

NEW JERSEY DEPARTMENT OF
COMMUNITY AFFAIRS



Local Fiscal Affairs Law

N.J.S.A. 40A:5-1 et seq.

(Current as of September 2003)

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40A:5-1. Short title

This chapter shall be known and may be cited as the "Local Fiscal Affairs Law".

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-2. Definitions

As used in this chapter and any act amendatory to and supplementary thereto unless the context indicates otherwise: "local unit" means any county, municipality, special district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or municipalities, or any board, commission, department or agency of any of the foregoing having custody of funds, but shall not include a school district;

"governing body" means the governing body of a county or the commission, council, board or body having control of the finances of a municipality or any other local unit as defined herein;

"chief financial officer" means, except in the case of a municipality, the director of revenue and finance, comptroller, treasurer, collector or other financial officer of a local unit. In the case of a municipality, the chief financial officer means the person appointed pursuant to section 5 of P.L.1988, c.110 (C.40A:9-140.10); in the case of a county, the chief financial officer means the person appointed pursuant to section 4 of P.L.1993, c.87 (C.40A:9-28.4);

"chief executive officer" means the county executive, county manager, county supervisor or president of the board of chosen freeholders, as appropriate to the form of government of a county, or the mayor, manager or commissioner, as appropriate to the form of government of a municipality, or the chairman, president, director or other chief executive officer of any other local unit;

"warrant" means the draft or check of any local unit used in warranting disbursement of moneys and shall, in every instance, be evidenced by the issuance of a check of the local unit. In no instance shall it be necessary for the local unit to refer to, or issue, a check separate and distinct from the warrant;

"check" means the instrument by which moneys of any local unit are disbursed.

Amended 1983,c.8,s.1; 1991,c.175,s.15; 1993,c.87,s.8.

40A:5-3. Fiscal year

The fiscal year of every local unit shall be the period for which a local unit adopts a budget, as required pursuant to the "Local Budget Law," N.J.S.40A:4-1 et seq.

Amended 1991,c.75,s.25.

40A:5-4. Annual audit required; extensions.

The governing body of every local unit shall cause an annual audit of its books, accounts and financial transactions to be made and completed within six months after the close of its fiscal year. The governing body of every local unit may by resolution petition the Director of the Division of Local Government Services in the Department of Community Affairs for an extension to complete and file the annual audit with the division. Upon good cause being shown the director may grant an extension upon whatever terms or conditions he may deem reasonable. The determination of the director in the granting of an extension is final.

The governing body of every local unit shall employ a registered municipal accountant of New Jersey to prepare its annual audit or it shall enter into an agreement with the Director of the Division of Local Government Services for an annual audit to be made by qualified employees of the division. The director shall establish a fee based upon the time spent and other expenses incurred by qualified employees of the division when conducting the annual audit for a local unit. The local unit shall upon request for payment for audit services, forward a check to the director, payable to the State Treasurer.

Amended 1977,c.396,s.1; 1991,c.216.

40A:5-5. Scope of audit.

Each audit shall embrace the books, accounts and transactions of the local unit and every board, body, officer or commission supported and maintained wholly or in part by funds appropriated by the local unit, unless otherwise provided by statute or regulations of the board. Each audit shall cover a complete fiscal year and, in addition, shall include a verification of all cash and bank balances as of the date of the audit thereof and an audit of the accounts to such date.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-6. Report of audit.

Every such registered municipal accountant shall file the original report of his audit and recommendations with the clerk and shall, within 5 days thereafter, file a certified duplicate copy thereof, over his signature, in the office of the director.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-7. Publication of report and recommendations.

A synopsis of all audits, together with the recommendations made by the registered municipal accountant, shall be prepared and published by the clerk of the local unit at least once in the official newspaper of the local unit, if there be one, or if there be none, in a newspaper published

in the local unit. If there is no newspaper published within the local unit, it shall be published in a newspaper having a general circulation in the local unit.

If the clerk fails to have such publication made within 30 days after receipt of the report of audit and recommendations, he shall be subject to a fine of \$10.00 payable to the local unit for each day after the expiration of the 30 days that such publication fails to appear.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-8. Audit by director.

If any local unit does not carry out the provisions of this chapter by reason of the failure of the governing body thereof to institute and complete such audit within the time provided herein, the director may, by his employees and agents or by auditors employed for that purpose, conduct an audit of the books of such local unit and such audit shall be taken to be the statutory audit of the local unit and shall be paid for by the local unit on bill rendered therefor.

For the services of the said director, or his employees or agents, or the pay of the auditors employed by him, whether permanent employees of the division or not, there shall be paid to him by the local unit for deposit in the State treasury, a per diem allowance not to exceed \$75.00 for each person for work done in connection with the audit or examination of the accounts. Said amount, if not paid when billed, shall be recoverable in an action at law.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1973, c. 243, s. 1, eff. Nov. 21, 1973.

