

40A:3-2

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 40A:3-2

(Municipal
qualified bonds--
debt service)

LAWS OF: 1991

CHAPTER: 180

Bill No: S259

Sponsor(s): Lynch and others

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government; Appropriations

Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: May 23, 1991

Senate: April 5, 1990

Date of Approval: June 28, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator LYNCH, Assemblyman PASCARELL,
Assemblywoman MULLEN, Assemblymen MECCA,
MARSELLA, ROBERTS, SCHWARTZ, and SMITH

1 AN ACT to amend the "Municipal Qualified Bond Act," approved
2 June 28, 1976 (P.L.1976, c.38).

3

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

6 1. Section 1 of P.L.1976, c.38 (C.40A:3-2) is amended to read
7 as follows:

8 1. The Legislature finds and declares that:

9 a. Maintenance of strong financial credit in New Jersey
10 municipalities is essential in providing necessary capital
11 improvement or property at minimum cost, for the citizens of
12 this State;

13 b. While the credit status of New Jersey's municipalities is
14 sound, it can be strengthened by a pledge of State Urban Aid,
15 Gross Receipts Tax, State Revenue Sharing, Municipal Purposes
16 Tax Assistance Fund distributions ¹[and] ¹, ¹Business Personal
17 Property Tax Replacement Revenues ¹and any other funds
18 appropriated as State aid and not otherwise dedicated to specific
19 municipal programs¹ to guarantee debt service payments on
20 qualified bonds;

21 c. Such a pledge should expand the market for and lower the
22 interest costs on qualified bonds issued pursuant to the terms of
23 this act, thus reducing the borrowing costs of participating
24 municipalities.

25 (cf: P.L.1976, c.38, s.1)

26 2. Section 2 of P.L.1976, c.38 (C.40A:3-3) is amended to read
27 as follows:

28 2. For the purposes of this act, unless the context clearly
29 requires a different meaning:

30 a. "Business Personal Property Tax Replacement Revenues"
31 means the funds distributed to municipalities pursuant to
32 P.L.1966, c.135 (C.54:11D-1 et seq.) or pursuant to any other law
33 hereinafter enacted providing for funds to municipalities in lieu
34 of or in substitution for or supplementing the funds presently
35 provided pursuant to P.L.1966, c.135 (C.54:11D-1 et seq.);

36 b. "Debt service" means and includes payments of principal
37 and interest upon qualified bonds issued pursuant to the terms of
38 this act or amounts required in order to satisfy sinking fund

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 Assembly floor amendments adopted May 23, 1991.

1 payment requirements with respect to such bonds;

2 c. "Director" means Director of the Division of Local
3 Government Services in the Department of Community Affairs,
4 established pursuant to P.L.1974, c.35 (C.52:27D-18.1);

5 d. "Local Finance Board" means the Local Finance Board in
6 the Division of Local Government Services in the Department of
7 Community Affairs, established pursuant to P.L.1974, c.35
8 (C.52:27D-18.1);

9 e. "Paying agent" means any bank, trust company or national
10 banking association having the power to accept and administer
11 trusts, named or designated in any qualified bond of a
12 municipality as the agent for the payment of the principal of and
13 interest thereon and shall include the holder of any sinking fund
14 established for the payment of such bonds;

15 f. "Qualified bonds" means those bonds of a municipality
16 authorized and issued in conformity with the provisions of this
17 act;

18 g. "State urban aid" means the funds made available to
19 municipalities pursuant to P.L.1971, c.64 and all acts
20 supplementing that act or pursuant to any other law hereinafter
21 enacted providing for funds to municipalities in lieu of or in
22 substitution for the funds presently provided pursuant to acts
23 supplementing P.L.1971, c.64[.];

24 h. "State revenue sharing" means the funds made available to
25 municipalities pursuant to P.L.1976, c.73 (C.54A:10-1 et seq.) or
26 pursuant to any other law hereinafter enacted providing for funds
27 to municipalities in lieu of or in substitution for the funds
28 presently provided pursuant to P.L.1976, c.73;

29 i. "Gross receipts tax revenues" means funds collected
30 pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5
31 (C.54:30A-49 et seq.), and apportioned and paid to municipalities
32 pursuant to those acts; and

33 j. "Municipal Purposes Tax Assistance Fund distributions"
34 means the moneys distributed to municipalities from the
35 "Municipal Purposes Tax Assistance Fund" pursuant to the
36 "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12
37 (C.54:1-46 et seq.), or pursuant to any other law hereafter
38 enacted for the distribution of moneys to municipalities in lieu of
39 or in substitution for the monies distributed pursuant to the
40 "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12
41 (C.54:1-46 et seq.).

