

54:4-67

LEGISLATIVE HISTORY CHECKLIST

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(Municipal property tax levy)

NJSA: 54:4-67

LAWS OF: 1997 CHAPTER: 99

BILL NO: S1091

SPONSOR(S): Bennett

DATE INTRODUCED: May 9, 1996

COMMITTEE: ASSEMBLY: ---

SENATE: Community Affairs; Budget

AMENDED DURING PASSAGE: Yes Senate substitute (2R) enacted

DATE OF PASSAGE: ASSEMBLY: March 24, 1997

SENATE: December 19, 1996

DATE OF APPROVAL: May 12, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement, with floor amendments, adopted 11-7-96

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes 6-24-96 & 10-28-96

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED: REPORTS: No

HEARINGS: No

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SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1091

STATE OF NEW JERSEY

ADOPTED JUNE 24, 1996

Sponsored by Senators BENNETT, KOSCO and Ciesla

1 AN ACT authorizing the public sale of a total municipal property tax
2 levy to the highest bidder and amending and supplementing various
3 sections of statutory law.

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

7
8 1. R.S.54:4-65 is amended to read as follows:

9 54:4-65. a. The Director of the Division of Local Government
10 Services in the Department of Community Affairs shall approve the
11 form and content of property tax bills.

12 b. Each tax bill shall have printed thereon a brief tabulation
13 showing the distribution of the amount raised by taxation in the taxing
14 district, in such form as to disclose the rate per \$100.00 of assessed
15 valuation or the number of cents in each dollar paid by the taxpayer
16 which is to be used for the payment of State school taxes, other State
17 taxes, county taxes, local school expenditures and other local
18 expenditures. The last named item may be further subdivided so as to
19 show the amount for each of the several departments of the municipal
20 government. In lieu of printing such information on the tax bill, any
21 municipality may furnish the tabulation required hereunder and any
22 other pertinent information in a statement accompanying the mailing
23 or delivery of the tax bill. There shall be included on or with the tax
24 bill the delinquent interest rate or rates to be charged and any end of
25 year penalty that is authorized.

26 c. The appropriate tax bill or form mailed with the tax bill shall
27 also contain a statement reporting amounts of State aid and assistance

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:

¹ Senate SBA committee amendments adopted October 28, 1996.

² Senate floor amendments adopted November 7, 1996.

1 received by the municipality, school districts, ~~special~~ districts and
2 county governments used to offset local tax levies. The director shall
3 provide each tax collector with a certification of the amounts of said
4 State aid and assistance for inclusion in the tax bill.

5 d. The tax bill or form mailed with the tax bill shall include
6 thereon the date upon which each installment is due.

7 (cf: P.L.1994, c.32, s.2)

8

9 2. R.S.54:4-66 is amended to read as follows:

10 54:4-66. a. Taxes for municipalities operating under the calendar
11 fiscal year shall be payable the first installment as hereinafter provided
12 on February 1, the second installment on May 1, the third installment
13 on August 1 and the fourth installment on November 1, after which
14 dates if unpaid, they shall become delinquent and remain delinquent
15 until such time as all unpaid taxes, including taxes and other liens
16 subsequently due and unpaid, together with interest have been fully
17 paid and satisfied;

18 b. From and after the respective dates hereinbefore provided for
19 taxes to become delinquent, the taxpayer or property assessed shall be
20 subject to the interest and penalties hereinafter prescribed;

21 c. The dates hereinbefore provided for payment of the first and
22 second installments of taxes being before the true amount of the tax
23 will have been determined, the amount to be payable as each of the
24 first two installments shall be one-quarter of the total tax finally levied
25 against the same property or taxpayer for the preceding year or, if
26 directed to do so for the tax year by resolution of the municipal
27 governing body, one-half of the tax levied for the second half of the
28 preceding tax year, as appropriate; and the amount to be payable for
29 the third and fourth installments shall be the full tax as levied for the
30 current year, less the amount charged as the first and second
31 installments; the amount thus found to be payable as the last two
32 installments shall be divided equally for and as each installment. An
33 appropriate adjustment by way of discount shall be made, if it shall
34 appear that the total of the first and second installments exceeded
35 one-half of the total tax as levied for the year;

36 d. (Deleted by amendment, P.L.1994, c.72).

37 e. Taxes may be received and credited as payments at any time,
38 even prior to the dates hereinbefore fixed for payment, from the
39 property owners, their agents or lien holders; however, no interest
40 shall accrue until the delinquency date. Up to and including the
41 payment date for each quarter, priority of payment shall be given to
42 the property owner when third party tax liens exist against the
43 property.

44 (cf: P.L.1994, c.72, s.1)

45

46 3. Section 2 of P.L.1994, c.72 (C.54:4-66.1) is amended to read

1 as follows:

2 2. Taxes in municipalities operating under the State fiscal year
3 shall be payable and shall be delinquent pursuant to the following
4 provisions:

5 a. Taxes shall be payable the first installment as hereinafter
6 provided on February 1, the second installment on May 1, the third
7 installment on August 1 and the fourth installment on November 1,
8 after which dates if unpaid, they shall become delinquent and remain
9 delinquent until such time as all unpaid taxes, including taxes and other
10 liens subsequently due and unpaid, together with interest have been
11 fully paid and satisfied;

12 b. From and after the respective dates hereinbefore provided for
13 taxes to become delinquent, the taxpayer or property assessed shall be
14 subject to the penalties hereinafter prescribed;

15 c. The following terms and phrases shall have the meaning defined
16 below when calculating taxes under this section:

17 "Assessed value" means the net valuation taxable of each parcel of
18 property in a municipality in the current tax year.

19 "Billing percentage" is used to calculate the amount required to
20 meet municipal and non-municipal fiscal obligations for the first six
21 months of the calendar year.

22 "Calendar year" means the current calendar year.

23 "Certification of tax billing levies" is the form and associated
24 procedures promulgated by the director on which the tax collector
25 calculates the appropriate billing amounts for the first and second
26 installments of the calendar year.

27 "Director" means the director of the Division of Local Government
28 Services.

29 "Municipal tax levy" means the tax levy set in the municipal budget
30 for the current fiscal year.

31 "Non-municipal tax levy" means the total of all of the tax levies
32 certified by the county board of taxation for non-municipal purposes
33 for the calendar year.

34 "Preliminary municipal tax levy" is the amount certified by the
35 governing body for the purposes of third and fourth installment
36 municipal tax levy.

37 "Prior year" means the calendar year just previous to the quarters
38 being billed.

39 "Six month required non-municipal tax levy" means the amount
40 necessary to be paid by the municipality to the county and
41 non-municipal taxing districts for the first six months of the calendar
42 year.

43 "Total adjusted prior year taxes" means the prior year taxes billed
44 after adjustments are made to incorporate changes to tax bills between
45 tax billings.

46 "Total assessed value" means the total net valuation taxable for the

1 municipality pursuant to the most recent Table of ~~Aggregates~~
2 promulgated by the County Board of Taxation.

3 d. The following formulas shall be utilized in calculating the taxes
4 for each parcel or property:

5 (1) the municipal rate shall be the preliminary municipal tax levy
6 divided by the total assessed value per one hundred dollars of assessed
7 valuation.

8 (2) the non-municipal rate shall be the non-municipal tax levy
9 divided by the total assessed value per one hundred dollars of assessed
10 value.

11 (3) "Municipal billing percentage" shall be the municipal tax levy
12 less the sum of the adjusted taxes billed for the prior year third and
13 fourth installments, divided by the total adjusted prior year taxes.

14 (4) "Non-municipal billing percentage" shall be calculated by
15 dividing the six month required non-municipal tax levy by the total
16 adjusted prior year taxes.

17 e. Taxes for each parcel or property shall be calculated as follows:

18 (1) The tax collector shall prepare the certification of tax billing
19 levies and calculate the first and second installments by computing the
20 municipal portion, which shall be the municipal billing percentage
21 multiplied by the total adjusted prior year taxes; and then the
22 non-municipal portion, which shall be the non-municipal billing
23 percentage multiplied by the total adjusted prior year taxes. The sum
24 of the two shall be divided in half for each installment. A copy of the
25 certification shall be filed with the director and the county board of
26 taxation.