40A:5-9. Audit by registered municipal accountant.

Every audit required under this chapter shall be completed by an accountant or auditor who holds an uncanceled license as a registered municipal accountant of New Jersey. Such license shall be issued annually by the New Jersey State Board of Public Accountants, shall be dated September 1 and run until August 31 of the following year, unless sooner canceled or revoked by the said State Board of Public Accountants.

Every report of audit shall be signed by the registered municipal accountant making the audit, or in charge thereof, who shall be the person authorized by the local unit to make the audit. In case any license shall be revoked, such revocation shall not be construed to affect any agreement which may be made by any local unit with any other registered municipal accountant, even though such accountant shall have been associated with the person whose license has been revoked.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-10. Revocation or cancellation of license

Upon proof that any registered municipal accountant shall have knowingly omitted to report any error, omission, irregularity, violation of law or discrepancy found in the books or accounts, or shall have issued false reports of the audit of any local unit, or of such a nature as not to comply with the requirements of the director, or if such registered municipal accountant shall fail to file such report and recommendations as herein directed, or neglect or refuse to carry out any agreement for audit, his registration license may be canceled by the State Board of Public Accountants. It shall be the duty of the director to notify the State Board of Public Accountants of any matters coming to his attention relative to any of the foregoing. Upon cancellation or refusal of a license, a person aggrieved thereby shall have the right to a review by the Superior Court in a proceeding in lieu of prerogative writ.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-11. Advertising for bids unnecessary.

No local unit shall be required to advertise for bids for any of the work performed pursuant to 40A:5-4.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-12. Annual financial statement and reports of local unit.

The chief financial officer of each local unit shall file annually with the director a verified statement of the financial condition of the local unit as of the close of the fiscal year. Such statement shall be filed, upon forms furnished and prescribed by the director, not later than January 26 in the case of a county and not later than February 10 in the case of a municipality after the close of the calendar fiscal year, or not later than August 10 of the State fiscal year in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2).

If the official charged with the responsibility of filing shall fail to file such statement within 10 days after the time fixed for filing the same, he shall be subject to a penalty of \$5.00 for each day of neglect to file the same, to be recovered in a summary proceeding against such official instituted and prosecuted under the penalty enforcement law (N.J.S.2A:58-1 et seq.).

40A:5-13. Annual financial statements by boards, committees and commissions of a local unit.

Every board, committee or commission of a local unit which by law is vested with power to expend public moneys, other than by warrant upon its financial officer, shall, not later than 10 days after the close of the fiscal year, file with the said financial officer a statement showing in

detail the items of moneys received and disbursed by it during the preceding fiscal year, and also the balance of unexpended funds at the end of the fiscal year.

Amended 1991,c.75,s.27.

40A:5-14. Adoption of cash management plan.

a. Each local unit shall adopt a cash management plan and shall deposit, or invest, or both deposit and invest, its funds pursuant to that plan. The cash management plan shall include:

- (1) the designation of a public depository or depositories as defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit deposits in such public depository or depositories as permitted in section 4 of P.L.1970, c.236 (C.17:9-44);
- (2) the designation of any fund that meets the requirements established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1);
- (3) the authorization for investments as permitted pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1) ; or
- (4) any combination of the designations or authorizations permitted pursuant to this subsection a.

b. The cash management plan shall be approved annually by majority vote of the governing body of the local unit and may be modified from time to time in order to reflect changes in federal or State law or regulations, or in the designations of depositories, funds or investment instruments or the authorization for investments. The chief financial officer of the local unit shall be charged with administering the plan.

c. The cash management plan shall be designed to assure to the extent practicable the investment of local funds in interest bearing accounts and other permitted investments. The cash management plan shall be subject to the annual audit conducted pursuant to N.J.S.40A:5-4. When an investment in bonds maturing in more than one year is authorized, the maturity of those bonds shall approximate the prospective use of the funds invested.

d. The cash management plan may include authorization to invest in any of the investments authorized pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1) and shall set policies for selecting and evaluating investment instruments accordingly. Such policies shall consider preservation of capital, liquidity, current and historical investment returns, diversification, maturity requirements, costs and fees, and when appropriate, policies of investment instrument administrators. Policies shall be based on a cash flow analysis prepared by the chief financial officer and be commensurate with the nature and size of the funds held by the local unit. All investments shall be made on a competitive basis insofar as practicable.

e. The cash management plan shall require a monthly report to the governing body summarizing all investments made or redeemed since the last meeting. The report shall set forth each organization holding local unit funds, the amount of securities purchased or sold, class or

type of securities purchased, book value, earned income, fees incurred, and market value of all investments as of the report date and other information that may be required by the governing body.

