

**CHAPTER 30
LOCAL FINANCE BOARD**

Authority

N.J.S.A. 40A:2-17(B) and 18, 40A:4-83, 40A:5-38, 40A:12-6, 40A:14-194, 52:27BB-10, 52:27BB-30, 52:27BB-32, and 52:27D-18; and P.L. 1998, c. 45.

Source and Effective Date

R.2009 d.125, effective March 23, 2009.
See: 41 N.J.R. 894(a), 41 N.J.R. 1732(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 30, Local Finance Board, expires on March 23, 2016. See: 43 N.J.R. 1203(a).

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Former Subchapter 10 and N.J.A.C. 5:30-11.1 through 5:30-11.7 were repealed by R.1979 d.16, effective January 17, 1979.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Subchapter 13, Forms, Subchapter 15, Appropriation Caps, and Subchapter 16, Tenants Property Tax Rebate Program, were repealed by R.1990 d.383, effective August 6, 1990.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Subchapter 14, Local Public Contracts, was repealed and Subchapter 17, Cooperative Pricing and Joint Purchasing Systems, was recodified to N.J.A.C. 5:34-7 by R.1990 d.595, effective December 3, 1990.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 adopted 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: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Subchapter 13, Camden Financial Review Board, was adopted as Emergency New Rules, R.1998 d.453, effective August 13, 1998, to expire October 12, 1998. See: 30 N.J.R. 3330(a). The provisions of R.1998 d.453 were readopted as R.1998 d.530, effective October 12, 1998. See: 30 N.J.R. 3330(a), 30 N.J.R. 3938(b).

Subchapter 5, Encumbrance Accounting and Certifications of Availability of Funds, was recodified from N.J.A.C. 5:34-5 and Subchapter 11, Change Orders and Open-End Contracts was recodified from N.J.A.C. 5:34-4 by R.2000 d.485, effective December 4, 2000. See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

Subchapter 14, Emergency Service Volunteer Length of Service Award Program, was adopted as R.2001 d.36, effective January 16, 2001. See: 32 N.J.R. 3683(a), 33 N.J.R. 254(a), 33 N.J.R. 552(a).

Subchapter 15, Accumulated Absence Management and Financing, was adopted as R.2001 d.370, effective October 15, 2001. See: 33 N.J.R. 1509(a), 33 N.J.R. 3676(a).

Subchapter 16, Agency Communications with Local Units, was adopted as R.2002 d.126, effective April 15, 2002. See: 34 N.J.R. 46(a), 34 N.J.R. 1543(a).

Subchapter 9A, Disbursements Without Vendor Certification, was adopted as R.2003 d.158, effective April 21, 2003. See: 34 N.J.R. 2374(a), 35 N.J.R. 1664(a).

Subchapter 17, Electronic Disbursement Controls for Payroll Purposes, was adopted as R.2003 d.205, effective May 19, 2003. See: 34 N.J.R. 2377(a), 35 N.J.R. 2223(a).

Chapter 30, Local Finance Board, was readopted as R.2003 d.404, effective September 19, 2003. See: 35 N.J.R. 2427(a), 35 N.J.R. 4862(b). Chapter 30, Local Finance Board, expired on September 19, 2008.

Chapter 30, Local Finance Board, was adopted as emergency new rules by R.2009 d.59, effective January 22, 2009 (to expire March 23, 2009). See: 41 N.J.R. 894(a). The concurrent proposal of Chapter 30, Local Finance Board, was adopted without change as R.2009 d.125, effective March 23, 2009. See: Source and Effective Date.

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(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 and the New Jersey Historic Trust Revolving Loan Fund in the Department of Environmental Protection, Transportation Trust Fund Authority Act in the Department of Transportation, and the Unsafe Buildings Demolition Loan Fund in the Department of Community Affairs. 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)".
Amended by R.2003 d.404, effective October 20, 2003.
See: 35 N.J.R. 2427(a), 35 N.J.R. 4862(b).
Rewrote the first sentence.

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;

vi. Statement in the application that adequate liability insurance will be carried in an amount adequate for the protection of the public and the local unit, with a certification by some local municipal official that the coverage appears to be adequate, based on the best information obtainable;

vii. Statement to the effect that any determination of self-liquidation is subject to the provisions of N.J.S.A. 40A:4-35 which requires any annual deficit to be provided for the next annual municipal budget and the next debt to be computed according to the provisions of N.J.S.A. 40A:2-48;

viii. A statement setting forth any covenant to be included in any bond issue in order to insure the purchaser that the bonds will be met at maturity regardless of the income from the utility.

3. All of the provisions of (a)2 above shall be in addition to or part of the formal application in the form required by the Local Finance Board for municipal extensions of credit.

4. The Board will, after receiving each application, set a date for public hearing thereon and will, if it is deemed necessary, require the presentation of any supplemental or additional detail deemed to be in order.

5. Any governing body, may, if it has adequate unencumbered borrowing power, undertake a project of this nature without the approval of the Local Finance Board, assuming that it is willing to have the prospective indebtedness included in the net debt of the municipality. In an instance of this kind, the municipality could, assuming that the first full year's operations of the project did in fact produce sufficient cash revenues to meet all operating expenses and debt service charges, secure a deduction in the annual debt statement required to be filed at the end of the year or any subsequent year. It would follow, of course, that if the income in any instance was inadequate to meet operating expenses and debt service, it would be necessary to take the charge against the net debt as required by N.J.S.A. 40A:2-48.