27 (2) The third and fourth installments shall be calculated by
28 computing the municipal portion, which shall be the product of the
29 municipal rate times the total assessed value per one hundred dollars
30 of assessed value, and subtracting the taxes billed for the previous first
31 and second installments; and then the non-municipal portion which
32 shall be the product of the non-municipal rate times the total assessed
33 value per one hundred dollars of assessed value, and subtracting the
34 taxes billed for the previous first and second installments. The sum of
35 the two shall be divided in half for each installment.

36 f. Taxes may be received and credited as payments at any time,
37 even prior to the dates hereinabove fixed for payment, from the
38 property owners, their agents or lien holders; however, no interest
39 shall accrue until the delinquency date. Up to and including the
40 payment date for each quarter, priority of payment shall be given to
41 the property owner when third party tax liens exist against the
42 property.

43 (cf: P.L.1994, c.72, s.2)

44

45 4. R.S.54:4-67 is amended to read as follows:

46 54:4-67. a. The governing body of each municipality may by

1 ~~resolution fix~~ the rate of discount to be allowed for the payment of
2 taxes or assessments previous to the date on which they would become
3 delinquent. The rate so fixed shall not exceed 6% per annum, shall be
4 allowed only in case of payment on or before the thirtieth day previous
5 to the date on which the taxes or assessments would become
6 delinquent. No such discount shall apply to the purchaser of a total
7 property tax levy pursuant to section '[15] 16' of P.L. , c.
8 (C.) (now pending before the Legislature as this bill). The
9 governing body may also fix the rate of interest to be charged for the
10 nonpayment of taxes ~~[or], assessments, or other municipal liens or~~
11 ~~charges, unless otherwise provided by law,~~ on or before the date when
12 they would become delinquent, and may provide that no interest shall
13 be charged if payment of any installment is made within the tenth
14 calendar day following the date upon which the same became payable.
15 The rate so fixed shall not exceed 8% per annum on the first \$1,500.00
16 of the delinquency and 18% per annum on any amount in excess of
17 \$1,500.00, to be calculated from the date the tax was payable until the
18 date that actual payment to the ~~[lienholder will be next authorized]~~
19 ~~tax collector is made.~~ ¹[Additionally, the governing body may
20 establish, by resolution, a single delinquency rate not to exceed 18%
21 per annum.]¹

22 b. In any year when the governing body changes the rate of
23 interest to be charged for delinquent taxes, assessments or other
24 municipal charges, or ¹[changes] to be charged¹ for the end of the
25 year penalty, the governing body, after adoption of a resolution
26 changing the rate of interest, shall provide a notice to all taxpayers,
27 prior to the date taxes are next due or with the tax bill, stating the new
28 rate or rates to be charged and the date that the new rate or rates take
29 effect. The notice may be separate from the tax bill. No change in the
30 rate of interest or the end of year penalty shall take effect until the
31 required notice has been provided in accordance with this subsection.

32 c. In municipalities that have sold their property tax levy pursuant
33 to section '[15] 16' of P.L. , c. (C.) (now pending before
34 the Legislature as this bill), the rate of interest to be charged for the
35 nonpayment of taxes, assessments or other municipal liens or charges
36 shall be the same interest or delinquency rate or rates otherwise
37 charged by the municipality, to be calculated from the date the tax was
38 payable until the date of actual payment to the tax collector. The
39 purchaser of the total property tax levy shall ¹[not be entitled to
40 collect an amount that is greater than that which is paid to the tax
41 collector and shall not collect] be paid only those amounts
42 attributable to properties included in the total property tax levy
43 purchase and actually collected by the tax collector and which amounts
44 shall not include¹ any delinquent interest collected by the municipal tax
45 collector prior to the time that the total property tax levy purchaser

1 makes the levy payment to the municipality.
 2 "Delinquency" means the sum of all taxes and municipal charges
 3 due on a given parcel of property covering any number of quarters or
 4 years. The property shall remain delinquent, as defined herein, until
 5 such time as all unpaid taxes, including subsequent taxes and liens,
 6 together with interest thereon shall have been fully paid and satisfied.
 7 The delinquency shall remain notwithstanding the issuance of a
 8 certificate of sale pursuant to R.S.54:5-32 and R.S.54:5-46, ¹[or the
 9 right of a taxpayer to file any tax appeal with the county board of
 10 taxation or the State tax court, or]¹ the payment of delinquent tax by
 11 the purchaser of the total property tax levy pursuant to section ¹[15]
 12 16¹ of P.L. , c. (C.) (now pending before the Legislature as
 13 this bill) ¹and for the purposes of satisfying the requirements for filing
 14 any tax appeal with the county board of taxation or the State tax
 15 court¹ . The governing body may also fix a penalty to be charged to
 16 a taxpayer with a delinquency in excess of \$10,000 who fails to pay
 17 that delinquency as billed, prior to the end of the fiscal year. If [such
 18 taxes are fully] any fiscal year delinquency in excess of \$10,000 is paid
 19 [and satisfied] by the holder of an outstanding tax sale certificate ¹or
 20 a total property tax levy purchaser¹, the holder ¹or purchaser, as
 21 appropriate,¹ shall be entitled to receive the amount of the penalty as
 22 part of the amount required to redeem such certificate of sale
 23 providing the payment is made by the tax lien holder ¹or tax levy
 24 purchaser¹ prior to the end of the fiscal year. ¹[The] If the holder
 25 of the outstanding tax sale certificate or the levy purchaser, as
 26 appropriate, does not make the payment in full prior to the end of the
 27 fiscal year, then the holder or purchaser shall be entitled to a pro rata
 28 share of the delinquency penalty upon redemption, and the balance of
 29 the¹ penalty ¹[as to the unpaid amount] ¹ shall inure to the benefit of
 30 the municipality. The penalty so fixed shall not exceed 6% of the
 31 amount of the delinquency with respect to each most recent fiscal year
 32 only.

33 (cf: P.L.1994, c.32, s.4)

34
 35 5. R.S.54:5-19 is amended to read as follows:
 36 54:5-19. When unpaid taxes or any municipal lien, or part thereof,
 37 on real property, remains in arrears on **[April first]** the 11th day of the
 38 eleveth month in the fiscal year **[following the fiscal year]** when the
 39 same became in arrears, **[or, in the case of municipalities that operate**
 40 **on the State fiscal year, on October first in the fiscal year following the**
 41 **fiscal year when the same became in arrears,]** the collector or other
 42 officer charged by law in the municipality with that duty, shall, subject
 43 to the provisions of the next paragraph, enforce the lien by selling the
 44 property in the manner set forth in this article ¹, provided that the sale
 45 is conducted no earlier than in the last month of the fiscal year¹ .

