)

ASSEMBLY BILL NO. 3971
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3971 (First Reprint) with my recommendations for reconsideration.

Assembly Bill No. 3971 (First Reprint) would allow counties and municipalities to borrow money, through the issuance of bonds and notes, to cover the revenue shortfalls and additional costs that are directly attributable to the COVID-19 pandemic. To accomplish this, the bill would establish a new financing mechanism, payable over a ten-year period. The process for authorizing the issuance of "coronavirus relief bonds" would follow the process currently applicable to the issuance of refunding bonds under the "Local Bond Law," N.J.S.A. 40A:2-1 et seq., except that a local unit would not be required to secure Local Finance Board approval unless the local unit seeks to issue debt that exceeds twenty percent of the local unit's prior year budget or the local unit seeks to issue bonds with a repayment term longer than ten years.

The bill would further authorize a local unit, in anticipation of the issuance of coronavirus relief bonds, to borrow money and issue and renew negotiable notes in accordance with the provisions of the Local Bond Law, provided that the coronavirus relief bond, or the anticipation note, is initially issued within twenty-four months after the end of the Public Health Emergency and State of Emergency declared in New Jersey due to COVID-19. Although the bill requires final maturity of the bond or anticipation note within ten years of the initial issuance, the bill would permit a local unit to apply to the Local Finance Board for a longer repayment term.

I commend the bill's sponsors for their efforts to provide local governments with an essential tool to help them maintain fiscal solvency during and in the aftermath of the COVID-19 pandemic. However, the better pathway to accomplish this result is to build upon the well-established local budgetary and debt structures in facilitating this critical relief, rather than to create a new, additional financing mechanism for this singular purpose. By incorporating into our existing local borrowing framework certain tailored modifications designed to meet local units' emergent needs, we will be able to accomplish the goal of helping address local fiscal needs resulting from the COVID-19 pandemic while maintaining the protections of existing safeguards, which will help ensure that local borrowing is conducted efficiently and responsibly.

Accordingly, my recommendations amend local borrowing laws to enable counties and towns to issue five-year special emergency notes for a broad swath of COVID-19 related costs. In addition, and to meet ongoing operational needs, I am recommending that the special emergency mechanism be expanded to permit adoption of a special emergency to address certified COVID-19 related deficits in operations. This will permit local units that verify the existence of COVID-19 related operational shortfalls to raise the associated costs in their budget over five years, or up to ten years if they can demonstrate to the Local Finance Board that repayment in five years would present a significant financial hardship. Importantly, once a special emergency is adopted, the local unit also obtains access to related short-term borrowing, which avoids excessive long-term debt but provides stable cash flow while the local unit recovers from the fiscal impacts realized during the COVID-19 crisis.

These recommended changes provide both budgetary and cash flow relief using existing and conventional mechanisms that have been adapted to meet the unique local needs emerging during this anomalous period, while empowering local units to respond to and recover from the fiscal repercussions of this unprecedented global crisis.

Accordingly, I herewith return Assembly Bill No. 3971 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 1:

After "bonds" insert "and amending various parts of the statutory law"

Page 2, Line 5:

Insert new sections:

"1. N.J.S.40A:4-26 is amended to read as follows:

a. No miscellaneous revenues from any source shall be included as an anticipated revenue in the budget in an amount in excess of the amount actually realized in cash from the same source during the next preceding fiscal year, unless the director shall determine upon application by the governing body that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination, in writing, to the local unit.

b. Notwithstanding the provisions of subsection a. to the contrary, when a public health emergency pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, has been declared by the Governor in response to COVID-19, the Director of the Division of Local Government Services may promulgate general guidance modifying the standard for anticipated revenues when the amount realized in cash from the same source during the next

preceding fiscal year experienced reductions due to COVID-19.

