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#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 5:30-1.1 Rules and regulations

(a) All applications to the Board shall require a hearing before the Board, which shall include an appearance by the applicant at the time the application is heard. The chair or the Board may waive such appearance if it is found in the interest of the Board or the applicant to do so.

(b) The Local Finance Board shall meet on the second Wednesday of each month of the calendar year at its office, 101 South Broad Street, Trenton, New Jersey at the date and time specified in each notice of public meeting issued by the Board. Further, the business that would otherwise be handled at the regular meetings required pursuant to N.J.S.A. 52:27BB-13 shall be considered at the next following meeting scheduled pursuant to this subsection.

(c) The Board shall also meet at the call of the chair by notice in writing or via facsimile at such time and place as shall be specified in said notice. The Board, in its discretion, may agree to meet upon the receipt of a telephone request from the chair or any member thereof to transact any business which may properly come before it. The members of the Board may be considered in attendance at a meeting by using telecommunications equipment as permitted by the Open Public Meetings Act.

(d) The board shall meet as a municipal finance commission in those municipalities in which it functions and all other actions shall be taken as the Local Finance Board.

(e) Additional information on the Board and its practices can be obtained by contacting the Executive Secretary, Local Finance Board, 101 South Broad Street, PO Box 803, Trenton, New Jersey 08625-0803, (609) 292-4537, or by e-mail at [dlgs@dca.state.nj.us](mailto:dlgs@dca.state.nj.us).

(f) References in this chapter to the Director or Division shall refer to the Director of the Division of Local Government Services, or to the Division of Local Government Services, as appropriate.

Amended by R.1990 d.383, effective August 6, 1990.  
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Time and place of meetings changed in (b).  
Amended by R.1998 d.307, effective June 15, 1998.  
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Rewrote the section.

Amended by R.2003 d.404, effective October 20, 2003.

See: 35 N.J.R. 2427(a), 35 N.J.R. 4862(b).

In (e), inserted "South" following "101" and inserted ", or by e-mail at [digs@dca.state.nj.us](mailto:digs@dca.state.nj.us)".

#### Case Notes

Regulations valid as implementing legislative policy; definition of qualitative clarified by regulations. *Twp. of Burlington v. Middle Department Inspection Agency, Inc.*, 175 N.J.Super. 624, 421 A.2d 616 (Law Div.1980).

Advertising requirement valid and constitutional. *Apartment House Council of New Jersey v. Laezza*, 158 N.J.Super. 204, 385 A.2d 936 (App.Div.1978).

Tenants Property Tax Rebate Act constitutional; regulatory scheme adopted. *Cold Indian Springs Corp. v. Twp. of Ocean*, 154 N.J.Super. 75, 380 A.2d 1178 (Law Div.1977), affirmed 161 N.J.Super. 586, 392 A.2d 175 (App.Div.1978), affirmed 81 N.J. 502, 410 A.2d 652 (1980).

#### 5:30-1.2 Duties

The Local Finance Board studies the entire field of local government in New Jersey, and promulgates reasonable rules and regulations for the interpretation and administration of State laws included within the jurisdiction of the division.

#### 5:30-1.3 Hearings

(a) The Local Finance Board holds hearings when required by law, and also when it determines that interested persons should be given an opportunity to be heard.

(b) Hearings to appeal a determination or action of the Director pursuant to N.J.S.A. 52:27BB-15 shall be held upon receipt of a written request filed with the chair or executive secretary and which include an explanation of the determination or action of the Director which is being appealed, the nature of and reason for the appeal, and supporting documentation as may be requested by the Board.

Amended by R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Rewrote (b).

#### 5:30-1.4 Vote

(a) In the case of a vote on any appeal from a determination of the Director, the Director shall disqualify himself or herself from a vote, but shall preside at the hearing on the appeal. A vote of a majority of the whole board, namely, five votes, shall be required in determining whether any appeal from any action of the Director shall be sustained or reserved.

(b) In the case of a vote on any other matter heard before the board, a majority of the vote of the whole board, including that of the director, shall be required.

