

New Jersey. County and Municipal Law Revision  
Commission.

New Jersey Local Budget Law;  
Preliminary Draft

1959.

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# BINDERY SHELF



## PRELIMINARY DRAFT

NEW JERSEY LOCAL BUDGET LAW; preliminary draft.

As submitted to the  
N.J. County and Municipal Law Revision Commission,

This draft has not been considered or approved by the  
Commission and is distributed for purpose of discussion only.

Suggestions for change will be welcomed by the Commission  
and should be made to the undersigned.

Clive S. Cummis, Counsel  
Room 71  
State House  
Trenton, New Jersey

-664  
Monday

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## INTRODUCTION:

The preliminary draft of the local budget law makes few substantial changes in the existing statute. The material is now collected in 12 articles and 100 sections. It is set out in more logical and orderly fashion. Certain procedures which have been standard practice of the Division of Local Government, Department of the Treasury, are now spelled out as law in the draft. Amendatory sections are brought into proper sequence, and clarification has been sought wherever possible.

Following each section in the draft, there is a staff comment. This comment indicates briefly what change has been made, if any. If there has been a substantive change made, a short description of that change follows. If an editorial change has been made, the comment states "Editorial change". If the section is new, the comment states "New". If the section has been carried over directly from the present law, the comment states "No change".

Five new sections have been added. Eight sections have been taken from other parts of Title 40, condensed into 5 sections and made a part of this chapter. Twelve substantive changes have been made. Thirty editorial changes have been made, and 48 sections have been carried over from the existing law without change. Ten sections have been deleted as obsolete. A number of the more complicated and lengthy sections have been cut down to several shorter sections. The accent throughout has been on simplification of language.

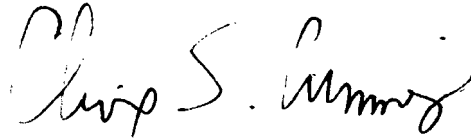
The Budget Bureau of the Division of Local Government has suggested certain changes of language and procedures, and they have been incorporated in the present draft. It reviewed this preliminary draft and reported that should this draft become law, municipalities will have no difficulty in following the procedures set forth therein. The bureau has also reported that the cash basis procedure, which is so important in New Jersey local finance, is strengthened by this draft.

"Budget year" has been substituted throughout the draft in place of "fiscal year". "Board" is used in place of the "Division of Local Government". "Director" is used in place of "Director, Division of Local Government, Department of the Treasury".

Since all municipalities now operate on a full cash basis, the "transition language" in the existing law, changing the budget law to a full cash basis system, has been deleted.

It has been suggested that there be a common fiscal year for municipalities, counties, school districts, State Government and Federal Government. This suggestion has not been incorporated in the present draft. The advantages and disadvantages of a common fiscal year are being presently studied by the commission's staff. The commission is desirous of having the comments of public officials and persons interested in local government fiscal affairs on the advisability of making this change.

Special note should be made of the work which Mr. George C. Skillman, Director, Division of Local Government, and his staff, as well as Mr. Charles DeF. Besore', Chief Counsel and Executive Director, Law Revision and Legislative Services, have performed in this preliminary draft.

A handwritten signature in black ink, appearing to read "Clive S. Cummis". The signature is written in a cursive style with a large initial "C" and "S".

Clive S. Cummis  
Counsel

Title 40A. MUNICIPALITIES AND COUNTIES

Chapter 2. County and Municipal Budgets

Article 1. General Provisions; Application and Construction.

- 40A:2-1. Short title. Source. R.S. 40:2-1.
- 40A:2-2. Definitions. Source. R.S. 40:2-2.
- 40A:2-3. Construction of chapter as revision of prior budget law; repealer; exceptions. Source. R.S. 40:2-3.
- 40A:2-4. Municipal finance commission unaffected. Source. R.S. 40:2-4.
- 40A:2-5. Classification; outlines; analyses; head notes, etc.; effect on construction. Source. New.
- 40A:2-6. References to statutes revised or superseded hereby; effect. Source. New.
- 40A:2-7. Separability of provisions. Source. New.

Article 2. Necessity for Adoption of Budget; Cash Basis.

- 40A:2-8. County and municipal annual budgets. Source. R.S. 40:2-5.
- 40A:2-9. Cash basis budget required. Source. R.S. 40:2-22.

Article 3. Procedures for Adopting Annual Budgets.

- 40A:2-10. Procedures for adoption of budget; budget by resolution required. Source. New.
- 40A:2-11. Introduction and approval. Source. R.S. 40:2-7.
- 40A:2-12. Public hearing; time and place to be fixed. Source. R.S. 40:2-7.
- 40A:2-13. Advertisement of hearing and publication of budget. Source. R.S. 40:2-7.

- 40A:2-14. Hearing; when held; adjournment; adoption of budget. Source. R.S. 40:2-8.
- 40A:2-15. Amendments. Source. R.S. 40:2-8; 40:2-9.
- 40A:2-16. Adoption. Source. R.S. 40:2-6; 40:2-7; 40:2-8; 40:2-10.
- 40A:2-17. Budget to be transmitted to county board of taxation. Source. R.S. 40:2-11.
- 40A:2-18. Amount to be raised by taxation for local purposes. Source. R.S. 40:2-19.
- 40A:2-19. Budget to include amount required for school purposes when appropriated by governing body. Source. R.S. 40:2-20.
- 40A:2-20. School items; deduction from municipal budget; addition to school budget; separate certification. Source. C. 40:2-11.1 (L. 1939, c. 32) as am. L. 1947, c. 16, s. 1.
- 40A:2-21. Director may receive budgets not filed on time; director's action in such case. Source. C. 40:2-10.1 (L. 1949, c. 121).
- 40A:2-22. County board to advise director of failure to receive budget. Source. C. 40:2-11.2 (L. 1953, c. 376, s. 1).
- 40A:2-23. Director's certificate to the county board of taxation; contents and limitations. Source. C. 40:2-11.3 (L. 1953, c. 376, s. 2).
- 40A:2-24. Table of aggregates to be filled out on basis of certificate or adopted budget. Source. C. 40:2-11.4 (L. 1953, c. 376, s. 3).

Article 4. Temporary Budgets; Emergencies Prior to Adoption of Budget.

- 40A:2-25. Temporary appropriations; prior to adoption of budget. Source. R.S. 40:2-12.
- 40A:2-26. Emergency appropriations; prior to adoption of budget. Source. C. 40:2-12.1 (L. 1951, c. 96, s. 1); C. 40:2-12.2 (L. 1951, c. 96, s. 2).

- 40A:2-27. Petition to adopt temporary budget; county.  
Source. C. 40:2-10.2 (L. 1949, c. 140, s. 1);  
C. 40:2-10.4 (L. 1949, c. 140, s. 3)
- 40A:2-28. Payments may be ordered by director. Source.  
C. 40:2-10.3 (L. 1949, c. 140, s. 2).

Article 5. Form and Content of Budget.

- 40A:2-29. Contents, general requirements. Source. R.S. 40:2-13.
- 40A:2-30. Form and content of budget; separate sections required.  
Source. New.
- 40A:2-31. Form and content of budget; itemization.  
Source. R.S. 40:2-21.
- 40A:2-32. Form and content of budget; arrangement of appropriations. Source. R.S. 40:2-21.
- 40A:2-33. Anticipated revenues - classified; previous year's revenues to be stated. Source. R.S. 40:2-15.
- 40A:2-34. Surplus revenue. Source. R.S. 40:2-16.
- 40A:2-35. Miscellaneous revenues. Source. R.S. 40:2-17.
- 40A:2-36. Miscellaneous revenues limited to cash receipts; exemption. Source. R.S. 40:2-17.
- 40A:2-37. Miscellaneous revenues; sale of property.  
Source. R.S. 40:2-17.
- 40A:2-38. Miscellaneous revenues; sinking fund surplus.  
Source. C. 40:2-17.1 (L. 1938, c. 25, s. 1).
- 40A:2-39. Anticipated revenues; receipts from delinquent taxes. Source. 40 :2-25.
- 40A:2-40. Dedicated revenues; defined. Source. R.S. 40:2-18.
- 40A:2-41. Dedicated revenues; special assessments. Source.  
R.S. 40:2-18.

- 40A:2-42. Dedicated revenues; derived from other sources.  
Source. R.S. 40:2-18.
- 40A:2-43. Anticipated revenues from utilities; separate  
section of budget. Source. R.S. 40:2-24.
- 40A:2-44. Dedicated revenues anticipated; not subject to  
accurate estimate; dedicated by rider. Source.  
C. 40:2-18.1 (L. 1942, c. 5, s. 1); as am. L. 1954,  
c. 35, s. 1.
- 40A:2-45. Dedicated revenues; availability for expenditure.  
Source. C. 40:2-18.2 (L. 1942, c. 5, s. 2);  
C. 40:2-18.3 (L. 1942, c. 5, s. 3) as am.  
L. 1947, c. 114, s. 1.
- 40A:2-46. Reserve for uncollected taxes; appropriation.  
Source. R.S. 40:2-26.
- 40A:2-47. Computation of reserve for uncollected taxes.  
Source. R.S. 40:2-28.
- 40A:2-48. Required appropriation for cash deficit.  
Source. R.S. 40:2-27.

Article 6. Capital budgets.

- 40A:2-49. Capital budgets; definition. Source. R.S. 40:2-61.
- 40A:2-50. Capital budgets; form, arrangement and detail.  
Source. R.S. 40:2-61.
- 40A:2-51. Separate capital budgets; may be required.  
Source. R.S. 40:2-61.
- 40A:2-52. Capital budget; duration. Source. R.S. 40:2-61.
- 40A:2-53. Capital budgets; regulations; borrowing funds for  
projects. Source. R.S. 40:2-61.
- 40A:2-54. Capital budgets; regulations for amendments.  
Source. R.S. 40:2-61.

Article 7. Emergency Authorizations.