As used in this subsection, "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

(cf: N.J.S.40A:4-26)

2. N.J.S.40A:4-53 is amended to read as follows:

A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

a. Preparation of an approved tax map.

b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor, or of any program to update and make current any previous revaluation program when such is ordered by the county board of taxation.

c. Preparation of a revision and codification of its ordinances.

d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.

e. Preparation of drainage maps for flood control purposes.

f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.

g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.) or sections 25 through 29 of the "Uniform Shared Services and Consolidation Act," P.L.2007,

c.63 (C.40A:65-25 through C.40A:65-29).

h. Contractually required severance liabilities resulting from the layoff or retirement of employees. Such liabilities shall be paid without interest and, at the sole discretion of the local unit, may be paid in equal annual installments over a period not to exceed five years.

i. Preparation of a sanitary or storm system map.

j. Liabilities incurred to the Department of Labor and Workforce Development for the reimbursement of unemployment benefits paid to former employees.

k. Subject to approval by the Director of the Division of Local Government Services, non-recurring expenses incurred by a municipality to implement a consolidation with another municipality, or municipalities, pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.); the sparsely populated municipalities law, P.L.1995, c.376 (C.40:43-66.78 et seq.); sections 25 through 29 of the "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29); or N.J.S.40A:7-1 et seq., in the case of a consolidation effectuated through the annexation of land comprising an entire municipality or entire municipalities, to another municipality. The director shall approve the ordinance if he or she determines that the non-recurring expenses are reasonable and permissible by law and that the consolidation will result in long-term savings for the municipality.

A copy of all ordinances or resolutions as adopted relating to special emergency appropriations shall be filed with the director.

l. The immediate preparation, response, recovery, and restoration of public services during such time as a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), declared in response to COVID-19 remains in effect.

m. Notwithstanding the provisions of any law or regulation to the contrary, a deficit in prior year operations experienced by any municipality, utility, or enterprise during, or in the fiscal year immediately following, a fiscal year in which a public health emergency pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c. 251 (C.App.A.9-33 et seq.), or both, has been declared by the Governor in response to COVID-19, the adoption of which shall be subject to approval of the Director. The deficit in operations shall be certified by the chief financial officer of the local unit to be directly attributable to COVID-19. The local unit shall apply for any financial assistance that may be available to the local unit from the federal government, the State, and other sources to offset any operating deficit directly attributable to COVID-19, and any such financial assistance obtained by the local unit shall be utilized to offset any operating deficit. The chief financial officer of a local unit seeking approval pursuant to this subsection shall submit a certification approved by a majority vote of the full governing body. The director shall provide a form, application, schedule and process for review, approval or denial, and reconsideration of the application.

The director shall approve or deny, in writing, any application submitted

pursuant to this subsection within 45 days, or the next business day following the 45th day if the 45th day falls on a Saturday, Sunday, or holiday. If a written decision is not rendered within this time period, the application shall be deemed to be approved, and the local unit may proceed to adopt the appropriate resolution or ordinance. If an application is denied, the local unit may resubmit the application with such changes as the local unit deems appropriate, with submission and review subject to the same procedures set forth in this subsection.

As used in this subsection, "Deficit in operations" means a deficit balance reported on a local unit's "Results of Operation" schedule of the annual financial statement. (cf: P.L.2017, c.101,s.1)

As used in subsections l. and m., "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

3. N.J.S.40A:4-55 is amended to read as follows:

After the adoption of an ordinance or resolution for special emergency appropriations, the local unit shall by 2/3 vote of the full governing body adopt a resolution setting forth:

a. The amount appropriated.

b. (1) Provision for the borrowing of money and the issuance of "Special Emergency Notes" which may be renewed from time to time, but at least 1/5 of all such notes, and the renewals thereof, shall mature and be paid in each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of the emergency resolution.