1 The term "collector" as hereinafter used includes any such officer,
2 and the term "officer" includes the collector.

3 The municipality may by resolution direct that ~~where~~ when
4 unpaid taxes or other municipal liens or charges, or part thereof, are
5 in arrears ~~for more than one year~~ as of the 11th day of the eleventh
6 month of the fiscal year, such sale shall include only such unpaid taxes
7 or other municipal liens or charges as were in arrears in the fiscal year
8 designated in such resolution, and may by resolution, either general or
9 special, direct that there shall be omitted from such sale any or all such
10 unpaid taxes, and other municipal liens, or parts thereof, on real
11 property, upon which regular, equal monthly installment payments are
12 being made, in pursuance to such agreement as may be authorized by
13 said resolution between the collector and the owner or person
14 interested in the property upon which such delinquent taxes may be
15 due; provided, that said agreement shall require payment of such
16 installment payments in amounts large enough to pay in full all
17 delinquent taxes, assessments and other municipal liens held by the
18 municipality, in not more than five years from the date of such
19 agreement; provided, that the extension of time for payment of such
20 arrearages herein authorized shall not apply to any parcel of property
21 which prior thereto has been included in any plan theretofore adopted
22 by any municipality of this State under and pursuant to the provisions
23 of any public statute of this State whereunder prior extensions for the
24 payment of delinquent taxes were authorized; provided further, that
25 the right of any person interested in such property to pay such arrears
26 in such installments shall be conditioned on the prompt payment of the
27 installments of taxes for the current year in which such agreement is
28 made, and all subsequent taxes, assessments and other municipal liens
29 imposed or becoming a lien thereafter, including all installments
30 thereafter payable on assessments theretofore levied, and also the
31 prompt payment of all installments of arrears as hereinbefore
32 authorized; and provided further, that in case any such installment of
33 arrears or any new taxes, assessments or other liens are not promptly
34 paid, that is to say, within thirty days after the date when the same is
35 due and payable, then such agreement shall be void, and in any such
36 case the collector, or other officer charged by law with that duty, shall
37 proceed to enforce such lien by selling in the manner in this article
38 provided.

39 (cf: P.L.1991, c.75, s.43)

40

41 6. R.S.54:5-26 is amended to read as follows:

42 54:5-26. Copies of the notice of a tax sale shall be set up in five
43 of the most public places in the municipality, and a copy of the notice
44 shall be published in a newspaper circulating in the municipality, once
45 in each of the four calendar weeks preceding the calendar week
46 containing the day appointed for the sale. In lieu of any two

1 publications, notice to the property owner¹ and to any person or entity
2 entitled to notice of foreclosure pursuant to section 20 of P.L.1948,
3 c.96 (C.54:5-104.48)¹ may be given by¹ 'regular or certified' mail, the
4 costs of which shall be added to the cost of the sale in addition to
5 those provided in R.S.54:5-38, not to exceed \$25 for each¹ [notice]
6 set of notices for a particular property. Failure of the property owner
7 to receive a notice of a tax sale properly mailed by the tax collector
8 shall not constitute grounds to void the subsequent tax sale¹. If
9 ordinances of the municipality are required to be published in any
10 special newspaper or newspapers, the notice shall be published therein.
11 (cf: R.S.54:5-26)

12

13 7. R.S.54:5-49 is amended to read as follows:

14 54:5-49. a. Each certificate shall cover only such property as is
15 assessed as one parcel, and shall be prepared ready for delivery to the
16 purchaser within ten days after the sale¹, including the date of sale as
17 the first day,¹ or the purchaser, other than a total property tax levy
18 purchaser, may refuse to accept it and be entitled to repayment of the
19 purchase price. Thereupon the lien shall be vested in the municipality
20 and a certificate of sale shall be made to it as if originally struck off to
21 it. The certificate shall not be invalid because delivered after the
22 expiration of that period.

23 b. Tax sale certificates to be issued to the purchaser of a total
24 property tax levy shall be issued within 10 days following the tax sale
25 and after the final fiscal year total property tax levy payment, or
26 thereafter, according to the contract with the municipality. A
27 resolution of entitlement to a tax sale certificate shall be provided by
28 the municipality on any delinquent properties in bankruptcy. Tax sale
29 certificates shall be issued at the conclusion of the bankruptcy
30 proceedings, or earlier, if permissible in connection with the
31 bankruptcy proceeding, dated as of the next tax sale date upon
32 surrender of the resolution of entitlement to the municipality.

33 (cf: R.S.54:5-49)

34

35 8. Section 1 of P.L.1990, c.90 (C.54:5-52.1) is amended to read
36 as follows:

37 1. In case of the destruction or loss of a tax title certificate which
38 was [acquired] issued by any municipality in this State at a tax sale
39 held in that municipality [and the said municipality is the lawful owner
40 thereof], the collector of taxes, the receiver of taxes, or the person
41 lawfully charged with the collection of taxes in said municipality shall
42 issue and execute a new certificate of tax sale in place of the one
43 which has been destroyed or lost; provided, he or she shall have been
44 duly authorized so to do by a resolution of the governing body of the
45 said municipality[]; and provided, further, said original tax sale
46 certificate had been issued at least two years prior thereto]. There

1 shall appear on the new certificate a statement that it is a duplicate of
2 the original one which was destroyed or lost and the date of said
3 original certificate and the date of the tax sale upon which it was
4 issued and the name and title of officer who issued same. The
5 municipality may charge a fee not to exceed \$100 for such a duplicate
6 certificate.

7 (cf: P.L.1940, c.90, s.1)

8

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

11 3. In the preparation of its budget a municipality shall limit any
12 increase in said budget to 5% or the index rate, whichever is less, over
13 the previous year's final appropriations subject to the following
14 exceptions:

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

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

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

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

33 The approval procedure in this subsection shall not apply to
34 appropriations adopted for a purpose referred to in subsection d. or j.
35 below;

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

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

40 f. Amounts reserved for uncollected taxes;

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

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

45 i. Any amount approved by any referendum;

46 j. Amounts required to be paid pursuant to (1) any contract with

1 ~~respect to use, service or provision of any project, facility or public~~
2 ~~improvement for water, sewerage, parking, senior citizen housing or~~
3 ~~any similar purpose, or payments on account of debt service therefor,~~
4 ~~between a municipality and any other municipality, county, school or~~
5 ~~other district, agency, authority, commission, instrumentality, public~~
6 ~~corporation, body corporate and politic or political subdivision of this~~
7 ~~State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60~~
8 ~~through 13:17-76) by a constituent municipality to the intermunicipal~~
9 ~~account; (3) any lease of a facility owned by a county improvement~~
10 ~~authority when the lease payment represents the proportionate amount~~
11 ~~necessary to amortize the debt incurred by the authority in providing~~
12 ~~the facility which is leased, in whole or in part; and (4) any repayments~~
13 ~~under a loan agreement entered into in accordance with the provisions~~
14 ~~of section 5 of P.L.1992, c.89.~~

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

16 l. Appropriations of federal, county, independent authority or
17 State funds, or by grants from private parties or nonprofit
18 organizations for a specific purpose, and amounts received or to be
19 received from such sources in reimbursement for local expenditures.
20 If a municipality provides matching funds in order to receive the
21 federal, county, independent authority or State funds, or the grants
22 from private parties or nonprofit organizations for a specific purpose,
23 the amount of the match which is required by law or agreement to be
24 provided by the municipality shall be excepted;

25 m. (Deleted by amendment, P.L.1987, c.74.)

26 n. (Deleted by amendment, P.L.1987, c.74.)

27 o. (Deleted by amendment, P.L.1990, c.89.)

28 p. (Deleted by amendment, P.L.1987, c.74.)

29 q. (Deleted by amendment, P.L.1990, c.89.)

30 r. Amounts expended to fund a free public library established
31 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

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

33 t. Amounts expended in preparing and implementing a housing
34 element and fair share plan pursuant to the provisions of P.L.1985,
35 c.222 (C.52:27D-301 et al.) and any amounts received by a
36 municipality under a regional contribution agreement pursuant to
37 section 12 of that act;

38 u. Amounts expended to meet the standards established pursuant
39 to the "New Jersey Public Employees' Occupational Safety and Health
40 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

41 v. (Deleted by amendment, P.L.1990, c.89.)

