

CHAPTER 30

LOCAL FINANCE BOARD

Authority

N.J.S.A. 18A:24-61.5, 40A:2-17.b and c, 40A:2-51.c, 40A:4-10, 40A:4-22, 40A:4-43 to 45, 40A:4-45.b, 40A:4-78.b, 40A:4-83, 40A:5-16.c, 40A:5-38, 40A:5-45, 40A:5-48, 40A:12-6, 40A:14-194, 52:27BB-10, 52:27BB-28, 52:27BB-30, 52:27BB-32, 52:27D-18, 52:27D-20.1, and 52:27D-118.30a.b.

Source and Effective Date

Effective: January 15, 2016.
See: 48 N.J.R. 279(a).

Chapter Expiration Date

Chapter 30, Local Finance Board, expires on January 15, 2023.

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Former Subchapter 10 and N.J.A.C. 5:30-11.1 through 5:30-11.7 were repealed by R.1979 d.16, effective January 17, 1979.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Subchapter 13, Forms, Subchapter 15, Appropriation Caps, and Subchapter 16, Tenants Property Tax Rebate Program, were repealed by R.1990 d.383, effective August 6, 1990.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Subchapter 14, Local Public Contracts, was repealed and Subchapter 17, Cooperative Pricing and Joint Purchasing Systems, was recodified to N.J.A.C. 5:34-7 by R.1990 d.595, effective December 3, 1990.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: 41 N.J.R. 894(a), 41 N.J.R. 1732(b).

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

Chapter 30, Local Finance Board, was readopted, effective January 15, 2016. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

5:30-1.1 Rules and regulations

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

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

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

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

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

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

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

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

Rewrote the section.

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

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

In (e), inserted "South" following "101" and inserted ", or by e-mail at dlgs@dca.state.nj.us".

Case Notes

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

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

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

5:30-1.2 Duties

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

5:30-1.3 Hearings

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

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

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

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

Rewrote (b).

5:30-1.4 Vote

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

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

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

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

Majority of the Board changed from three to five.

5:30-1.5 Advice to director

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

5:30-1.6 Determinations

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

5:30-1.7 Forms; general provisions

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

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

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

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

5:30-1.8 Use of Local Finance Notices

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

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

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

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

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

5:30-1.9 Use of electronic communications networks

(a) Where practicable, the Division and Board shall provide notices, information, and copies of forms to the public through a World Wide Web site maintained by the Division. While subject to change, the web site is found at <http://www.state.nj.us/dca/lgs.htm>. As an alternate, users may access the Division's information at the State's home page at www.state.nj.us 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 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 Refunding of bonds meeting certain conditions

(a) Notwithstanding the approvals and consents required of the Local Finance Board in connection with the authorization, sale, and issuance of refunding bonds pursuant to N.J.S.A. 40A:2-51 et seq. or 18A:24-61 et seq., any municipality, county, or school district meeting all of the conditions set forth below, may authorize and issue refunding bonds, including by adoption of any refunding bond ordinance or resolution in connection therewith, to refund long term debt without prior approval of the Local Finance Board, where the issuance of those refunding bonds realizes debt service savings on the outstanding obligations, provided all of the following conditions are present:

- 1. The present value savings is at least three percent;
- 2. The new debt service shall be structured such that no annual debt service payment is more than it was under the original debt service schedule;
- 3. The final maturity of the refunding bond does not extend past the maturity date of the refunded debt; and
- 4. The debt savings are substantially level across the life of the refunding.

(b) The municipality, county, or school district shall, within 10 days of the closing on the refunding bond sale, file with the Local Finance Board a comparison of the initial and refunding debt service schedule showing annual present value savings; a summary of the refunding; an itemized accounting of all costs of issuance; a certification from the chief financial officer for a municipality or county, or the school business

administrator or board secretary for a school district, that all of the conditions of this section have been met; and that a resolution, pursuant to N.J.S.A. 40A:2-51(c) or 18A:24-61.5(b), as appropriate, passed by two-thirds of the full membership of the governing body or board of education allowing for the refunding.