(2) In the case of special emergency appropriations authorized pursuant to subsection m. of N.J.S.40A:4-53, a local unit shall appropriate one-fifth (1/5) of the portion of the special emergency directly attributable to COVID-19 in each year beginning in the year after the year in which the resulting deferred charge appears in the local unit's unaudited annual financial statement, such that, for example, a deferred charge included in the 2021 unaudited annual financial statement would have its first one-fifth (1/5) appropriation in the 2022 budget, with the final one-fifth (1/5) portion of the special emergency fully appropriated by no later than the last day of the sixth fiscal year following the end of the fiscal year that is the subject of the application. If a local unit's application for certification of the special emergency under subsection m. of N.J.S.40A:4-53 demonstrates that full appropriation of the COVID-19 related special emergency appropriation by the last day of the sixth fiscal year will cause significant fiscal distress, including, but not limited to, if it would directly cause an increase in the tax levy greater than 2%, an increase of greater than \$50 per average assessed home in each year deferred charges appear in the local unit's budget, or in the case of a utility, at least a 5% increase in user fees or charges, the Local Finance Board may permit the local unit to extend the repayment period up to a total of ten years on a schedule determined by the Board.

(3) A local unit shall not borrow moneys under this section that may be considered duplicative of financial assistance provided to the local unit from the federal government, the State, or other sources, to address the COVID-19 deficit in operations or COVID-19

emergency appropriations. As used in this section, "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.
 (cf: P.L.2003, c.129, s.12)

The provisions of this chapter relating to tax anticipation notes shall apply to special emergency notes.

c. A local unit may finance such appropriation from surplus funds available or borrow money in the manner prescribed above. Where any appropriation is financed from surplus funds available, at least 1/5 of the amount thereof shall be included in each annual budget until the appropriation has been fully provided for. In the case of special emergency appropriations authorized pursuant to subsection m. of N.J.S.40A:4-53, a local unit shall appropriate one-fifth (1/5) of the portion of the special emergency directly attributable to COVID-19 in each year beginning in the year after the year in which the resulting deferred charge appears in the local unit's unaudited annual financial statement, such that, for example, a deferred charge included in the 2021 unaudited annual financial statement would have its first one-fifth (1/5) appropriation in the 2022 budget, with the final one-fifth (1/5) portion of the special emergency fully appropriated by no later than the last day of the sixth fiscal year following the end of the fiscal year that is the subject of the application. If a local unit's application for certification of the special emergency under subsection m. of N.J.S.40A:4-53 demonstrates that full appropriation of the COVID-19 related special emergency appropriation by the last day of the sixth fiscal year will cause significant fiscal distress, including, but not

limited to, if it would directly cause an increase in the tax levy greater than 2%, an increase of greater than \$50 per average assessed home in each year deferred charges appear in the local unit's budget, or in the case of a utility, at least a 5% increase in user fees or charges, the Local Finance Board may permit the local unit to extend the repayment period up to a total of ten years on a schedule determined by the Board.

(cf: N.J.S.40A:4-55)

4. N.J.S.40A:4-78 is amended to read as follows:

a. If the director finds that all requirements of law and of the regulations of the local government board have been met, he shall approve the budget, otherwise he shall refuse to approve it.

The director, in refusing to approve a budget, shall not substitute his discretion with respect to the amount of an appropriation when such amount is not made mandatory because of the requirements of law.

b. Notwithstanding the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, the Local Finance Board is authorized to adopt rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain municipalities from the requirement that the director approve their annual budgets and to provide instead for a system of local examination and approval of such budgets by municipal officials, provided that:

(1) the director finds that such municipalities are fiscally sound and that their fiscal practices are conducted in accordance with law and sound administrative practice;

(2) the director shall examine the budgets of such municipalities in accordance

with the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, at least every third year;

(3) the governing body and chief financial officer of each such municipality shall each file a certification with the director stating that, with reference to the adopted budget of the municipality, they have:

(a) examined the budget in the manner prescribed under N.J.S.40A:4-76;

(b) determined that the budget complies with the requirements set forth in N.J.S.40A:4-77; and

(c) determined that the budget complies with all other provisions of law, including, but not limited to, the "Local Budget Law," N.J.S.40A:4-1 et seq., P.L.1976, c.68 (C.40A:4-45.1 et seq.), and the regulations of the Local Finance Board;

(4) all budget documents required by law or the regulations adopted by the Local Finance Board shall be filed with the director on a timely basis;