Amended by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Majority of the Board changed from three to five.

#### 5:30-1.5 Advice to director

The Local Finance Board shall advise the director concerning the administration of the division, the exercise of his powers, and the problems of local government.

#### 5:30-1.6 Determinations

The board may, if it so elects, direct that hearings under the foregoing shall be held by a member thereof, but all determinations shall be made by a majority of the full board.

#### 5:30-1.7 Forms; general provisions

All forms required to be filed with the Local Finance Board or Division of Local Government Services, such as statements, applications and reports shall be filed on forms (or approved facsimiles) approved by the Board or the Director of the Division of Local Government Services, certified as to their accuracy by an appropriate official and in accordance with the instructions relating to each. Forms are available upon request to the Local Finance Board or the Division of Local Government Services.

Amended by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on implementation of the Housing and Community Development Act of 1974 repealed; text on forms added.

#### 5:30-1.8 Use of Local Finance Notices

(a) When necessary for the day-to-day administration of the responsibilities of the Board and the Division, the Director may issue such communications and directives as necessary to local units subject to the oversight of the Board and Division. Such communications and directives shall be known as Local Finance Notices (Notices).

(b) Local Finance Notices shall be sent by mail or made available by electronic means to those officers or individuals affected by the Notice, as determined necessary by the Director, at no charge. Individual copies may be obtained for no charge from the Division, and all Notices shall be posted on the Division's web site. Annual mail subscriptions for all Notices shall be available for an annual fee of \$50.00. Receiving e-mail notification of publication of a Notice by e-mail shall be available to any person at no charge.

(c) Local Finance Notices shall be numbered in a scheme as determined necessary from time-to-time by the Director. A public notice in the New Jersey Register announcing its release and a summary of its contents shall follow the issuance of each notice.

New Rule, R.2003 d.31, effective January 21, 2003.

See: 34 N.J.R. 2632(a), 35 N.J.R. 396(a).

#### 5:30-1.9 Use of electronic communications networks

(a) Where practicable, the Division and Board shall provide notices, information, and copies of forms to the public through a World Wide Web site maintained by the Division. While subject to change, the web site is found at <http://www.state.nj.us/dca/lgs.htm>. As an alternate, users may access the Division's information at the State's home page at [www.state.nj.us](http://www.state.nj.us) and then use appropriate links to find the Department of Community Affairs or Division of Local Government Services.

"GovConnect" means the electronic network established by the State that permits the conduct of official business by and between agencies of government and covered local officials.

"Covered local official" means those positions required to participate in the GovConnect initiative (see N.J.A.C. 5:30-16.2(c)).

### 5:30-16.2 GovConnect

(a) GovConnect is an electronic government initiative that uses the Internet and advanced communication technologies for the conduct of official business between agencies and local government officials. Use of GovConnect will improve the efficiency, effectiveness and productivity of government business. GovConnect is expected to reduce the cost to local units of dealing with State agencies.

(b) Pursuant to (c) below, the covered local officials must register in their official capacity with the GovConnect website (<http://mynewjersey.state.nj.us/>) by the date shown herein. Additionally, these individuals must have Internet access for the conduct of local unit business. Registration means being enrolled as an authorized user of the GovConnect system. Covered local officials will receive information from the Division of Local Government Services on how to register on the system.

(c) Covered local officials and the date by which they must be registered in GovConnect are as follows:

1. Chief financial officer of a municipality: April 30, 2002.
2. Chief financial officer of a county: April 30, 2002.
3. Municipal Clerk: April 30, 2002.
4. Clerk to the County Board of Chosen Freeholders: April 30, 2002.
5. Tax collectors of a municipality: November 30, 2002.
6. Representative designated by the Board of Commissioners from each local authority: October 1, 2004.
7. Representative designated by the Board of Fire Commissioners from each Fire District: March 1, 2005.

Amended by R.2003 d.34, effective January 21, 2003.

See: 34 N.J.R. 2915(a), 35 N.J.R. 397(b).

In (c), added 5.