- 40A:2-55. Emergency appropriations; when and how made.  
Source. R.S. 40:2-31.
- 40A:2-56. Emergency appropriations provided for in next  
budget. Source. R.S. 40:2-31.
- 40A:2-57. Emergency appropriations not exceeding, with other  
appropriations, 3% of the operating appropriations.  
Source. R.S. 40:2-31.
- 40A:2-58. Emergency appropriations exceeding, with other  
appropriations, 3% of the operating appropriations.  
Source. R.S. 40:2-31.
- 40A:2-59. Emergencies financed from surplus revenues.  
Source. C. 40:5-2.14 (L. 1955, c. 239, s. 3).
- 40A:2-60. Emergency notes authorized. Source. R.S. 40:2-31.
- 40A:2-61. Emergency appropriations; affidavit of finance officer.  
Source. R.S. 40:2-31.
- 40A:2-62. Ordinance and emergency appropriation for tax map, etc.  
Source. C. 40:5-2.12 (L. 1955, c. 239, s. 1);  
R.S. 40:50-9.
- 40A:2-63. Emergency resolution after adoption of ordinance.  
Source. C. 40:5-2.14 (L. 1955, c. 239, s. 3);  
R.S. 40:50-13.
- 40A:2-64. Contracts; special technical nature. Source.  
R.S. 40:50-9; 40:50-11.
- 40A:2-65. Resolutions filed with director; percentage limits  
do not apply. Source. C. 40:5-2.13 (L. 1955,  
c. 239, s. 2.)

Article 8. Contracts and Expenditures Void  
Without Appropriations; Approp-  
riation Transfers; Separate  
Funds Required.

- 40A:2-66. Contracts and expenditures void unless budget appropriation made therefor; exception. Source. R.S. 40:2-29.
- 40A:2-67. Appropriation transfers during last 2 months of budget year. Source. R.S. 40:2-30.
- 40A:2-68. Appropriation transfers during first 3 months of succeeding year. Source. R.S. 40:2-30.
- 40A:2-69. Unexpended balances cancelled by resolution; balances lapsed. Source. R.S. 40:2-30.
- 40A:2-70. Assessment revenue fund. Source. R.S. 40:2-34.
- 40A:2-71. Public utility accounts. Source. R.S. 40:2-33.
- 40A:2-72. Money in separate funds treated as trust funds. Source. R.S. 40:2-35.

Article 9. Borrowing; Tax Anticipation Notes.

- 40A:2-73. Tax anticipation notes. Source. R.S. 40:2-36.
- 40A:2-74. Application of proceeds. Source. R.S. 40:2-37.
- 40A:2-75. Limitation of amount; certificate by financial officer. Source. R.S. 40:2-38.

- 40A:2-76. Limitation of maturity and renewals. Source.  
R.S. 40:2-39.
- 40A:2-77. Interest rate. Source. R.S. 40:2-40.
- 40A:2-78. Form, registration and redemption. Source.  
R.S. 40:2-41.
- 40A:2-79. Recital of borrowing power; authorization.  
Source. R.S. 40:2-42.
- 40A:2-80. Execution of notes; coupons. Source. R.S. 40:2-43.
- 40A:2-81. Sale; report of sale. Source. R.S. 40:2-44.
- 40A:2-82. Validity of proceedings and notes; conclusive pre-  
sumption. Source. R.S. 40:2-45.
- 40A:2-83. Liability on notes. Source. R.S. 40:2-46.

Article 10. Action by Director.

- 40A:2-84. Examination of budget. Source. R.S. 40:2-52.
- 40A:2-85. Scope of examination by director. Source. R.S. 40:2-53.
- 40A:2-86. Approval or disapproval by director. Source.  
R.S. 40:2-53.
- 40A:2-87. Certification of determination of director;  
approval requisite to adoption. Source. R.S. 40:2-53.
- 40A:2-88. Action on disapproved budget; publication.  
Source. R.S. 40:2-53.
- 40A:2-89. Disapproved budget to be amended; petition for  
hearing. Source. R.S. 40:2-53.
- 40A:2-90. Judicial review of board determination. Source.  
R.S. 40:2-53.

- 40A:2-91. Procedure in case of adverse court decision.  
Source. R.S. 40:2-53.
- 40A:2-92. Director may hold hearing. Source. R.S. 40:2-55.
- 40A:2-93. Order of director binding. Source. R.S. 40:2-55.
- 40A:2-94. Failure of governing body to comply; penalty.  
Source. R.S. 40:2-55.
- 40A:2-95. Director's power to change title or text of appropriation. Source. C. 40:2-52.1 (L. 1948, c. 159, s. 1).
- 40A:2-96. Director may correct revenue item. Source.  
C. 40:2-52.2 (L. 1948, c. 159, s. 2).
- 40A:2-97. Director's power to approve special items of revenue. Source. C. 40:2-52.3 (L. 1948, c. 159, s. 3).
- 40A:2-98. Rules and regulations by board and director.  
Source. C. 40:2-52.5 (L. 1948, c. 159, s. 5).

Article 11. Special Aid Notes; Authorization to Issue.

- 40A:2-99. Special aid notes; authorization to issue.  
Source. C. 40:2-52.4 (L. 1948, c. 159, s. 4).

Article 12. Effective Date.

- 40A:2-100. Effective date. Source. New.

Article 1. General Provisions; Application and Construction.

- 40A:2-1. Short title.
- 40A:2-2. Definitions.
- 40A:2-3. Construction of chapter as revision of prior budget law; repealer; exceptions.
- 40A:2-4. Municipal finance commission unaffected.
- 40A:2-5. Classification; outlines; analyses; head notes, etc.; effect on construction.
- 40A:2-6. References to statutes revised or superseded hereby; effect.
- 40A:2-7. Separability of provisions.

Chapter 2. COUNTY AND MUNICIPAL BUDGETS

Article 1. General Provisions; Application and  
Construction.

40A:2-1. Short title. This chapter may be cited as the  
"local budget law".

Source. R.S. 40:2-1.

40A:2-2. Definitions. As used in this chapter and in any  
act amendatory thereof or supplemental thereto, unless the context  
indicates otherwise:

"Board" means the Local Government Board of the Division  
of Local Government in the Department of the Treasury;

"Budget" means the budget of a local unit;

"Budget year" means the fiscal year for which a budget is  
prepared or adopted;

"Cash basis budget" means a budget prepared in accordance  
with this chapter, and in such form that based on the limitations,  
percentages and estimates hereinafter provided there will be  
sufficient cash collected to meet all debt service requirements,  
necessary operations of the municipality and, in addition, provide  
for any mandatory payments required to be met during the budget  
year.

"Director" means the Director of the Division of Local  
Government in the Department of the Treasury;

"Fiscal year" means the calendar year beginning on January 1 and ending on December 31;

"Full membership of a governing body" means the number of members of the body when all the seats are filled;

"Governing body" means the board of chosen freeholders of a county, or the commission, council, board or body having control of the finances of a municipality, as the case may be;

"Local unit" means a county or municipality, as the case may be.

Source. R.S. 40:2-2.

Staff comment: Some definitions have been added. None change existing procedures.

40A:2-3. Construction of chapter as revision of prior budget law; repealer; exceptions. This chapter is a revision of Chapter 2, County and Municipal Budgets of Title 40, Municipalities and Counties, of the Revised Statutes and all acts amendatory thereof and supplemental thereto, which statutes together with all other acts and parts of acts, general or special, to the extent that they relate to the subject matter of this chapter, are superseded by this chapter. Acts and proceedings done or taken by any local unit or the voters thereof, or any board or officers thereof prior to the effective date of this chapter pursuant to acts or parts of acts repealed or superseded by this chapter shall have the same force and effect as if done and taken pursuant to this chapter, and only subsequent proceedings shall be taken as provided in this chapter.

Source. R.S. 40:2-3.

Staff comment: Change has been made to reflect the fact that this chapter is a revision of existing law.

40A:2-4. Municipal finance commission unaffected.

Nothing in this chapter shall be construed to supersede, abrogate or repeal in any way chapter 27 of the title 'State Government, Departments and Officers' (§52:27-1 et seq.), or any revision thereof, but said laws shall continue in full force and effect, and any proceedings taken or to be taken thereunder shall continue to be taken or be taken thereunder, notwithstanding the provisions of this chapter.

Source. R.S. 40:2-4.

Staff comment: No change.

40A:2-6. References to statutes revised or superseded hereby; effect. Reference to any section or sections of any statute revised or superseded by this chapter shall, after the effective date of this chapter, be construed to be a reference to the section or sections of this chapter, if any, corresponding in substance to, or superseding, the section or sections so referred to.

Source. New.

40A:2-7. Separability of provisions. The powers granted and the duties imposed by this chapter shall be construed to be independent and severable. If any one or more sections, subsections, sentences, or articles of this chapter shall for any reason be questioned in any court and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

Source. New.

Article 2. Necessity for Adoption of Budget; Cash Basis.

40A:2-8. County and municipal annual budgets.

40A:2-9. Cash basis budget required.

Article 2. Necessity for Adoption of Budget;  
Cash Basis.

40A:2-8. County and municipal annual budgets. The governing body of each county shall adopt a "county budget", and the governing body of each municipality shall adopt a "municipal budget", for each fiscal year.

Source. R.S. 40:2-5.

Staff comment: Editorial change.

40A:2-9. Cash basis budget required. Every local unit shall prepare its annual budget on a full cash basis, unless a variation is permitted by any other law.

A local unit shall be on a full cash basis when all obligations and disbursements representing lawful expenditures, under its budget for the current budget year, together with all obligations and deficits remaining unpaid from all preceding fiscal years, are paid or provided for in full from cash reserves and revenues actually collected during such budget year.

Source. R.S. 40:2-22.

Staff comment: The express requirement of the cash basis budget is added to the language of this section.

Article 3. Procedures for Adopting Annual Budgets.

