

CHAPTER 30

LOCAL FINANCE BOARD

Authority

N.J.S.A. 40A:4-83, 40A:5-38, 40A:12-6, 52:27BB-10,
52:27BB-30, 52:27BB-32, 52:27D-18.

Source and Effective Date

R.1998 d.307, effective May 22, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Executive Order No. 66(1978) Expiration Date

Chapter 30, Local Finance Board, expires on May 22, 2003.

Chapter Historical Note

Chapter 30, Local Finance Board, was enacted as R.1970 d.40, effective April 13, 1970. See: 1 N.J.R. 17(d), 2 N.J.R. 39(a).

Subchapter 14, Local Public Contracts, was adopted as R.1977 d.128, effective May 20, 1977. See: 8 N.J.R. 371(c), 9 N.J.R. 212(a).

Subchapter 16, Tenants Property Tax Rebate Program, was adopted as R.1977 d.241, effective July 8, 1977. See: 9 N.J.R. 257(c), 9 N.J.R. 357(b).

Former Subchapter 10 and N.J.A.C. 5:30-11.1 through 5:30-11.7 were repealed by R.1979 d.16, effective January 17, 1979. See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1983 d.277, effective June 21, 1983. See: 15 N.J.R. 463(b), 15 N.J.R. 1180(a).

Subchapter 10, Municipal Port Authorities, was adopted as R.1984 d.381, effective September 4, 1984. See: 15 N.J.R. 1204(a), 16 N.J.R. 2357(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1988 d.350, effective June 29, 1988. See: 20 N.J.R. 1027(a), 20 N.J.R. 1879(a).

Former Subchapter 9, Financial Administration, Subchapter 11, School Bonds, Subchapter 13, Forms, Subchapter 15, Appropriation Caps, and Subchapter 16, Tenants Property Tax Rebate Program, were repealed by R.1990 d.383, effective August 6, 1990. See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Subchapter 14, Local Public Contracts, was repealed and Subchapter 17, Cooperative Pricing and Joint Purchasing Systems, was recodified to N.J.A.C. 5:34-7 by R.1990 d.595, effective December 3, 1990. See: 22 N.J.R. 724(a), 22 N.J.R. 3629(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1993 d.297, effective May 27, 1993. See: 25 N.J.R. 1630(a), 25 N.J.R. 2688(a).

Subchapter 7, Municipal Budget Local Examination and Approval, was adopted as R.1997 d.146, effective March 17, 1997. See: 28 N.J.R. 5125(a), 29 N.J.R. 870(a).

Subchapter 9, Government Electronic Receipt Acceptance, was enacted as R.1997 d.147, effective March 17, 1997. See: 29 N.J.R. 4(a), 29 N.J.R. 872(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1998 d.307, effective May 22, 1998. See: Source and Effective Date. See, also, section annotations.

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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 Broad Street, PO Box 803, Trenton, New Jersey 08625-0803, (609) 292-4537.

(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.

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 (Reserved)

R.1975 d.168, eff. June 18, 1975.

See: 7 N.J.R. 306(a).

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

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

Text on emergency resolutions exceeding the three percent limit repealed.

5:30-1.9 (Reserved)

R.1975 d.287, eff. September 29, 1975.

See: 7 N.J.R. 497(b).

Repealed 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; urban counties repealed.

5:30-1.10 (Reserved)

R.1975 d.322, eff. January 1, 1976.

See: 7 N.J.R. 540(a).

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

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

Text on contracts; expenditures repealed.

5:30-1.11 Realized revenue

(a) When required to do so by the Local Finance Board, governmental units shall file a form entitled "Realized Revenue Report." The form of the Realized Revenue Report shall be approved by the Board.

(b) All statements shall be certified as being accurate and complete by the Chief Financial Officer of the local unit.

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

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

Provisions of (a) through (f) deleted; new text added at (a), (g) recodified as (b); Attachments A and B deleted.

5:30-1.12 (Reserved)

R.1977 d.346, eff. October 6, 1977.

See: 9 N.J.R. 456(d).

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

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

Text on supplemental detail in support of current budget appropriation repealed.

5:30-1.13 (Reserved)

R.1977 d.347, eff. October 6, 1977.

See: 9 N.J.R. 457(a).

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

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

Text on Federal antirecession assistance program repealed.

5:30-1.14 (Reserved)

R.1977 d.479, eff. December 21, 1977.

See: 10 N.J.R. 55(a).

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

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

Text on public participation in the revenue sharing program repealed.

5:30-1.15 (Reserved)

R.1978 d.241, eff. July 21, 1978.

See: 10 N.J.R. 223(a), 10 N.J.R. 319(b).

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

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

Text on urban aid reporting system repealed.

SUBCHAPTER 2. LOCAL BOND LAW**5:30-2.1 Exceptions to debt limitation of N.J.S.A. 40A:2-7**

When a local government seeks a waiver from the debt limitations of N.J.S.A. 40A:2-6 for a bond ordinance authorizing obligations solely for the purposes delineated in N.J.S.A. 40A:2-7, the application must be submitted to the Local Finance Board within the established filing schedule on a form approved by the Board. Approval of bond and

note financing in excess of the debt limit under N.J.S.A. 40A:2-7(c), (d) and (e) require the applicant to justify and demonstrate the existence of extraordinary conditions.