42 (cf: P.L.1978, c.35, s.2)

43 ¹³ Section 3 of P.L.1976, c.38 (C.40A:3-4) is amended as
44 follows:

45 3. a. Bonds issued by any municipality pursuant to provisions
46 of this act shall be "qualified bonds" and shall be entitled to the
47 benefit of the provisions of this act.

48 b. Whenever the governing body of a municipality determines,

1 by passage of a bond ordinance upon first reading, to issue bonds
2 for [financing any capital improvement or property which it may
3 lawfully make or acquire] any lawful purpose, it may file an
4 application and a certified copy of the ordinance as passed on
5 first reading with the local finance board to qualify the bonds
6 pursuant to the provisions of this act. Upon receipt of any such
7 application, the local finance board shall cause an investigation
8 to be made, taking into consideration such factors as the need for
9 the facilities to be financed from the proceeds of such proposed
10 qualified bonds, the ability of the municipality to supply other
11 essential public improvements and services and during the ensuing
12 10 years to pay punctually the principal and interest on its debts,
13 the reasonableness of the amounts to be expended for each of the
14 purposes or improvements to be financed pursuant to such bonds,
15 and such other factors as the local finance board may deem
16 necessary.

17 c. If such investigation shows to the satisfaction of the local
18 finance board that such municipality should be entitled to issue
19 qualified bonds pursuant to the provisions of this act, the local
20 finance board may by resolution determine that such municipality
21 is entitled to issue qualified bonds. In considering any ordinance
22 submitted to it and before endorsing its consent thereon, the
23 local finance board may require the governing body of any
24 municipality to adopt resolutions restricting or limiting any
25 future proceedings with respect to the authorization of bonds or
26 other matters deemed by the local finance board to affect any
27 estimate made or to be made by it in accordance with subsection
28 b. hereof. Every resolution so adopted shall constitute a valid
29 and binding obligation of such municipality running to and
30 enforceable by, and releasable by the local finance board.

31 d. Within 60 days after the submission to it of an application
32 made in accordance with subsection b. the local finance board
33 shall cause its consent to be endorsed upon the ordinance
34 authorizing the issuance of qualified bonds, if it shall be satisfied
35 and record by resolution that the municipality is entitled to issue
36 qualified bonds. If the local finance board is not so satisfied, it
37 shall cause its disapproval to be endorsed upon such ordinance
38 within said period of 60 days.

39 e. If the governing body of a municipality shall determine by
40 resolution that a maturity schedule for its qualified bonds, other
41 than the maturity schedule approved by the local finance board
42 pursuant to section 3, is in the best interest of said municipality,
43 it may make application to the local finance board setting forth
44 such belief and the grounds therefor and requesting approval of a
45 schedule of maturities for such qualified bonds set forth in the
46 application. Within 60 days after submission to the local finance
47 board of such application, the local finance board shall cause its
48 approval to be endorsed thereon if it shall be satisfied, and shall

1 record by resolution its findings, that the belief set forth in such
2 application is well founded and that the issuance of the bonds
3 pursuant to the revised maturity schedule in such application
4 would not materially impair the credit of the municipality or
5 substantially reduce its ability, during the ensuing 10 years, to
6 pay punctually the principal of and interest on its debts and
7 supply essential public improvements and services. If the local
8 finance board is not so satisfied, it shall cause its disapproval to
9 be endorsed on such copy within said period of 60 days.¹

10 (cf: P.L.1976, c.38, s.3)

11 ¹[3.] 4.¹ Section 6 of P.L.1976, c.38 (C.40A:3-7) is amended to
12 read as follows:

13 6. a. Each municipality which issues qualified bonds shall
14 certify to the State Treasurer the name and address of the paying
15 agent, the maturity schedule, interest rate and dates of payment
16 of debt service on such qualified bonds within 10 days after the
17 date of issuance of such qualified bonds. After receipt of such
18 certificate the State Treasurer shall withhold from the amount of
19 business personal property tax replacement revenues, gross
20 receipts tax revenues, municipal purposes tax assistance fund
21 distributions, State urban aid, ¹[and]¹ State revenue sharing ¹and
22 any other funds appropriated as State aid and not otherwise
23 dedicated to specific municipal programs¹ payable to such
24 municipality an amount of such business personal property tax
25 replacement revenues, gross receipts tax revenues, municipal
26 purposes tax assistance fund distributions, State urban aid,
27 ¹[and]¹ State revenue sharing ¹and any other funds appropriated
28 as State aid and not otherwise dedicated to specific municipal
29 programs¹ which will be sufficient to pay the debt service on
30 such qualified bonds as the same shall mature and become due.
31 The State Treasurer shall, on or before each principal and
32 interest payment date, forward such withheld amounts to the
33 paying agent for such qualified bonds for deposit to the account
34 established with such paying agent for the purpose of paying the
35 debt service on such qualified bonds. From the time withheld by
36 the State Treasurer all such business personal property tax
37 replacement revenue, gross receipts tax revenues, municipal
38 purposes tax assistance fund distributions, State urban aid,
39 ¹[and]¹ State revenue sharing ¹and any other funds appropriated
40 as State aid and not otherwise dedicated to specific municipal
41 programs¹ so withheld and paid or to be paid to and held by the
42 paying agent shall be exempt from being levied upon, taken,
43 sequestered or applied toward paying the debts of the
44 municipality other than for payment of debt service on such
45 qualified bonds. From the time withheld by the State Treasurer
46 the business personal property tax replacement revenue, gross
47 receipts tax revenues, municipal purposes tax assistance fund
48 distributions, State urban aid, ¹[and]¹ State revenue sharing