- 40A:2-10. Procedures for adoption of budget; budget by resolution required.
- 40A:2-11. Introduction and approval.
- 40A:2-12. Public hearing; time and place to be fixed.
- 40A:2-13. Advertisement of hearing and publication of budget.
- 40A:2-14. Hearing; when held; adjournment; adoption of budget.
- 40A:2-15. Amendments.
- 40A:2-16. Adoption.
- 40A:2-17. Budget to be transmitted to county board of taxation.
- 40A:2-18. Amount to be raised by taxation for local purposes.
- 40A:2-19. Budget to include amount required for school purposes where board of school estimate.
- 40A:2-20. School items; deduction from municipal budget; addition to school budget; separate certification.
- 40A:2-21. Director may receive budgets not filed on time; director's action in such case.
- 40A:2-22. County board to advise director of failure to receive budget.
- 40A:2-23. Director's certificate to the county board of taxation; contents and limitations.
- 40A:2-24. Table of aggregates to be filled out on basis of certificate or adopted budget.

Article 3. Procedures for Adopting Annual Budgets.

40A:2-10. Procedures for adoption of budget; budget by resolution required. The budget of every local unit shall be in the form of a resolution, and all proceedings provided for in this chapter shall be taken by resolution.

The procedures in connection with the annual budget shall be as follows:

1. Introduction and approval.
2. Public advertising.
3. Public hearing.
4. Amendments, if any.
5. Adoption.

Source. New.

Staff comment: Section sets out the budget procedures and adds the requirement of all actions to be taken by resolution.

40A:2-11. Introduction and approval. The governing body of each local unit shall introduce and approve the annual budget:

1. In the case of a county, not later than the 26th day of January of the budget year, and

2. In the case of a municipality, not later than the 10th day of February of the budget year.

Approval thereof shall constitute a first reading. Two certified copies of every approved budget shall be forwarded to the director within 3 days after approval.

Source. R.S. 40:2-7.

Staff comment: Editorial change. The notice of hearing language is omitted from this section.

40A:2-12. Public hearing; time and place to be fixed.

No budget shall be adopted until a public hearing has been held thereon and taxpayers and other interested persons shall have had an opportunity to present objections at such hearing.

Upon the approval of the budget by the governing body of the local unit, it shall fix a time and place for the holding of a public hearing upon the budget. Such hearing shall be held not less than 28 days, in the case of a municipality, and not less than 18 days, in the case of a county, after approval of the budget.

Source. R.S. 40:2-7.

Staff comment: Includes that part of source section containing notice of hearing requirements.

40A:2-13. Advertisement of hearing and publication of budget.

Every budget shall be advertised after approval and the advertisement shall contain a copy of the budget and shall set forth the date, the time and the place of the hearing.

It shall be published at least 10 days prior to the date fixed therefor in at least 1 newspaper:

1. In the case of a municipality, published in the municipality, if a newspaper be published therein, otherwise published in the county and circulating in the municipality, and

2. In the case of a county, published in the county.

Source. R.S. 40:2-7.

Staff comment: Contains last paragraph of source section with editorial change.

40A:2-14. Hearing; when held; adjournment; adoption of budget. The public hearing on the budget shall be held at the time and place specified in the advertisement thereof but may be adjourned from time to time until the hearing is closed. After closing the hearing, the governing body may adopt the budget, with or without alterations or amendments, subject to the provisions of sections 40A:2-15 and 40A:2-16 of this chapter.

Source. R.S. 40:2-8.

Staff comment: Contains the introductory language of source section with editorial change.

40A:2-15. Amendments.

1. All amendments to budgets required by the director may be made prior to the time of holding the public hearing on the budget, without republication,

2. The governing body may amend a budget at the time of, or after, the hearing and all amendments so made shall be in the form prescribed by, and be forthwith submitted to, the director for his examination and certification of approval or disapproval, and no budget shall be finally adopted until all such amendments shall have been approved and certified by the director.

3. No amendment shall be made until after the governing body shall have granted all taxpayers, and other interested persons, a public hearing thereon, if such amendment shall:

(a) Add a new item of appropriation in an amount in excess of 1% of the total amount of appropriation as stated in the approved budget, or

(b) Increase or decrease any item of appropriation by more than 10%, or

(c) Increase the amount to be raised by taxes by more than 5%,

unless the same is made to include an emergency appropriation, authorized by section 40A:2-26, solely.

Notice of such public hearing shall be advertised at least 2 days before the date set therefor, as required by subsections 1 and 2 of section 40A:2-13.

Source. R.S. 40:2-8, 40:2-9.

Staff comment: Source sections are combined without substantive change.

40A:2-16. Adoption. No budget shall be adopted unless the director shall have previously certified his approval thereof.

The governing body of a local unit may adopt a budget at any time within 10 days after the director shall have certified his approval thereof and returned the same and it shall adopt its budget in the case of a county not later than the twenty-fifth day of February, and in the case of a municipality not later than the twentieth day of March, of the budget year, except as herein-after provided.

Two certified copies of the budget as adopted shall be transmitted to the director within 3 days after adoption.

Source. R.S. 40:2-6, 40:2-7, 40:2-8, 40:2-10.

Staff comment: Source sections are combined with editorial change.

40A:2-17. Budget to be transmitted to county board of taxation. The clerk of the local unit shall transmit a certified copy of the budget, as finally adopted, to the county board of taxation not later than March 31st of the budget year. Upon adoption, the budget shall constitute an appropriation for the purposes stated therein and an authorization of the amount to be raised by taxation for the purposes of the local unit. Source. R.S. 40:2-11.

Staff comment: No change.

40A:2-18. Amount to be raised by taxation for local purposes.

The amount stated in the budget to be raised by taxes shall be the amount to be raised by taxation for local purposes other than schools, subject to the provisions of sections 40A:2-19 and 40A:2-20, in the case of a municipality and for county purposes in the case of a county and the same shall be assessed, levied and collected by taxes within the respective taxing districts as provided by law.

Source. R.S. 40:2-19.

Staff comment: Editorial change.

40A:2-19. Budget to include amount required for school purposes when appropriated by governing body. The amount to be raised by taxes for school purposes, which is required by statute to be certified to the governing body of a municipality for inclusion in its budget, shall be set forth in a separate section of the budget and shall be added to the amount to be raised by taxes for all other local purposes upon the final adoption of the budget or it may be omitted from the budget as approved and may be added to the budget by amendment on final adoption without republication.

Source. R.S. 40:2-20.

Staff comment: Editorial change. The language of this section has been clarified to bring it into line with the present practice of the board and to tie this section in directly to the procedures of 40A:2-20.

40A:2-20. School items; deduction from municipal budget; addition to school budget; separate certification. In making the certifications of the budget for transmission to the county board of taxation, the amount to be raised by taxes for school purposes by a municipality shall be separately stated and

1. In municipalities in which the amount to be raised by taxes for school purposes is required by statute to be certified to the governing body for inclusion in its budget, there shall be deducted from the municipal budget

a. The amount appropriated for debt service after first deducting therefrom the amount of the State School Building Aid, if any, and

b. The amount of any emergency appropriation for school purposes certified to the municipality and approved by the governing body thereof, and

2. In all other municipalities there shall be deducted from the municipal budget any appropriations for school purposes required by law to be made by the governing body, and said items shall be added by the county board of taxation to the amounts to be raised by taxation for school purposes.

Source. C. 40:2-11.1 (L. 1939, c. 32) as am. L. 1947, c. 16, s. 1.

Staff comment: Editorial change. The language of this section has been clarified to bring it into line with the existing procedures of the board and to eliminate the possible conflict between 40:2-11.1 and 40:2-20.

40A:2-21. Director may receive budgets not filed on time; director's action in such case. The director shall receive for examination and certification the budget of any local unit not filed within the time prescribed by this chapter, even though such budget may not have been introduced or approved, or the date of the hearing thereon be fixed within the time limits prescribed therefor by this chapter, if such budget is accompanied by a statement of reasons satisfactory to the director for such delay.

All actions subsequently taken by the director and the local unit with respect to certification, public hearing and adoption of such budget are to be taken forthwith and as far as possible as if the introduction, approval, hearing or filing had occurred on time.

Source. C. 40:2-10.1 (L. 1949, c. 121).

Staff comment: Editorial change.

40A:2-22. County board to advise director of failure to receive budget. Where the clerk of the local unit, or other proper officer of a taxing district, shall fail to transmit a copy of the budget resolution or other evidence showing the amount to be raised by taxation for the purposes of the taxing district to the county board of taxation by the 31st day of March of the budget year, the said board shall notify the director of such failure.

Source. C. 40:2-11.2 (L. 1953, c. 376, s. 1).

Staff comment: Editorial change.

40A:2-23. Director's certificate to the county board of taxation; contents and limitations. The director shall, within 3 days after receipt of such notice, transmit to the county board of taxation a certificate setting forth the amount required for the operation of the municipality for the budget year. It is the intent of this section that the operating budget of the preceding year shall constitute and limit the appropriations of the current year with suitable adjustments for debt services, revenues, etc.

The certificate shall be prepared by using the revenues and appropriations appearing in the adopted budget of the preceding year with suitable adjustments to include, without limitation:

1. Any amounts required for principal and interest of indebtedness falling due in the budget year, and
2. Any deferred charges or statutory expenditures required to be raised in the budget year;
3. In addition, the director shall adjust the revenues, local tax requirements and surplus revenues appearing in the adopted budget of the preceding year in such manner that the cash basis provisions of this chapter shall apply.

Source. C. 40:2-11.3 (L. 1953, c. 376, s. 2).

Staff comment: Editorial change.

40A:2-24. Table of aggregates to be filled out on basis of certificate or adopted budget. The county board of taxation shall, immediately upon receipt of the director's certificate and in any event before April 10 of the budget year, fill out the table of aggregates called for by section 54:4-52 of the Revised Statutes and in so doing shall fix and determine the amount of "other local taxes" for the year based on the figures certified to it by the director.

If the municipality shall have adopted a budget for the budget year, and shall have transmitted a certified copy thereof to the county board of taxation, on or before April 10, the county board of taxation may substitute the adopted budget in the place of the amount certified by the director, but no such substitution shall be made after April 10 of the budget year.