As amended, R.1979 d.16, eff. January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).
New Rule, R.2012 d.110, effective June 4, 2012.
See: 44 N.J.R. 333(a), 44 N.J.R. 1699(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;

9. Older Americans Act—program income;

10. Municipal Alliance on Alcoholism and Drug Abuse—program income;

11. Tax appeal filing fees collected by the county boards of taxation; and

12. Sanitary landfill closure trust fund.

As amended, R.1978 d.240, eff. July 21, 1978.

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

As amended, R.1982 d.186, eff. June 21, 1982.

See: 14 N.J.R. 301(a), 14 N.J.R. 654(a).

(c)6 and 7 added.

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

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

Rewrote (c).

5:30-3.4 Filing of municipal budget amendments

(a) All budget amendments submitted to the Director, Division of Local Government Services for approval per N.J.S.A. 40A:4-85 and N.J.S.A. 40A:4-87 shall be filed with the Director within five days after adoption.

(b) Any such budget amendment not filed within the prescribed time must be accompanied by a statement of reasons, satisfactory to the Director, for such delay.

Amended by R.1979 d.16, eff. January 17, 1979.

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

New Rule, R.1981 d.216, eff. July 9, 1981.

See: 13 N.J.R. 188(a), 13 N.J.R. 395(b).

5:30-3.5 Detail in support of current budget appropriation

(a) In the budget document filed with the Director, line items of appropriations for administration, operation and maintenance of each office, department, institution or other agency of each local unit shall be shown separately, and provide, at a minimum, a breakdown for "salaries and wage" and "other expenses."

(b) After the introduction of the budget, but no later than seven days prior to the public hearing on the budget, each local unit shall make available to the public such supporting documents that provides appropriate detail covering the makeup of any revenue or appropriation. Such documents shall be made available for public inspection at the office of the municipal clerk or chief financial officer. Copies of the documents shall be made available to the public pursuant to the provisions of N.J.S.A. 47:1A-2.

(c) The appropriate detail as required in (b) above shall include those schedules, estimates, or lists of proposed revenues and appropriations that were utilized by the governing body in its final deliberations on the budget, or used in such other circumstances that reflect the details of the lines items shown in the introduced budget. This provision shall not require the disclosure of any details that were part of a meeting of the governing body that was closed to the public pursuant to the Open Public Meetings Act.

Repealed by R.1979 d.16, effective January 17, 1979.

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

New Rule, R.1990 d.383, effective August 6, 1990.

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

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 "Supplemental detail in support of current budget appropriation".

5:30-3.6 Emergency appropriations

(a) For emergency appropriations made after the adoption of the annual budget, for a purpose unforeseen at the time of adoption, and made pursuant to N.J.S.A. 40A:4-46 through 40A:4-49, the local unit shall file the following documents are with the Director with five working days of the passage of the emergency resolution:

1. Two certified copies of the resolution authorizing the emergency appropriation;

2. An affidavit of the chief financial officer as required by N.J.S.A. 40A:4-52; and

3. For any emergency appropriation entitled "Down payments on improvements," an accounting of the capital improvement fund from the beginning of the budget year through the date of introduction of the related ordinance.

(b) For special emergency appropriations adopted pursuant to N.J.S.A. 40A:4-53 through 55, appropriations shall be made in the subsequent year's budgets pursuant to the following:

1. In the case of a five year emergency, an amount not less than 20 percent of the net deferred charge, unless the local unit elects to include a greater amount, until the emergency has been funded in full.

2. In the case of a three year emergency, an amount not less than one-third of the net deferred charge, unless the local unit elects to include a greater amount until the emergency has been funded in full.

(c) Revenues from Federal or State governments for emergencies resulting from natural or other disaster shall be recognized as miscellaneous revenues, or may be credited to the appropriation, only if the grant is a reimbursement for funds expended by the local unit for emergency purposes in advance of receipt of the grant and in the fiscal year the emergency took place.

(d) If an emergency appropriation is being funded by ordinance, adopted pursuant to the Local Bond Law, the funding shall be for the net amount reflected in the deferred charge and shall represent the total subject to bonding, plus not more than one percent of the amount of the deferred charge for the costs of issuing the bonds.

Repealed by R.1979 d.16, effective January 17, 1979.

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

Text on purpose repealed.

New Rule R.1990 d.383, effective August 6, 1990.

