

40A:5-4 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:5-4 et al (Technical amendments to Local Fiscal Affairs Law)

Laws of 1977 Chapter 396

Bill No. S3047

Sponsor(s) Beadleston

Date Introduced January 24

Committee: Assembly County Government

Senate County & Municipal Government

Amended during passage: Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly July 11, 1977

Senate April 25, 1977

Date of approval February 23, 1978

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto message ~~Yes~~ No

Message on signing Yes ~~Yes~~ ~~No~~

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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SENATE, No. 3047

STATE OF NEW JERSEY

INTRODUCED JANUARY 24, 1977

By Senators BEADLESTON and DODD

Referred to Committee on County and Municipal Government

AN ACT to amend and supplement the "Local Fiscal Affairs Law" being chapter 5 of Title 40A of the New Jersey Statutes, revising parts of the statutory law, and repealing certain sections of Title 40 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 40A:5-4 is amended to read as follows:

2 40A:5-4. Annual audit required. The governing body of every
3 local unit shall cause an annual audit of its books, accounts and
4 financial transactions to be made and completed within 5 months
5 after the close of its fiscal year and for that purpose shall employ
6 a registered municipal accountant of New Jersey *or may enter*
7 *into an agreement with the director for an annual audit to be made*
8 *by qualified employees of the* ***[Division of Local Government Ser-**
9 *VICES in the Department of Community Affairs for which services]*
10 **Bureau of Financial Regulation and Assistance in the Department*
11 *of the Treasury, and* the local unit shall pay to the director*,* for*
12 *deposit into the State Treasury* ***[such fee as the director and the**
13 *governing body shall agree upon]* *, *a fee for such audit based*
14 *on the time spent therefor, which fee shall be at the established*
15 *rate**. **[Nothing in this chapter shall prohibit the making of such**
16 *audit by the director upon the request of the governing body.]***

1 2. N. J. S. 40A:5-12 is amended to read as follows:

2 40A:5-12. Annual financial statement and reports of local unit.
3 The *chief* financial officer of each local unit shall file annually with
4 the director a verified statement of the financial condition of the
5 local unit as of the close of the fiscal year. Such statement shall
6 be filed, upon forms furnished and prescribed by the director, not
7 later than January 26 in the case of a county and not later than

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

8 February 10 in the case of a municipality after the close of the
9 fiscal year.

10 If the official charged with the responsibility of filing shall fail
11 to file such statement within **[5]** 10 days after the time fixed for
12 filing the same, he shall be subject to a penalty of \$5.00 for each
13 day of neglect to file the same, to be recovered in a summary pro-
14 ceeding against such official instituted and prosecuted under the
15 Penalty Enforcement Law (*N. J. S. 2A:58-1 et seq.*).

1 3. N. J. S. 40A:5-17 is amended to read as follows:

2 40A:5-17. Approval and payment of claims and required general
3 books of account. a. Approval of claims.

4 **[a.]** The governing body shall approve or disapprove all claims
5 **[and shall, by ordinance, prescribe the manner in which claims**
6 **shall be approved or disapproved.**

7 b. The method of disbursing moneys for payment of claims
8 approved shall be as follows:

9 (1) In the case of a county, by check issued on the order of the
10 clerk to the board, signed by the county treasurer and counter-
11 signed by such other officers as may be designated by the governing
12 body.

13 (2) In the case of a municipality, by check drawn on the treas-
14 urer, or other custodian of funds of the municipality, and after
15 being signed by the mayor or other chief executive officer shall be
16 countersigned by the treasurer or other custodian of funds].
17 *Claims shall be approved or disapproved in the manner prescribed*
18 *by rules made and promulgated by the ***[director]*** *bureau* unless*
19 *the governing body adopts ***[a resolution]*** *an ordinance or*
20 *resolution, as may be appropriate*, in the case of a county, or an*
21 *ordinance, in the case of a municipality, including the following*
21A *provisions:*

22 (1) *Designating an approval officer with the title of certifying*
23 *and approval officer***[, comptroller, administrator, manager or***
24 *another title clearly indicative of his duties]*;*

25 (2) *Prescribing the duties of the approval officer including the*
26 *making of certifications required by 40A:5-16b, ascertaining the*
27 *existence of proper and sufficient appropriations for the payments*
28 *to be made and determining that there is legal authority for the*
29 *payments, evidenced by action of a purchasing department or agent*
30 *or officer in respect to the goods or services ordered and the incur-*
31 *ring of the expense therefor;*

32 (3) *Prescribing the procedure for approving and certifying to*
33 *the proper officer claims for payments and drawing checks there-*
34 *for;*

35 (4) Prescribing the procedure for certifying approved claims
 36 to the governing body and regulating its action of approval or
 37 disapproval thereon.