Source. C. 40:2-11.4 (L. 1953, c. 376, s. 3.)

Staff comment: Editorial change.

Article 4. Temporary Budgets; Emergencies Prior to  
Adoption of Budget.

- 40A:2-25. Temporary appropriations; prior to adoption of budget.
- 40A:2-26. Emergency appropriations; prior to adoption of budget.
- 40A:2-27. Petition to adopt temporary budget; county.
- 40A:2-28. Payments may be ordered by director.

Article 4. Temporary Budgets; Emergencies Prior to Adoption of Budget.

40A:2-25. Temporary appropriations; prior to adoption of budget. The governing body of any local unit may, and, if any contracts, commitments or payments are to be made prior to the adoption of the budget in any budget year, shall, make appropriations to provide for the period between the beginning of the budget year and the adoption of the budget, by resolution adopted prior to January 31st of the budget year.

The total of the appropriations so made shall not exceed  $\frac{1}{4}$  of the total of the appropriations made for all purposes in the budget for the preceding budget year excluding, in both instances, appropriations made for interest and debt redemption charges and relief of the poor.

Nothing herein contained shall prevent or relieve the governing body of a local unit from making appropriations, for all interest and debt redemption charges maturing during the budget year, at any time between the 20th day of December of the year preceding the beginning of the budget year and the date of the adoption of the budget.

Source. R.S. 40:2-12.

Staff comment: Editorial change.

40A:2-26. Emergency appropriations; prior to adoption of budget. The governing body of each local unit may make appropriations for any purposes for which appropriations may lawfully be made, in addition to those provided for in section 40A:2-25 , by resolution, in the form and content prescribed by the board, adopted by a two-thirds vote of the full membership thereof, between the beginning of the current budget year and the date of the adoption of the budget for said year.

The amount of all such emergency appropriations shall be included under the correct headings in the amounts appropriated in the budget as finally adopted. If they are adopted after the introduction and approval of the budget and were not included in the budget as approved, they shall be included in the budget as adopted by proper amendment made as prescribed by this chapter, except that no public advertisement or public hearing shall be required as to their adoption as such amendments.

A copy of each resolution making such emergency appropriations shall be filed forthwith with the director.

Source. C. 40:2-12.1 (L. 1951, c. 96, s. 1);  
C. 40:2-12.2 (L. 1951, c. 96, s. 2).

Staff comment: Substantive change omitting requirement of public advertisement and hearing for amended emergency appropriations. The source sections are combined.

40A:2-27. Petition to adopt temporary budget; county.

If the director of the board of chosen freeholders of any county shall not be elected at the stated annual meeting or by the fifteenth day of January of the budget year, as required by law, said board of chosen freeholders, on the signed petition of at least 1 less than a majority of the full membership thereof, may petition the Director of the Division of Local Government for authority to adopt a temporary budget, not exceeding in amount the limits provided for in section 40A:2-25, for the purpose of making payment to county employees who:

1. Are regularly employed, and
2. Were in the employ of the county prior to date of such annual meeting, and
3. Are entitled to be paid for services already rendered.

Source. C. 40:2-10.2 (L. 1949, c. 140, s. 1)  
C. 40:2-10.4 (L. 1949, c. 140, s. 3)

Staff comment: The source sections are combined with editorial change.

40A:2-28. Payments may be ordered by Director. The Director of the Division of Local Government, upon receipt of such petition, shall issue an order to the county board of freeholders, which order shall include a direction to the county treasurer or other chief finance officer of the county, authorizing him to take the necessary steps to provide for the payment of such regular employees of the county. Said order shall not extend to any amount in excess of the limits provided for in section 40A:2-25. The board of chosen freeholders shall be bound by and shall accept such order.

Source. C. 40:2-10.3 (L. 1949, c. 140, s. 2).

Staff comment: Editorial change.

Article 5. Form and Content of Budget.

- 40A:2-29. Contents; general requirements.
- 40A:2-30. Form and content of budget; separate sections required.
- 40A:2-31. Form and content of budget; itemization.
- 40A:2-32. Form and content of budget; arrangement of appropriations.
- 40A:2-33. Anticipated revenues; classified; previous year's revenues to be stated.
- 40A:2-34. Surplus revenue.
- 40A:2-35. Miscellaneous revenues.
- 40A:2-36. Miscellaneous revenues limited to cash receipts; exemption.
- 40A:2-37. Miscellaneous revenues; sale of property.
- 40A:2-38. Miscellaneous revenues; sinking fund surplus.
- 40A:2-39. Anticipated revenues; receipts from delinquent taxes.
- 40A:2-40. Dedicated revenues; defined.
- 40A:2-41. Dedicated revenues; special assessments.
- 40A:2-42. Dedicated revenues; derived from other sources.
- 40A:2-43. Anticipated revenues from utilities; separate section of budget.
- 40A:2-44. Dedicated revenues anticipated; not subject to accurate estimate; dedicated by rider.
- 40A:2-45. Dedicated revenues; availability for expenditure.
- 40A:2-46. Reserve for uncollected taxes; appropriation.
- 40A:2-47. Computation of reserve for uncollected taxes.
- 40A:2-48. Required appropriation for cash deficit.

Article 5. Form and Content of Budget.

40A:2-29. Contents, general requirements. The budget shall consist of a tabulated statement of:

1. All anticipated revenues applicable to the expenditures for which appropriations are made in the budget, and
2. The appropriations to be made for all purposes for which such revenues are to be expended.

The total of such anticipated revenues shall equal the total of such appropriations.

Source. R.S. 40:2-13.

Staff comment: Editorial change.

40A:2-30. Form and content of budget; separate sections required. The budget, subject to the direction of the board, shall provide separate sections for:

1. Operation of local unit (current budget).
  2. Operation of any utility or enterprise (dedicated section).
  3. Dedicated assessment budget.
  4. Dedication by rider; when applicable.
- Any other sections which may be required by any other law or prescribed by the board.

Source. New.

Staff comment: The language of this section follows the pattern established by rule of the board as it has heretofore operated under R.S. 40:2-21.

40A:2-31. Form and content of budget; itemization.

Every budget shall be prefaced by an explanatory statement of its contents and shall be itemized according to the respective objects and purposes for which appropriations are made. Itemization shall be in the form, classification and detail prescribed by regulations of the board.

The itemization form and arrangement of the budget shall be such as to facilitate the exercise of the comptroller function.

Separate items shall be included for, at least:

1. Administration, operation and maintenance of each office, department, institution or other agency of the county or municipality, as the case may be, and for each publicly owned or operated utility or enterprise;
2. Contingent expenses in an amount not more than 3% of the total amount stated pursuant to subdivision 1 of this section;
3. Interest and debt redemption charges;
4. Deferred charges and statutory expenditures;
5. The payment of all judgments not for capital purposes and to pay which notes or bonds cannot lawfully be issued;
6. Such reserves as may be required by this chapter, or deemed advisable by the governing body; and
7. Cash deficit of preceding year to extent provided by section 40A:2-48 of this chapter.

Source. R.S. 40:2-21.

Staff comment: All but last paragraph of source section included here. Substantive change made omitting subsection d of source section.

40A:2-32. Form and content of budget; arrangement of appropriations. The several items or appropriations shall be stated in such form and detail as may be prescribed by the board and shall set forth in parallel columns to the right thereof the following:

1. Amount of appropriations for current year.
2. Amount of appropriations for preceding year.
3. Amount of appropriations by emergency resolution.
4. Amount of total appropriations for preceding year as modified by all transfers.
5. Amounts expended (paid or charged).
6. Amounts expended (reserved).

Source. R.S. 40:2-21.

Staff comment: Includes last paragraph of source section. Substantive change made to include existing regulation of the board.

40A:2-33. Anticipated revenues - classified; previous year's revenues to be stated. The anticipated revenues shall be classified as "surplus revenue appropriated", "miscellaneous revenues", "receipts from delinquent taxes" (to the extent permitted by section 40A:2-39 of this chapter), "amount to be raised by taxes", and "dedicated revenues".

In parallel columns opposite the several items of anticipated revenues shall be placed the amount stated for each such item in the budget of the preceding fiscal year and the several amounts of such revenues actually received in cash during such year.

Source. R.S. 40:2-15.

Staff comment: Substantive change. Addition of the words "in cash" in the last sentence has been made to clarify present requirements and place in the statutes what is now established procedure.

40A:2-34. Surplus revenue. "Surplus revenue" in the current section of accounts shall consist of the excess of quick assets such as cash, investments, State or other aid receivable, and deferred charges over legal and demand liabilities.

Unless the director shall give his prior written consent thereto, the amount of any item of "surplus revenue appropriated" included in any budget shall not exceed the amount of surplus revenue held in cash or quick assets at the beginning of the budget year.

Source. R.S. 40:2-16.

Staff comment: Substantive change. Eliminated subsections a, b and c of source section. Simplification of definition of surplus revenue bringing said definition in line with modern accounting principles. The present law actually dates back to 1917 and is not applicable under our present cash basis operation.

40A:2-35. Miscellaneous revenues. "Miscellaneous revenues" shall include such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably capable of anticipation, and lawfully applicable to the appropriations made in the budget, other than dedicated revenues, revenues from taxes to be levied to support the budget, receipts from delinquent taxes, and surplus revenue. Miscellaneous revenues stated in the budget shall be classified according to their respective sources.

Source. R.S. 40:2-17.

Staff comment: Substantive change. Deletion of a sentence directing that Class II railroad taxes shall be miscellaneous revenue. This requirement is no longer applicable due to change in law.

40A:2-36. Miscellaneous revenues limited to cash receipts; exemption. No miscellaneous revenues from any source shall be included as an anticipated revenue in the budget in an amount in excess of the amount actually realized in cash from the same source during the next preceding fiscal year, unless the director shall determine upon application by the governing body that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the local unit.

Source. R.S. 40:2-17.

Staff comment: Language of source section without change.