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Exceptions to debt limitation".

5:30-2.2 Automatic waiver of appearance

An appearance by the applicant before the Board for applications for the waiver of down payment shall not be required for the following State loan programs: Green Acres, Department of Environmental Protection and Department of Transportation—Transportation Trust Fund Authority Act. A full application with supporting documentation shall be required and a vote of the Board shall be taken. An appearance shall only be required when requested by the Board.

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

Waiver provision added to (b); (c) deleted.

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Interpretation of N.J.S.A. 40A:2-7 and N.J.S.A. 40A:2-11(c)".

5:30-2.3 Payments for capital improvement

(a) When N.J.S.A. 40A:2-11 requires local governments to appropriate a down payment which is not less than five percent of the amount of obligations authorized for each bond ordinance, the down payment must have been made available prior to final adoption of the bond ordinance from any combination of the following sources:

1. Reserve funds in the capital improvement fund accumulated from annual budget appropriations;
2. Current budget appropriation; and/or
3. Emergency appropriation.

(b) Moneys accumulated in the capital improvement fund from annual budget appropriations may be utilized to fully fund the acquisition of capital items without the issuance of bonds.

(c) Capital improvement fund moneys may be expended for preliminary costs of capital projects, such as engineering and architect fees, by a resolution of the governing body.

(d) All moneys expended from the capital improvement fund other than those permitted for preliminary costs shall be made by an appropriation through an adopted ordinance.

(e) All expenditures from a capital surplus account, from a capital reserve set aside for a specific capital purpose, or from a capital improvement fund other than those expenditures permitted for preliminary expenses, shall be made by means of an ordinance appropriation duly adopted by the municipality or county, which ordinance shall become effective upon advertising following final adoption in the manner required by statute.

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.

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

Section was "Down payment for capital improvement".

5:30-2.4 (Reserved)

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

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

Section was "Cost of improvement".

5:30-2.5 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.

See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-2.6 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.

See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-2.7 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.

See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-2.8 Self-liquidating improvements and extensions

(a) Obligations to finance an improvement or extension of a municipal public utility shall be deemed to be for a self-liquidating purpose in the fiscal year in which the obligations to finance the same have been authorized or issued and calculated pursuant to N.J.S.A. 40A:2-8.

1. In instances that a local unit desires to establish a utility, and desires the Local Finance Board to determine that any debt would be self-liquidating and, therefore, the debt excluded from the net debt of the local unit, the local unit shall provide appropriate supporting documentation to indicate the utility shall be self-liquidating.

2. Such documentation shall include, as appropriate to the circumstances, the following:

i. The amount of cash on hand based on prepaid service revenue;

ii. Presentation of evidence of participation or connection supported by enforceable documents guaranteeing every pledge or agreement;

iii. An engineering or other study of annual income from casual, or ancillary use of the facility with adequate reasons for supporting such estimate;

iv. Statement of amount estimated to be derived from any concessions, other recreational activities, or other activities, with suitable explanation;

v. Projected budget for the first full year of operations, setting forth the amounts required for salaries and wages, insurance, detail of other operating expenses, and amounts required for annual debt service;

(b) This subchapter is promulgated pursuant to the authority of the Local Finance Board under N.J.S.A. 52:27BB-10, which empowers the Board to promulgate reasonable rules for the interpretation and administration of State laws included within the jurisdiction of the Division of Local Government Services, and N.J.S.A. 52:27BB-28, which empowers the Board to promulgate rules for the proper use of uniform accounting systems and for proper accounting methods.

5:30-15.2 Definitions

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

“Accumulated absence” means any sick days, vacation days, personal days, compensatory time, or other absence time authorized as part of an employer agreement, which is not used by the employee during the allowed period, and which is permitted to accumulate over time to the benefit of the employee.

“Chief financial officer” means, except in the case of a municipality or county, the director of revenue and finance, comptroller, treasurer, collector or other financial officer of a local unit. In the case of a municipality, the chief financial officer means the person appointed pursuant to section 5 of P.L. 1998, c.110 (N.J.S.A. 40A:9-140.10); in the case of a county, the chief financial officer means the person appointed pursuant to section 4 of P.L. 1993, c.87 (N.J.S.A. 40A:9-28.4).

“Compensated absence” means the value of accumulated absence which is paid to the employee upon separation from the employer, pursuant to an employer agreement or local policy.

“Employee” means a member of a State administered pension program who is eligible for compensated absence benefits, pursuant to an employer agreement.

“Employer agreement” or “agreement” means a duly negotiated and approved labor agreement between the local unit and a collective bargaining organization; or a local unit employer practice or an agreement provided by ordinance or resolution as appropriate to the local unit, which allows the employee to accumulate sick days, vacation days, personal days, compensatory time, or other absence time, and which obligates the local unit to compensate the employee for the value of that time upon separation from employment.

“Local unit” means any county, municipality, or a local public authority or fire district that is subject to the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

“Separation from employment” means retirement, or termination of employment, pursuant to local policy.