42 w. Amounts appropriated for expenditures resulting from the
43 impact of a hazardous waste facility as described in subsection c. of
44 section 32 of P.L.1981, c.279 (C.13:1E-80);

45 x. Amounts expended to aid privately owned libraries and reading
46 rooms, pursuant to R.S.40:54-35;

- 1 y. (Deleted by amendment, P.L.1990, c.89.)
- 2 z. (Deleted by amendment, P.L.1990, c.89.)
- 3 aa. Extraordinary expenses, approved by the Local Finance Board,
4 required for the implementation of an interlocal services agreement;
- 5 bb. Any expenditure mandated as a result of a natural disaster,
6 civil disturbance or other emergency that is specifically authorized
7 pursuant to a declaration of an emergency by the President of the
8 United States or by the Governor;
- 9 cc. Expenditures for the cost of services mandated by any order
10 of court, by any federal or State statute, or by administrative rule,
11 directive, order, or other legally binding device issued by a State
12 agency which has identified such cost as mandated expenditures on
13 certification to the Local Finance Board by the State agency;
- 14 dd. Expenditures of amounts actually realized in the local budget
15 year from the sale of municipal assets if appropriated for non-recurring
16 purposes or otherwise approved by the director;
- 17 ee. Any local unit which is determined to be experiencing fiscal
18 distress pursuant to the provisions of P.L.1987, c.75
19 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
20 municipality" as defined in section 3 of P.L.1987, c.75
21 (C.52:27D-118.26), and which has available surplus pursuant to the
22 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
23 seq.), may appropriate and expend an amount of that surplus approved
24 by the director and the Local Finance Board as an exception to the
25 spending limitation. Any determination approving the appropriation
26 and expenditure of surplus as an exception to the spending limitations
27 shall be based upon:
- 28 1) the local unit's revenue needs for the current local budget year
29 and its revenue raising capacity;
- 30 2) the intended actions of the governing body of the local unit to
31 meet the local unit's revenue needs;
- 32 3) the intended actions of the governing body of the local unit to
33 expand its revenue generating capacity for subsequent local budget
34 years;
- 35 4) the local unit's ability to demonstrate the source and existence
36 of sufficient surplus as would be prudent to appropriate as an
37 exception to the spending limitations to meet the operating expenses
38 for the local unit's current budget year; and
- 39 5) the impact of utilization of surplus upon succeeding budgets of
40 the local unit;
- 41 ff. Amounts expended for the staffing and operation of the
42 municipal court;
- 43 gg. Amounts appropriated for the cost of administering a joint
44 insurance fund established pursuant to subsection b. of section 1 of
45 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for
46 claims payments by local member units;

1 hh. Amounts appropriated for the cost of implementing an
2 estimated tax billing system and the issuance of tax bills thereunder
3 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

4 ii. Expenditures related to the cost of conducting and
5 implementing a total property tax levy sale pursuant to section 16 of
6 P.L. , c. (C.) (now pending before the Legislature as this
7 bill).¹

8 (cf: P.L.1994, c.72, s.6)

9

10 ¹[9.] 10.¹ R.S.54:5-58 is amended to read as follows:

11 54:5-58. The amount required to redeem within 10 days from ¹and
12 including¹ the date of sale, unless a tax sale certificate has been duly
13 issued¹ [prior thereto] during the 10-day period¹ , shall be the sum
14 paid at the sale, with interest from the date of sale at the rate of
15 redemption for which the property was sold. After 10 days from the
16 date of sale ¹including the date of sale as the first day,¹ or after
17 issuance of the tax sale certificate¹ during the 10-day period¹, the
18 amount required for redemption shall be that amount plus the expenses
19 incurred by the purchaser as hereinafter provided, and subsequent
20 municipal liens, as provided in sections 54:5-59 and 54:5-60 of this
21 Title. [Where, because of municipal fiscal restrictions imposed upon
22 the tax collector, the transmission of the redemption sum to the
23 purchaser is dependent upon the approval of the governing body, or
24 other officer, of the municipality, such interest shall be computed to
25 the time when such governing body or officer may next act with
26 respect thereto.]¹ Where, because of municipal fiscal restrictions
27 imposed upon the tax collector, the transmission of the redemption
28 sum to the purchaser is dependent upon the approval of the governing
29 body, or other officer, of the municipality, such interest shall be
30 computed to the time when such governing body or officer may next
31 act with respect thereto.¹

32 (cf: P.L.1965, c.187, s.4)

33

34 ¹[10.] 11.¹ R.S.54:5-60 is amended to read as follows:

35 54:5-60. If the certificate of sale is not held by the municipality,
36 the amount required for redemption shall include all sums for
37 subsequent taxes, municipal liens and charges, and interest and costs
38 thereon, actually paid by the holder of the tax title or his predecessor
39 therein, together with interest on the amount so paid at the rate or
40 rates chargeable by the municipality, provided the holder of such title
41 shall have made and filed with the collecting officer an affidavit
42 showing the amount of such payment, which affidavit may be taken
43 before such officer.

44 (cf: R.S.54:5-60)

45

46 ¹[11.] 12.¹ (New section) ¹a.¹ A municipality may reduce its

1 reserve for uncollected taxes by deducting any or all payments
2 anticipated during the fiscal year from the sale of the total property tax
3 levy pursuant to section ¹[15] 16¹ of P.L. , c. (C.) (now
4 pending before the Legislature as this bill), from the reserve for
5 uncollected taxes as calculated pursuant to N.J.S.40A:4-40 and
6 N.J.S.40A:4-41, provided that the obligation to make such payment is
7 entered into prior to adoption of the budget. Any revenues received
8 pursuant to this section shall be excluded from any calculation of the
9 tax collection rate pursuant to N.J.S.40A:4-41 or receipts from
10 delinquent taxes pursuant to N.J.S.40A:4-29.

11 ¹b. A municipality shall not execute a contract for the sale of the
12 total property tax levy unless the Division of Local Government
13 Services in the Department of Community Affairs has reviewed the
14 fiscal impact of the sale of the total property tax levy. The
15 municipality shall forward a copy of a proposed contract and the fiscal
16 analysis of the impact of the sale required to be provided to the
17 municipal governing body pursuant to section 14 of P.L. , c.
18 (C.)(now pending before the Legislature as this bill), as soon as
19 they are available, to the Division of Local Government Services for
20 review. The division shall review the fiscal impact of the contract
21 within 15 business days after receipt and shall approve or disapprove
22 the contract in writing within that time. The director of the division
23 may condition the approval of the contract on budget actions that the
24 director may determine.¹

25

26 ¹[12.] 13.¹ (New section) A municipality may reduce its reserve
27 for uncollected taxes by deducting any or all receipts anticipated
28 during the fiscal year from the sale of unpaid taxes or municipal liens
29 when concluded in the final month of the fiscal year as allowed
30 pursuant to ¹[subsection b. of section 15 of P.L. , c. (C.)
31 (now pending before the Legislature as this bill)] R.S.54:5-19¹,
32 provided that such amount be calculated in the same manner as
33 receipts for delinquent taxes are calculated in N.J.S.40A:4-29, and that
34 prior to adoption of the budget, such sale is authorized by resolution
35 of the governing body. Any revenues received pursuant to this section
36 shall be excluded from any calculation of the tax collection rate
37 pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant
38 to N.J.S.40A:4-29.

39

40 ¹[13.] 14.¹ (New section) Prior to the award of a contract for the
41 sale of the total property tax levy pursuant to section ¹[15] 16¹ of
42 P.L. , c. (C.) (now pending before the Legislature as this
43 bill), or when a municipality chooses to reduce its reserve for
44 uncollected taxes by deducting the receipts anticipated during the
45 fiscal year from the sale of unpaid taxes or municipal liens when
46 concluded in the final month of the fiscal year as allowed pursuant to

1 ¹[subsection b. of section 15 of P.L. , c. (C.) (now pending
 2 before the Legislature as this bill)] R.S. 54:5-19¹, the chief financial
 3 officer or registered municipal accountant shall provide the governing
 4 body a fiscal analysis of the impact of the sale on the current budget
 5 and the projected ¹[budget] budgets¹ for ¹[the] next two¹
 6 ¹[year] years¹. The Director of the Division of Local Government
 7 Services in the Department of Community Affairs may promulgate a
 8 standard form to be used for this purpose, which, if promulgated, shall
 9 include, but not be limited to, the amount of the reserve for
 10 uncollected taxes, receipts for delinquent taxes and the municipal tax
 11 rate. The analysis shall be a public record.

