

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Former Subchapter 10 and N.J.A.C. 5:30-11.1 through 5:30-11.7 were repealed by R.1979 d.16, effective January 17, 1979.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Subchapter 13, Forms, Subchapter 15, Appropriation Caps, and Subchapter 16, Tenants Property Tax Rebate Program, were repealed by R.1990 d.383, effective August 6, 1990.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Subchapter 14, Local Public Contracts, was repealed and Subchapter 17, Cooperative Pricing and Joint Purchasing Systems, was recodified to N.J.A.C. 5:34-7 by R.1990 d.595, effective December 3, 1990.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 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 pas-

sage, 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.
Sec: 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;