f. The official charged with the custody of moneys of a local unit shall deposit or invest them as designated or authorized by the cash management plan pursuant to subsection a. of this section and shall thereafter be relieved of any liability for loss of such moneys due to the insolvency or closing of any depository designated by, or the decrease in value of any investment authorized by, the cash management plan pursuant to subsection a. of this section.

g. Any official involved in the designation of depositories or in the authorization for investments as permitted pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1), or any combination of the preceding, or the selection of an entity seeking to sell an investment to the local unit who has a material business or personal relationship with that organization shall disclose that relationship to the governing body of the local unit and to the Local Finance Board or a county or municipal ethics board, as appropriate.

h. The registered principal of any security brokerage firm selling securities to the local unit shall be provided with, and sign an acknowledgment that the principal has seen and reviewed the local unit's cash management plan, except that with respect to the sale of a government money market mutual fund, the registered principal need only be provided with and sign an acknowledgment that the government money market mutual fund whose securities are being sold to the local unit meets the criteria of a government money market mutual fund as set forth in paragraph (1) of subsection e. of section 8 of P.L.1977, c.396 (C.40A:5-15.1).

Amended 1977, c.281, s.4; 1979, c.315, s.1; 1981, c.196, s.1; 1983, c.8, s.2; 1997, c.148, s.2.

40A:5-14.1. Rules and regulations.

The Division of Local Government Services shall adopt rules and regulations to implement this act. The division may provide for a grace period of time to permit local administrators flexibility in transferring funds between accounts and for variances from the rules and regulations for the handling of small amounts of money as defined by the division.

L.1979, c. 315, s. 2, eff. Jan. 1, 1981.

40A:5-15. Deposit of funds paid to the local unit.

All moneys, including moneys collected by taxation, received from any source by or on behalf of any local unit or any board or department thereof shall, within 48 hours after the receipt thereof, either

- a. be paid to the officer charged with the custody of the general funds of the local unit, who shall deposit all such funds within 48 hours after the receipt thereof to the credit of the local unit in its designated legal depository, or

- b. be deposited to the credit of the local unit in its designated legal depository.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-15.1. Securities which may be purchased by local units

a. When authorized by a cash management plan approved pursuant to N.J.S.40A:5-14, any local unit may use moneys which may be in hand for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the local unit:

- (1) Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;
- (2) Government money market mutual funds;
- (3) Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor;
- (4) Bonds or other obligations of the local unit or bonds or other obligations of school districts of which the local unit is a part or within which the school district is located;
- (5) Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by local units;
- (6) Local government investment pools;
- (7) Deposits with the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4); or
- (8) Agreements for the repurchase of fully collateralized securities, if:
 - (a) the underlying securities are permitted investments pursuant to paragraphs (1) and (3) of this subsection a.;
 - (b) the custody of collateral is transferred to a third party;
 - (c) the maturity of the agreement is not more than 30 days;
 - (d) the underlying securities are purchased through a public depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41); and
 - (e) a master repurchase agreement providing for the custody and security of collateral is executed.

b. Any investment instruments in which the security is not physically held by the local unit shall be covered by a third party custodial agreement which shall provide for the designation of such investments in the name of the local unit and prevent unauthorized use of such investments.

c. Purchase of investment securities shall be executed by the "delivery versus payment" method to ensure that securities are either received by the local unit or a third party custodian prior to or upon the release of the local unit's funds.

d. Any investments not purchased and redeemed directly from the issuer, government money market mutual fund, local government investment pool, or the State of New Jersey Cash Management Fund, shall be purchased and redeemed through the use of a national or State bank located within this State or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities.

e. For the purposes of this section:

(1) a "government money market mutual fund" means an investment company or investment trust:

(a) which is registered with the Securities and Exchange Commission under the "Investment Company Act of 1940," 15 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R. s.270.2a-7;

(b) the portfolio of which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section; and

(c) which is rated by a nationally recognized statistical rating organization.

(2) a "local government investment pool" means an investment pool:

(a) which is managed in accordance with 17 C.F.R. s.270.2a-7;

(b) which is rated in the highest category by a nationally recognized statistical rating organization;

(c) which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. 270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section;

(d) which is in compliance with rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) by the Local Finance Board of the Division of Local Government Services in the Department of Community

Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of the investments;

(e) which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value ; and

(f) which purchases and redeems investments directly from the issuer, government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a national or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities .

f. Investments in, or deposits or purchases of financial instruments made pursuant to this section shall not be subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

L.1977,c.396,s.8; amended 1991, c.458, s.2; 1997, c.148, s.3.