12
 13 ¹[14.] 15.¹ (New section) Notwithstanding the payment of any
 14 property taxes, assessments or municipal charges by the purchaser of
 15 the total property tax levy pursuant to subsection c. of section ¹[16]
 16 17¹ of P.L. , c. (C.) (now pending before the Legislature
 17 as this bill), the accounts of any unpaid properties shall be deemed
 18 delinquent for purposes of the creation, assignment, sale, redemption,
 19 or foreclosure of tax lien certificates, or for the purpose of filing a tax
 20 appeal with the county tax board or the State tax court.

21 The municipality shall comply with the notice and redemption
 22 provisions relating to the creation of tax certificates as hereinafter
 23 provided ¹, except that the municipality shall be required to issue,
 24 and¹ the levy purchaser shall be required to accept, the tax lien
 25 certificates if the contract for the sale of the total property tax levy
 26 provides that tax lien certificates shall be issued as partial
 27 consideration for the payment of the total property tax levy purchase
 28 in connection with the sale of the total property tax levy. The
 29 purchaser of the total property tax levy shall be obligated to accept
 30 ¹any and all liens or¹ tax sale certificates related thereto which are
 31 included within the total property tax levy as to which the levy
 32 purchaser has advanced monies to the municipality. Upon the receipt
 33 of a duly issued tax sale certificate any tax lien purchaser shall have
 34 the right to purchase subsequent property tax delinquencies relating to
 35 those properties upon payment of the full amount of the principal and
 36 interest due.

37
 38 ¹[15.] 16.¹ (New section) a. Notwithstanding the provisions of
 39 any other law, rule or regulation to the contrary, a municipality may,
 40 by resolution of the governing body, agree to sell its total property tax
 41 levy, which may include the sale of any subsequently created property
 42 tax lien certificates relating to delinquent properties, to a third party
 43 at a public sale ¹. If the municipality decides to sell its total property
 44 tax levy, the sale shall be either by public sale with sealed bids or by
 45 public auction,¹ to the highest responsible bidder, subject to the terms
 46 and conditions of law and the bid specifications. The sale shall be held

1 after a copy of the public notice of sale stating the manner of
2 submitting and method of receiving the bids and the time and place of
3 sale has been published in a legal newspaper circulating within the
4 municipality at least 14 days in advance of the date fixed for receiving
5 bids.

6 b. A municipality, by resolution, may determine to conclude its
7 sale of the total property tax levy in the final month of its fiscal year
8 provided that all statutory notice requirements are followed.

9
10 ¹[16.] 17. ¹ (New section) Bid specifications for a contract for
11 the sale of the total property tax levy shall be subject to the following
12 minimum terms and conditions:

13 a. ¹[The municipality shall set a minimum price which shall
14 include a premium to be paid upon the award of the levy purchase
15 contract. The premium shall be a dollar amount computed by
16 multiplying the amount of the budgeted revenue "interest and cost on
17 taxes" as actually collected in the last full fiscal year preceding the first
18 year of a tax levy sale times 75%. Premiums may be bid in excess of
19 the required minimum calculation.

20 The successful tax levy purchaser shall pay to the municipality an
21 administrative service fee equal to the number of tax line items as
22 certified on the delinquency list divided by the total number of tax line
23 items as stated in the last extended duplicate, multiplied by the amount
24 budgeted for the tax collection department (salaries and wages, and
25 other expenses), and then multiplied by 15%. The administrative fee
26 shall be computed and paid with each tax levy payment made to the
27 municipality.] The municipality shall have the right to set a minimum
28 bid price, expressed in dollars, percent of levy, or both, which may
29 include a premium over the total property tax levy amount or a
30 discount from the total property tax levy amount. The municipality
31 shall reserve the right to reject any and all bids if, in the discretion of
32 the municipality, it determines that the bid sale price is inadequate.¹

33 b. The municipality shall require the successful bidder to secure its
34 payment obligation with either an irrevocable letter of credit or a bond
35 from a surety or insurance company, the form and sufficiency of which
36 is acceptable to and approved by the municipality, but which initially
37 shall not be less than 105% of the amount of the uncollected taxes
38 levied and payable as of the last day of the prior year or 105% of the
39 amount actually paid by the levy purchaser in the prior year for taxes
40 levied and payable for that year, whichever is greater, or, in the case
41 of a levy sale concluded in the final month of the fiscal year, an
42 amount equal to 105% of the actual tax collection delinquency for the
43 prior fiscal year. The amount of the letter of credit or surety bond
44 may be reduced proportionately throughout the year as the total
45 property tax levy purchaser satisfies its payment obligation. The
46 irrevocable letter of credit or the bond shall be provided prior to the

1 sale of the total property tax levy becoming effective.

2 c. The purchaser shall pay for the total property tax levy bid
3 amount in quarterly installments or, if there is to be one annual
4 installment, after the last fiscal year quarterly delinquent date as
5 indicated in the contract for the sale of the total property tax levy.
6 These installments shall be due no earlier than 10 days, and no later
7 than 30 days after the appropriate quarterly tax due date. Whether
8 there is one annual installment payment prior to the end of the fiscal
9 year as indicated in the contract for the sale of the total property tax
10 levy or quarterly installments, in either event, the installment shall be
11 due upon the presentation of a certification from the tax collector
12 stating; (1) the total amount of the total property tax levy for the
13 quarter or year, as appropriate, (2) the amount of property taxes that
14 are delinquent for the quarter or year, as appropriate, (3) a list of the
15 amount of the delinquent property taxes for each property, which
16 property shall be identified by block, lot and the name of the owner,
17 and (4) the amount due and payable by the property tax levy purchaser
18 pursuant to its contract with the municipality. The tax collector shall
19 deliver the certification to the purchaser within five business days
20 following 10 days after the quarterly tax due date. At the time of the
21 quarterly or annual payment, as appropriate, the purchaser shall
22 receive as a credit against the payment due, an amount equal to the
23 taxes paid to the tax collector. If, within five business days of receipt
24 of the certification from the tax collector, payment is not made by the
25 total property tax levy purchaser in accordance with the contract, the
26 municipality may charge a penalty not to exceed three times the
27 maximum delinquent rate of interest permitted by statute until such
28 time as the required payment is made in full. The penalty interest rate
29 shall be set forth in the bid specifications and contract.

30 d. Subject to the payment of quarterly delinquent property taxes
31 or the fiscal year delinquency by the total property tax levy purchaser
32 as specified in the contract for the sale of the total property tax levy,
33 the levy purchaser shall be ²[repaid, through] paid, upon
34 collection by ² the municipal tax collector, all ²[monies advanced by
35 the levy purchaser] delinquent taxes and other municipal charges that
36 are owing, due and payable², subject to any contract provision
37 pursuant to subsection h. of this section, including interest and
38 penalties, if applicable. The municipal tax collector or chief financial
39 officer shall remit such funds as authorized by the governing body to
40 the levy purchaser only upon collection of the outstanding tax
41 delinquencies, municipal liens or charges, or certificate redemptions,
42 including interest or penalties that are due and paid to the tax
43 collector. Such funds shall be remitted by the tax collector or chief
44 financial officer to the total tax levy purchaser within 30 days of
45 collection by the tax collector unless a different schedule is specified
46 in the contract for the sale of the total property tax levy. Upon

1 issuance of an appropriate tax sale certificate the total property tax
2 levy purchaser ²~~shall~~ may ² also ~~have the right to~~ pay
3 subsequent taxes and other municipal liens and charges ²~~and~~, subject
4 to any limitations contained in the total property tax levy sale bid
5 specifications and contract. The total property tax levy purchaser²
6 may file an action to foreclose the right to redeem the tax sale
7 certificate, in personam, upon expiration of two years from the date of
8 its issuance pursuant to R.S.54:5-86 et seq..

9 e. The collection and enforcement of taxes and the preparation of
10 redemption statements and discharges of tax lien certificates shall
11 remain the right and obligation of the municipal tax collector.

12 f. The purchaser shall provide reports as are requested by the
13 municipality.