40A:2-37. Miscellaneous revenues; sale of property.

A local unit may anticipate as a miscellaneous revenue the total amount of all payments due and payable to the local unit during the budget year directly or indirectly as a result of the sale of property by the local unit, when the obligation to make such payment is entered into prior to February 9th of the budget year.

Source. R.S. 40:2-17.

Staff comment: Contains language of source section without change.

40A:2-38. Miscellaneous revenues; sinking fund surplus.

Whenever the sinking funds to the credit of the several issues of term bonds of a local unit equal the principal of such issues and there is a cash surplus in the sinking fund, such surplus may, upon written application by the sinking fund commission and the approval of the director, be used, in whole or in part, as an anticipated miscellaneous revenue in the budget of such local unit.

Source. C. 40:2-17.1 (L. 1938, c. 25, s. 1.)

Staff comment: No change.

40A:2-39. Anticipated revenues; receipts from delinquent taxes. There shall be included in the budget of the local unit among the anticipated revenues, under the caption "Receipts from Delinquent Taxes" a proportion of all taxes levied for prior budget years, which are unpaid and owing to the local unit at the beginning of the budget year. This sum shall include the lien value of tax titles to real estate standing in the name of the municipality.

However, this sum shall not be in excess of the proportion of all such taxes so unpaid and owing at the beginning of the next preceding budget year, collected or realized in cash during such next preceding budget year, and not subsequently abated, cancelled or remitted.

Source. 40 :2-25.

Staff comment: Change in language has been made to bring this section in line with cash basis budget principles.

40A:2-40. Dedicated revenues; defined. "Dedicated revenues" shall include all amounts reasonably expected to be realized in cash during the budget year from any source, other than the issuance of bonds or notes, and required by law to be applied to a specific purpose. \ Dedicated revenues stated in the budget shall be classified according to their respective sources and shall be stated in a separate section of the budget together with the appropriations to the purposes to which such dedicated revenues are applicable.

In the event such appropriations include payments to be made for the principal of or interest on bonds or notes, the amount required for such purpose shall be separately stated. 7P Any anticipated deficit in expenditures to which dedicated revenues are applicable shall be provided for by an appropriation in the budget.

Source. R.S. 40:2-18.

Staff comment: Contains introductory language of source section without change.

40A:2-41. Dedicated revenues; special assessments.

Dedicated revenues, when derived from the collection of special assessments on property specially benefitted, shall not be stated in the budget in an amount in excess of

1. The appropriation to which such revenues are applicable, or
2. The revenues so derived which are held in cash at the beginning of the budget year.

However, nothing herein contained shall prevent a local unit from paying in full, or on account at maturity, any note or notes to which such revenues are applicable.

Source. R.S. 40:2-18.

Staff comment: Contains language from middle portion of source section with editorial change.

40A:2-42. Dedicated revenues; derived from other sources.

Dedicated revenues, when derived from sources other than the collection of special assessments, including publicly owned or operated utilities or enterprises, shall not be stated in the budget in an amount which is in excess of the appropriation therein to the purposes to which the same are applicable, or in excess of the amount actually realized in cash from the same source during the preceding fiscal year, unless the director shall, upon application of the governing body, determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the local unit.

Source. R.S. 40:2-18.

Staff comment: Contains language from the closing portion of source section with editorial change.

40A:2-43. Anticipated revenues from utilities;  
separate section of budget. The anticipated revenues from  
the operation of any publicly owned or operated utility or  
enterprise and the appropriations to be made therefor shall  
be set forth in a separate section of the budget.

If in any year as a result of the operation of such  
utility or enterprise under the system of accounting thus  
directed, there shall be a surplus, or such surplus can be  
reasonably anticipated, then such surplus, when authorized by  
the board or body controlling the utility or enterprise, may  
be included in the budget as an item of miscellaneous revenue,  
under the caption of "Surplus from . . . . . (designation of  
the utility fund)".

If in any year as a result of such operation, there shall  
be a deficit, or an anticipated deficit, then an appropriation  
for such deficit shall be included in the budget, under the  
caption of "Deficit in . . . . . (designation of the utility  
fund)". If any anticipated deficit shall exceed the appropriation  
therefor, the excess shall be provided for in the budget of the  
following year. This section shall not, however, supersede the  
specific dedication of receipts from a utility or enterprise as  
provided in any law which authorized the establishment or creation  
of such utility or enterprise unless so directed by the board or  
body controlling the same.

Source. R.S. 40:2-24.

Staff comment: No change.

40A:2-44. Dedicated revenues anticipated; not subject to accurate estimate; dedicated by rider. In the budget of any local unit, dedicated revenues anticipated during the budget year from any dog tax, dog license, solid fuel license, sinking fund for term bonds, bequest, escheat, Federal grant, motor vehicle fine dedicated to road repairs and, subject to the prior written consent of the director, other items of like character when the revenue is not subject to reasonably accurate estimate in advance, may be included in said budget by annexing to said budget a statement in substantially the following form:

"The dedicated revenues anticipated during the year \_\_\_\_\_ from \_\_\_\_\_ (here insert one or more of the sources above, as the case may be), are hereby anticipated as revenue and are hereby appropriated for the purposes to which said revenue is dedicated by statute or other legal requirement."  
Source. C. 40:2-18.1 (L. 1942, c. 5, s 1); as am. L. 1954, c. 35, s. 1.

Staff comment: Editorial change.

40A:2-45. Dedicated revenues; availability for expenditure. Dedicated revenues included in accordance with section 40A:2-42 of this chapter shall be available for expenditure by the local unit as and when received in cash during the budget year. The inclusion of such dedicated revenues shall be subject to the approval of the director, who may require such explanatory statements or data in connection therewith as he deems advisable for the information and protection of the public.

Source. C. 40:2-18.2 (L. 1942, c. 5, s. 2);  
C. 40:2-18.3 (L. 1942, c. 5, s. 3) as am. L. 1947,  
c. 114, s. 1.

Staff comment: Source sections have been combined without change.

40A:2-46. Reserve for uncollected taxes - appropriation.

There shall be included in each budget an appropriation for "reserve for uncollected taxes" sufficient in amount so that the anticipated cash receipts for the budget year, estimated in accordance with section 40A:2-47, shall at least equal the sum of the following items, each of which is hereinafter referred to as a "lawful yearly expenditure";

1. The total of all current budget appropriations (except for reserve for uncollected taxes);
2. The amounts due or to become due for school, county, State and local district taxes prior to the end of the budget year, and
3. The amounts of any other anticipated current expenditures for the budget year.

In the event that the exact amount of any such lawful yearly expenditure shall not be known at the time of the adoption of the budget, the amount thereof shall be estimated, but no such estimate shall be less than the amount of such lawful yearly expenditure for the next preceding fiscal year.

Source. R.S. 40:2-26.

Staff comment: The introductory section has been changed to meet present standard requirements. The deletion of "by resolution of the governing body" conforms to standard practice.

40A:2-47. Computation of reserve for uncollected taxes.

For the purpose of determining the amount of the appropriation for "reserve for uncollected taxes" required to be provided in each annual budget, anticipated cash receipts for the budget year shall be estimated as follows:

1. Surplus revenue appropriated, computed as provided in section 40A:2-34 of this chapter;
  2. Miscellaneous revenues, computed as provided in section 40A:2-35 of this chapter;
  3. Receipts from delinquent taxes, computed as provided in section 40A:2-39 of this chapter;
  4. Receipts from the collection of taxes levied or to be levied in the municipality and payable in the budget year in an amount not in excess of the proportion of taxes levied and payable during the next preceding fiscal year which was received in cash by December 31 of such preceding fiscal year.
- Source. R.S. 40:2-28.

Staff comment: Change to spell out more clearly the method of computation of reserve for uncollected taxes.

40A:2-48. Required appropriation for cash deficit.

An appropriation for "cash deficit of preceding year" shall appear in each annual budget in an amount at least equal to the amount, if any, by which the liabilities and cash disbursements of the municipality for lawful yearly expenditures in the budget year next preceding, exceed the cash receipts in such next preceding budget year, except to the extent that such lawful yearly expenditures have been provided for by surplus revenues anticipated in the budget of such years.

Source. R.S. 40:2-27.

Staff comment: Substantial editorial change accenting clarification of language.

Article 6. Capital budgets.

- 40A:2-49. Capital budgets; definition.
- 40A:2-50. Capital budgets; form, arrangement and detail.
- 40A:2-51. Separate capital budgets; may be required.
- 40A:2-52. Capital budget; duration.
- 40A:2-53. Capital budgets; regulations; borrowing funds for projects.
- 40A:2-54. Capital budgets; regulations for amendments.

Article 6. Capital Budgets.

40A:2-49. Capital budgets; definition. The governing body of each local unit may, and shall when directed by the board, prepare, approve and adopt a budget for the expenditure of public funds for capital purposes to give effect to general improvement programs.

A capital budget shall be a plan for the expenditure of public funds for capital purposes, showing as income the revenues, special assessments, free surplus, and down payment appropriations to be applied to the cost of a capital project or projects, expenses of issuance of obligations, engineering supervision, contracts and any other related expenditures.

Source. R.S. 40:2-61.

Staff comment: Section contains introductory language in the first paragraph of source section with editorial change.

40A:2-50. Capital budgets; form, arrangement and detail.

The capital budget shall be prepared, approved and adopted in accordance with the regulations of and in the form, arrangement and detail prescribed by the board.

After promulgation of regulations by the board, the governing body shall expend or incur obligations for capital purposes, only after the adoption of a capital budget, and in accordance with such budget except for the preliminary expense of plans, specifications and estimates.

The board shall adopt, and may from time to time amend, reasonable rules and regulations for capital budgets. Regulations may classify the type of budget required, according to the size of the local unit, the nature of the capital projects or any other reasonable basis of distinction, and shall require a statement of capital undertakings underway or projected over the next ensuing 6 years as a general improvement program. Regulations shall be uniform within the classification established.

Source. R.S. 40:2-61.