38 b. Payment of claims. A resolution or an ordinance adopted
 39 pursuant to this section may also provide a method of disbursing
 40 moneys or payment of claims approved but if it does not so pro-
 41 vide the method shall be as follows:

42 (1) In the case of a county****[**, by check issued upon the requisiti-
 43 tion of the clerk of the board of chosen freeholders, signed by the
 44 county treasurer and countersigned by such other officer or officers
 45 as are designated by *ordinance or* resolution of the board of
 46 chosen freeholders;**]**** **organized pursuant to the provisions of
 46A the Optional County Charter Law (P. L. 1972, c. 154; C. 40:41A-1
 46B et seq.), by check issued upon the requisition of and signed by the
 46C chief executive officer and countersigned by the treasurer, and in
 46D all other counties by check issued upon requisition of the clerk of
 46E the board of chosen freeholders, signed by the county treasurer and
 46F countersigned by such other officer or officers as are designated by
 46G ordinance or resolution of the governing body;**

47 (2) In the case of a municipality, by check drawn on the
 48 ***[municipal treasurer or other custodian of municipal funds]***
 49 *municipality*, signed by the mayor or other chief executive officer
 50 and the municipal clerk and countersigned by ***[said treasurer or**
 51 **other custodian of municipal funds]*** *such other officer or
 52 officers as are designated by ordinance*.

53 c. Required general books of account. The ***[director]*** *bureau*
 54 shall prescribe the kind and manner of keeping of general books
 55 of account for the financial officers of the local units and said officers
 56 shall be required to keep and maintain said books.

1 4. N. J. S. 40A:5-36 is amended to read as follows:

2 40A:5-36. Protection to be afforded by bond. Every **[such]**
 3 bond given by a municipal court ***[magistrate]*** *judge* or clerk
 4 of a municipal court as hereinafter provided shall be for the protec-
 5 tion of the State, the county and the municipality or, in the case
 6 of an intermunicipal court, the municipalities, and also for the
 7 protection of defendants, litigants, bondsmen and all other persons
 8 in interest.

1 5. N. J. S. 40A:5-38 is amended to read as follows:

2 40A:5-38. Rules and regulations. The Local **[Government]**
 3 Finance Board may prescribe rules and regulations pertaining to
 4 the bonds of municipal court ***[magistrates]*** *judges* and
 5 municipal court clerks **[to effectuate the purposes of this act, but**
 6 such rules and regulations shall not be inconsistent**]** consistent
 7 with the rules of administration applicable to the municipal courts.

8 **Notwithstanding any other provision of law, the Local Finance*
 9 *Board shall, in accordance with a classification system established*
 10 *by said board, determine and fix the minimum amount of any*
 11 *official bond which may be required of a municipal court judge or*
 12 *clerk of a municipal court.**

1 6. N. J. S. 40A:5-39 is amended to read as follows:

2 40A:5-39. Fixing of bond in excess of minimum amount.
 3 **Nothing** contained in this act shall be deemed to preclude the
 4 fixing of the amount of any such bond in excess of the said minimum
 5 amount, by the **The** governing body of any municipality**,** when
 6 authorized by law to fix the amount of any **[such]** bond *given by a*
 7 *municipal court* **[magistrate]** **judge* or clerk of a municipal*
 8 *court may fix such amount in excess of the minimum prescribed by*
 9 *the local finance board.*

1 **[7.** N. J. S. 40A:5-40 is amended to read as follows:

2 40A:5-40. Bond of magistrate or clerk; fixing of minimum
 3 amount. Whenever any municipal court magistrate or any clerk of
 4 a municipal court is required to give an official bond, the minimum
 5 amount of such bond, notwithstanding any other provision of law,
 6 shall be the amount determined and fixed by the Local **[Govern-**
 7 **ment]** *Finance* Board according to a classification system which
 8 shall be established by said board.]**

1 **[8.]** **7.** N. J. S. 40A:5-42 is amended to read as follows:

2 40A:5-42. Purchase and retirement of outstanding bonds; pro-
 3 cedure; duties of Local **[Government]** *Finance* Board. Any local
 4 unit, by resolution adopted by vote of at least two-thirds of the
 5 full membership of the governing body, may at any time appro-
 6 priate and apply any unappropriated funds to the purchase and
 7 retirement of any of its then outstanding bonds, notes or other
 8 obligations. The purchase price may be the face value, or may be
 9 below or above the face value of such bonds, notes or other obliga-
 10 tions. Any such proposed purchase shall be subject to the following
 11 provisions:

12 a. Before adoption of the resolution, the governing body shall
 13 cause satisfactory proof to be filed with the **[director]** **bureau**
 14 that such funds then are, or within a reasonable time will be,
 15 available.

16 b. Before contracting to purchase any bonds, notes or other
 17 obligations at a price above their face value, the governing body
 18 shall submit such resolution to the said **[director]** **bureau** for
 19 approval by the Local **[Government]** *Finance* Board. Before taking
 20 definite action, the said Local **[Government]** *Finance* Board may
 21 require the submission of additional information and may require

22 that the governing body of the local unit shall call for public tenders
 22A of bonds, notes or other obligations on such notice and subject to
 23 such rules as the board may prescribe. On receipt of such tenders,
 24 the governing body shall report them to the said Local **【Govern-**
 25 **ment】** *Finance* Board together with a further proposed resolution
 26 for approval by that board.

27 In approving or disapproving any proposed purchase of bonds,
 28 notes or other obligations, the said Local **【Government】** *Finance*
 29 Board shall find and determine whether such appropriation of
 30 available funds is in the interest of the local unit, having regard for
 31 (1) the prospective need of funds for other purposes, (2) reason-
 32 ableness of the price proposed to be paid, (3) any saving of
 33 interest to result from retirement of the bonds, notes or other
 34 obligations at the price proposed to be paid, (4) the equality and
 35 reasonableness of the debt service on obligations which will remain
 36 outstanding, and (5) fairness to the holders of other obligations.

37 After purchase of any bonds, notes or other obligations, satis-
 38 factory proof of cancellation of the bonds, notes or other obliga-
 39 tions and of any coupons thereto annexed shall forthwith be filed
 40 with the ***【director】*** *bureau* by the chief financial officer of the
 40A local unit.

41 Any local unit, by resolution adopted by vote of at least two-
 42 thirds of the full membership of the governing body may at any
 43 time appropriate to and pay into any sinking fund maintained by
 44 such local unit any unappropriated funds; provided, a certified
 45 copy of such resolution shall be submitted to the Local **【Govern-**
 46 **ment】** *Finance* Board and the Local **【Government】** *Finance*
 47 Board, by resolution, shall determine that it is satisfied by proof
 48 submitted to it that such funds then are, or within a reasonable
 49 time will be, available, and shall consent to such appropriation.

1 ***【9.】*** **8.** (New section) Securities which may be purchased by
 2 local units. When authorized by resolution adopted by a majority
 3 vote of all its members, the governing body of any local unit may
 4 use moneys which may be in hand for the purchase of the following
 5 types of securities which, if suitable for registry, may be registered
 6 in the name of the local unit:

7 a. Bonds or other obligations of the United States of America
 8 or obligations guaranteed by the United States of America;

9 b. Bonds of any Federal Intermediate Credit Bank, Federal
 10 Home Loan Bank, Federal Land Bank, Federal National Mortgage
 11 Associates or of any United States Bank for Cooperatives which
 12 have a maturity date not greater than 12 months from the date of
 13 purchase; or

14 c. Bonds or other obligations of the local unit or bonds or other
15 obligations of school districts of which the local unit is a part or
16 within which the school district is located;

17 d. Bonds or other obligations, having a maturity date not more
18 than 12 months from the date of purchase, approved by the Division
19 of Investment of the Department of Treasury for investment by
20 local units.