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

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 "Road repairs".

Recodified from N.J.A.C. 5:30-5.1 by R.2000 d.485, effective December 4, 2000.

See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

5:30-3.7 Reserve for pension contributions

A county or municipality may appropriate and reserve funds for the purpose of anticipating the phase-in increases in the cost of employer pension contributions as set forth in N.J.S.A. 43:15A-24 (Section 1 of P.L. 2003, c.108). Any such amount to be appropriated is to be determined by the governing body. Nothing in this section shall require any specific amount, or any amount at all to be appropriated in any given year. Once appropriated, funds so reserved for payment of pension contributions shall not be used for any other purpose unless approved by the Local Finance Board. Funds shall be used by anticipating them as revenue in the year they are to be expended to satisfy that year's pension obligation. The authority to appropriate and reserve funds or anticipate such funds shall only be effective for Fiscal Years 2004 through 2009.

New Rule, R.2004 d.353, effective September 20, 2004.
See: 36 N.J.R. 2607(a), 36 N.J.R. 4297(a).

5:30-3.8 Municipal budgets, user-friendly budget section

(a) The annual budget for every municipality shall include a section called the "User-Friendly Budget." The user-friendly budget section shall be part of and incorporated into both the introduced and adopted budgets, and be made available to the public.

(b) The user-friendly budget shall be in a format set forth by the Director, who shall provide standard forms for required use by each municipality, and be submitted electronically and in such other manner as may be set forth by the Director.

(c) All user-friendly budget data and information shall be for the current budget year unless otherwise stated; however, the Director shall have the discretion to require any current year data and information to be compared versus the prior year.

(d) The user-friendly budget section shall include the following:

1. For the prior and current year as appropriate, information pertaining to the tax levy and tax rate for each local government taxing entity;
2. Information pertaining to the prior year's tax collection rate, as well as the calculation for the current budget year of the reserve for uncollected taxes;
3. A summary of anticipated revenue for all operating funds for the current budget year, with a comparison versus the prior budget year. This item shall also include surplus;
4. A summary of appropriations by service type, with a comparison versus the prior budget year. This item shall also include information on how personnel are budgeted amongst various departments;

5. An individual listing of all structural imbalances, including any offsets, with the amount and a description for each;

6. Aggregate values of assessed and exempt properties, divided by category, as of the prior year;

7. The average ratio of assessed to true value and the equalized valuation of all taxable properties as of the prior year;

8. Information pertaining to the budgetary impact of property tax appeals as of the prior year;

9. As of the close of the prior budget year, the number and value of outstanding five-year tax exemptions/ abatements awarded pursuant to N.J.S.A. 40A:21-1 et seq., divided by category;

10. As of the close of the prior budget year, the number and value of outstanding long-term tax exemptions awarded pursuant to N.J.S.A. 40A:20-1 et seq. For long-term tax exemptions, the Director may require that each project be broken down individually by project name and type;

11. Budgeted personnel costs, which shall also include costs relating to elected officials;

12. A statement as to whether the municipality is subject to the provisions of the New Jersey Civil Service Law, Title 11A of the New Jersey Statutes;

13. The net employer cost of medical and prescription health benefits provided to employees, retirees, and elected officials;

14. As of the final day of the prior budget year, the gross number of days of accumulated absences, the dollar value thereof, and the legal basis for the benefit. All non-unionized employees eligible for the benefit shall be displayed individually. For unionized employees, the number of days and the dollar value of same shall be broken down by bargaining unit;

15. Gross and net municipal and utility fund(s) debt;

16. Outstanding principal and interest for bonds, bond anticipation notes, utility fund(s), loans, guarantees, capital/equipment leases, and other debt. In addition to the current year, such information may be displayed for the prior year and future years at the discretion of the Director;

17. Per capita gross/net debt based on most recent census data;

18. Net debt as percentage of the average property valuation over three years;

19. If rated, the bond rating along with the year of last bond rating; and

20. A listing of each shared service provided or received, what entity or entities are providing or receiving the service, the beginning and end date of the agreement as applicable, and the amount either received or paid for the service.

(c) A procurement card number may be used in lieu of a credit card number required by a vendor.