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.

5:30-2.9 Submission of electronic proposals for sale of bonds

(a) Local units (including municipalities, counties, authorities and fire districts) and authorities planning to issue bonds may receive proposals for the competitive or negotiated sale of such bonds through an open or closed electronic auction managed by a nationally recognized electronic securities bidding service approved by the Director. Bidding services desiring to operate an open or closed electronic auction shall apply to the Director for authorization to do so by filing an application with the Director. The Director shall make available an application form that provides the Director with information regarding the technology and security practices maintained by the bidding service, the requirements to be established for bidding by bidders, the methods by which auction sales are conducted, the experience of the bidding service in conducting electronic auctions of bonds, and other information the Director may deem relevant. For the purposes of this section, a closed auction includes the submission of electronically sealed bids that are opened at a set time and an open auction is where bidders submit bids against each other in real time.

(b) If the Director determines that the requirements and conditions of the auction are in accordance with the provisions of the Local Bond Law and the bidding service provides a secure, open and competitive opportunity for qualified bidders to submit proposals, the application shall be deemed approved. Requirements that bidders be members of the National Association of Security Dealers, have a business relationship with the Depository Trust Corporation, or require participation in a similar financial industry-based program shall not be construed as limiting competition.

(c) The Director shall post information regarding the nationally recognized electronic securities bidding services that have been approved for use by local units on the Local Finance Board website.

New Rule. R.2004 d.18, effective January 5, 2004.
See: 35 N.J.R. 4634(a), 36 N.J.R. 170(b).

5:30-2.10 Use of financial surety bonds in electronic bond sale auctions

(a) Subject to the requirements of this section, a local unit may accept a financial surety bond in lieu of a certified, cashier's or treasurer's check as a bid deposit as required by N.J.S.A. 40A:2-32(a).

(b) The financial surety bond must be provided by an insurance company or other guarantor that is licensed and authorized to do business in the State of New Jersey and approved by the Director. The Director shall develop and make available an application form for issuers of financial surety bonds. Applicants shall demonstrate to the satisfaction of the Director that they possess the requisite financial capability and experience in issuing financial surety bonds to guarantee a bid deposit on the sale of government securities

and further, that they possess the capability to respond to requests for the provision of financial surety bonds in a timely and secure manner for the use of bidders who seek to purchase local unit securities.

(c) Acceptance of a financial surety bond by a local unit shall be subject to the following conditions:

1. The issuer of the financial surety bond shall have received approval of the Director to issue financial surety bonds;

2. Financial surety bonds shall be made payable to the order of the issuing local unit in order for a bid to be considered;

3. The requirement or option to use a financial surety bond in the bond sale shall be included in the notice of sale of the bonds;

4. Proof of the financial surety bond must be submitted to the local unit or its agent by a fixed time on the day prior to the opening of the bids;

5. Each financial surety bond must identify the bidder whose deposit is guaranteed by the financial surety bond, and shall state the time and date when it will expire. Said date shall not be earlier than the date for submission of the required deposit;

6. The notice of sale of the bonds shall require the successful bidder using a financial surety bond to submit its deposit to the local unit in such form and a time required by the local unit, which shall be no later than 48 hours of the award of the bonds;

7. If such deposit is not received by the stated time to satisfy the deposit requirement, the local unit may draw the financial surety bond;

8. The deposit of the successful bidder will be applied to the purchase price of the bonds and no interest will be paid thereon; and

9. The local unit shall retain the deposit as liquidated damages should the bidder fail to comply with the terms of the bid.

New Rule, R.2004 d.18, effective January 5, 2004.
See: 35 N.J.R. 4634(a), 36 N.J.R. 170(b).

5:30-2.11 through 5:30-2.19 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

SUBCHAPTER 3. ANNUAL BUDGET

5:30-3.1 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-3.2 Procedures for adoption of budget

(a) All budgets shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the governing body.

(b) The procedure shall be as follows:

1. Introduction and approval;
2. Public advertising;
3. Public hearing;
4. Amendments and public hearings, if required;
5. Adoption;
6. The clerk of the local unit shall transmit a certified copy of the budget, as adopted, to the county board not later than March 31 of the fiscal year.

5:30-3.3 Examination of budget

(a) The Director shall examine the budget filed in his office with reference to all estimates of revenue and to the following appropriations:

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

(b) The Director shall also examine the budget for detail and accuracy of itemization and for compliance as to form, arrangement and content with the provisions of this chapter and the regulations of the Local Finance Board.

(c) A local unit may, by resolution, include any of the following dedications by rider in the budget of the local unit, without further approval of the Board or Director of the Division of Local Government Services. All such receipts shall be for the sole purpose for which the funds are intended.

1. Animal control;
2. State or Federal aid for maintenance of libraries;
3. Bequest, escheat;
4. Construction code fees due to the Hackensack Meadowlands Development Commission;
5. Outside employment of off-duty municipal police officers;
6. Unemployment compensation insurance;
7. Reimbursement of sale of gasoline to State automobiles;
8. State training fees—Uniform Construction Code Act;