40A:5-15.2. Record and report of securities received

When said securities are received by the local unit the chief financial officer shall duly record the receiving thereof in an appropriate manner and at the next regular or special meeting after such receipt he shall transmit a written report to the governing body setting forth the amount of securities so received, the series, date, numbers and interest periods, if any, thereof and at the same time, transmit said securities to such depository, person or persons as the governing body shall direct for safekeeping. Such written report shall be recorded in the minutes at such meeting, and a certified copy of such minute record shall forthwith be filed with the bureau.

L.1977, c. 396, s. 9, eff. Feb. 23, 1978.

40A:5-15.3. Securities of local unit purchased by it not to be canceled; sale thereafter.

Securities of a local unit purchased by it shall not be canceled but may be sold as and when directed by resolution adopted by a majority vote of all the members of the governing body.

L.1977, c. 396, s. 10, eff. Feb. 23, 1978.

40A:5-16. Local unit, requirements for paying out moneys.

The governing body of any local unit shall not pay out any of its moneys

a. unless the person claiming or receiving the same shall first present a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct. The governing body may, by resolution, require an affidavit in lieu of the said certification, and the clerk or disbursing officer of the local unit may take such affidavit without cost, and

b. unless it carries a written or electronic certification of some officer or duly designated employee of the local unit having knowledge of the facts that the goods have been received by, or the services rendered to, the local unit.

c. Notwithstanding the provisions of subsection a. of this section, upon adoption by the Local Finance Board of rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) that provide for procedures to be followed by local units and under those circumstances deemed appropriate by the board, a local unit shall be permitted to pay out its moneys without requiring a certification of the party claiming payment as otherwise required by subsection a. of this section. Such circumstances may include, but shall not be limited to:

- (1) when payment to vendors is required in advance of the delivery of certain materials or services that cannot be obtained from any other source at comparable prices; or
- (2) when ordering, billing and payment transactions for goods or services are made through a computerized electronic transaction; or
- (3) when claim or demand is less than a threshold set by the board and the certification is not readily obtainable by the contracting unit; but such exceptions shall not include reimbursement of employee expenses or payment for personal services.

Amended 2000, c.126, s.21.

40A:5-16.1. Advances for expenses of authorized official travel; resolution; verification; repayment of excess.

Notwithstanding the provisions of N.J.S. 40A:5-16, the governing body of any local unit may, by resolution, provide for and authorize payment of advances to officers and employees of the local unit toward their expenses for authorized official travel and expenses incident thereto. Any such resolution shall provide for the verification and adjustment of such expenses and advances and the repayment of any excess advanced by means of a detailed bill of items or demand and the certifications or affidavit required by N.J.S. 40A:5-16 which shall be submitted within 10 days after the completion of the travel for which an advance was made.

L.1971, c. 323, s. 1, eff. Oct. 28, 1971.

40A:5-16.2. Payment of advance to nonprofit organization or agency with which local unit has service contract; resolution; conditions.

Notwithstanding the provisions of N.J.S. 40A:5-16, the governing body of any local unit may, by resolution, provide for and authorize payment of an advance to any nonprofit organization or agency with which the local unit has entered into a service contract, for the purpose of meeting service program start-up costs; provided, however, that:

- a. The source of the funds to be advanced is a Federal grant allowing the local unit to receive funds in advance of disbursement and requiring that any interest earned on said funds be returned to the Federal Government;
- b. The governing body has determined, by resolution, that the advance is necessary in order to prevent undue hardship to said contractor in achieving the objectives of the Federal grant;
- c. The amount of the advance to any given contractor does not exceed an amount equal to the total amount of the contract divided by the number of months in the term of the contract, and provided further that the total disbursements of the local unit to the contractor, including the amount of the advance outstanding, shall not, at any time, exceed the total cash receipts of the local unit under the Federal grant up to that time; and,
- d. The resolution authorizing the advance includes a schedule for the depletion of the advance, in accordance with sound accounting practice, indicating that the advance will be entirely depleted by the termination date of the contract.

L.1978, c. 114, s. 1, eff. Sept. 11, 1978.

40A:5-16.3. Payment in advance

Notwithstanding the provisions of N.J.S. 40A:5-16 the governing body of any local unit participating in a statutorily authorized joint, inter-local or other cooperative activity may, by resolution, provide for and authorize payment in advance of estimated administrative or direct service costs to the local unit or other party providing administrative services or otherwise acting on behalf of or for the group.

L. 1985, c. 419, s. 1, eff. Jan. 13, 1986.

40A:5-16.4. Issuance, acceptance of purchase order for license or permit fee.