Amended by R.2013 d.058, effective April 15, 2013.
See: 44 N.J.R. 2933(a), 45 N.J.R. 892(a).

In the introductory paragraph of (a)1, inserted "for advance payment"; and rewrote (a)1i, (a)2i and (a)3i; in the introductory paragraph of (a)2, inserted a comma following "billing"; and in the introductory paragraph of (a)3, substituted "40A:5-16(c)(3)" for "40A:5-16(c)3".

5:30-9A.4 Conditions for use of procurement cards or electronic funds transfers; organization and access

(a) Contracting units shall meet the following requirements prior to implementing procurement card and electronic funds transfer programs:

1. The contracting unit shall adopt the appropriate administrative ordinance or resolution authorizing the policies and procedures governing the use of procurement cards or electronic funds transfer consistent with the provisions of N.J.S.A. 40A:5-16(c) and limited by these rules.

2. The program manager shall cause a copy of said policies and procedures to be distributed to each individual whose duties may at any time include the use of a procurement card, supervisory review, or reconciliation of activity.

3. The chief administrative officer, in consultation with the chief financial officer and the program manager if that individual is someone other than the chief financial officer, will identify positions within the organizational structure that will benefit from the use of a procurement card and establish limits by amount, period (time), and category of usage permissible. The program manager shall develop and administer a supervisory review process as well as engage in any other oversight or management duties required to ensure the proper usage of procurement cards. The program manager may also be responsible for reconciliation of activity.

(b) An authorized procurement card user is prohibited from using a P-card to conduct personal business or for any circumstances that are not authorized in N.J.S.A. 40A:5-16(c) or N.J.A.C. 5:30-9A.3.

Amended by R.2013 d.058, effective April 15, 2013.
See: 44 N.J.R. 2933(a), 45 N.J.R. 892(a).
Rewrote (a)1 through (a)3.

5:30-9A.5 Procurement card limit and control requirements

(a) A procurement card differs substantially from a credit card issued by a financial institution because of the controls that may be exercised by the contracting unit. Before selection of an issuer (and in addition to consideration of fees and rebates, software and computer requirements, and accessibility to the vendor), the following limits and controls shall be incorporated into the procurement card program:

1. The ability to control limits on-line and in real-time;
2. The ability to establish, change or delete limits on each card individually;
3. The ability to categorically restrict the use of individual cards;
4. The ability to establish a cumulative limit for a specific period;
5. The ability to review current activity on-line; and
6. The ability to receive sorted or sortable detailed reports of activity, by authorized card user, department or spending category.

Amended by R.2013 d.058, effective April 15, 2013.
See: 44 N.J.R. 2933(a), 45 N.J.R. 892(a).

In the introductory paragraph of (a), substituted "incorporated into the procurement card program" for "available to and exercisable directly by the CFO or other management-level officers of the contracting unit".

5:30-9A.6 Electronic funds transfer authorization

Electronic funds transfers shall be authorized by the CFO.

5:30-9A.7 Policies and practices governing use of procurement cards; audit

(a) The contracting unit shall ensure that the use of procurement cards is governed by sound fiscal and management controls. All policies and procedures shall be enforced to ensure that the contracting unit shall establish procedures regarding the use of procurement cards as follows:

1. All authorized procurement card users, individuals responsible for supervisory review, individuals responsible for activity reconciliations, the purchasing agent, the program manager, the chief administrative officer, and the CFO are required to complete training on the policies and procedures governing the use of procurement cards;

2. Procurement cards shall be issued in the name of a specific individual. Said individual, upon completion of the requisite training, shall complete and sign a contract of understanding that includes financial responsibility for misuse of the procurement card. A card shall not be issued unless it can be shown that such issuance is necessary for the conduct of ongoing operations in the normal course of providing government services.

3. Under no circumstance shall procurement cards be used to purchase personal property or services, including travel and dining expenses for government employees, volunteers, or officials. Existing law, N.J.S.A. 40A:5-16.1, provides mechanisms for employees to receive travel and expense funds in advance. Subject to the authorization process and limits of this subchapter, procurement cards may be used by a Qualified Purchasing Agent of a county, or the County Sheriff or County Prosecutor if authorized by a resolution or ordinance of the governing body of the county, to arrange for travel, room, and board expenses of

defendants, witnesses, or experts required for matters before the courts.