(5) other criteria and responsibilities as established by the regulations adopted by the Local Finance Board are met.

c. The director shall act to require immediate compliance with the "Local Budget Law," N.J.S.40A:4-1 et seq., if the director finds that any such exemption impairs the fiscal integrity or solvency of any such municipality. Any appeal of a governing body's action in adopting an annual budget shall be made to the director.

d. If a municipality has received approval for a special emergency appropriation pursuant to subsection m. of N.J.S.40A:4-53, that municipality shall not be eligible for local examination and approval

pursuant to subsection b of this section until the fiscal year after the final appropriation is made.
(cf: P.L.1996, c.113, s.13)

5. (New section)

Notwithstanding the provisions of N.J.S.40A:2-51 to the contrary, a local unit may incur indebtedness, borrow money, and authorize and issue negotiable refunding bonds, in any amount determined to be necessary by the local unit and approved by the Local Finance Board to effect a refunding for the purpose of repaying a Federal Emergency Management Agency Community Disaster Loan for which the local unit executed a promissory note in 2013 under the authority of section 5 of P.L.1951, c.72 (C.App.A:9-62), in addition to the other purposes for which it may do the same under N.J.S.40A:2-51.

6. Section 2 of P.L.1969, c.130 (C.18A:24-61.2) is amended to read as follows:

2. Notwithstanding the provisions of any other law or any debt limitation or requirement for down payment or for referendum or other action by legal voters, refunding bonds may be authorized and issued for the purpose of paying, funding or refunding: any refunded bonds; the cost of retiring the present value of the unfunded accrued liability due and owing by a board of education, as calculated by the system actuary for a date certain upon the request of a board of education, for early retirement incentive benefits granted by the board of education pursuant to P.L.1991, c.231, P.L.1993, c.163 and P.L.2003, c.129; the repayment of a Federal Emergency Management Agency Community Disaster Loan for which the board of education executed a promissory note in 2013 under the authority of section 5 of P.L.1951, c.72 (C.App.A:9-62); the cost of COVID-19 expenditures

incurred for immediate preparation, response, recovery, and restoration of public services, for a period not to exceed five years; and the cost or expense of issuing refunding bonds including printing, advertising, accounting, financial, legal or other expense in connection therewith. Obligations to be paid, funded or refunded with respect to which an ordinance authorizing the issuance of refunding bonds has been adopted pursuant to this act and not otherwise deductible shall be excluded in calculating the net school debt of a municipality or a district. Refunding bonds shall be authorized (a) in the case of any county or municipality by a refunding bond ordinance enacted in the manner or mode of procedure provided for adoption of a refunding bond ordinance pursuant to the Local Bond Law, constituting chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes, and (b) in the case of a Type II school district by an ordinance (herein called the "refunding bond ordinance") adopted by the board of education of such school district as provided in this chapter. As used in this section, "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

(cf. P.L.2003, c.129, s.12)

7. Section 6 of P.L.1983, c.313 (C.40A:5A-6) is amended to read as follows:

6. Prior to the adoption of a bond resolution by an authority, or the adoption of an ordinance or resolution of a local unit or units authorizing a service contract that is part of a project financing, the proposed project financing shall be submitted to the Local Finance Board for its review. The Local Finance Board may adopt rules and regulations, pursuant to the "Administrative Procedure

Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to permit project financing to proceed without such application and review if the project financing is a refunding that will result in debt service savings on outstanding bond debt. The Local Finance Board shall, in the course of its review, give consideration to:

a. The nature, purpose, and scope of the proposed project financing;

b. The engineering and feasibility studies prepared in connection therewith;

c. The terms and provisions of the proposed service contracts, bond resolutions and, in the instance of a negotiated offering, the proposed or maximum terms and conditions of sale;

d. An estimate of the proposed or maximum schedule of debt service payments required, and the impact thereof on the budget and financial condition of the authority and of the local unit;

e. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report or feasibility studies; and

f. The initial rate, rent, fee, or charge schedule proposed by the authority, or any other proposed method of raising the amounts required to finance the operations and payments of debt service on the obligations of the authority.