Except as provided below, whenever a department, agency or bureau of the State requires that the fee for issuing a license or permit be paid in advance, a county, municipality, authority, or other subdivision of local government shall be deemed to have met that requirement by the issuance of a duly executed purchase order payable pursuant to the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et seq.):

- a. the Division of Motor Vehicles in the Department of Law and Public Safety shall not be required to accept a duly executed purchase order; and
- b. the Department of Transportation may accept a duly executed purchase order from a county, municipality, authority, or other subdivision of local government for the fee for issuing a license or permit if the department determines that its accounting procedures permit the acceptance of such purchase orders.

L.1991,c.174,s.1.

40A:5-17. Approval and payment of claims and required general books of account.

a. Approval of claims. The governing body shall approve or disapprove all claims. In the case of a county, other than a county which has adopted a form of government pursuant to the "Optional County Charter Law," P.L. 1972, c. 154 (C. 40:41A-1 et seq.), the governing body may, by resolution, designate one person who may approve claims between meetings of the governing body. The specified designee shall be chosen from the following positions: the certified financial officer, chief fiscal officer, county administrator, director of finance, treasurer or comptroller. Any approval by the designated person shall be presented to the county governing body at its next meeting for ratification, except that, prior to being paid, such vouchers shall be brought to the attention of the freeholder who has responsibility for the designee. The county governing body may establish a maximum dollar amount for which payment may be approved without prior approval of the governing body. Claims shall be approved or disapproved in the manner prescribed by rules made and promulgated by the bureau unless the governing body adopts an ordinance or resolution, as may be appropriate, in the case of a county, or an ordinance, in the case of a municipality, including the following provisions:

- (1) Designating an approval officer with the title of certifying and approval officer;
- (2) Prescribing the duties of the approval officer, including the making of certifications required by 40A:5-16b., ascertaining the existence of proper and sufficient appropriations for the payments to be made and determining that there is legal authority for the payments, evidenced by action of a purchasing department or agent or officer in respect to the goods or services ordered and the incurring of the expense therefor;
- (3) Prescribing the procedure for approving and certifying to the proper officer claims for payments and drawing checks therefor;
- (4) Prescribing the procedure for certifying approved claims to the governing body and regulating its action of approval or disapproval thereon.

b. Payment of claims. A resolution or an ordinance adopted pursuant to this section may also provide a method of disbursing moneys or payment of claims approved, but if it does not so provide the method shall be as follows:

(1) In the case of a county organized pursuant to the provisions of the "Optional County Charter Law" (P.L. 1972, c. 154; C. 40:41A-1 et seq.), by check issued upon the requisition of and signed by the chief executive officer and countersigned by the treasurer, and in all other counties by check issued upon requisition of the clerk of the board of chosen freeholders, signed by the county treasurer and countersigned by such other officer or officers as are designated by ordinance or resolution of the governing body;

(2) In the case of a municipality, by check drawn on the municipality, signed by the mayor or other chief executive officer and the municipal clerk and countersigned by such other officer or officers as are designated by ordinance.

c. Required general books of account. The bureau shall prescribe the kind and manner of keeping of general books of account for the financial officers of the local units and said officers shall be required to keep and maintain said books.

Amended by L. 1985, c. 127, s. 1, eff. April 12, 1985.

40A:5-17.1. Refund, delinquency of less than \$10.00

a. Notwithstanding the provision of any law to the contrary, the governing body of a municipality may adopt a resolution authorizing a municipal employee chosen by the governing body to process, without further action on the part of the governing body, any property tax refund of less than \$10.00.

b. Notwithstanding subsection a. of this section or any provision of law to the contrary, the governing body of a municipality may adopt a resolution authorizing a municipal employee chosen by the governing body to process, without further action on the part of the governing body, the cancellation of any property tax refund or delinquency of less than \$10.00.

L.1983,c.568,s.1; amended 1987, c.82; 1996, c.113, s.14.

40A:5-18. Public recording of approved claims.

All claims approved for payment by the local unit shall be recorded by the local unit, either in its minutes or in a manner prescribed by the director. The record of approval shall be open to the public.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-19. Payment of salaries and wages

The governing body of any local unit may provide by ordinance for the manner in which and the time at which salaries, wages or other compensation for services shall be paid, and prescribe the form and manner in which checks upon the treasury shall be drawn and signed for that purpose.

The local unit may, by resolution, provide for the bi-weekly payment of the salaries, wages and compensation of officers and employees, both elective and appointive.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-20. Officers to deliver funds and records when term expires.

Whenever any official ceases to hold office in any local unit, on the day of the expiration of his term of office, he shall forthwith deliver to the clerk of the local unit, or other person who may be designated by the governing body to receive the same, all moneys, papers, books, memoranda, accounts and any data of any nature whatever pertaining to his office.

On failure or refusal to carry out the provisions of this section within 5 days after the expiration of his term, he shall, on notice in writing of such delinquency from the chief executive officer of the local unit, be subject to a penalty of \$50.00 for each day of refusal or neglect to comply therewith. The penalty shall be collected by the local unit in an action at law.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-21. Petty cash fund of local unit.

