

# 40A:4-45

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2009                   **CHAPTER:** 149

**NJSA:** 40A:4-45                   (Permits revenue received by municipality as payments in lieu of taxes to increase cap base upon which permissible increases to final appropriations are calculated under local cap law)

**BILL NO:** S2372 (Substituted for A3464)

**SPONSOR(S)** Sarlo and Others

**DATE INTRODUCED:** November 24, 2008

**COMMITTEE:**                   **ASSEMBLY:** Budget  
   **SENATE:** Community and Urban Affairs

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                   **ASSEMBLY:** June 25, 2009  
   **SENATE:** June 25, 2009

**DATE OF APPROVAL:** November 20, 2009

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Second reprint enacted)

**S2372**

**SPONSOR'S STATEMENT:** (Begins on page 3 of original bill) 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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** Yes

**LEGISLATIVE FISCAL ESTIMATE:** No

**A3464**

**SPONSOR'S STATEMENT:** (Begins on page 3 of original bill) Yes

**COMMITTEE STATEMENT:**                   **ASSEMBLY:** Yes    Housing 2-9-09  
   **SENATE:** No        Budget 6-15-09

**FLOOR AMENDMENT STATEMENT:** Yes

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

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

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/RWH

[Second Reprint]

**SENATE, No. 2372**

**STATE OF NEW JERSEY**

**213th LEGISLATURE**

INTRODUCED NOVEMBER 24, 2008

**Sponsored by:**

**Senator PAUL A. SARLO**

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

**Assemblyman FREDERICK SCALERA**

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

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Permits revenue received by municipality as payments in lieu of taxes to increase cap base upon which permissible increases to final appropriations are calculated under local cap law.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 18, 2009.

**(Sponsorship Updated As Of: 6/26/2009)**

1 AN ACT concerning limitations on local budget increases and  
2 amending P.L.1976, c.68.

3

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

6

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

9 2. For local budget years beginning on or after July 1, 2004  
10 municipalities and counties shall be prohibited from increasing their  
11 final appropriations by more than 2.5% or the cost-of-living  
12 adjustment, whichever is less, over the previous year, except within  
13 the provisions set forth hereunder.

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

17 a. Amounts of revenue generated by:

18 (1) an increase in its valuations based solely on applying the  
19 preceding year's local purposes tax rate of the municipality to the  
20 assessed value of new construction or improvements, or on applying  
21 the preceding year's county tax rate to the apportionment valuation  
22 of new construction or improvements, as may be appropriate, and

23 (2) **'[payments]'** <sup>2</sup>**'[the first full year's payment]'** payments<sup>2</sup> in  
24 lieu of taxes 'on a parcel of land' received 'on or after January 1,  
25 2007<sup>1</sup> pursuant to the terms of a financial agreement under the  
26 "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et  
27 seq.), less any amounts remitted 'by a municipality' to '[the] a'  
28 county pursuant to subsection b. of section 12 of P.L.1991, c.431  
29 (C.40A:20-12);

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

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

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

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

39 For the 1991 local budget year, the final appropriations from the  
40 prior year shall be the total appropriations for the 1990 budget year.  
41 In each local budget year in which any service, function, or portion  
42 thereof, is transferred to, or assumed by, the State or federal  
43 government from a municipal government, the municipality shall  
44 deduct from its final appropriations upon which its permissible

**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:**

<sup>1</sup>Assembly ABU committee amendments adopted June 15, 2009.

<sup>2</sup>Assembly floor amendments adopted June 18, 2009.

1 expenditures are calculated the amount which the municipality  
2 expended for that service or function during the last full budget  
3 year, or portion thereof, throughout which the service or function so  
4 transferred was funded from appropriations in the municipal budget.

5 In each budget year subsequent to 1990, whenever any  
6 municipality shall have transferred to any local public utility, any  
7 local public authority or any special purposes district, during the  
8 immediately preceding budget year, or at any time during the  
9 current budget year prior to the final adoption of the budget, any  
10 service or function funded during the immediately preceding budget  
11 year, either partially or wholly, from appropriations in the  
12 municipal budget, the municipality shall deduct from its final  
13 appropriations upon which its permissible expenditures are  
14 calculated pursuant to this section the amount which the  
15 municipality expended for that service or function during the last  
16 full budget year throughout which the service or function so  
17 transferred was funded from appropriations in the municipal budget.  
18 (cf. P.L.2004, c.74, s.2)

19

20 2. This act shall take effect immediately and shall be first  
21 applicable to local budgets introduced in the 2009 calendar fiscal  
22 year and the 2010 State fiscal year, as appropriate, in computing a  
23 municipality's final appropriations for the previous year.