14 g. The purchaser of the total property tax levy may be obligated
15 by the bid specifications and contract to pay all subsequent taxes,
16 municipal liens or other municipal charges on each tax sale certificate
17 acquired under the total property tax levy purchase until redemption
18 or foreclosure of the tax sale certificate has been completed,
19 whichever occurs first. The total property tax levy purchase contract
20 may provide that failure to make such payments within each fiscal year
21 shall result in the forfeiture of any such certificate and any amount due
22 thereon and require the assignment of the certificate back to the
23 municipality. ²The bid specifications and contract may include a
24 sunset provision or provisions relating to the total property tax levy
25 purchaser's right or obligation to pay subsequent taxes and other
26 municipal liens and charges.²

27 h. ¹~~【The bid specifications and contract may require that in the~~
28 ~~event that the total property tax levy purchaser has acquired a tax sale~~
29 ~~certificate from the municipality as payment for monies advanced by~~
30 ~~the total property tax levy purchaser on a specific property and the~~
31 ~~taxpayer has filed a tax appeal resulting in a reduction of the assessed~~
32 ~~value of the property, the lien acquired by the total property tax levy~~
33 ~~purchaser shall be reduced accordingly but the total property tax levy~~
34 ~~purchaser may not be entitled to any refund. In this case, the total~~
35 ~~property tax levy purchaser shall assign his certificate back to the~~
36 ~~municipality which shall void the certificate and have the tax collector~~
37 ~~issue a new tax sale certificate for the corrected amount that reflects~~
38 ~~the tax reduction.】~~ The bid specifications and contract may contain
39 provisions relating to the resolution of tax appeals on properties for
40 which the total property tax levy purchaser has acquired tax sale
41 certificates from the municipality.¹

42 i. The bid specification and contract may permit the municipality
43 to conduct a public tax sale and reimburse the total property tax levy
44 purchaser from the proceeds of the tax sale.

45 j. In the event that a tax sale certificate is issued in connection
46 with the sale of a total property tax levy, the account of the

1 municipality with the total property tax levy purchaser shall be
2 credited with the total face amount of the certificate as of the date of
3 its issuance.

4 ²k. The bid specifications and contract may provide that the total
5 property tax levy purchaser, at the closing of the levy sale, shall have
6 the right, but not the obligation, to acquire by assignment all tax lien
7 certificates held by the municipality, excluding those certificates
8 relating to known or suspected sites of environmental contamination.
9 This right of the purchaser may be exercised only if the purchaser's bid
10 is equal to or greater than 98% of the combined dollar value of the
11 total property tax levy and the full redemptive value of the municipal
12 tax lien certificates so assigned.²

13
14 ¹[17.] 18.¹ (New section) The Director of the Division of Local
15 Government Services in the Department of Community Affairs, in
16 accordance with the "Administrative Procedure Act," P.L. 1968, c.410
17 (C.52:14B-1 et seq.), may adopt such rules and regulations as are
18 necessary to effectuate the purposes of this act.

19 ¹In addition, the Department of Community Affairs shall prepare
20 biennially a written report on those municipalities that have entered
21 into contracts for the sale of the total property levy and the results of
22 those executed contracts on the municipality and the property
23 taxpayers in the municipality. The report shall be submitted to the
24 Governor and the Legislature, with the first report to be submitted
25 within 48 months following the effective of P.L. , c. (C.)
26 (now pending before the Legislature as this bill.)¹

27
28 ¹[18.] 19.¹ This act shall take effect immediately.

29
30
31
32
33 _____
Permits public sale of municipal property tax levy to highest bidder.

SENATE, No. 1091

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senator BENNETT

1 AN ACT authorizing the public sale of a municipal property tax levy to
2 the highest bidder, amending R.S.54:4-67 and supplementing
3 chapter 5 of Title 54 of the Revised Statutes.

4

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

7

8 1. R.S.54:4-67 is amended to read as follows:

9 54:4-67. The governing body of each municipality may by
10 resolution fix the rate of discount to be allowed for the payment of
11 taxes or assessments previous to the date on which they would become
12 delinquent. The rate so fixed shall not exceed 6% per annum, shall be
13 allowed only in case of payment on or before the thirtieth day previous
14 to the date on which the taxes or assessments would become
15 delinquent. The governing body may also fix the rate of interest to be
16 charged for the nonpayment of taxes or assessments on or before the
17 date when they would become delinquent, and may provide that no
18 interest shall be charged if payment of any installment is made within
19 the tenth calendar day following the date upon which the same became
20 payable. The rate so fixed shall not exceed 8% per annum on the first
21 \$1,500.00 of the delinquency and 18% per annum on any amount in
22 excess of \$1,500.00, to be calculated from the date the tax was
23 payable until the date that actual payment to the lienholder will be next
24 authorized.

25 In municipalities that have sold their entire annual property tax levy
26 pursuant to section 3 of P.L. , c. (C.) (now pending before
27 the Legislature as this bill), the rate of interest to be charged for the
28 nonpayment of taxes or assessments shall be fixed at 18% per annum,
29 to be calculated from the date the tax was payable until the date of
30 actual payment.

31 "Delinquency" means the sum of all taxes and municipal charges
32 due on a given parcel of property covering any number of quarters or
33 years. The property shall remain delinquent, as defined herein, until
34 such time as all unpaid taxes, including subsequent taxes and liens,

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

Matter underlined thus is new matter.

1 together with interest thereon shall have been fully paid and satisfied.
2 The delinquency shall remain notwithstanding the issuance of a
3 certificate of sale pursuant to R.S.54:5-32 and R.S.54:5-46. The
4 governing body may also fix a penalty to be charged to a taxpayer with
5 a delinquency in excess of \$10,000 who fails to pay that delinquency
6 prior to the end of the fiscal year. If such taxes are fully paid and
7 satisfied by the holder of an outstanding tax sale certificate, the holder
8 shall be entitled to receive the amount of the penalty as part of the
9 amount required to redeem such certificate of sale. The penalty so
10 fixed shall not exceed 6% of the amount of the delinquency.
11 (cf: P.L.1994, c.32, s.4)

12
13 2. (New section) Notwithstanding the payment of any property
14 taxes, assessments or municipal charges by the purchaser of the tax
15 levy pursuant to section 3 of P.L. , c. (C.) (now pending
16 before the Legislature as this bill), the accounts of the properties shall
17 be deemed delinquent for purposes of the creation, assignment, sale,
18 redemption and foreclosure of tax lien certificates.

19 The purchaser of a property tax levy pursuant to section 3 of
20 P.L. , c. (C.) (now pending before the Legislature as this
21 bill) and the municipality shall comply with the notice and redemption
22 provisions relating to the creation of tax certificates as hereinafter
23 provided, except the purchaser shall not be required to purchase, nor
24 will the municipality be required to sell, the tax lien certificates by
25 public sale, if the right to purchase the certificates has been assigned
26 or sold in advance to the levy purchaser in connection with the sale of
27 the property tax levy.

28
29 3. (New section) a. Notwithstanding the provisions of any other
30 law, rule or regulation to the contrary, a municipality may, by
31 resolution of the governing body, agree to sell its annual property tax
32 levy, including the advance assignment or sale of the municipality's
33 right to collect delinquent property taxes and the assignment or sale of
34 any subsequently created property tax lien certificates relating to the
35 delinquent properties, to a third party, at a public sale to the highest
36 responsible bidder, subject to the terms and conditions of law and the
37 bid specifications and the approval of the Local Finance Board. The
38 sale shall be held after a copy of the public notice of sale stating the
39 manner of submitting and method of receiving the bids and the time
40 and place of sale has been published in a legal newspaper circulating
41 within the municipality at least 14 days in advance of the date fixed for
42 receiving bids.

43 b. The sale of a tax levy shall not become effective until approved
44 by the Local Finance Board.

45 c. The Director of the Division of Local Government Services in
46 the Department of Community Affairs, in accordance with the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.), shall adopt such rules and regulations as are necessary to
3 accomplish the purposes of this section.

