

**CHAPTER 30
LOCAL FINANCE BOARD**

Authority

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

Source and Effective Date

R.2003 d.404, effective September 19, 2003.
See: 35 N.J.R. 2427(a), 35 N.J.R. 4862(b).

Chapter Expiration Date

Chapter 30, Local Finance Board, expires on September 19, 2008.

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Former Subchapter 10 and N.J.A.C. 5:30-11.1 through 5:30-11.7 were repealed by R.1979 d.16, effective January 17, 1979.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Subchapter 13, Forms, Subchapter 15, Appropriation Caps, and Subchapter 16, Tenants Property Tax Rebate Program, were repealed by R.1990 d.383, effective August 6, 1990.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Subchapter 14, Local Public Contracts, was repealed and Subchapter 17, Cooperative Pricing and Joint Purchasing Systems, was recodified to N.J.A.C. 5:34-7 by R.1990 d.595, effective December 3, 1990.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

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SUBCHAPTER 1. GENERAL PROVISIONS

5:30-1.1 Rules and regulations

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

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

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

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

(e) Additional information on the Board and its practices can be obtained by contacting the Executive Secretary, Local Finance Board, 101 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 digs@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.

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 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.

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

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

Prior rulemaking activity for 3.5 is as follows:

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

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

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 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).