

CHAPTER 31
LOCAL AUTHORITIES

Authority

N.J.S.A. 40A:5A-10 and 26, and 52:27BB-1 et seq.

Source and Effective Date

R.2011 d.193, effective July 18, 2011.
See: 42 N.J.R. 1451(a), 43 N.J.R. 1591(a).

Chapter Expiration Date

Chapter 31, Local Authorities, expires on July 18, 2018.

Chapter Historical Note

Chapter 31, Municipal Finance Commission, was adopted as R.1970 d.40, effective April 13, 1970. See: 1 N.J.R. 17(d), 2 N.J.R. 39(a).

Chapter 31, Municipal Finance Commission, was repealed by R.1979 d.16, effective January 17, 1979. See: 10 N.J.R. 529(a), 11 N.J.R. 59(d).

Chapter 31, Local Authorities, was adopted as new rules by R.1984 d.601, effective January 7, 1985. See: 16 N.J.R. 1835(a), 17 N.J.R. 72(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Local Authorities, was readopted as R.1990 d.4, effective December 1, 1989. See: 21 N.J.R. 3046(a), 22 N.J.R. 26(a). Pursuant to Executive Order No. 66(1978), Chapter 31 expired on December 1, 1994.

Chapter 31, Local Authorities, was adopted as new rules by R.1995 d.27, effective January 3, 1995. See: 26 N.J.R. 4128(a), 27 N.J.R. 91(a).

Subchapter 7, Accounting and Auditing, was repealed and Subchapter 7, Accounting and Auditing, was adopted as new rules by R.1997 d.255, effective June 16, 1997. See: 28 N.J.R. 3210(b), 29 N.J.R. 2654(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Local Authorities, expired on January 3, 2000.

Chapter 31, Local Authorities, was adopted as new rules by R.2000 d.109, effective April 3, 2000. See: 31 N.J.R. 3541(a), 32 N.J.R. 1249(b).

Chapter 31, Local Authorities, was readopted as R.2005 d.348, effective September 21, 2005. See: 37 N.J.R. 1277(a), 37 N.J.R. 3975(a). In accordance with N.J.S.A. 52:14B-5.1c, Chapter 31, Local Authorities, expired on March 20, 2011.

Chapter 31, Local Authorities, was adopted as new rules by R.2011 d.193, effective July 18, 2011. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

5:31-1.1 Scope

This chapter shall constitute the rules governing the preparation, introduction, approval, adoption and execution after adoption of any budget by a local authority, the accounting principles and policies for such authorities, the administration of financial affairs of such authorities, the annual audit of the financial statements of such authorities, and financial reporting practices of such authorities under the Local Authorities Fiscal Control Law, P.L. 1983, c.313. This chapter also contains rules for implementing length of service award programs that are sponsored by fire districts for the purpose of maintaining and attracting volunteer firefighter and emergency medical personnel.

5:31-1.2 Definitions

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

“Act” means the Local Authorities Fiscal Control Law, L.1983, c.313 (N.J.S.A. 40A:5A-1 et seq.).

“Authority” means a body, public and corporate, created by one or more municipalities or counties pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

1. To adopt and use a corporate seal;
2. To sue and be sued;
3. To acquire and hold real or personal property for its purposes; and
4. To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real property within its district, or to impose charges for the use of its facilities, or any combination thereof; but shall not include any public body for which Federal or State fiscal controls differing from those imposed by the Act, have been explicitly established by law, but only to the extent of that difference.

“Audit” means an examination of the financial statements of an authority in accordance with generally accepted auditing standards as promulgated by the American Institute of Certified Public Accountants by the independent auditor or by the Division of Local Government Services engaged by the authority, in the manner more specifically described by these regulations.

“Audit report” means the report on the results and findings of the audit by the independent auditor or by the Division of Local Government Services engaged by the authority.

“Budget” means the budget of an authority.

“Capital budget” means the first year of a capital program.

“Capital program” means a projected, multi-year plan and schedule for capital projects, which shall set forth among other things all prospective financing sources including, but not limited to, proceeds of bond sales, grants and budget appropriations.