Amended by R.2004 d.353, effective September 20, 2004.

See: 36 N.J.R. 2607(a), 36 N.J.R. 4297(a).

In (c), added 6 and 7.

### 5:30-16.3 Grants

Local units whose covered local officials do not have access to an Internet capable computer, service with an Internet service provider, or are in need of appropriate computer and Internet training, may, subject to availability of funds, be eligible for grants of up to \$1,000 from the Division. The grants will be provided to eligible municipal-

ities and counties, local authorities and fire districts for the purchase of computer hardware and software necessary to access the GovConnect website. Appropriate training costs and Internet access subscription costs may also be defrayed through the grant. Information on grants can be obtained on the Division's website at [www.state.nj.us/dca/lgs/egg](http://www.state.nj.us/dca/lgs/egg), by contacting the Division at (609) 943-4724 or by writing to the Director of the Division of Local Government Services, PO Box 803, Trenton, NJ 08625-0803.

Amended by R.2004 d.353, effective September 20, 2004.

See: 36 N.J.R. 2607(a), 36 N.J.R. 4297(a).

Inserted ", subject to availability of funds," after "may" and substituted "\$1,000" for "\$1, 500" in the first sentence, inserted ", local authorities and fire districts" after "counties" in the second sentence.

## SUBCHAPTER 17. ELECTRONIC DISBURSEMENT CONTROLS FOR PAYROLL PURPOSES

### Subchapter Historical Note

Petition for Rulemaking. See: 47 N.J.R. 2004(b), 2395(a).

Petition for Rulemaking. See: 48 N.J.R. 141(a).

### 5:30-17.1 Purpose

This subchapter sets forth standards for local governments to follow when contracting with an organization to make disbursements on the local unit's behalf, as permitted by N.J.S.A. 52:27D-20.1. The subchapter is intended to ensure that local units understand the risks associated with electronic disbursements and implement sound fiscal and control practices governing such disbursements. This subchapter is limited in application to third-party preparations and calculations for and the disbursement of salaries and wages, all withholdings, and additional related liabilities.

### 5:30-17.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Chief financial officer" or "CFO" means the individual statutorily responsible for supervising the accounts and finances of a local unit and shall include any certifying and approval officer appointed pursuant to N.J.S.A. 40A:5-17(a), any individual appointed in accordance with N.J.S.A. 18A:19-4.1, or such individual in similar capacity legally appointed by the governing body of a local unit.

"Contract" means any written agreement entered into by a local unit and a disbursing organization for the purposes authorized in these rules.

"Dedicated cash account" means a demand deposit bank account owned by the local unit and funded solely for use by a disbursing organization in performing its duties and responsibilities in accordance with the contract.

"Disbursement" means any payment of moneys, including any transfer of funds, by any means, to the dedicated cash account established for use by a disbursing organization.

"Governing body" means the board, commission, council or other body having control of the finances of the local unit. In those local units in which a chief executive officer is authorized by law to participate in such control through powers of recommendation, approval or veto, the term includes such chief executive officer to the extent of such participation.

"Local unit" means a municipality, county, school district, authority subject to the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (N.J.S.A. 40A:5A-1 et seq.), or a school district as defined in N.J.S.A. 18A:18A-2(d).

"Payment documentation" includes transmittals, remittance forms, tax returns, releases, filings, reports, and tapes supporting the disbursement of funds.

"Payroll" means the object and result of all preparations and calculations for, and the disbursement of salaries and wages, all withholdings therefrom, and additional liabilities related thereto.

"Third-party disbursement service organization or disbursing organization" means an organization engaged either directly or indirectly to perform any of the services indicated in these rules.

"Third-party disbursement service" means such service or services of the type described in these rules. Such service or services may include the processing and disbursing of payroll and payroll agency obligations.

"Transaction" means any activity that, in accordance with sound fiscal practices, affects the general books of entry, ledgers, records, or logs of a local unit.