**SENATE, No. 2372**

**STATE OF NEW JERSEY**

**213th LEGISLATURE**

INTRODUCED NOVEMBER 24, 2008

**Sponsored by:**

**Senator PAUL A. SARLO**

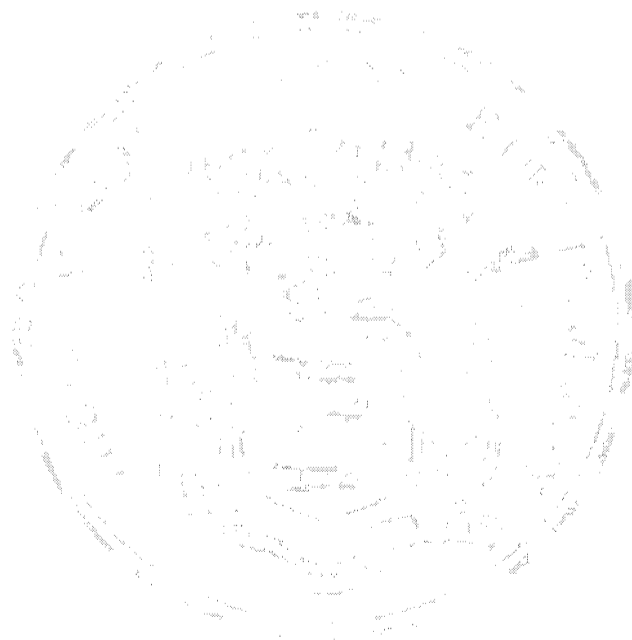
**District 36 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Permits revenue received by municipality as payments in lieu of taxes to increase cap base upon which permissible increases to final appropriations are calculated under local cap law.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning limitations on local budget increases and  
2 amending P.L.1976, c.68.

3

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

6

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

9 2. For local budget years beginning on or after July 1, 2004  
10 municipalities and counties shall be prohibited from increasing their  
11 final appropriations by more than 2.5% or the cost-of-living  
12 adjustment, whichever is less, over the previous year, except within  
13 the provisions set forth hereunder.

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

17 a. Amounts of revenue generated by:

18 (1) an increase in its valuations based solely on applying the  
19 preceding year's local purposes tax rate of the municipality to the  
20 assessed value of new construction or improvements, or on applying  
21 the preceding year's county tax rate to the apportionment valuation  
22 of new construction or improvements, as may be appropriate, and

23 (2) payments in lieu of taxes received pursuant to the terms of a  
24 financial agreement under the "Long Term Tax Exemption Law,"  
25 P.L.1991, c.431 (C.40A:20-1 et seq.), less any amounts remitted to  
26 the county pursuant to subsection b. of section 12 of P.L.1991,  
27 c.431 (C.40A:20-12);

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

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

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

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

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

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

**Matter underlined thus is new matter.**

1 year, or portion thereof, throughout which the service or function so  
2 transferred was funded from appropriations in the municipal budget.  
3 In each budget year subsequent to 1990, whenever any  
4 municipality shall have transferred to any local public utility, any  
5 local public authority or any special purposes district, during the  
6 immediately preceding budget year, or at any time during the  
7 current budget year prior to the final adoption of the budget, any  
8 service or function funded during the immediately preceding budget  
9 year, either partially or wholly, from appropriations in the  
10 municipal budget, the municipality shall deduct from its final  
11 appropriations upon which its permissible expenditures are  
12 calculated pursuant to this section the amount which the  
13 municipality expended for that service or function during the last  
14 full budget year throughout which the service or function so  
15 transferred was funded from appropriations in the municipal budget.  
16 (cf: P.L.2004, c.74, s.2)

17  
18 2. This act shall take effect immediately and shall be first  
19 applicable to local budgets introduced in the 2009 calendar fiscal  
20 year and the 2010 State fiscal year, as appropriate, in computing a  
21 municipality's final appropriations for the previous year.

22

23

24

SPONSOR'S STATEMENT

25

26 This bill is intended to allow an increase to the local expenditure  
27 cap base, being a municipality's final appropriations for the  
28 previous year, by the amount of payments in lieu of taxes received  
29 pursuant to the terms of a financial agreement under the "Long  
30 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.).  
31 Currently, the cap base is increased, in part, by amounts of revenue  
32 generated by an increase in valuations based solely on applying the  
33 preceding year's local purposes tax rate of the municipality to the  
34 assessed value of new construction or improvements. Expanding  
35 this provision to permit an increase to the cap base from revenue  
36 received as payments in lieu of taxes will result in the municipality  
37 having more flexibility in increasing the portions of its budget  
38 subject to the local expenditure cap. Counties receive five percent  
39 of the payments in lieu of taxes paid to a municipality and so could  
40 similarly increase the cap base by those amounts.



SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 2372**

**STATE OF NEW JERSEY**

DATED: MAY 18, 2009

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2372.

This bill allows an increase to the local expenditure cap base, being a municipality's final appropriations for the previous year, by the amount of payments in lieu of taxes received pursuant to the terms of a financial agreement under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.). Currently, the cap base is increased, in part, by amounts of revenue generated by an increase in valuations based solely on applying the preceding year's local purposes tax rate of the municipality to the assessed value of new construction or improvements. Expanding this provision to permit an increase to the cap base allows a municipality greater flexibility in increasing the portions of its budget subject to the local expenditure cap. Counties receive five percent of the payments in lieu of taxes paid to a municipality and so could similarly increase the cap base by those amounts.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **SENATE, No. 2372**

with Assembly committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 15, 2009

The Assembly Budget Committee reports favorably Senate Bill No. 2372, with committee amendments.

This bill, as amended, allows an increase to the local expenditure cap base, being a municipality's final appropriations for the previous year, by the amount of payments in lieu of taxes received pursuant to the terms of a financial agreement under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.). Currently, the cap base is increased, in part, by amounts of revenue generated by an increase in valuations based solely on applying the preceding year's local purposes tax rate of the municipality to the assessed value of new construction or improvements. Expanding this provision to permit an increase to the cap base allows a municipality greater flexibility in increasing the portions of its budget subject to the local expenditure cap. Counties receive five percent of the payments in lieu of taxes paid to a municipality and so could similarly increase the cap base by those amounts.

This bill as amended and reported is identical to Assembly Bill No. 3464 (1R) also as amended and reported by the committee.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to limit the amounts that could increase the municipal cap expenditure base to those amounts of payments in lieu of taxes on a parcel of land received on or after January 1, 2007 pursuant to a financial agreement for a tax abatement. In addition, the amendments clarify that a municipality must subtract from these payments any receipts remitted to a county.

#### FISCAL IMPACT:

This legislation was not certified as requiring a fiscal note.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 2372**

with Assembly Floor Amendments  
(Proposed by ASSEMBLYMAN SCALERA)

ADOPTED: JUNE 18, 2009

This floor amendment would permit a municipality to increase its local expenditure cap base by the amount of payments in lieu of taxes received on or after January 1, 2007.

# **ASSEMBLY, No. 3464**

## **STATE OF NEW JERSEY**

### **213th LEGISLATURE**

INTRODUCED NOVEMBER 17, 2008

**Sponsored by:**

**Assemblyman FREDERICK SCALERA**

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

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Permits revenue received by municipality as payments in lieu of taxes to increase cap base upon which permissible increases to final appropriations are calculated under local cap law.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/10/2009)**

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1 AN ACT concerning limitations on local budget increases and  
2 amending P.L.1976, c.68.

3

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

6

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

9 2. For local budget years beginning on or after July 1, 2004  
10 municipalities and counties shall be prohibited from increasing their  
11 final appropriations by more than 2.5% or the cost-of-living  
12 adjustment, whichever is less, over the previous year, except within  
13 the provisions set forth hereunder.

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

17 a. Amounts of revenue generated by:

18 (1) an increase in its valuations based solely on applying the  
19 preceding year's local purposes tax rate of the municipality to the  
20 assessed value of new construction or improvements, or on applying  
21 the preceding year's county tax rate to the apportionment valuation  
22 of new construction or improvements, as may be appropriate, and

23 (2) payments in lieu of taxes received pursuant to the terms of a  
24 financial agreement under the "Long Term Tax Exemption Law,"  
25 P.L.1991, c.431 (C.40A:20-1 et seq.), less any amounts remitted to  
26 the county pursuant to subsection b. of section 12 of P.L.1991,  
27 c.431 (C.40A:20-12);

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

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

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

33 e. Expenditures for the assumption of any service or function of  
34 a local public utility, a local public authority, or a special purposes  
35 district, as approved by the Local Finance Board pursuant to section  
36 3 of P.L.1983, c.49 (C.40A:4-45.13).

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

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

**Matter underlined thus is new matter.**

1 year, or portion thereof, throughout which the service or function so  
2 transferred was funded from appropriations in the municipal budget.