Staff comment: Substantive change requiring statement of capital undertakings projected over 6-year period rather than 3-year period. Section contains language of second paragraph of source section with editorial changes.

40A:2-51. Separate capital budgets - may be required.

The board may require separate capital budgets to give effect to a general improvement program as follows:

1. A special capital budget for the expenditure of funds realized from the sale of obligations and adopted at the time such sale is authorized.
2. A separate capital budget adopted at the same time and as part of the annual budget.
3. A consolidated capital budget providing for the consolidation of capital projects, with the annual budget treating borrowed funds and other receipts as special revenue and capital projects as separately itemized appropriations under the proper office, department, institutions or other agency of the local unit.
4. Any other type or form of budget adapted to planning and guiding expenditures for capital improvement programs.

Source. R.S. 40:2-61

Staff comment: Editorial change.

40A:2-52. Capital budget; duration. A capital budget need not be limited in duration to a single fiscal year, but may continue for the life of the project.

Source. R.S. 40:2-61.

Staff comment: Editorial change.

40A:2-53. Capital budgets; regulations; borrowing funds for projects. The board shall adopt reasonable regulations for capital budgets for projects supported from funds borrowed in successive installments as work proceeds.

Source. R.S. 40:2-61.

Staff comment: Editorial change.

40A:2-54. Capital budgets; regulations for amendments.

The board shall adopt reasonable regulations for the amendment of capital budgets and for the transfer of accounts among the several items of appropriations in the capital budget.

Source. R.S. 40:2-61.

Staff comment: Editorial change.

Article 7. Emergency Authorizations.

- 40A:2-55. Emergency appropriations; when and how made.
- 40A:2-56. Emergency appropriations provided for in next budget.
- 40A:2-57. Emergency appropriations not exceeding, with other appropriations, 3% of the operating appropriations.
- 40A:2-58. Emergency appropriations exceeding, with other appropriations, 3% of the operating appropriations.
- 40A:2-59. Emergencies financed from surplus revenues.
- 40A:2-60. Emergency notes authorized.
- 40A:2-61. Emergency appropriations; affidavit of finance officer.
- 40A:2-62. Ordinance and emergency appropriation for tax map, etc.
- 40A:2-63. Emergency resolution after adoption of ordinance.
- 40A:2-64. Contracts; special technical nature.
- 40A:2-65. Resolutions filed with director; percentage limits do not apply.

Article 7. Emergency Authorizations.

40A:2-55. Emergency appropriations; when and how made.

A local unit may make emergency appropriations, after the adoption of a budget, for a purpose which is not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made to meet a pressing need for public expenditure, to protect or promote the public health, safety, morals or welfare or to provide temporary housing or relief for the poor, prior to the next succeeding budget year.

Such appropriation shall be made in a manner prescribed in this article and in accordance with the provisions of sections 40A:2-57 and 40A:2-58 of this article.

Source. R.S. 40:2-31.

Staff comment: Contains introductory language of first paragraph of source section without change.

40A:2-56. Emergency appropriations provided for in next budget. The total amount of all emergency appropriations shall be provided in full by the governing body of the local unit as a deferred charge in the budget of the next succeeding budget year, except to the extent, if any, that provision for paying, funding or refunding any such emergency appropriation or for financing the purpose of the expenditures pursuant thereto shall previously have been made by authorization of bonds pursuant to and in accordance with section 40A:1-3 of this title.

Source. R.S. 40:2-31.

Staff comment: Contains language of the second part of the first paragraph of the source section without change.

40A:2-57. Emergency appropriations not exceeding, with other appropriations, 3% of the operating appropriations.

An emergency appropriation which together with all prior emergency appropriations made during the same year does not exceed 3% of the total of current operating appropriations made in the budget adopted for that year shall be made as follows:

1. The governing body shall, by resolution adopted by two-thirds vote of its full membership, declare that an emergency exists requiring a supplementary appropriation.

2. The resolution shall be in the form and content prescribed by the board, and shall set out the nature of the emergency in full.

3. A copy of the resolution shall be filed forthwith with the director.

Source. R.S. 40:2-31.

Staff comment: Contains language of subsection 1 of source section without change.

40A:2-58. Emergency appropriations exceeding, with other appropriations, 3% of the operating appropriations.

An emergency appropriation which, together with all prior emergency appropriations made during the same year, exceeds 3% of the total current operating appropriations in the budget for that year shall be made as follows:

1. The governing body shall, by resolution adopted by two-thirds vote of its full membership, petition the director for permission to exceed the limitation of 3%.

2. The petition shall be in the form and content prescribed by the board, and shall set out the nature of the emergency in full.

3. The director shall consider the petition and, if requested by local taxpayers or by the local governing body, hold a hearing thereon.

4. The director shall, within 5 days after receipt of the petition, or if a hearing is held, after the hearing, determine whether an emergency exists which requires an appropriation in excess of 3% of the amount of expenditures reasonably required.

5. If the director approves an appropriation in excess of 3%, he shall fix the maximum amount for the emergency appropriation and the governing body shall not exceed the amount so fixed.

Source. R.S. 40:2-31.

Staff comment: Contains language of subsection 2 of source section with editorial change.

40A:2-59. Emergencies financed from surplus revenues.

A local unit may finance any emergency appropriation from surplus revenue funds available, or may borrow money and issue its negotiable notes as provided for in section 40A:2-60 of this chapter to finance any such appropriation.

Source. C. 40:5-2.14 (L. 1955, c. 239, s. 3).

Staff comment: This section has been re-edited to spell out more clearly the standard procedure for financing of emergencies from surplus.

40A:2-60. Emergency notes authorized. Any local unit may borrow money and issue its negotiable notes to meet an emergency appropriation as provided for in section 40A:2-55 of this chapter. Each such note shall be authorized by resolution of the governing body, shall be designated an "emergency note", and may be renewed from time to time. All such notes, and any renewals thereof, shall mature not later than the last day of the budget year next succeeding the budget year in which such notes were issued and the emergency appropriation was authorized. The provisions of sections 40A:2-77, 40A:2-78, and 40A:2-80 to 40A:2-83 of this chapter shall apply to such notes as fully as though such notes were mentioned therein.

Source. R.S. 40:2-31.

Staff comment: Contains language in next to last paragraph of source section with editorial change. Limits emergency notes authorized to emergency appropriations provided for under 40A:2-55.

40A:2-61. Emergency appropriations; affidavit of finance officer. For the purposes of this article, an affidavit of a financial officer of the local unit shall be a conclusive determination of the total amount of any such emergency appropriations made in any fiscal year and of the amount of all budget appropriations for such year. If any resolution providing for the issuance of notes to meet any such emergency appropriation shall recite or determine that such appropriation was required to meet a pressing need for public expenditure to protect or promote the public health, safety, morals or welfare or to provide for temporary housing or relief of the poor, such recital or determination shall be deemed to be true for the purpose of determining the validity of such notes and the local unit issuing such notes and all others interested shall forever thereafter be estopped from denying the same.

Source. R.S. 40:2-31.

Staff comment: Contains language of last paragraph of source section without change.

40A:2-62. Ordinance and emergency appropriation for tax map, etc. Any local unit may adopt an ordinance authorizing an emergency appropriation for the carrying out of any of the following purposes:

1. Preparation of an approved tax map.
2. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor.
3. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.
4. Extraordinary expense for the repair, reconstruction of streets, roads or bridges, or other public property damaged by flood or hurricane, where such expense was not foreseen at the time of the adoption of the budget.

Source. C. 40:5-2.12 (L. 1955, c. 239, s. 1);  
R.S. 40:50-9.

Staff comment: Combines language of source sections without change.

40A:2-63. Emergency resolution after adoption of ordinance. After the adoption of the ordinance required pursuant to section 40A:2-62, the local unit shall by two-thirds vote of the full governing body adopt a resolution setting forth:

1. The amount appropriated.
2. Provision for the borrowing of money and the issuance of "Special Emergency Notes" which may be renewed from time to time, but at least one-fifth of all such notes and the renewals thereof, shall mature and be paid in each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of the emergency resolution. The provisions of Article 9 of this chapter shall apply to such notes as fully as though any such notes were mentioned therein.
3. A local unit may finance such appropriation from surplus revenue funds available or borrow money in the manner prescribed by 40A:2-59. Where any appropriation is financed from surplus funds available, at least one-fifth of the amount thereof shall be included in each annual budget until the appropriation has been fully provided for.

Source. C. 40:5-2.14 (L. 1955, c. 239, s.3.);  
R.S. 40:50-13.

Staff comment: Combines language of source sections without change.

40A:2-64. Contracts; special technical nature.

A local unit may, if it so elects, enter into a contract for the purposes set forth in subsections 1, 2 and 3 of 40A:2-58 without advertising, provided the governing body shall, by resolution duly adopted by a two-thirds vote of all members thereof, determine that the services to be rendered are of a special technical nature and thus will not permit of special advertising. In the case of the purpose set forth in 40A:2-58, subsection 4, the provisions of general laws relating to contracts and public bidding shall control.

Source. R.S. 40:50-9; 40:50-11.

Staff comment: Combines language of source sections without change.

40A:2-65. Resolutions filed with director - percentage limits do not apply. A copy of every resolution adopted in accordance with the provisions of 40A:2-59 shall be filed with the director forthwith after adoption, and the provisions of 40A:2-56 and 40A:2-58 shall not apply.

Source. C. 40:5-2.13 (L. 1955, c. 239, s. 2).

Staff comment: Contains language in last part of paragraph of source section.

Article 8. Contracts and Expenditures Void Without  
Appropriations; Appropriation Transfers;  
Separate Funds Required.

- 40A:2-66. Contracts and expenditures void unless budget appropriation made therefor; exception.
- 40A:2-67. Appropriation transfers during last 2 months of budget year.
- 40A:2-68. Appropriation transfers during first 3 months of succeeding year.
- 40A:2-69. Unexpended balances cancelled by resolution; balances lapsed.
- 40A:2-70. Assessment revenue fund.
- 40A:2-71. Public utility accounts.
- 40A:2-72. Money in separate funds treated as trust funds.