1 ¹and any other funds appropriated as State aid and not otherwise
2 dedicated to specific municipal programs¹ so withheld and paid or
3 to be paid to the paying agent shall be deemed to be held in trust
4 for the sole purpose of paying the debt service on such qualified
5 bonds.

6 b. The State of New Jersey hereby covenants with the
7 purchasers, holders and owners, from time to time, of qualified
8 bonds that it will not repeal, revoke, rescind, modify or amend
9 the provisions of subsection a. of this section so as to create any
10 lien or charge on or pledge, assignment, diversion, withholding
11 payment or other use of or deduction from any business personal
12 property tax replacement revenues, gross receipts tax revenues,
13 municipal purposes tax assistance fund distributions, State urban
14 aid, ¹[or]¹ State revenue sharing ¹or any other funds appropriated
15 as State aid and not otherwise dedicated to specific municipal
16 programs¹ to be apportioned and paid to any paying agent of
17 qualified bonds which is prior in time or superior in right to the
18 payment required by subsection a. of this section; provided,
19 however, that nothing herein contained shall be deemed or
20 construed to require the State of New Jersey to continue to make
21 payments of business personal property tax replacement
22 revenues, gross receipts tax revenues, municipal purposes tax
23 assistance fund distributions, State urban aid, ¹[or]¹ State
24 revenue sharing ¹or any other funds appropriated as State aid and
25 not otherwise dedicated to specific municipal programs¹ or to
26 limit or prohibit the State from repealing or amending any law
27 heretofore or hereinafter enacted for the payment or
28 apportionment of said revenues or aid or the manner, time, or
29 amount thereof.

30 c. The certification to the State Treasurer as to amount
31 payable in any year for debt service on such qualified bonds shall
32 be fully conclusive as to such qualified bonds from and after the
33 time of issuance of such qualified bonds notwithstanding any
34 irregularity, omission or failure as to compliance with any of the
35 provisions of this act with respect to such qualified bonds
36 provided that such qualified bonds contain a recital to the effect
37 that they are entitled to the benefits of the provisions of this
38 act. All persons shall be forever estopped from denying that such
39 qualified bonds are entitled to the benefits of the provisions of
40 this act.

41 (cf: P.L.1978, c.35, s.3)

42 ¹[4.] 5.¹ Section 7 of P.L.1976, c.38 (C.40A:3-8) is amended to
43 read as follows:

44 7. Nothing contained in this act shall be construed to relieve
45 any municipality of the obligation imposed on it by law to include
46 in its annual budget amounts necessary to pay, in each year, the
47 principal and interest maturing and becoming due on any qualified
48 bonds issued by such municipality; provided, however, that to the

1 extent of the amounts withheld from business personal property
2 tax replacement revenues, gross receipts tax revenues, municipal
3 purposes tax assistance fund distributions, State urban aid,
4 ¹[and]¹ State revenue sharing ¹and any other funds appropriated
5 as State aid and not otherwise dedicated to specific municipal
6 programs¹ payable to such municipality and forwarded to the
7 paying agent for such qualified bonds pursuant to section 6, such
8 budgeted amounts, to the extent not needed to pay debt service
9 on such qualified bonds, may be applied to the payment of the
10 operating expenses of such municipality for such year; and
11 provided, further, that in any year in which business personal
12 property tax replacement revenues, gross receipts tax revenues,
13 municipal purposes tax assistance fund distributions, State urban
14 aid, ¹[or]¹ State revenue sharing ¹[is] or any other funds
15 appropriated as State aid and not otherwise dedicated to specific
16 municipal programs are¹ not appropriated, such budgeted
17 amounts shall be used to pay the debt service maturing and
18 becoming due in such year on such qualified bonds of the
19 municipality.