### **5:30-17.3 Authorization to use a third-party disbursement service organization for payroll**

(a) The governing body of a local unit may enact policies for contracting with a disbursing organization to process payroll disbursements on its behalf. Such policies shall be formally authorized by ordinance or resolution of the governing body, as appropriate to the form of government and shall specify the tasks that may be performed by a disbursing organization. Such policies may involve the use of a disbursing organization:

1. To prepare the necessary payment documentation and execute disbursements from the local unit's bank account on behalf of the local unit;
2. To prepare payment documentation, take possession of local unit funds, and make such disbursements itself on behalf of a local unit; or

3. Any combination of (a)1 and 2 above.

(b) This subchapter applies to disbursing organizations and local units who contract with one another for the determination and disbursement of payroll and related funds.

1. The following service providers are not required to comply with this subchapter:

i. Payroll service providers that perform payroll calculations and do not control the disbursement of payroll funds; and

ii. Tax pay and file service providers that are certified users of the Electronic Federal Tax Payment System (EFTPS) batch filer program and the State of New Jersey EFTPS batch filer program, that do not release, transfer or otherwise execute disbursements of the local unit.

2. The following service providers are required to comply with this subchapter:

i. Payroll service providers who use their own customized programming process to execute disbursements for the local unit; and

ii. Payroll service providers who use a third party processor to execute disbursement for the local unit.

### **5:30-17.4 Local unit requirements**

(a) Local units shall meet the following terms and conditions prior to executing contracts with disbursing organizations:

1. Prior to the execution of a contract with a disbursing organization, the governing body shall approve the use of disbursing organizations for the payment of claims pursuant to N.J.A.C. 5:30-17.3(a). Such approval shall describe those tasks to be performed by a disbursing organization to meet the governing body's objectives, including specific authorization to use electronic means for the disbursing of funds. Permissible tasks can include and are not limited to data collection, agency report preparation, calculation of withholding, direct deposit of payroll disbursements, or local unit transfer of funds to disbursing organization's account for subsequent payment.

i. The governing body shall, by resolution, approve any renewal or extension of a contract under this subchapter.

2. Pursuant to N.J.S.A. 40A:5-17(a)(1) or 18A:19-4.1, the governing body shall designate an approval officer to be responsible for authorizing and supervising the activities of the disbursing organization. For authorities operating under N.J.A.C. 5:31-4.1, the governing body shall designate an approval officer to authorize and oversee the activities of disbursing organizations.

i. The governing body shall supplement the duties of the approval officer established in accordance with N.J.S.A. 40A:5-17(a)(2) and 18A:19-4.1 to include the reconciliation and analysis of all general ledger accounts affected by the activities of the disbursing organization.

ii. If the terms of the contract between the disbursing organization and the local unit provide that the disbursing organization will hold funds of the local unit pending transmittal of those funds to a payee, the governing body must specifically authorize the disbursing organization to hold the funds pending transmittal.

iii. The governing body shall require the disbursing organization to provide the governing body with notification in the event:

(1) The disbursing organization detects irregularities that may indicate potential fraud, noncompliance with appropriate laws, dishonesty, or gross incompetence on the part of the approval officer; or

(2) The disbursing organization experiences circumstances that could jeopardize its ability to continue operations or otherwise interrupt the services provided to the local unit.

iv. A transfer of local unit funds between local unit accounts, to a dedicated cash account or to an account owned or controlled by a disbursing organization shall be deemed a disbursement subject to the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq., and is to be treated as in compliance with N.J.S.A. 18A:19-9 for school payrolls.

3. After the governing body has initially approved the use of disbursing organizations pursuant to N.J.A.C. 5:30-17.3 and (a) above, the CFO shall qualify disbursing organizations pursuant to the requirements of N.J.A.C. 5:30-17.5.

i. Prior to the execution of any contract for the provision of third-party disbursement services, the contract shall be reviewed and approved by the CFO of the local unit as to terms, including satisfaction of the requirements of N.J.A.C. 5:30-17.5 and 17.6

ii. Prior to the extension or renewal of a contract, the CFO shall complete a review of the services rendered under the contract. Such review shall be conducted in compliance with N.J.A.C. 5:30-17.5.