Article 8. Contracts and Expenditures Void Without  
Appropriations; Appropriation Transfers;  
Separate Funds Required.

40A:2-66. Contracts and expenditures void unless budget appropriation made therefor; exception.

Except as may be otherwise provided in sections 40A:2-55 to 40A:2-61 of this chapter, no officer, board, body or commission shall, during any budget year, expend any money (except to pay notes, bonds or interest thereon), incur any liability, or enter into any contract which by its terms involves the expenditure of money:

1. For any purpose for which no appropriation is provided in the budget or in a temporary appropriation made pursuant to section 40A:2-25 of this chapter, or

2. In excess of the amount appropriated for any such purpose.

Any contract, oral or written, made in violation hereof shall be null and void as to the local unit, and no moneys shall be paid thereon.

Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for

a. Capital projects to be financed in whole or in part by the issuance of notes or bonds,

40A:2-66 (cont'd)

b. For the making of contracts of lease, or for services, or for fuel to be used for heating purposes, or for snow or garbage removal for a period exceeding the fiscal year in which such contract is made, when otherwise provided by law.

Provided further, that nothing in this section, nor in section R.S. 40:50-6 of this title, shall prevent a municipality from making a contract for the spending of money for the purchase of the right, title and interest in the right-of-way of any street railway company in the municipality, when said right-of-way extends in, over and along any public street or highway in the State of New Jersey and the improving or paving of said right-of-way after the same has been acquired.

Source. R.S. 40:2-29.

Staff comment: Editorial change.

40A:2-67. Appropriation transfers during last 2 months of budget year.

1. Should it become necessary, during the last 2 months of the budget year, to expend for any of the purposes specified in the budget an amount in excess of the respective sums appropriated therefor and there shall be an excess in any appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriation, the governing body of any local unit may, by resolution setting forth the facts, adopted by a two-thirds vote of the full membership thereof, transfer the amount of such excess to those appropriations deemed to be insufficient, excepting therefrom the appropriation for contingent expenses or deferred charges.

2. No transfers may be made under this section from appropriations for

- a. Contingent expenses.
- b. Deferred charges.
- c. Cash deficit of preceding year.
- d. Reserve for uncollected taxes.
- e. Down payments.
- f. Capital improvement fund.
- g. Interest and redemption charges.

Source. R.S. 40:2-30.

Staff comment: Language in this section has been modified to be in accord with precise needs in connection with transfers.

40A:2-68. Appropriation transfers during first 3 months of succeeding year.

1. If, during the first 3 months of any budget year, the amount of any appropriation reserve for the preceding budget year is insufficient to pay the claims authorized or incurred during said preceding year which were chargeable to said appropriation, and there shall be an excess in any appropriation reserves over and above the amount deemed to be necessary to fulfill its purpose, the governing body of the local unit may, by resolution setting forth the facts, adopted by a two-thirds vote of the full membership thereof, transfer the amount of such excess to an appropriation reserve or an appropriation in the prior budget deemed to be insufficient to fulfill its purpose or for which no reserve was provided; excepting therefrom the appropriation reserve for contingent expenses or deferred charges.

2. No transfers may be made under this section from appropriation reserves for

- a. Contingent expenses.
- b. Down payments.
- c. Capital improvement fund.

Source. R.S. 40:2-30.

Staff comment: Substantive change. Section clarified to permit transfers which have heretofore proven difficult to be made.

40A:2-69. Unexpended balances cancelled by resolution; balances lapsed. Any unexpended balances of appropriations may, by resolution of the governing body, be cancelled prior to the end of the budget year. Said resolution shall set forth the titles of the appropriations and the amounts to be cancelled therefrom.

At the end of the next succeeding budget year, all remaining unexpended balances shall forthwith lapse, and no disbursement shall thereafter be made therefrom, except to cover specific contracts or agreements in existence at the close of such succeeding fiscal year.

Source. R.S. 40:2-30.

Staff comment: Editorial change.

40A:2-70. Assessment revenue fund. All receipts derived from special assessments on property specially benefited by any local improvements shall be segregated by the municipality and kept in a separate fund to be known as an "assessment revenue fund". They shall be applied only to the payment of that part of the cost of any such improvements which has been specially assessed on property specially benefited or of any bonds or notes issued to finance such part of the cost of any such improvements until all such bonds or notes shall have been paid.

Source. R.S. 40:2-34.

Staff comment: No change.

40A:2-71. Public utility accounts. All moneys derived from the operation of each publicly owned or operated utility or enterprise and any other moneys applicable to its support, shall be segregated by the local unit and kept in a separate fund which shall be known as "utility fund" and shall bear a further designation identifying the utility or enterprise and, except as provided in section 40A:2-43, shall be applied only to the payment of the operating and upkeep costs, and the interests and debt redemption charges upon the indebtedness incurred for the creation of such utility or enterprise. Source. R.S. 40:2-33.

Staff comment: No change.

40A:2-72. Money in separate funds treated as trust funds. Moneys held in any separate fund shall be treated by the officers of the local unit as moneys held in trust for the purpose for which such separate fund was created and no banking institution accepting any such fund as provided for in this chapter shall divert the moneys to any other purpose.

Source. R.S. 40:2-35.

Staff comment: Editorial change.

Article 9. Borrowing; Tax Anticipation Notes.

- 40A:2-73. Tax anticipation notes.
- 40A:2-74. Application of proceeds.
- 40A:2-75. Limitation of amount; certificate by financial officer.
- 40A:2-76. Limitation of maturity and renewals.
- 40A:2-77. Interest rate.
- 40A:2-78. Form, registration and redemption.
- 40A:2-79. Recital of borrowing power; authorization.
- 40A:2-80. Execution of notes; coupons.
- 40A:2-81. Sale; report of sale.
- 40A:2-82. Validity of proceedings and notes; conclusive presumption.
- 40A:2-83. Liability on notes.

Article 9. Borrowing; Tax Anticipation Notes.

40A:2-73. Tax anticipation notes. In any budget year, in anticipation of the collection of taxes for such year, whether levied or to be levied in such year, or in anticipation of other revenues for such year, any local unit may, pursuant to a resolution of the governing body, borrow money and issue its negotiable notes, each of which shall be designated "tax anticipation note of 19\_\_\_\_" (stating the budget year).

Source. R.S. 40:2-36.

Staff comment: Editorial change.

40A:2-74. Application of proceeds. The proceeds of the sale of tax anticipation notes, unless used to pay outstanding notes issued in anticipation of the collection of taxes of the same budget year, shall be applied only to purposes provided for in the budget or for which taxes are levied or to be levied for such year, and shall not be applied to any other purpose.

Source. R.S. 40:2-37.

Staff comment: No change.

40A:2-75. Limitation of amount; certificate by financial officer.

The amount of tax anticipation notes of any budget year outstanding at any one time shall not exceed an amount certified as the gross borrowing power, and no such notes shall be authorized in excess of an amount certified as the net borrowing power, each computed and certified as follows:

1. The gross borrowing power in respect to tax anticipation notes of such budget year, being 30% of the tax levy of the next preceding budget year, for all purposes in the case of a municipality and for county purposes in the case of a county, plus 30% of the amount of miscellaneous revenues realized in cash during the next preceding fiscal year, is \$\_\_\_\_\_.

2. The amount of notes outstanding in anticipation of the collection of taxes of such budget year, except such notes as will be renewed by or paid from the proceeds of the notes to be issued, is \$\_\_\_\_\_.

3. The net borrowing power, being the excess of the first over the second of the two above amounts, is \$\_\_\_\_\_.

Such certificate shall be made by the financial officer who is designated to sign such notes, filed in the office of the clerk, and quoted in full in the resolution authorizing such notes.

Source. R.S. 40:2-38.

Staff comment: No change.

40A:2-76. Limitation of maturity and renewals. Tax anticipation notes may be renewed from time to time, but all such notes and any renewals thereof shall mature, in the case of municipalities, not later than the last day of the third month after the end of the budget year and, in the case of counties, not later than the sixth month after the end of the budget year.

Source. R.S. 40:2-39.

Staff comment: No change.

40A:2-77. Interest rate. All tax anticipation notes shall bear interest at a rate not exceeding 6% per annum.

Source. R.S. 40:2-40.

Staff comment: No change.

40A:2-78. Form, registration and redemption. All tax anticipation notes may be in registered form or in coupon form with or without privileges of registration, and may be made redeemable prior to maturity at the option of the local unit at not exceeding par and accrued interest.

Source. R.S. 40:2-41.

Staff comment: No change.

40A:2-79. Recital of borrowing power; authorization.

In the text of each tax anticipation note there shall appear in substance the following recital:

"This note is issued pursuant to the local budget law and in anticipation of the collection of taxes of the budget year 19\_\_\_\_\_ (stating the budget year); the gross borrowing power in respect of such notes, as determined in accordance with said act, is \$\_\_\_\_\_ (stating the gross borrowing power as shown on the certificate quoted in the resolution authorizing such note); the amount of such notes outstanding, including all notes delivered simultaneously with this note, is \$\_\_\_\_\_."

Such recital shall be deemed to be made by any financial officer who signs the note, and his signature to the note shall constitute a declaration to the other officers who sign such note that the recital is correct, and such recital shall constitute conclusive evidence to the holder or holders of such note that the same was fully authorized under and within the powers, limitations and provisions of this chapter.

Source. R.S. 40:2-42.

Staff comment: No change.

40A:2-80. Execution of notes; coupons. All tax anticipation notes shall be executed in the name of the local unit by such financial officer and by such other officer as may be designated by resolution, and shall be under the seal of the local unit and attested by the clerk. Coupons, if any, attached to a note shall be authenticated by the facsimile or manual signature of the financial officer who signs the note. Source. R.S. 40:2-43.

Staff comment: No change.

40A:2-81. Sale; report of sale. All tax anticipation notes may be sold at not less than par and accrued interest at private sale without previous public offering either by resolution of the governing body, or by a financial officer authorized to sell such notes by resolution of the governing body.

