

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Former Subchapter 10 and N.J.A.C. 5:30-11.1 through 5:30-11.7 were repealed by R.1979 d.16, effective January 17, 1979.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Subchapter 13, Forms, Subchapter 15, Appropriation Caps, and Subchapter 16, Tenants Property Tax Rebate Program, were repealed by R.1990 d.383, effective August 6, 1990.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Subchapter 14, Local Public Contracts, was repealed and Subchapter 17, Cooperative Pricing and Joint Purchasing Systems, was recodified to N.J.A.C. 5:34-7 by R.1990 d.595, effective December 3, 1990.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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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 and then use appropriate links to find the Department of Community Affairs or Division of Local Government Services.

(b) When available, the Division and Board may use electronic communications networks to communicate with those individuals and officials for whom access to such networks is available. Such communications shall be considered as official and take the place of communications by mail, when deemed appropriate by the Director.

New Rule, R.2003 d.31, effective January 21, 2003.
See: 34 N.J.R. 2632(a), 35 N.J.R. 396(a).

5:30-1.10 (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 Form of Notice of Pending Bond Ordinance and Summary publication

(a) Pursuant to N.J.S.A. 40A:2-17(b), a local unit may choose to publish a bond ordinance in summary form and shall use the following form of summary of bond ordinance and notice of adoption:

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the _____ of _____, in the County of _____, State of New Jersey, on _____, 200__. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the _____, in the _____ on _____, 200__ at _____ o'clock ____M. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title:
Purpose(s):
Appropriation:
Bonds/Notes Authorized:
Grants (if any) Appropriated:
Section 20 Costs:
Useful Life:

_____, Clerk
This Notice is published pursuant to N.J.S.A. 40A:2-17.

BOND ORDINANCE STATEMENTS AND SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the _____ of _____, in the County of _____, State of New Jersey on _____, 200__ and the 20 day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title:
 Purpose(s):
 Appropriation:
 Bonds/Notes Authorized:
 Grants (if any) Appropriated:
 Section 20 Costs:
 Useful Life:

_____, Clerk

New Rule, R.2003 d.32, effective January 21, 2003.
 See: 34 N.J.R. 2372(a), 35 N.J.R. 396(b).

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;

5:30-9.8 Individual electronic receipts

(a) Local units may permit electronic receipts generated by individuals, generically known as "bank-by-phone," where an individual authorizes a bank or other processor organization to process a payment transaction to the local unit on the individual's behalf.

(b) The record of the transaction provided by the local unit's depository bank must provide payor identification and date of transaction.

5:30-9.9 Surcharges or convenience fees

(a) When permitted to be charged by the processor, local units may charge a percentage of the transaction or a flat fee to offset the costs of electronic receipt transactions. Such fees shall not exceed the cost of handling and processing the transaction to the local unit.

(b) Such fees shall be authorized by ordinance or resolution, as appropriate to the local unit and form of government and in accordance with procedures established by the local unit for setting other local unit fees.

(c) Any surcharge or convenience fee shall be itemized separately on the invoice, charge slip, or receipt, and shall be disclosed to the payor at the time the transaction occurs.

(d) Local units subject to the provisions of the Local Budget Law, N.J.S.A. 40A:4-1 et seq., assessing such surcharges or convenience fees shall establish a dedicated trust fund account entitled "Electronic Receipt Fees" pursuant to N.J.S.A. 40A:4-39, through which such fees shall be deposited and expended. Local units subject to the provisions of the Local Authority Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq., shall utilize the procedures of that law for handling these transactions.

5:30-9.10 Payment of electronic receipt fees

(a) Service charges or fees charged to the local unit for electronic receipt transactions shall be paid in one of the following ways:

1. Charged against a suitable appropriation in the local unit's annual budget. The appropriation may be a sub-account of an Other Expense line item.
2. Transactions that include fees that are offset by surcharges or convenience fees collected pursuant to N.J.A.C. 5:30-9.9 which shall be paid through a trust funds transaction pursuant to N.J.A.C. 5:30-9.9(d).
3. When included in a contract, as a cost charged against the local unit's banking service compensating balance account.

(b) Local units are authorized to permit a processor to routinely debit the bank account to which deposits are

made, or other agreed upon account, in payment of fees and service charges for electronic receipt transactions. When such transfers are made, the processor shall provide a written statement itemizing the charges. The local unit's chief financial officer or designee shall complete and attach it to a voucher, and certify that the payment was correct and was paid. Statements shall be provided anytime prior to, or within 48 hours after the execution of the debit.

5:30-9.11 Interpretations of the rules

At the request of a local unit, the Director shall provide interpretations of this subchapter to address unanticipated circumstances or new technologies.