“Capital project” means any of the following activities or undertakings which an authority is empowered to bond for, with an estimated useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$25,000 or more, regardless of the financing sources:

1. Acquisition and/or development of land;
2. Acquisition of equipment, furnishings or other personal property;

3. Acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structures improvements or public works;

4. Any other matter for which an authority is empowered to issue bonds.

“Director” means the Director of the Division of Local Government Services in the Department of Community Affairs.

“Division” means the Division of Local Government Services in the Department of Community Affairs.

“Financing agreement” means an agreement of a local unit or units intended to provide security for an issue of obligations of an authority, including, but not limited to, a contract providing for payments by a local unit or units with respect to use, services or provision of the project, facility or public improvement of an authority or payments for debt service therefor.

“Fire district” means a local unit created by a municipality pursuant to N.J.S.A. 40A:14-70 et seq.

“Full membership” means the number of members of the governing body when all seats are filled.

“Fund balance utilized” shall have the same meaning as the term “surplus” as used in N.J.S.A. 40A:14-78.8(a).

“Governing body” means the Board having control of the finances of an authority.

“Housing authority” means an authority created or continued pursuant to N.J.S.A. 40A:12A-1 et seq. Generally, housing authorities exist to provide for housing for qualified individuals in accordance with the rules and regulations prescribed by the U.S. Department of Housing and Urban Development (HUD).

“Length of service award program” or “LOSAP” means a system established to provide tax-deferred income benefits to active volunteer firefighting members of a fire district, pursuant to P.L. 1997, c.388 (N.J.S.A. 40A:14-183 et seq.).

“Local Finance Board” means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

“Local unit or units” means a county or municipality which created or joined in the creation of an authority, or which proposes to create or join in the creation thereof, or which has entered or proposes to enter into a financing agreement with an authority.

“Operations” means all activities of an authority conducted in accordance with N.J.S.A. 40A:5A-1 et seq. and any other legislation governing the affairs of the authority.

5:31-2.8 Budget amendments

(a) Amendments to the budget and capital budget are permitted as follows:

1. Decrease in revenue with corresponding decrease in budgeted costs;
2. Reclassification of budgeted amounts among expense categories;
3. Increase in budgeted costs with corresponding increases in budgeted revenues;
4. Decrease in specific capital project costs or elimination of previously identified projects;
5. Deferral of capital projects funding to future years;
6. Increase in capital project costs or additional projects with identification and timing of anticipated funding sources.

(b) All amendments to the budget shall be approved and adopted by resolution of the authority, passed by not less than a majority of the full membership. The resolution shall set forth the reasons for the amendment.

(c) Two certified copies of the amendment and all relevant resolutions shall be transmitted to the Director within three days after adoption. One certified copy of the amendment shall be transmitted to each local unit within three days after adoption.

(d) No proposed budget or amendment thereto shall become effective prior to approval by the Director.

5:31-2.9 Fire districts—Length of service award programs

(a) Any amounts appropriated for the first time, or the annual appropriation for a LOSAP shall be included in the budget of the fire district as a separate line item. The appropriation shall be entitled "Length of Service Award Program (LOSAP)—Contribution (P.L. 1997, c.388)."

(b) The annual budget of a fire district proposed by the Board of Fire Commissioners in a year that a public question referendum for the creation of a LOSAP is on the ballot shall include the first year's appropriation for funding the program. If the public question is defeated, that appropriation shall be deleted from that budget and the amount to be raised for taxation to support the district budget will be decreased by the same amount prior to the fire district's tax levy being certified to the County Board of Taxation.

SUBCHAPTER 3. CASH MANAGEMENT**5:31-3.1 Cash management plan; Legal depositories for public moneys; Receipt and deposit of funds**

(a) The governing body shall, by resolution, passed by not less than a majority of the full membership, adopt a cash

management plan which shall include the designation of a depository the State of New Jersey Cash Management Fund or a public depository or depositories as defined in N.J.S.A. 17:9-41 and may permit deposits in such depository or depositories as permitted in N.J.S.A. 17:9-44.