#### **5:30-17.5 Eligibility requirements for disbursing organizations**

(a) Disbursing organizations shall meet the following conditions and/or requirements:

1. The disbursing organization shall provide evidence of satisfactory internal control, evidence of which shall be required by the CFO. Such evidence may be:

i. The disbursing organization's Report on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness, performed pursuant to AICPA (American Institute of Certified Public Accountants) Statement on Auditing Standards No. 70;

ii. A completed SysTrust™ examination with an unqualified report on Availability, Security, Integrity and Maintainability completed in accordance with AICPA/CICA (Canadian Institute of Chartered Accountants) SysTrust™ Principles and Criteria for Systems Reliability; or

iii. Evidence of compliance with a mutually agreed upon external standard for determination of the sufficiency of a system of internal controls that support the work to be performed in accordance with the policies established by the local unit.

2. All disbursing organizations shall have offices within a distance acceptable to the CFO of the local unit such that the physical delivery and receipt of documents and records can occur in a manner that assures the delivery of paychecks on regularly scheduled paydays.

#### **5:30-17.6 Contract terms and conditions**

(a) All contracts between a local unit and disbursing organization shall:

1. Contain adequate provisions to indemnify the local unit against any losses incurred as a result of the actions or inactions of the disbursing organization;

2. Require the disbursing organization to be responsible for the errors and omissions of its employees or agents, particularly where those errors and omissions prevent timely disbursements on behalf of the local unit from being made, including penalties, fines, interest, and damages; and

3. In those cases where the disbursing organization takes possession of local unit funds, require adequate insurance to cover such losses as may arise as a result of errors, omissions, failure to perform or dishonesty in amounts at least equal to the highest level of exposure to the local unit for 30 days. Such exposure as regards cash shall be based on at least the amount of money accessible by the disbursing organization during said 30-day period and shall not include moneys that the disbursing organization cannot divert to its own benefit.

(b) All disbursing organizations shall have a written complaint procedure in existence. At a minimum, the complaint procedure shall require that a complaint log be maintained, which shall be available to the local unit for inspection.

(c) Upon reasonable notice, the disbursing organization shall allow an independent auditor compensated by the local unit to examine its internal controls applying SAS 70 standards, SysTrust™ standards or other standards and procedures mutually agreed upon to ensure accurate, complete

and timely work product. Upon completion, the independent auditor's report shall be provided to the CFO and governing body and shall be for internal use only.

(d) All disputes between the parties and disputes concerning the contract or its operation shall be in writing and forwarded to the other party via registered mail. All contracts shall have appropriate provisions for:

1. Dispute resolution between the parties;
2. The service of process to the disbursing organization in New Jersey; and
3. Application of New Jersey law.

(e) Within five working days of each disbursement on behalf of a local unit, the disbursing organization shall provide to the CFO, reports and documentation supporting the disbursements. The contract shall also specify the information required by the local unit to enable it to reconcile its books and records.

(f) All corrections and adjustments must be completed and provided to the local unit promptly. All adjustments and reports of adjustments resulting in disbursements must be reported consistent with the provisions of (e) above.

(g) Copies of notices, memoranda, complaints or other correspondence received by the disbursing organization regarding local unit accounts shall be forwarded to the local unit within 48 hours of receipt.

(h) Contracts for third-party disbursement services are not data processing service contracts under N.J.S.A. 40A:11-15(5) and 18A:18A-42(d).

(i) All contracts for third-party disbursement services shall have appropriate provisions for termination of the contract, including, but not limited to, termination for failure to perform on the part of the disbursing organization.

(j) All contracts entered into between local units and disbursing organizations for the provision of third-party disbursement services shall be in writing and executed by all parties, including intermediaries, such as banks providing payroll services as part of a compensating balance agreement.

(k) The contract for third-party disbursement services must require that no disbursement is made unless the demand for payment meets the requirements of N.J.S.A. 40A:5-16, N.J.S.A. 18A:19-2 and this subchapter.