Notwithstanding any other provision of law to the contrary, an authority may, upon application to, and review and approval by, the Local Finance Board, incur indebtedness, borrow money, and authorize and issue negotiable refunding bonds to cover the cost of COVID-19 expenditures incurred for immediate preparation,

response, recovery, and restoration of public services for a period not to exceed five years. As used herein, "COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

The Local Finance Board may examine the estimates, computations or calculations made in connection with the submission, may require the production of papers, documents, witnesses or information, may make or cause to be made an audit or investigation and may take any other action which it may deem necessary to its review of the submission.

(cf: P.L.2015, c.95, s.17)

8. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to read as follows:

11. a. The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision

within the county or any beneficiary county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (d) provision within the county or any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (e) provision within the county or any beneficiary county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50% of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and

structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (g) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county, (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (i) provision of loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented, (j) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, (k) any combination or combinations of the

foregoing or following, and (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S.15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A county improvement authority shall also have as its purpose the pooling of loans for any local governmental units within the county or any beneficiary county that are refunding bonds in order to achieve more favorable interest rates and terms for those local governmental units.

b. In a fiscal year in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), a state of emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both has been declared by the Governor in response to COVID-19 and during the next following fiscal year, a county improvement authority shall also have as its purpose the pooling of special emergency notes issued by the county or any beneficiary county, or by any local governmental unit within the county or any beneficiary county, pursuant to N.J.S.40A:4-55 for purposes of financing a special emergency appropriation authorized for the purpose set forth in subsections l. and m. of N.J.S.40A:4-53).
(cf: P.L.2002, c.42, s.8)

9. Section 37 of P.L.1960, c.183 (C.40:37A-80) is amended to read as follows:

37. a. For the purpose of aiding an authority in the planning, undertaking, acquisition, construction, financing or operation of any facility which the authority is authorized to undertake pursuant to section 11 of P.L.1960, c.183 (C.40:37A-54), the county or any beneficiary county may, pursuant to resolution duly adopted by its governing body, or any municipality in the county or beneficiary county may, by ordinance of its governing body, in the manner provided for adoption of a bond ordinance as provided in the local bond law and with or without consideration and upon such terms and conditions as may be agreed to by and between the county or beneficiary county or the municipality and the authority, unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority. Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the county or beneficiary county or the municipality and on its behalf by such officer thereof as may be designated in the resolution or ordinance authorizing such guaranty, and such county or municipality shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of an authority may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county or municipality for the purpose of determining the indebtedness of such

county or municipality under or pursuant to the local bond law. The principal amount of said bonds so guaranteed and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of said local bond law (a) from and after the time of issuance of said bonds until the end of the fiscal year beginning next after the completion of acquisition or construction of the facility to be financed from the proceeds of such bonds and (b) in any annual debt statement filed pursuant to said local bond law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal and interest on all such guaranteed bonds, all bonds of any such county or any municipality issued as provided in section 36 of P.L.1960, c.183 (C. 40:37A-79), and all bonds of the authority issued under this act.

b. For the purpose of aiding an authority in the issuance of bonds pursuant to subsection b. of section 11 of P.L.1960, c.183 (C. 40:37A-54), the county or any beneficiary county may, pursuant to a resolution duly adopted by its governing body, unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority issued for purposes of the pooling of notes issued pursuant to subsection b. of N.J.S.40A:4-55. Any guaranty of bonds of an authority made pursuant to this subsection shall be evidenced by endorsement thereof on such bonds, executed in the name of the county or beneficiary county and on its behalf by such officer thereof as may be designated in the resolution or ordinance authorizing such

guaranty, and such county shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of an authority may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county for the purpose of determining the indebtedness of such county under or pursuant to the local bond law. The principal amount of the notes guaranteed and included in gross debt pursuant to this subsection shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the local bond law."