1. The cash management plan shall be designed to assure to the extent practicable the investment of authority funds in interest bearing accounts.

2. The cash management plan may be modified from time to time in order to reflect changes in Federal or State law or regulations.

(b) All moneys received by the authority from any source shall within 48 hours be deposited to the credit of the authority in its legal depository.

(c) No authority shall engage in the practice of cashing checks with public funds.

5:31-3.2 Unpaid service charges; filing of tax liens

Each authority shall treat unpaid service charges due and owing to an authority as municipal charges subject to the provisions of N.J.S.A. 54:4-110 and 120, and 5-21 pertaining to property tax collection, and N.J.S.A. 40:14B-42, 40:68A-18, 40A:26A-12, 40A:27-14 and 40A:31-12 pertaining to the imposition of service charges by authorities. Each authority shall, at least once a year, or as requested by the municipal tax collector, file a certification as may be required by the tax collector to establish tax liens for all unpaid service charges due and owing at the time the certification is filed.

SUBCHAPTER 4. APPROVAL AND PAYMENT OF CLAIMS**5:31-4.1 Payment of authority moneys; approval of claims**

(a) All persons submitting a claim for payment from authority moneys shall present a detailed bill of items or demand, specifying how the bill or demand is made up, with the certification of the party claiming payment that it is correct.

(b) All claims shall carry a certification of an official or designated employee of the authority having knowledge of the facts that the goods have been received by, or the services rendered to the authority.

(c) The governing body shall approve or disapprove all claims in accordance with regulations adopted by the authority.

(d) All claims approved for payment by the governing body shall be recorded in the minutes of the authority

meetings and shall, upon approval of the minutes, be open to the public.

(e) Payment of claims shall be by check drawn on the authority, signed by the governing body chairman, the chief financial officer and countersigned by such other officer or official as designated by the resolution.

(f) The governing body shall by resolution, passed by not less than a majority of the full membership, designate the manner in which and the time in which salaries, wages or other compensation for services shall be paid.

Amended by R.1985 d.511, effective October 21, 1985.
See: 17 N.J.R. 1823(a), 17 N.J.R. 2537(a).

Added text "chief financial officer" and deleted "or other chief executive officer and the secretary."

5:31-4.2 Signatures on checks drawn upon the treasury of the authority

Every authority shall at each organizational meeting designate by resolution the individuals whose signatures shall appear on checks drawn upon the treasury of the authority.

Amended by R.1985 d.511, effective October 21, 1985.
See: 17 N.J.R. 1823(a), 17 N.J.R. 2537(a).

Deleted text "in addition to the signature of the secretary."

SUBCHAPTER 5. DATA PROCESSING

5:31-5.1 Electronic data processing systems for financial and revenue accounting

(a) Authorities and fire districts utilizing electronic data processing systems or services for financial, payroll, or revenue accounting, and equipment used for cash receipting purposes, are subject to the following provisions:

1. All systems or services shall provide that transaction recording and reporting elements shall provide audit trails and reports that meet generally accepted government accounting standards.
2. For revenue accounting systems, the vendor or system owner and the local unit chief financial officer shall certify that they have tested and found that any automated calculation of billing, amount due, interest, or penalty meets the requirements of N.J.S.A. 52:27BB-28 and any resolution for those revenues maintained by the system.
3. Each authority or fire district shall adopt and maintain appropriate internal control practices related to password or other security controls to ensure integrity of transactions, creating and maintaining back-up files, and documentation of system operations.

4. All systems and services shall be capable of handling transactions, making calculations, storing dates, and properly operating as of, or with information dated on or after, January 1, 2000. The authority or fire district shall obtain vendor certifications, perform tests, or take other appropriate action to ensure these deadlines are met.

5. The requirements of this section shall be subject to review by the authority or fire district auditor as part of the annual review of internal controls. Failure to comply with this section shall be noted in the general comments and recommendations section of the annual audit.