21 Source: C. 40:5-7.1 (1953, c. 328, s. 1 amended 1953, c. 452, s. 2;
22 1959, c. 160, s. 2).

1 ***[10.]*** *9.* (New section) Record and report of securities
2 received. When said securities are received by the local unit the
3 chief financial officer shall duly record the receiving thereof in an
4 appropriate manner and at the next regular or special meeting
5 after such receipt he shall transmit a written report to the govern-
6 ing body setting forth the amount of securities so received, the
7 series, date, numbers and interest periods, if any, thereof and at
8 the same time, transmit said securities to such depository, person
9 or persons as the governing body shall direct for safekeeping.
10 Such written report shall be recorded in the minutes at such meet-
11 ing, and a certified copy of such minute record shall forthwith be
12 filed with the ***[director]*** *bureau*.

13 Source: C. 40:5-7.2 (1953, c. 328, s. 2).

1 ***[11.]*** *10.* (New section) Securities of local unit purchased
2 by it not to be canceled; sale thereafter. Securities of a local unit
3 purchased by it shall not be canceled but may be sold as and when
4 directed by resolution adopted by a majority vote of all the mem-
5 bers of the governing body.

6 Source: C. 40:5-7.3 (1953, c. 328, s. 3).

1 ***[12.]** (New section) Contribution to first-aid associations. Any
2 local unit may make a voluntary contribution of not more than
3 \$15,000.00 annually to any duly incorporated first-aid and emer-
4 gency or volunteer ambulance or rescue squad association of the
5 local unit rendering service generally throughout the local unit.

6 Source: R. S. 40:5-2 amended 1941, c. 236; 1951, c. 298, s. 1;
7 1960, c. 36; 1966, c. 290; 1974, c. 122.]*

1 ***[13.]*** *11.* The following acts and parts of acts together with
2 all amendments and supplements thereto are repealed:

3 Sections 40:4-15, ***[40:5-2,]*** 40:5-6, 40:5-17, 40:48-10 to
4 40:48-16, inclusive of the Revised Statutes;

4A *N. J. S. 40A:5-40,*

5 P. L. 1953, c. 328 (C. 40:5-7.1 to 40:5-7.3 inclusive);

6 P. L. 1955, c. 239 (C. 40:5-2.12 to C. 40:5-2.14 inclusive).

1 ***[14.]*** *12.* This act shall take effect immediately.

7 numbers and interest periods, if any, thereof and at the same time,
8 transmit said securities to such depository, person or persons as
9 the governing body shall direct for safekeeping. Such written
10 report shall be recorded in the minutes at such meeting, and a
11 certified copy of such minute record shall forthwith be filed with
12 the director.

13 Source: C. 40:5-7.2 (1953, c. 328, s. 2).

1 11. (New section) Securities of local unit purchased by it not
2 to be canceled; sale thereafter. Securities of a local unit pur-
3 chased by it shall not be canceled but may be sold as and when
4 directed by resolution adopted by a majority vote of all the mem-
5 bers of the governing body.

6 Source: C. 40:5-7.3 (1953, c. 328, s. 3).

1 12. (New section) Contribution to first-aid associations. Any
2 local unit may make a voluntary contribution of not more than
3 \$15,000.00 annually to any duly incorporated first-aid and emer-
4 gency or volunteer ambulance or rescue squad association of the
5 local unit rendering service generally throughout the local unit.

6 Source: R. S. 40:5-2 amended 1941, c. 236; 1951, c. 298, s. 1;
7 1960, c. 36; 1966, c. 290; 1974, c. 122.

1 13. The following acts and parts of acts together with all amend-
2 ments and supplements thereto are repealed:

3 Sections 40:4-15, 40:5-2, 40:5-6, 40:5-17, 40:48-10 to 40:48-16,
4 inclusive of the Revised Statutes;

5 P. L. 1953, c. 328 (C. 40:5-7.1 to 40:5-7.3 inclusive);

6 P. L. 1955, c. 239 (C. 40:5-2.12 to C. 40:5-2.14 inclusive).

1 14. This act shall take effect immediately.