5:30-15.3 Calculation of compensated absence liability

(a) Each municipality and county shall include a breakdown of accumulated absences and a preliminary schedule of the value of compensated absence, to be submitted as part of the local unit’s annual budget. The report shall indicate the amount of accumulated absence and the value of compensated absence by the legal basis for the benefit, such as labor contract, local ordinance, or an agreement with an individual employee, and shall summarize any off-setting reserves or budgeted appropriations.

(b) The annual audit required of every local unit shall report, each year, on the value of compensated absence owed to employees and the amount accumulated for payment. This information shall be reflected in financial reports and the annual audit, as follows:

1. For municipalities and counties, in the Notes to the Financial Statements;
2. For authorities, as a balance sheet liability pursuant to Government Accounting Standards Board (GASB) Statement Number 34 (1999), Basic Financial Statements—and Management’s Discussion and Analysis—for State and Local Governments, incorporated herein by reference, as amended and supplemented; and
3. For fire districts, on the Statement of Net Assets pursuant to GASB Statement 34.

(c) All compensated absence calculations shall be made pursuant to GASB Statement Number 16 (1992), Accounting for Compensated Absences (C. 60), incorporated herein by reference, as amended and supplemented.

(d) Budget appropriations for compensated absences shall be shown on a single budget line in each local unit budget.

5:30-15.4 Authorization for compensated absence payments

(a) All local unit payments for compensated absence shall be authorized locally by any one or combination of the following practices:

1. Any duly negotiated and approved labor agreement between the employer and a collective bargaining organization, executed pursuant to the New Jersey Employer–Employee Relations Act (N.J.S.A. 34:13A-1 et seq.);
2. A provision in a local ordinance or enabling resolution; and/or
3. An employment agreement with an individual employee, where the use of the benefit therein is authorized by local ordinance or enabling resolution.

(b) Payment for compensated absence shall be made upon certification by the chief financial officer of the local unit that sufficient documentation of the amount of the accumulated absence has been provided, and that funds are

available to pay for the amount of compensated absence due. Sufficient documentation shall include:

1. A copy of, or reference to, the agreement authorizing compensation;
2. Documentation of the amount of accumulated absence time; and
3. The total value of the compensation due based on the agreement and accumulated absence time.

(c) In the absence of sufficient documentation, payment for compensated absence may be awarded by resolution of the governing body, subject to the following:

1. The employee shall provide the governing body with a certification that includes an annual itemization of each type of accumulated absence, records maintained by the employee or employer to substantiate the absence, and an explanation as to the reasons that sufficient documentation, as described in (b) above, is not available. Said certification shall be attached to the resolution and shall serve as evidence of the accumulated absence, based on the employee's records.

2. If the employee is unable to produce all of the documentation required in (c)1 above, the governing body may, by resolution, approve payment for compensated absence based upon the employee's ability to provide partial documentation, and upon finding that there is good and reasonable cause to warrant payment in the absence of full documentation. Such good and reasonable cause may be in connection with the loss of relevant information due to technological changes in recordkeeping; the loss of data caused by fire, natural disaster and the like; the loss of dated information; or other reasonable explanation by the employee as to why sufficient documentation is not available.

3. Upon receipt of the certification and acceptance of the employee's records, or explanation for not providing sufficient documentation, the governing body may then approve payment by resolution, provided that the chief financial officer has certified that sufficient funds are available for payment.

4. Any resolution that is approved by the local unit in the absence of sufficient documentation shall so state that the compensation is being approved upon finding that there is good and reasonable cause to approve, based on the certified explanation provided by the employee.

5:30-15.5 Accounting for compensated absence funds

(a) A county or municipality may appropriate and reserve funds for the purpose of compensating employees for accumulated absence time in accordance with the following:

1. No funds may be appropriated or reserved unless the local unit has complied with N.J.A.C. 5:30-15.4(a).

2. The amount to be appropriated is specifically reserved to the governing body. Nothing in this section shall require any specific amount to be appropriated in any given year. In addition:

- i. Total appropriations for compensated absences shall not exceed the value of the total accumulated absence, as determined by the chief financial officer of the local unit.

- ii. Once appropriated, funds so reserved for compensated absence shall not be used for any other purpose unless so approved by the Local Finance Board.

- iii. Current fund appropriations for municipalities and county governments shall be deposited into a dedicated trust fund, pursuant to N.J.S.A. 40A:4-39.

- iv. Funds may be disbursed in accordance with the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq., as necessary, to meet the obligations of the employer agreement.

SUBCHAPTER 16. AGENCY COMMUNICATIONS WITH LOCAL UNITS

Authority

N.J.S.A. 52:27BB-10.

Source and Effective Date

R.2002 d.126, effective April 15, 2002.
See: 34 N.J.R. 46(a), 34 N.J.R. 1543(a).

5:30-16.1 Definitions

As used in this subchapter, the following terms have these designated meanings:

"Division" means the Division of Local Government Services in the Department of Community Affairs.

"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.

5:30-16.3 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 be eligible for grants of up to \$1,500 from the Division. The grants will be provided to eligible municipalities and counties 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, 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.