A local unit may establish a petty cash fund upon written application to and after approval by the director. All matters relating to the establishment, account, repayment and discontinuance of such fund shall be in the discretion of the director, who shall promulgate reasonable rules and regulations in respect thereto.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-22. Investigation of expenditures of local unit

A judge of the Superior Court may, in his discretion, make a summary investigation into the affairs of any local unit and appoint an expert or experts to prosecute such investigation whenever

- a. a petition for such investigation shall be presented to him, signed by 25 freeholders, who have paid taxes on real estate located within the local unit within 1 year, and such petition sworn to and subscribed by them sets forth that they have cause to believe that the moneys of such local unit are being, or have been, unlawfully or corruptly expended, in which case, at least 10 days' notice of the hearing thereon shall be given to the disbursing officer and the governing body of the local unit; or
- b. a resolution of the governing body requesting such investigation shall be presented to him.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-23. Costs, taxation and payment bond.

The judge, if he deems it advisable, may require the applicants to furnish a bond to be filed with the county clerk for the payment of the costs and expenditures of the investigation.

The costs, including witness fees and mileage, shall, by his order, be taxed to and paid by the local unit whose expenditures have been investigated.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-24. Filing and publication of report of investigation.

The results or report of the investigation shall be filed in the office of the Clerk of the Superior Court within 10 days after the completion thereof. The judge shall cause the results of the investigation to be published thereafter in such manner as he may deem proper.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-25. Attorney of local unit may appear on its behalf.

Whenever an investigation shall have been ordered to be made pursuant to this chapter, and the governing body of the local unit shall pass a resolution directing its attorney, counsel or other legal representative, as it may choose, to appear and act on its behalf or on the behalf of any of its officials, such attorney may appear at the investigation and on behalf of the local unit or any of its officials, present evidence, examine witnesses and take part in the investigation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-26. Subpoenas and testimony of witnesses.

A judge of the Superior Court during the conduct of an investigation pursuant to this chapter may

- a. upon his own motion or upon application of the expert designated to conduct such investigation, exercise the subpoena powers of the Superior Court and enforce such subpoena in similar manner as in civil actions in the Superior Court;
- b. take or order the obtaining of evidence and the taking of testimony, by deposition or otherwise, in similar manner as in civil actions in the Superior Court.

Any person who shall willfully and corruptly testify falsely to any material matter upon oath administered by the judge or the expert designated to conduct the investigation shall be guilty of perjury.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-27. Witness fees and mileage taxed as costs.

Witnesses subpoenaed by virtue of this chapter shall be entitled to receive the same fees and mileage as witnesses in civil actions.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-28. Duty of officers and employees of local unit.

Every officer and employee of a local unit, which is the subject of a summary investigation as provided in this chapter, shall obey all orders of the judge and shall facilitate the conduct of the said investigation. A refusal or failure to obey such orders or an intentional failure to facilitate the conduct of the investigation may be punished by the judge as for contempt.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-29. Acceptance of bequests, legacies, gifts.

Any local unit is authorized and empowered to accept bequests, legacies and gifts made to it and is empowered to utilize such bequests, legacies and gifts in the manner set forth in the conditions of the bequest, legacy or gift, provided, however, that such bequest, legacy or gift shall not be put to any use which is inconsistent with the laws of this State and of the United States.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-30. Acceptance of Federal grants.

Any local unit shall have power to accept any advance or grant of money made by the Federal government to aid in financing the cost of preparing plans for any public project which the local unit has lawful authority to undertake, and shall have power to agree to repay any such advance or grant if, and when, the local unit shall undertake such public project. Notwithstanding the provisions of any other law, any local unit may make such an agreement although the funds necessary to make the repayment required by the agreement shall not have been previously made available by an appropriation or by the authorization of bonds.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-31. Award programs for local units

Any local unit may establish and maintain plans for award programs for employees, designed to promote efficiency and economy in government functions, to reward individual employees for meritorious performances and suggestions. Award programs may include any or all of the following:

A suggestion award program;
Awards for heroism;
An efficiency and incentive award program;
Awards for professional accomplishments;
Awards for service.