20 (cf: P.L.1978, c.35, s.4)

21 ¹[5.] 6.¹ This act shall take effect immediately.

22

23

24

LOCAL BUDGET AND FINANCE

25

26 Permits pledging of municipal gross receipts tax revenues,
27 municipal purposes tax assistance fund revenues and certain other
28 funds appropriated as State aid toward debt service on municipal
29 qualified bonds.

c. The certification to the State Treasurer as to amount payable in any year for debt service on such qualified bonds shall be fully conclusive as to such qualified bonds from and after the time of issuance of such qualified bonds notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such qualified bonds provided that such qualified bonds contain a recital to the effect that they are entitled to the benefits of the provisions of this act. All persons shall be forever estopped from denying that such qualified bonds are entitled to the benefits of the provisions of this act.

(cf: P.L.1978, c.35, s.3)

4. Section 7 of P.L.1976, c.38 (C.40A:3-8) is amended to read as follows:

7. Nothing contained in this act shall be construed to relieve any municipality of the obligation imposed on it by law to include in its annual budget amounts necessary to pay, in each year, the principal and interest maturing and becoming due on any qualified bonds issued by such municipality; provided, however, that to the extent of the amounts withheld from business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, and State revenue sharing payable to such municipality and forwarded to the paying agent for such qualified bonds pursuant to section 6, such budgeted amounts, to the extent not needed to pay debt service on such qualified bonds, may be applied to the payment of the operating expenses of such municipality for such year; and provided, further, that in any year in which business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, or State revenue sharing is not appropriated, such budgeted amounts shall be used to pay the debt service maturing and becoming due in such year on such qualified bonds of the municipality.

(cf: P.L.1978, c.35, s.4)

5. This act shall take effect immediately.

STATEMENT

This bill authorizes the pledge of municipal gross receipts tax revenues apportioned under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) and municipal purposes tax assistance fund distributions provided for under the "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12 (C.54:1-46 et seq.) toward the debt service on qualified bonds issued under the "Municipal Qualified Bond Act, P.L.1976, c.38 (C.40A:3-1 et seq.).

The "Municipal Qualified Bond Act" currently authorizes the pledging of only State urban aid, business personal property tax replacement revenues, and State revenue sharing revenues toward the debt service on bonds issued pursuant to the act.

LOCAL BUDGET AND FINANCE

Permits the pledging of municipal gross receipts tax revenues and municipal purposes tax assistance fund revenues toward debt service on municipal qualified bonds.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 259

STATE OF NEW JERSEY

DATED: NOVEMBER 29, 1990

The Assembly Municipal Government Committee reports favorably Senate Bill No. 259.

This bill authorizes the pledge of municipal gross receipts tax revenues apportioned under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) and municipal purposes tax assistance fund distributions provided for under the "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12 (C.54:1-46 et seq.) toward the debt service on qualified bonds issued under the "Municipal Qualified Bond Act, P.L.1976, c.38 (C.40A:3-1 et seq.).

The "Municipal Qualified Bond Act" currently authorizes the pledging of State urban aid, business personal property tax replacement revenues, and State revenue sharing revenues toward the debt service on bonds issued pursuant to the act.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 259

STATE OF NEW JERSEY

DATED: APRIL 15, 1991

The Assembly Appropriations Committee reports favorably Senate Bill No. 259.

Senate Bill No. 259 authorizes the pledge of municipal gross receipts tax revenues apportioned under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) and municipal purposes tax assistance fund distributions provided for under the "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12 (C.54:1-46 et seq.) toward the debt service on qualified bonds issued under the "Municipal Qualified Bond Act, P.L.1976, c.38 (C.40A:3-1 et seq.).

The "Municipal Qualified Bond Act" currently authorizes the pledging of State urban aid, business personal property tax replacement revenues, and State revenue sharing revenues toward the debt service on bonds issued pursuant to the act.

This bill is identical to Assembly Bill No. 4673.

FISCAL IMPACT

There would be no fiscal impact to the State. This authorization would assist municipalities in maintaining a credit status.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 259

STATE OF NEW JERSEY

DATED: MARCH 5, 1990

The Senate County and Municipal Government Committee reports favorably Senate Bill No. 259.

Senate Bill No. 259 authorizes the pledge of municipal gross receipts tax revenues apportioned under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) and municipal purposes tax assistance fund distributions provided for under the "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12 (C.54:1-46 et seq.) toward the debt service on qualified bonds issued under the "Municipal Qualified Bond Act, P.L.1976, c.38 (C.40A:3-1 et seq.).

The "Municipal Qualified Bond Act" currently authorizes the pledging of only State urban aid, business personal property tax replacement revenues, and State revenue sharing revenues toward the debt service on bonds issued pursuant to the act.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.