4

5 4. (New section) The sale of the property tax levy shall be subject
6 to the following minimum terms and conditions:

7 a. The right of the municipality to set a minimum price, including
8 reserving the right to reject any and all bids if, in the discretion of the
9 municipality, it determines that the bid sale price is inadequate.

10 b. The municipality shall require the purchaser to have a rating in
11 one of the four highest rating categories of a nationally recognized
12 statistical rating agency or shall require the purchaser to secure its
13 payment obligation with either a letter of credit or by a bond from a
14 surety company, the sufficiency of which is acceptable to and
15 approved by the municipality.

16 c. The purchaser shall pay for the tax levy in quarterly installments.
17 These installments shall be due no earlier than 10 days, and no later
18 than 30 days after the quarterly tax due date, upon the presentation of
19 a certification from the tax collector stating; (1) the amount of
20 property taxes that are delinquent for the quarter and (2) a list of the
21 amount of the delinquent property taxes for each property, which
22 property shall be identified by block, lot and street address, including
23 the name and mailing address of the owner and any mortgagee. At the
24 time of the quarterly payment the purchaser shall receive as a credit
25 against the payment due, an amount equal to the quarterly taxes paid
26 to the tax collector on or before the tenth day following the quarterly
27 due date.

28 d. Upon payment in full of the quarterly delinquent property taxes,
29 the purchaser shall have the same rights and obligations as the
30 municipality to collect delinquent property taxes, including all fees,
31 interest and costs, and to foreclose the subsequently created liens, all
32 as provided for and limited by law.

33 e. The purchaser shall have the right to purchase subsequent
34 property tax delinquencies relating to the properties upon payment of
35 the full amount of principal and interest due. That right shall expire at
36 a subsequent sale by the municipality of its tax levy or on the date the
37 municipality sells the delinquencies at a tax sale, whichever occurs
38 earlier.

39 f. The purchaser shall be required to purchase, at the time of
40 assignment of the property tax lien certificates, any other delinquent
41 municipal charges relating to the delinquent properties, including
42 water and sewer charges. The purchaser shall pay the full amount of
43 the principal and interest due for those charges as of the date of the
44 assignment.

45 g. At the closing of the levy sale, the purchaser shall have the right,
46 but not the obligation, to acquire by assignment all tax lien certificates

1 held by the municipality, excluding, however, those certificates relating
2 to known or suspected sites of environmental contamination. This
3 right of the purchaser may be exercised only if the purchaser's bid is
4 equal to or greater than 98% of the combined dollar value of the tax
5 levy and the full redemptive value of the municipal tax lien certificates
6 so assigned.

7 h. The collection of taxes and the preparation of redemption
8 statements and discharges of tax lien certificates shall remain the right
9 and obligation of the municipal tax collector.

10 i. The purchaser shall provide quarterly account status reports and
11 such other financial data and reports as are requested by the
12 municipality.

13

14 5. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill is intended to authorize a municipality to sell its annual tax
20 levy to the highest responsible bidder. The sale of the annual tax levy
21 would enable a municipality to improve upon its historical tax
22 collection rate and in some cases, potentially guarantee a rate at or
23 above 100% of the tax levy. Such a sale would eliminate or virtually
24 eliminate the need for a municipality to maintain a reserve for
25 uncollected taxes. The risk of non collection of property taxes would
26 be assumed by a successful bidder, who would be guaranteed a
27 delinquent interest rate of 18% per annum. The sale of the annual
28 property tax levy would be subject to the approval of the Local
29 Finance Board.

30

31

32

33

34 _____
Permits public sale of municipal property tax levy to highest bidder.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

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SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1091

STATE OF NEW JERSEY

DATED: JUNE 24, 1996

The Senate Community Affairs Committee reports without recommendation a Senate Committee Substitute for Senate, No. 1091.

Senate Committee Substitute for Senate, No. 1091 is intended to give municipalities a great deal of flexibility in dealing with their reserves for uncollected taxes.

Specifically, section 1 of the committee substitute would amend R.S.54:4-65 to require that notice be given to property taxpayers, on or with the tax bill, whenever a municipality changes its delinquent interest rate or the end of the year penalty for nonpayment of taxes. Current law does not require that such notice be given. Sections 2 and 3 would amend the law to establish that the property owner always has priority to pay the taxes owed on a property up to and including the payment date for each quarter when third party tax liens exist against the property. These amendments are intended to clarify that a tax collector is required to accept payment from the property owner, if payment is tendered up to and including the payment date for each quarter, when both the property owner and the holder of a tax sale certificate both attempt to pay quarterly taxes due.

Section 4 would amend R.S.54:4-67 to permit a municipality to establish either a single delinquency interest rate or a two-tier rate, as current law permits. This section would require that in any year when the governing body changes the delinquency interest rate or the end of the year penalty, notice would have to be provided either with the tax bill or before the date taxes are next due. The section states that the purchaser of a total property tax levy would be entitled only to the rate of interest charged by the municipality for delinquencies and that a taxpayer's delinquency would remain, notwithstanding the payment of delinquent tax by the levy purchaser. Furthermore, the purchaser of a total property tax levy would not be entitled to collect an amount greater than that which is paid to the tax collector and could not collect delinquent interest collected by the tax collector prior to the time that the total property tax levy purchaser makes the levy payment to the municipality.

Section 5 of the committee substitute would amend R.S.54:5-19 to permit tax lien sales to occur after the eleventh day of the eleventh

month of the fiscal year of the municipality. Currently, tax lien sales may not be held before April 1 of the fiscal year next following the fiscal year when the taxes became in arrears. This provision would permit municipalities to realize funds from a tax lien sale in the year in which the taxes are due, rather than having to wait until April 1 or October 1 of the following fiscal year.

Section 6 of the substitute would amend R.S.54:5-26 to provide that copies of the notice of tax sale must be set up in five of the most public places in the municipality and that a copy of the notice must be published in a newspaper circulating in the municipality once a week for the four weeks prior to the day of the sale; however, in lieu of two of the publications, the property owner may be provided notice by mail.

Section 7 of the substitute would amend R.S.54:5-49 to provide a mechanism for the issuance of tax sale certificates for properties in bankruptcy to a levy purchaser. Under this provision, no certificate would be issued until the conclusion of the bankruptcy proceedings or as otherwise directed by the bankruptcy court.

Section 8 of the substitute would amend section 1 of P.L.1990, c.90 (C.54:5-52.1) to provide a mechanism for the duplication of a tax title certificate that has been lost or destroyed after issuance by the municipality.

Section 9 would amend R.S.54:5-58 to specify how interest is calculated on the amount required for redemption of a tax sale certificate.

Section 10 would amend R.S.54:5-60 to clarify what is included in the amount required for redemption of a tax sale certificate that a municipality does not hold.

Sections 11 and 12 would set forth the actual means by which a municipality may reduce its reserve for uncollected taxes when it sells its total property tax levy. The anticipated proceeds from a sale concluded in the final month of the fiscal year would be treated as receipts from delinquent taxes.

Section 13 would require the certified financial officer or registered municipal accountant of the municipality to provide the governing body with a fiscal analysis of a proposed tax levy sale, showing, among other things, the effect on the reserve for uncollected taxes in the current and subsequent fiscal year. This report would be a public record. This section would permit the Director of the Division of Local Government Services in the Department of Community Affairs to promulgate a standard form for this report.

Section 14 of the committee substitute states that a taxpayer would remain delinquent if he or she did not pay the taxes when due, despite the sale of the total property tax levy and the payment of any taxes, assessments, or charges by the levy purchaser.

Section 15 contains the operative language that would permit a municipality to sell its total property tax levy at public sale to the highest responsible bidder. The substitute would require that a

municipality advertised notice of the sale at least fourteen days before the date of the public sale. The section also would provide that the sale may be concluded in the final month of the fiscal year.