**SUBCHAPTER 10. MUNICIPAL PORT
AUTHORITIES**
5:30-10.1 Annual budgets of municipal port authorities

(a) Every municipal port authority shall submit its annual budget to the Local Finance Board at least 45 days prior to the date upon which such budget is scheduled for final adoption for approval by the Local Finance Board.

(b) In reviewing and approving each such budget, the Local Finance Board shall consider whether:

1. All estimates of revenue contained in such budget are reasonable, accurate and fairly stated;
2. The items of appropriation contained in such budget are properly set forth;
3. The budget, in itemization, form, arrangement and content will permit the exercise of the comptroller function within the authority; and
4. The operating income anticipated in such budget will, together with all other anticipated revenues:
 - i. Produce sufficient revenues to satisfy all obligations to the bondholders of the authority;
 - ii. Meet operating expenses, capital outlays and debt service requirements; and
 - iii. Provide for necessary reserves, all as may be required by law, regulations or terms of contracts and agreements.

(c) The Local Finance Board may require that a municipal port authority provide it with whatever information and documentation it may deem necessary in connection with its review.

(d) If the Local Finance Board finds that the foregoing conditions have been satisfied, it shall approve the budget; otherwise, it may determine either to disapprove it or to require amendments thereto. In consideration whether or not to approve the budget, the Local Finance Board shall not substitute its discretion with respect to an amount of an appropriation when the amount is not made mandatory by law or regulation.

(e) In the event the Local Finance Board shall disapprove the proposed budget, the Board shall notify the authority and shall give the authority and any other interested parties an opportunity to be heard.

5:30-10.2 Approval of municipal port authorities obligations; municipal guarantees of authority bonds; financing agreements; and leases, sales or dispositions of real property

(a) No authority shall adopt any final resolution authorizing:

1. The issuance of bonds, notes, mortgages or other obligations;
2. The entry into any agreement providing for a municipal guarantee of authority bonds;
3. The entry into any financing agreement; or
4. The entry into any agreement for the leasing, sale or disposition of real property unless and until it shall have obtained the approval of the Local Finance Board to do so.

(b) Prior to the adoption of any such proposed resolution, the authority shall submit the proposed resolution to the Local Finance Board for review and approval.

(c) The Local Finance Board may, by resolution adopted within a reasonable time, approve or disapprove any such resolution proposed by the authority, or may require changes in the proposed resolution.

(d) The Local Finance Board shall, in the course of its review, give consideration to:

1. The nature, purpose and scope of the proposed project financing or of the lease, sale or disposition of real property;
2. The engineering and feasibility studies or appraisals prepared in connection therewith;

3. The terms and provisions of the proposed agreements for the lease, sale or disposition of real property, financing agreements, security agreements and, in the instance of a negotiated offering, the proposed or maximum conditions of sale;

4. The proposed or maximum schedule of debt service payments required and the impact thereof on the budget and financial condition of the authority and of the local unit or units which created the authority;

5. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report and feasibility studies; and the initial rate, rent, fee or change schedule or structure proposed by the authority, or other proposed method of raising the amounts required to finance the operations of the authority, pay debt service on its obligations and maintain reserves required by law, regulation or term of contracts and agreements. The Local Finance Board may examine the estimates, computations or calculations made in connection with this submission, may require the submission of any papers, documents, appraisals, witnesses, information, audits or investigations and may take any action which it may determine advisable in connection with this project.

(e) If after such review and consideration, the Local Finance Board determines that the project cost has been accurately determined, that the method for funding the project and the proposed financing arrangements are reasonable and feasible, that the proposed arrangements would not impose an undue financial burden on the authority, the local unit or the residents of the local unit which created the authority and would not materially impair the credit of the authority of the local unit or substantially reduce their ability to pay punctually the principal and interest on their outstanding indebtedness and supply essential public services and improvements; and in the case of a lease, sale or disposition of real property, that the terms of the lease, sale or disposition are fair and reasonable in light of current market conditions, it shall approve the resolution proposed by the port authority.

(f) The Local Finance Board may waive the provisions of (d) and (e) above when the proposed financing agreement, guarantee agreement or debt authorization does not exceed \$50,000 or when the proposed agreement for the leasing, sale or disposition of real property does not exceed an annual rental or total sale proceeds of \$15,000.

(g) At any time within 12 months after approval of the Local Finance Board, the authority may adopt the resolution so approved and, after adoption, shall immediately transmit a copy to the Local Finance Board. Failure of any authority to act within 12 months after approval by the Local Finance Board will void the resolution adopted by the Local Finance Board.