(cf: P.L.1994, c.76, s.10)

Page 2, Section 1, Lines 6-43:

Delete in their entirety

Page 3, Section 1, Lines 1-47:

Delete in their entirety

Page 4, Section 1, Lines 1-41:

Delete in their entirety

Page 4, Section 2, Line 43:

Delete "2." and insert "10."

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate McDonnell

Deputy Chief Counsel to the Governor

Governor Murphy Signs Legislation Authorizing Municipalities and Counties to Issue Coronavirus Relief Bonds

08/31/2020

TRENTON – Governor Murphy today signed legislation (A3971) which authorizes municipalities and counties to borrow funds to cover revenue shortfalls and expenditures caused by the COVID-19 pandemic, by issuing bonds and notes. The final legislation included improvements recommended by Governor Murphy in his prior conditional veto issued on July 30, 2020.

“The COVID-19 pandemic and the ensuing economic crisis has left no corner of our state untouched,” **said Governor Murphy**. “In the absence of much-needed federal assistance, this legislation will provide an important tool to New Jersey’s municipalities and counties, allowing them to have access to the funds needed to continue serving residents.”

“Municipalities have significant fixed statutory expenses and provide essential services, which have increased as a result of the pandemic,” **said Michael F. Cerra, Executive Director of the New Jersey State League of Municipalities**. “Meanwhile local governments are experiencing significant declines in revenue during this pandemic and for the foreseeable future, most of which will not be recaptured. This new law will provide needed flexibility to maintain essential services, control property taxes and address this unprecedented financial distress. Our thanks to the Governor and all the legislative sponsors for partnering with the League and other interested stakeholders to provide this critical financial tool.”

Primary Sponsors of A3971 include Assemblymembers Daniel R. Benson, Craig J. Coughlin, Wayne P. DeAngelo, and BettyLou DeCroce, and Senators Troy Singleton, Vin Gopal, and Nicholas P. Scutari.

“Many municipalities have already suffered substantial loss of revenue as a result of the COVID-19 pandemic,” **said Assemblyman Benson**. “New Jersey towns will need access to all available resources in order to recover from these challenging times. We must do everything we can to prevent local budgets from being balanced with higher taxes and further burdening New Jersey taxpayers.”

“Municipalities and counties are experiencing revenue shortfalls and expense overruns due to battling Covid-19,” **said Assembly Speaker Coughlin**. “All available options, including the ability to borrow funds, must be on the table if we expect our local economies to recoup losses and strengthen post-pandemic.”

“New Jersey municipalities are going to need help in recovery efforts post-pandemic,” **said Assemblyman DeAngelo**. “Allowing for an alternative way for towns to address budget concerns is important to relieving an unnecessary tax burden in the future for residents.”

“The COVID-19 pandemic is not only a public health emergency, it has become a full blown economic emergency as well. The pandemic has left governments across the state in financial desperation and has led the country into a severe and painful recession,” **said Senator Troy Singleton**. “With the signing of this bill into law, we are taking steps to ensure county and local governments can borrow money responsibly with fiscal restraints to relieve the budgetary pressure of lost revenues and emergency spending over the past six months.”

“The public health and economic crises brought on by COVID-19 has turned our lives upside down and thrown government budgets around the state into deep uncertainty,” **said Senator Vin Gopal**. “This legislation will give our local and county governments an extra tool to help us weather this crisis with as minimal an impact as possible on vital services, programs and taxpayers.”

“Local governments are reeling due to their projected budget plans being decimated by the economic fallout of COVID-19, especially at a time when people will need the help of the government the most,” **said Senator Scutari**. “This legislation provides a path to relief that is sorely needed by many local and county governments so they can continue to provide essential services to their communities.”

In his conditional veto, Governor Murphy recommended that borrowing would be best accomplished through existing and well-established local budgetary and debt structures instead of a new, additional funding mechanism. By amending local borrowing laws, the final legislation allows counties and towns to issue five-year special emergency notes for a broad swath of COVID-19 related costs. The final legislation also expands the special emergency mechanism to permit adoption of a special emergency to address certified COVID-19 related deficits in operations.

The legislation will take effect immediately.