Any local unit shall have power and authority to make appropriations of money therefor, establish and make awards in the form of cash, medals, citation certificates, insignia or other appropriate devices to employees selected as recipients of awards by it or its committee appointed in accordance with programs established pursuant to this act. Such committee shall be known as the "Public Employees' Awards Committee" and shall consist of 5 persons who shall be officers or employees of the local unit, or members of the governing body, and no 2 of such officers or employees shall be employed in the same department of the local unit. Of the members first appointed to the committee, 2 shall be appointed for terms of 3 years, 2 for 2 years and 1 for 1 year, and thereafter appointments shall be made for terms of 3 years. Members shall serve for the terms for which they are appointed and until their successors have been appointed and qualified; a vacancy occurring by reason other than expiration of term shall be filled for the unexpired term. Members of the committee shall serve without compensation. The committee shall meet and organize as soon as practicable after the first appointment of members and annually, thereafter, on the call of the chief executive officer, and select a chairman from among its members. The committee shall hold regular meetings at least once each month during the year, except during July and August, at the call of the chairman or the chief executive officer of the local unit.

The committee is authorized to request, and shall receive, such assistance as it may require from any department, official or agency.

The committee shall be responsible for the formulation of programs and shall have the power to adopt and promulgate rules and regulations for the conduct and operation of awards programs.

The committee shall make an annual report to the governing body concerning the operation of awards programs established pursuant to this act.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-32. Reimbursement

Whenever any work shall be done or money expended by any local unit, whether by agreement or by the terms of any insurance policy, for which an individual or corporation is liable, the local unit shall be authorized to collect from such individual or corporation such sum or sums as shall be necessary to reimburse the local unit, and such sum or sums, when received, shall be placed to the credit of the appropriation from which the cost of doing such work shall have been expended.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-33. Oath taken before assuming office.

In addition to any oath that may be specially prescribed, every person elected or appointed to any office in any local unit shall, before assuming such office, take and subscribe to the oaths required by chapter 1 of the Title "Oaths and Affidavits"(R.S. 41:1-1 et seq.).The oaths shall be filed with the county clerk in the case of a county, and with the municipal clerk in the case of a municipality, and shall be preserved by these officials as public records.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-34. Bonds of officials and employees.

Every officer or employee, by virtue of his office or position, or of any law, entrusted or charged with the receipt, custody or expenditure of money or funds of the local unit, and any other officer or employee required so to do by the governing body thereof, shall, before entering upon the duties of his office or position, execute and deliver his bond, or shall be otherwise bonded to the local unit in its corporate name, conditioned for the true and faithful performance of his duties. All bonds shall be in such form, for such sum and with such surety as the governing body of the local unit shall, by resolution, direct. The governing body may, in any instance, require corporate surety. All such bonds, in the case of a county, shall be filed with the clerk of the board of chosen freeholders, except that the bond of the clerk, if there be any, shall be filed with the county treasurer. In the case of municipalities, all bonds shall be filed with the municipal clerk, except the bond of the clerk, which shall be filed with the treasurer. The bonds shall be preserved for and be the property of the local unit.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-34.1 Blanket bond coverage provided for certain county, municipal officers, employees; evidence.

The board of chosen freeholders of any county or the governing body of any municipality, as the case may be, may provide by blanket bond for the bonding of certain county or municipal officers and employees for faithful performance and discharge of their duties. Blanket bond coverage may be by one or more blanket bonds issued by a surety company or companies or one or more underwriters or by a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.) of which the county or municipality is a member. Blanket bond coverage may be provided in lieu of an individual bond as to any officer or employee required by law to be bonded, except treasurers and tax collectors, by whatever title known, provided the blanket bond meets the requirements for the individual bond in amount, rights of cancellation, and the governmental agencies in whose favor it runs.

Whenever a copy of an individual bond is required by law to be filed with or supplied to specified officers, evidence of blanket bond coverage filed with or supplied to such officers by the board of chosen freeholders or governing body shall be compliance with such requirement.

L.1967,c.283,s.1; amended 1996,c.4,s.1.

40A:5-35. Recording of bonds.

The local unit may require such bonds, or any of them, to be recorded in the office of the clerk of the county and a copy of any bond so recorded, certified by the county clerk, shall be received in evidence in all the courts of this State and be as good and available in law as if the original bond were produced and proved.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-36. Protection to be afforded by bond.

Every bond given by a municipal court judge or clerk of a municipal court as hereinafter provided shall be for the protection of the State, the county and the municipality or, in the case of an intermunicipal court, the municipalities, and also for the protection of defendants, litigants, bondsmen and all other persons in interest.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 4, eff. Feb. 23, 1978.

40A:5-37. Condition of bond broken.

Upon application to the Superior Court by a citizen and taxpayer thereof, alleging that the condition of the bond of any officer, member of committee or employee of the local unit has been broken, the court shall make such investigation regarding the truth of the allegations as it shall deem proper, and in its discretion may order an action to be brought upon the bond in the name of the local unit, or otherwise, for the benefit of the local unit or any officer, board or department thereof.

Amended 1991,c.91,s.392.

40A:5-38. Rules and regulations.