4. A procurement card is not to be issued to an individual who is neither covered by a fidelity bond nor by a blanket honesty policy held by the contracting unit and shall be cancelled if a person to whom a procurement card is issued becomes ineligible for coverage under the fidelity bond or blanket honesty policy; and

5. Violations of policies governing the use of procurement cards or intermediary transfer agents shall result in appropriate remedial or disciplinary action without regard to the position held by the card user.

(b) The program manager is responsible for the identification, analysis, and management of all risks associated with the use of procurement cards.

(c) The contracting unit shall publish and distribute within the organization all policies and procedures that govern all procurement card users, their supervisors, the purchasing agent, the accounts payable and accounting personnel responsible for reconciliation of procurement card statements and the disbursement of funds in satisfaction thereof. Said policies and procedures shall, at a minimum, describe the following:

1. Who may use a procurement card;
2. The documentation required to be submitted by authorized procurement card users to support transactions, including electronic funds transfers;
3. The training required before an individual is permitted to use a procurement card;
4. The types of transactions permitted (personal use is not permissible);
5. The initial limits and procedure for establishing or revising limits in the future;
6. Encumbrance of limits assigned or amounts to be transferred electronically;
7. The penalties and disciplinary action to be assessed for improper use of a procurement card;
8. Who is to conduct supervisory reviews;
9. Procedures for contesting items appearing on the procurement card statement;
10. Procedures for collecting restitution resulting from misuse;
11. Reconciliation of activity; and
12. Requirements for distribution of funds to the issuer.

(d) The program manager shall assure that the following information is gathered and reviewed prior to any disbursement of funds to the issuer:

1. Evidence of each transaction, including a receipt or other acceptable documentation provided by the vendor of goods or services, and certified by the authorized procurement card user as having been received as described;

2. Evidence of supervisory review, certified by the reviewer that the purchase was appropriate and necessary;

3. A reconciliation of activity performed upon the transaction evidence, supervisory review and procurement card issuer statement; and

4. A distribution report indicating the complete allocation of funds to be paid against previously appropriated and encumbered items.

(e) The program manager is responsible for monitoring and assessing the quality of internal control performance on a continuing basis to assure that all controls are actively pursued each cycle without exception.

Amended by R.2013 d.058, effective April 15, 2013.
See: 44 N.J.R. 2933(a), 45 N.J.R. 892(a).

Rewrote (a); in (b), substituted "program manager" for "CFO" and inserted a comma following "analysis"; in the introductory paragraph of (d), substituted "program manager" for "CFO", with the assistance of the purchasing agent; and in (e), substituted "The program manager" for "In addition to the annual assessment of internal controls conducted by the registered municipal accountant, the CFO".

5:30-9A.8 Eligible procurement card issuers; eligible providers of wire transfer services

Procurement card issuers and providers of wire transfer services are to be financial institutions chartered by Federal or State authority.

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.

SUBCHAPTER 11. CHANGE ORDERS AND OPEN-END CONTRACTS

5:30-11.1 Application, compliance and penalties

(a) Unless specifically stated to the contrary, the rules in this subchapter apply to all local government agencies that are encompassed by the definition of contracting unit in N.J.S.A. 40A:11-2(1) by whatever name called, and referred to in this subchapter as contracting units.

(b) Every governing body and chief executive officer shall take all steps necessary so that all officials and employees shall be aware of and comply with the requirements of these rules.

New Rule, R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

5:30-11.2 Definitions

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

“Change order” means a properly prepared document authorized by the governing body which directs and authorizes a vendor providing goods or performing services to a contracting unit pursuant to a contract awarded by governing body resolution to change the quantity or character of goods provided or services performed from that originally specified or estimated and to correspondingly change the payment due therefore.

“Chief executive officer” means the elected or appointed individual with the highest level of administrative authority of

the contracting unit. In the case of a municipality, this may refer to the mayor as appropriate to the form of government; in the case of a county, the director of a board of chosen freeholders, county executive, or county manager as appropriate to the form of government; in the case of an authority, the chair of the authority; and, in the case of a fire district, the president or other presiding officer of the board of fire commissioners.