STATEMENT

This bill prepared by the Division of Law Revision of the Legislative Services Agency is one of a series of bills designed to accomplish certain technical changes in Title 40 and Title 40A. No substantive changes in the statutes are made or intended. The changes proposed are to transfer sections of the law from one title or chapter to another and to bring the wording of the statutes up to date to conform with other changes that have taken place.

This bill has the approval of the Division of Local Government Services in the Department of Community Affairs.

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 3047

STATE OF NEW JERSEY

DATED: MAY 16, 1977

Sections 1 through 8 of the bill as originally introduced amends certain provisions of Chapter 5 of Title 40A in accordance with recommendations made by the Division of Local Government Services in the Department of Community Affairs.

Sections 9 through 12 transfer certain sections of Title 40 to Chapter 5 of Title 40A of the New Jersey Statutes, where they properly belong. The Senate committee made certain technical changes in the bill to give effect of the transfer of the Bureau of Financial Regulation and Assistance in the Division of Local Government Services to the Department of the Treasury and certain other technical amendments which did not make substantive changes.

This committee is in agreement with these amendments.

The new section permitting local units of government to make investments with certain unappropriated funds establishes a system of legal investments and is consistent with investment policies of other governmental agencies.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 3047

with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 18, 1977

The sponsor's statement adequately summarizes the objectives of the bill.

The bill does, however, contain some substantive changes in the law, including:

- (1) A deletion of the statutory requirement that the fees for local audits made by the Division of Local Government Services be determined on a cost basis (see R. S. 40:4-15);
- (2) A statutory detailing of the procedures for certifying and making payments on claims against a local unit of government;
- (3) An authorization for local unit to purchase, for investment purposes, "bonds or other obligations", apparently including corporate obligations, (see section 11 of P. L. 1950, c. 270; C. 52:18A-89), with maturity dates of less than 12 months, which have been approved by the Division of Investment.

The Senate committee amendments update some of the references in several of the sections and clarify the sponsor's objectives.

Specifically, the committee amendments:

- (1) Change the reference in section 1 to the Bureau of Financial Regulation and Assistance in the Department of the Treasury;
- (2) Require that the fee to be charged for audits performed by the director be at the established rate (section 1);
- (3) Allow for the situation of optional charter counties which are required by law to act by ordinance (section 3);
- (4) Grant to municipalities the same authority for designating the officer or officers to countersign checks drawn on the municipality, as is provided to counties (section 3);
- (5) Change the several references to municipal court magistrates (sections 4 through 6);
- (6) Delete section 7 of the bill, repeal N. J. S. 40A:5-40, and, in the interests of greater clarity, transfer the provisions therein to section 5 of the bill;
- (7) Delete section 12 of the bill, on the grounds that the provisions concerning contributions to first-aid squads, is not an appropriate subject of the Local Fiscal Affairs Law.

FROM THE OFFICE OF THE GOVERNOR

FEBRUARY 23, 1978

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

KATHY FORSYTH -- ANNE BURNS

Governor Brendan Byrne today signed into law the following bills:

A-1275, sponsored by Senator William Hamilton (D-Middlesex) which requires a driver of a motor vehicle involved in an accident to show his insurance identification card to the person injured or whose vehicle or property was damaged and to any police officer and witness of the accident. He is also required to give his name and address, and show his driver's license and registration certificate.

S-815, sponsored by former Senator Raymond Bateman (R-Somerset) which amends the Public Employees Retirement System Act of 1954 to make it possible for employees of boards of education to claim prior service and be covered by the Public Employees Retirement System upon the adoption of a resolution by the governing body of the board of education or as a result of a referendum among the voters of that school district.

S-3047, sponsored by former Senator Alfred Beadleston (R-Monmouth) which amends the local Fiscal Affairs Law to accomplish certain technical changes which will conform the wording of this statute to the other statutory changes which have taken place since its enactment.

S-1686, sponsored by Senator Thomas Dunn (D-Union) which permits the continuation of municipal shade tree commissions in those municipalities which have changed their form of government by adopting an optional plan.

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