3 In each budget year subsequent to 1990, whenever any  
4 municipality shall have transferred to any local public utility, any  
5 local public authority or any special purposes district, during the  
6 immediately preceding budget year, or at any time during the  
7 current budget year prior to the final adoption of the budget, any  
8 service or function funded during the immediately preceding budget  
9 year, either partially or wholly, from appropriations in the  
10 municipal budget, the municipality shall deduct from its final  
11 appropriations upon which its permissible expenditures are  
12 calculated pursuant to this section the amount which the  
13 municipality expended for that service or function during the last  
14 full budget year throughout which the service or function so  
15 transferred was funded from appropriations in the municipal budget.  
16 (cf: P.L.2004, c.74, s.2)

17  
18 2. This act shall take effect immediately and shall be first  
19 applicable to local budgets introduced in the 2009 calendar fiscal  
20 year and the 2010 State fiscal year, as appropriate, in computing a  
21 municipality's final appropriations for the previous year.

22  
23  
24 SPONSOR'S STATEMENT

25  
26 This bill is intended to allow an increase to the local expenditure  
27 cap base, being a municipality's final appropriations for the  
28 previous year, by the amount of payments in lieu of taxes received  
29 pursuant to the terms of a financial agreement under the "Long  
30 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.).  
31 Currently, the cap base is increased, in part, by amounts of revenue  
32 generated by an increase in valuations based solely on applying the  
33 preceding year's local purposes tax rate of the municipality to the  
34 assessed value of new construction or improvements. Expanding  
35 this provision to permit an increase to the cap base from revenue  
36 received as payments in lieu of taxes will result in the municipality  
37 having more flexibility in increasing the portions of its budget  
38 subject to the local expenditure cap. Counties receive five percent  
39 of the payments in lieu of taxes paid to a municipality and so could  
40 similarly increase the cap base by those amounts.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3464**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 9, 2009

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 3464.

This bill, as amended, is intended to allow an increase to the local expenditure cap base, being a municipality's final appropriations for the previous year, by the amount of certain payments in lieu of taxes received pursuant to the terms of a financial agreement under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.). The bill, as amended, provides that the amounts of payments in lieu of taxes received for the first full year after January 1, 2008 for a parcel of land subject to an agreement could be included in the increase. Currently, the cap base is increased, in part, by amounts of revenue generated by an increase in valuations based solely on applying the preceding year's local purposes tax rate of the municipality to the assessed value of new construction or improvements. Expanding this provision to permit an increase to the cap base from certain revenue received as payments in lieu of taxes will result in the municipality having more flexibility in increasing the portions of its budget subject to the local expenditure cap. Amounts required to be paid by a municipality to a county would not be included in the increase in the municipality's cap base.

Committee amendments

The committee amended the bill to limit the amounts that could increase the municipal cap expenditure base to those amounts of payment in lieu of taxes on a parcel of land received on or after January 1, 2008 pursuant to a financial agreement for a tax abatement. In addition, the amendments clarify that a municipality must subtract from these payments any receipts remitted to a county.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 3464**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 15, 2009

The Assembly Budget Committee reports favorably Assembly Bill No. 3464 (1R), with committee amendments.

This bill, as amended, is intended to allow an increase to the local expenditure cap base, being a municipality's final appropriations for the previous year, by the amount of certain payments in lieu of taxes received pursuant to the terms of a financial agreement under the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.). The bill, as amended, provides that the amounts of payments in lieu of taxes received for the first full year after January 1, 2007 for a parcel of land subject to an agreement could be included in the increase. Currently, the cap base is increased, in part, by amounts of revenue generated by an increase in valuations based solely on applying the preceding year's local purposes tax rate of the municipality to the assessed value of new construction or improvements.

This bill as amended is identical to Senate Bill No. 2372 also as amended and reported by the committee.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to limit the amounts that could increase the municipal cap expenditure base to those amounts of payment in lieu of taxes on a parcel of land received on or after January 1, 2007 pursuant to a financial agreement for a tax abatement. In addition, the amendments clarify that a municipality must subtract from these payments any receipts remitted to a county.

#### FISCAL IMPACT:

This legislation was not certified as requiring a fiscal note.



STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 3464**

with Assembly Floor Amendments  
(Proposed by Assemblyman SCALERA)

ADOPTED: JUNE 18, 2009

This floor amendment would permit a municipality to increase its local expenditure cap base by the amount of payments in lieu of taxes received on or after January 1, 2007.