The financial officer making any such sale shall report in writing to the governing body at the next meeting the amount, description, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser, and such report shall be entered in full on the minutes of such meeting.

Source. R.S. 40:2-44.

Staff comment: No change.

40A:2-82. Validity of proceedings and notes; conclusive presumption. Unless a suit, action or proceeding questioning the authorization, sale or execution or otherwise questioning the validity of tax anticipation notes be begun prior to the delivery of such notes, any such notes reciting that they are issued pursuant to this chapter shall, after delivery thereof, be conclusively presumed to be fully authorized by all the laws of this State and to have been sold, executed and delivered by the local unit in conformity therewith. The validity of such notes shall not be questioned by either a party plaintiff or a party defendant or by the local unit or any taxpayer thereof or any other interested party in any court, anything herein or in other statutes to the contrary notwithstanding.

Source. R.S. 40:2-45.

Staff comment: No change.

40A:2-83. Liability on notes. The power and obligation of a local unit to pay tax anticipation notes or any or all obligations issued pursuant to this chapter, or the act of which this chapter is a revision, shall be unlimited and the local unit shall have power and be obligated to levy ad valorem taxes upon all the taxable property within the local unit for the payment of such notes or obligations and interest thereon, without limitation of rate or amount.

Source. R.S. 40:2-46.

Staff comment: No change.

Article 10. Action by Director.

- 40A:2-84. Examination of budget.
- 40A:2-85. Scope of examination by director.
- 40A:2-86. Approval or disapproval by director.
- 40A:2-87. Certification of determination of director; approval requisite to adoption.
- 40A:2-88. Action on disapproved budget; publication.
- 40A:2-89. Disapproved budget to be amended; petition for hearing.
- 40A:2-90. Judicial review of board determination.
- 40A:2-91. Procedure in case of adverse court decision.
- 40A:2-92. Director may hold hearing.
- 40A:2-93. Order of director binding.
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- 40A:2-95. Director's power to change title or text of appropriation.
- 40A:2-96. Director may correct revenue item.
- 40A:2-97. Director's power to approve special items of revenue.
- 40A:2-98. Rules and regulations by board and director.

Article 10. Action by Director.

40A:2-84. Examination of budget. The director shall examine the budget as filed in his office pursuant to section 40A:2-11 of this chapter with reference to all estimates of revenue and to the following appropriations:

1. Payment of interest and debt redemption charges.
2. Deferred charges and statutory expenditures.
3. Cash deficit of preceding year.
4. Reserve for uncollected taxes.
5. Other reserves and nondisbursement items.

The director shall also examine the budget for detail and accuracy of itemization and for compliance as to form, arrangement and content with the provisions of this chapter and the regulations of the board.

Source. R.S. 40:2-52.

Staff comment: Substantive change. Payment for floating debt and reserve for uncollectible taxes deleted.

40A:2-85. Scope of examination by director. The director shall determine upon the basis of information and data available whether:

1. All estimates of revenue are reasonable, accurate, correctly stated and in accordance with the provisions of this chapter and the regulations of the board.
2. Specific items of appropriations enumerated in section 40A:2-80 comply with the requirements of this chapter and the regulations of the board.
3. Items of appropriation are fully and correctly stated.
4. Items of appropriation are proper and are required by contractual agreement or are required by any statute.
5. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality or county.
6. In all other respects the budget complies with the requirements of law and the regulations of the board.

Source. R.S. 40:2-53.

Staff comment: Editorial change.

40A:2-86. Approval or disapproval by director. The director shall approve the budget, if he finds that all requirements of law and of the regulations of the board have been met, otherwise he shall refuse to approve it.

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

Source. R.S. 40:2-53.

Staff comment: Contains second paragraph of source section without change.

40A:2-87. Certification of determination of director; approval requisite to adoption. The director shall certify, after making thereof, the result of his determination to the governing body immediately. A governing body shall not finally adopt a budget until a certification of approval by the director has been received.

Source. R.S. 40:2-53.

Staff comment: Contains first half of third paragraph of source section without change.

40A:2-88. Action on disapproved budget - publication.

If the budget is disapproved, the certification of the director shall be published at least once in a newspaper of general circulation within the municipality. Cost of publication shall be paid by the local unit.

Source. R.S. 40:2-53.

Staff comment: Contains last half of third paragraph of source section without change.

.40A:2-89. Disapproved budget to be amended -  
petition for hearing. A governing body shall amend a  
disapproved budget in accordance with the instructions of  
the director except that the governing body may petition the  
board for a hearing upon the budget. If a petition for hearing  
is filed with the board, the director shall postpone the time  
for final adoption of the budget as required by section 40A:2-16  
to permit a reasonable opportunity for hearing and redetermin-  
ation in accordance with this section.

Source. R.S. 40:2-53.

Staff comment: Contains fourth paragraph of source  
section without change.

40A:2-90. Judicial review of board determination.

If an aggrieved party applies for judicial review of a final determination made by the board, the local governing body shall, nevertheless, adopt a budget in accordance with the board's determination, subject to such subsequent adjustment as may be consonant with the court's decision.

Source. R.S. 40:2-53.

Staff comment: Contains fifth paragraph of source section without change.

40A:2-91. Procedure in case of adverse court decision.

If the final decision of the court is adverse to the board's determination, the director shall, forthwith, by written order, authorize the immediate amendment of the budget by resolution of the local governing body, in accordance with the court's decision.

Source. R.S. 40:2-53.

Staff comment: Contains sixth paragraph of source section without change.

40A:2-92. Director may hold hearing. For the purpose of this chapter the director may hold hearings and make such investigations as may be appropriate to the exercise of his powers, in accordance with law.

Source. R.S. 40:2-55.

Staff comment: Contains first paragraph of source section without change.

40A:2-93. Order of director binding. A final order of the director shall be binding upon the governing body and shall be complied with. The Superior Court may enforce the order in a proceeding in lieu of prerogative writ, instituted by the director.

Source. R.S. 40:2-55.

Staff comment: Contains second paragraph of source section without change.

40A:2-94. Failure of governing body to comply - penalty. If a governing body fails or refuses to comply with a final order of the director, the members of a governing body who wilfully fail or refuse to comply shall each be subject to a personal penalty of \$25.00 for each day after the date fixed for final action that failure or refusal to comply continues. The amount of the penalty may be recovered by the director in the name of the State as a personal debt of the member of the governing body, and shall be paid, upon receipt, into the State Treasury.

Source. R.S. 40:2-55.

Staff comment: Contains third paragraph of source section without change.

40A:2-95. Director's power to change title or text of appropriation. The director may, at the request of, or with the consent of, the governing body of any local unit make such correction of the title, text or amount of any item of appropriation appearing in the budget of such local unit as may be necessary to make said item of appropriation available for the purpose or purposes required for the needs of such local unit, and to this end may limit or approve transfers or adjustment of such item of appropriation, but no item of appropriation required for debt service, contingent expenses, deferred charges, statutory expenditures, judgments or reserves shall be so reduced or limited.

Source. C. 40:2-52.1 (L. 1948, c. 159, s. 1).

Staff comment: No change.

40A:2-96. Director may correct revenue item.

The director may make appropriate correction of an item of revenue appearing in any budget of any local unit notwithstanding the fact that the budget has been or shall have been previously adopted, if the provisions of any statute heretofore or hereafter enacted shall require such correction or shall make such correction advisable or desirable. If such correction shall require that the local purpose levy of the municipality shall be adjusted, the director shall order the correction or adjustment of the local tax levy accordingly, unless the tax rate for the year shall have been struck and shall certify such adjustment to the county board of taxation. Source. C. 40:2-52.2 (L. 1948, c. 159, s. 2).

Staff comment: No change.

40A:2-97. Director's power to approve special items of revenue. The director may approve the insertion of any special item of revenue in the budget of any local unit when such item shall have been made available by law and the amount thereof shall not have been determined at the time of the adoption of the budget and may approve the insertion of an appropriation item of equal amount for the purpose of carrying out the purposes of the statute making such item of revenue available for expenditure by the local unit.

Source. C. 40:2-52.3 (L. 1948, c. 159, s. 3).

Staff comment: No change.

40A:2-98. Rules and regulations by board and director.

The board and the director may make such rules and regulations as may be necessary to carry out the provisions of this act.

Source. C. 40:2-52.5 (L. 1948, c. 159, s. 5).

Staff comment: No change.

Article 11. Special Aid Notes; Authorization to Issue.

40A:2-99. Special aid notes; authorization to issue.

Article 11. Special Aid Notes; Authorization to Issue.

40A:2-99. Special aid notes; authorization to issue.

If it becomes necessary for a local unit to borrow money in anticipation of any item of revenue made available pursuant to the provisions of section 40A:2-97, the local unit may borrow money and issue its negotiable notes to meet such purpose. Such notes shall be authorized by resolution adopted by the governing body of the local unit and shall be designated as "Special (here insert purpose) Aid Notes". Such notes shall mature not later than 3 months from their date and may be renewed from time to time until the end of the third month after the purpose for which the appropriation was made shall have been completed, or until the end of 31 days after the receipt in full by such local unit of all moneys anticipated from grants-in-aid or other sources for such purpose, whichever shall be later.

In the event that any such notes shall remain unpaid at the close of the first full budget year after the purpose shall have been completed, an item of appropriation for the payment thereof shall be included in the budget of the then next succeeding budget year. All moneys received from grants-in-aid or other sources for such purpose shall be applied in payment of said notes and the provisions of sections 40:2-40, 40:2-41, 40:2-43 to 40:2-46, inclusive, of the Revised Statutes shall apply to such notes as fully as though such notes were mentioned therein.

Source. C. 40:2-52.4 (L. 1948, c. 159, s. 4).

Staff comment: No change.

Article 12. Effective Date.

4CA:2-100. Effective date.

Article 12. Effective Date.

40A:2-100. Effective date. This act shall take effect

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