SUBCHAPTER 6. SURETY BONDING

5:31-6.1 Surety bond for authority employees and officials

The governing body of an authority shall by resolution designate authority employees and officials required to furnish surety bonds and determine minimum bonds for each such employee and official. The minimum requirement for the surety bond shall be determined with due regard for the duties and responsibilities of each such designated employee and official. Each person in the office handling funds shall be bonded in accordance with their responsibility.

SUBCHAPTER 7. ACCOUNTING AND AUDITING

5:31-7.1 Accounting and financial reporting systems

(a) The accounting system consists of the methods and records established to identify, assemble, analyze, classify, record, and report an entity's transactions and to maintain accountability for the related assets and liabilities.

(b) An effective accounting system shall include a double-entry accounting for all transactions resulting in a general ledger, which shall be required for all authorities and special districts.

(c) Any accounting system adopted pursuant to (a) and (b) above must make it possible to present fairly and with full disclosure the financial position and results of financial operations of the funds and account groups of the reporting entity, in conformity with generally accepted accounting principles (GAAP) as promulgated by the Governmental Accounting Standards Board (GASB), 401 Merritt 7, P.O. Box 5116, Norwalk, CT 06856-5116, incorporated herein by reference, as may be amended from time to time, and demonstrate compliance with finance-related legal and contractual provisions, including applicable security and financing agreements.

(d) GAAP as it applies to proprietary funds of state and local governments, specifically as it applies to enterprise funds shall be used to account for an authority's ongoing activities, similar to those found in the private sector, where the intent of the governing body is that the costs (expenses, including depreciation) of providing services to the general public on a continuing basis be financed or recovered primarily through user charges and/or where the governing body has decided that periodic determination of revenue earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability or other purposes.

(e) The financial statements of authorities shall be prepared in accordance with GAAP applicable to enterprise funds. Accordingly, revenues and expenses shall be recognized on the accrual basis. Revenues shall be recognized in the accounting period in which they are earned and become measurable; expenses shall be recognized in the period incurred, if measurable.

(f) The financial statements of special districts shall be prepared in accordance with GAAP applicable to governmental funds of state and local governments. Accordingly, revenues and expenditures shall be recognized on the modified accrual basis. Revenues shall be recognized in the accounting period in which they become available and measurable. Expenditures shall be recognized in the accounting period in which the fund liability is incurred, if measurable, except for unmatured interest on general long-term debt, which shall be recognized when due.

5:31-7.2 Establishment of an internal control structure

(a) The governing body of each authority and special district is responsible for establishing and maintaining an internal control structure. An entity's internal control structure shall consist of policies and procedures established to provide reasonable assurance that specific entity objectives and proper conduct of the entity's business with full accountability for the resources made available, shall be achieved. In fulfilling this responsibility, estimates and judgments by the governing body are required to assess the expected benefits and related costs of internal control structure policies and procedures.

(b) The objectives of an internal control structure should provide the governing body with reasonable, but not necessarily absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with the respective governing body's authorization and recorded properly to permit the preparation of financial statements in accordance with GAAP.

5:31-7.3 Determining the financial reporting entity

The definition of a financial reporting entity shall be based on the concept of financial accountability. A primary objective of authorities' and special districts' financial reporting should be to provide users of financial statements with a basis for assessing the accountability of their respective elected/appointed officials, responsible for the operations of their specially created organizations. The financial statements of the reporting entity shall provide for distinguishing between the following: primary government, component unit, joint venture, jointly governed organization, or another stand-alone government, by communicating such information to the users thereof. Such selection of the financial reporting entity shall be made by the governing body pursuant to GAAP criteria and be presented in the entity's financial statements pursuant to GAAP reporting standards.

5:31-7.4 Interim financial reporting

For both authorities and special districts, interim financial reports should be comprised principally of statements that reflect current financial position at the end of a month or quarter and compare actual financial results with budgetary estimates and limitations. Appropriate interim financial statements and reports of financial position, operating results, and other pertinent information should be prepared primarily for purposes of governing body control of financial operations, facilitate regulatory budgetary oversight, and where necessary for external reporting purposes. All such interim reports need not be prepared on a GAAP basis, unless internally required, but all such reports may be subject to audit pursuant to N.J.S.A. 40A:5A-15.