“Open-end contracts” means those contracts for which price bids were solicited on a unit basis because exact quantities needed were not known at the time bids were sought. Such contracts, when advertised and awarded, must include a minimum and a maximum number of units that can be ordered for each item under the contract. Zero is an acceptable minimum. Orders placed under such open-end contracts shall not be considered as change orders for purposes of this section, but shall be subject to the requirements specified in N.J.A.C. 5:30-11.10. Examples include, but are not limited to, blacktopping and office supplies such as stationery.

Amended by R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).
Rewrote the section.

5:30-11.3 General requirements for all change orders

(a) No changes in quantities, work performed, services rendered, materials, supplies or equipment delivered or provided shall be authorized, permitted or accepted except by the procedures established herein. All change orders unless otherwise stated in this subchapter shall be subject to the following:

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

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

5:30-16.2 GovConnect

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

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

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

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

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

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

In (c), added 5.

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

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

In (c), added 6 and 7.

5:30-16.3 Grants

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

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

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

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

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

SUBCHAPTER 17. ELECTRONIC DISBURSEMENT CONTROLS FOR PAYROLL PURPOSES

Subchapter Historical Note

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

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

5:30-17.1 Purpose

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

Amended by R.2016 d.170, effective December 5, 2016.

See: 48 N.J.R. 481(a), 48 N.J.R. 2607(a).

Inserted “, as well as disbursements for utility bills”.

5:30-17.2 Definitions

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

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

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

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

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

“Energy tracking and utility bill management systems” mean systems that provide energy bill auditing, bill consolidation, and bill payment services for the consumption of electricity, heating fuel, natural gas, propane, cogeneration (chilled water, steam, and hot water), water supply, and wastewater service bills.

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

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

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

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

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

“Third-party disbursement service” means such service or services of the type described in these rules. Such service or services may include the processing and disbursing of payroll and payroll agency obligations and energy tracking and utility bill management systems.

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

Amended by R.2016 d.170, effective December 5, 2016.
See: 48 N.J.R. 481(a), 48 N.J.R. 2607(a).

Added definition “Energy tracking and utility bill management systems”; and in definition “Third-party disbursement service”, inserted “and energy tracking and utility bill management systems”.

5:30-17.3 Authorization to use a third-party disbursement service organization for payroll and other specified purposes

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

1. To prepare the necessary payroll payment documentation and execute disbursements from the local unit’s bank account on behalf of the local unit;
2. To audit, consolidate, and pay utility bills to ensure compliance with tariffs and usage records;
3. To prepare payment documentation, take possession of local unit funds, and make such disbursements itself on behalf of a local unit for (a)1 and/or 2 above; or
4. Any combination of paragraphs (a)1 and/or 2, and 3, above.

(b) This subchapter applies to disbursing organizations and local units who contract with one another for the determination and disbursement of: payroll and related funds, and energy tracking and utility bill management systems.

1. The following service providers are not required to comply with this subchapter:
 - i. Payroll service providers that perform payroll calculations and do not control the disbursement of payroll funds; and
 - ii. Tax pay and file service providers that are certified users of the Electronic Federal Tax Payment System (EFTPS) batch filer program and the State of New Jersey EFTPS batch filer program, that do not release, transfer or otherwise execute disbursements of the local unit.
2. The following service providers are required to comply with this subchapter:
 - i. Payroll service providers who use their own customized programming process to execute disbursements for the local unit; and
 - ii. Payroll service providers who use a third party processor to execute disbursement for the local unit.

Amended by R.2016 d.170, effective December 5, 2016.
See: 48 N.J.R. 481(a), 48 N.J.R. 2607(a).

Section was “Authorization to use a third-party disbursement service organization for payroll”. In the introductory paragraph of (a), inserted “and utility bill”; in (a)1, inserted “payroll”; added (a)2; recodified former (a)2 and (a)3 as (a)3 and (a)4; in (a)3, inserted “for (a)1 and/or 2 above”; in (a)4, substituted “/or 2, and 3,” for “2”; and in the introductory paragraph of (b), inserted a colon, and inserted “, and energy tracking and utility bill management systems”.