Section 16 of the substitute contains the minimum terms and conditions that would be required to be stated in a contract for the sale of the total property tax levy. Subsection a. of that section would require the municipality to set a minimum bid, a premium to be paid upon award of the levy purchase contract. The premium would be a dollar amount that would be computed by multiplying the amount of the budgeted revenue "interest and cost on taxes" as actually collected in the last full fiscal year preceding the first year of a tax levy sale times 75%; however premiums may be bid in excess of the required minimum calculation. Additionally, the successful tax levy purchaser would be required to pay the municipality an administrative service fee equal to the number of tax line items certified on the delinquency list divided by the total number of tax line items stated in the last extended duplicate, multiplied by the amount budgeted for the tax collection department, and then multiplied by 15%.

Subsection b. of section 16 of the substitute would require a successful bidder to provide an irrevocable letter of credit or bond to the municipality before the sale becoming effective. The amount of the letter of credit or bond initially required for a regular levy sale would be for not less than 105% of the amount of the uncollected taxes levied and payable as of the last day of the prior year or 105% of the amount actually paid by a levy purchaser for taxes levied and payable in the prior year, whichever is greater. This amount would be able to be reduced proportionately throughout the year as the payment obligation by the levy purchaser is satisfied.

Subsection c. would specify the time that payment would be due to the municipality from the levy purchaser and would permit the levy contract to specify a penalty not to exceed three times the maximum delinquent rate of interest if payments were made late. Subsection d. addresses the issue of the repayment of funds to the levy purchaser upon collection of tax delinquencies, municipal liens or charges, and certificate redemptions by the municipal tax collector or chief financial officer. The subsection would permit the municipality and levy purchaser to set forth a schedule for repayment in the levy sale contract.

Subsection e. states that the collection and enforcement of taxes would remain the right and obligation of the tax collector. Subsection f. provides that the levy purchaser would have to provide such reports as the municipality requests. Subsection g. would permit the bid specifications to require a levy purchaser to pay all subsequent taxes, liens, and other charges on each property for which a tax sale certificate would have been issued to the levy purchaser, until redemption of the certificate or completion of foreclosure of the right of redemption, whichever occurs first.

Subsection h. would permit the bid specifications and levy sale

contract to require that, in the event that the total property tax levy purchaser acquires a tax sale certificate from the municipality as payment for monies advanced by the purchaser on a specific property and the taxpayer has filed a tax appeal resulting in a reduction of the assessed value of the property, the lien acquired by the purchaser will be reduced accordingly, but the purchaser will not be entitled to a refund. In this case, the purchaser would assign the certificate back to the municipality, the municipality would void the certificate, and a new certificate would be issued for the correct amount reflecting the tax reduction.

Subsection i. would provide that the bid specification and contract may permit the municipality to conduct a public tax sale and reimburse the total tax levy purchaser from the proceeds of the sale.

Subsection j. would provide that the account of the municipality with the total property tax levy purchaser would have to be credited with the total face amount of the certificate as of the date of its issuance. This provision is intended to ensure that the municipality would be able to recover the costs of advertising the tax sale of a particular property.

Section 17 of the committee substitute would permit the Director of the Division of Local Government Services in the Department of Community Affairs to issue rules and regulations to effectuate the purposes of this committee substitute.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1091**

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 28, 1996

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1091 SCS with amendments.

As amended, Senate Bill No. 1091 SCS:

- * Enables a municipality to reduce its reserve for uncollected taxes by selling its property tax levy, thereby reducing the amount required to be raised by taxation.

- * Contains the operative language permitting a municipality to sell its property tax levy at public sale through sealed bids or public auction to the highest responsible bidder. Notice of the sale is required to be advertised at least 14 days prior to the date of the public sale or auction.

- * Provides the mechanism for a municipality to reduce its reserve for uncollected taxes when it sells its tax levy before adoption of its budget.

- * Provides the mechanism for a municipality to reduce its reserve for uncollected taxes when it sells its tax levy in the final month of the fiscal year.

- * Requires the financial officer or registered municipal accountant of the municipality to provide the governing body with a fiscal analysis of the proposed sale, showing the financial impact in the current and two subsequent fiscal years.

- * Requires the Department of Community Affairs to review the fiscal impact of each proposed contract to sell a property tax levy.

- * Requires a successful bidder to post bond or an irrevocable letter of credit in certain amounts.

- * Requires a municipality to provide notice to taxpayers prior to or with the next tax bill if the interest rate for delinquencies is changed.

- * Permits tax lien sales and tax levy sales to occur in the last month of the fiscal year of a municipality. Currently, tax lien sales may not be held prior to April 1 of the fiscal year next following the fiscal year when the taxes became in arrears.

- * Changes the time for which a property owner is to be given

priority to pay property taxes from "prior to the delinquency date" to "up to and including the payment date" for each quarter's taxes. Under current law a property owner has no priority over a tax lien holder to pay the property taxes.

- * Clarifies the amount required to redeem a tax sale certificate.

- * Requires the Department of Community Affairs to provide biennially a written report to the Governor and Legislature on the municipalities that choose to sell their total property tax levy.

The amendments adopted by this committee include all the provisions in Assembly Bill No. 2033 (ACS)(AS) (1R) (Jones/Bagger) with the changes described below.

COMMITTEE AMENDMENTS

The committee amended the bill, with the approval of the sponsor, to include all the provisions of Assembly Bill No. 2033 (ACS) (AS) (1R) except for the following changes:

- * Retain the two-tiered delinquency interest rate provided in current law and delete from the bill the option provided to municipalities of a single interest rate of up to 18%.

- * Require the Division of Local Government Services in the Department of Community Affairs to review the fiscal impact of a proposed sale of the total property tax levy and prohibit a municipality from executing a contract for the sale without the approval of the contract by the division following its review of the fiscal impact.

- * Require the fiscal analysis, that is provided to the local governing body, of the impact of the total property tax levy sale to cover the current municipal budget and the budgets for two subsequent years.

- * Require the Department of Community Affairs to submit biennially a report to the Governor and the Legislature on the utilization of this bill by municipalities.

- * Clarify that if a municipality decides to sell its total property levy, the sale must be conducted through a public sale with sealed bids or through public auction.

- * Clarify that tax lien sales may occur no earlier than the last month of the fiscal year of the municipality, since the bill gives municipalities the ability to sell tax liens for properties that have unpaid taxes as of the 11th day of the eleventh month of the fiscal year.

FISCAL IMPACT

This bill has not been certified as requiring a fiscal note since it will not have an impact on State revenues or expenditures. The bill will have an impact on the budget of those municipalities that choose to follow its provisions.

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1091

with Senate Floor Amendments
(Proposed By Senator BENNETT)

ADOPTED: NOVEMBER 7, 1996

These amendments to section 17 of this bill:

* Clarify the terminology relating to the amount to be paid to the total property tax levy purchaser by the municipal tax collector.

* Provide the total property tax levy purchaser with the right, but not the obligation, to also purchase under certain conditions a municipality's inventory of tax liens that have gone unsold for many years.

* Provide for a sunset provision on a total property levy purchaser's right or obligation to pay subsequent taxes, municipal liens or other charges.

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GGI



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

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RELEASE: Mon., May 12, 1997

Gov. Christie Whitman today signed legislation that will help local officials lower property taxes by allowing municipalities to sell their property tax levies. The legislation will enable municipalities to improve their tax collection rates and eliminate reserves established for uncollected taxes.

“This legislation is just one more example of how this administration is helping local officials control property taxes,” said Gov. Whitman. “Municipalities will be able to count on 100 percent tax collection rate and will no longer need to collect extra revenue for a reserve fund.”

The bill amends local tax laws to allow municipalities to sell their annual tax levy to the highest bidder at public auction. Previously, municipalities were allowed to sell only their tax liens.

The legislation also allows a municipality to sell its tax levy or liens in the same year the taxes are due – allowing municipalities to raise capital in the same year that taxes become delinquent.

The bill specifies terms and conditions for tax levy sale contracts and provides protections for municipalities and local taxpayers.

The legislation, S-1091, was sponsored by Senators John Bennett (R-Monmouth) and Louis Kosco (R-Bergen).