The Local Finance Board may prescribe rules and regulations pertaining to the bonds of municipal court judges and municipal court clerks consistent with the rules of administration applicable to the municipal courts. Notwithstanding any other provision of law, the Local Finance Board shall, in accordance with a classification system established by said board, determine and fix the minimum amount of any official bond which may be required of a municipal court judge or clerk of a municipal court.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 5, eff. Feb. 23, 1978.

40A:5-39. Fixing of bond in excess of minimum amount.

The governing body of any municipality authorized by law to fix the amount of any bond given by a municipal court judge or clerk of a municipal court may fix such amount in excess of the minimum prescribed by the local finance board.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 6, eff. Feb. 23, 1978.

40A:5-41. Classification system for purpose of determining amount of bond; minimum amount.

In establishing the said classification system, the board shall utilize audits made by it or under its supervision and also the reports of the municipal magistrates, on file in the administrative office of the courts. The board shall confer with the administrative director of said office and, if it shall so desire, with municipal officials. The board shall take into consideration the probable amounts of money which will be received from fines, penalties and costs, and which will be handled for bail, security, fees and other purposes. After the establishment of the said classification system, no such official bond shall be given or accepted below the minimum amount prescribed by the said classification system and in no case shall any such official bond be in an amount less than \$1,000.00.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

40A:5-42. Purchase and retirement of outstanding bonds; procedure; duties of Local Finance Board.

Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body, may at any time appropriate and apply any unappropriated funds to the purchase and retirement of any of its then outstanding bonds, notes or other obligations. The purchase price may be the face value, or may be below or above the face value of such bonds, notes or other obligations. Any such proposed purchase shall be subject to the following provisions:

- a. Before adoption of the resolution, the governing body shall cause satisfactory proof to be filed with the bureau that such funds then are, or within a reasonable time will be, available.
- b. Before contracting to purchase any bonds, notes or other obligations at a price above their face value, the governing body shall submit such resolution to the said bureau for approval by the Local Finance Board. Before taking definite action, the said Local Finance Board may require the submission of additional information and may require that the governing body of the local unit shall call for public tenders of bonds, notes or other obligations on such notice and subject to such rules as the board may prescribe. On receipt of such tenders, the governing body shall report them to the said Local Finance Board together with a further proposed resolution for approval by that board.

In approving or disapproving any proposed purchase of bonds, notes or other obligations, the said Local Finance Board shall find and determine whether such appropriation of available funds is in the interest of the local unit, having regard for (1) the prospective need of funds for other purposes, (2) reasonableness of the price proposed to be paid, (3) any saving of interest to result from retirement of the bonds, notes or other obligations at the price proposed to be paid, (4) the equality and reasonableness of the debt service on obligations which will remain outstanding, and (5) fairness to the holders of other obligations.

After purchase of any bonds, notes or other obligations, satisfactory proof of cancellation of the bonds, notes or other obligations and of any coupons thereto annexed shall forthwith be filed with the bureau by the chief financial officer of the local unit.

Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body may at any time appropriate to and pay into any sinking fund maintained by such local unit any unappropriated funds; provided, a certified copy of such resolution shall be submitted to the Local Finance Board and the Local Finance Board, by resolution, shall determine that it is satisfied by proof submitted to it that such funds then are, or within a reasonable time will be, available, and shall consent to such appropriation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 7, eff. Feb. 23, 1978.

40A:5-43. Short title.

This act shall be known and may be cited as the "Government Electronic Payment Acceptance Act."

L.1995,c.325,s.1.

40A:5-44. Definitions relative to card or other electronic based payments.

As used in this act:

"Association" means an organization whose members are issuers.

"Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

"Card based payment" means a monetary obligation tendered by the user of a credit card or debit card.

"Card payment system" means a technical procedure by which obligations owed a local unit or court may be paid by credit card or debit card.

"Credit card" means any instrument or device linked to an established line of credit, whether known as a credit card, charge card, credit plate, or by any other name, issued

with or without fee by an issuer for the use of the cardholder in satisfying outstanding financial obligations, obtaining money, goods, services or anything else of value on credit.

"Debit card" means any instrument or device, whether known as a debit card, automated teller machine card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value through the electronic authorization of a financial institution to debit the cardholder's account.

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

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

"Electronic funds transfer system" means a technical procedure by which obligations owed to or collected by the Supreme Court, the Superior Court, Tax Court or a local unit may be paid by an electronic transaction between the financial institution of the person or organization owing the obligation and the financial institution of the governmental entity.

"Issuer" means the business organization or financial institution which issues a credit card or debit card, or its duly authorized agent.

"Local unit" means any unit of government subject to the provisions of chapter 5 or 5A of Title 40A of the New Jersey Statutes, and the constituent parts of those units, including but not limited to independent local authorities, public libraries, municipal courts and joint municipal courts.

"Service charge" means a fee charged by the Supreme Court, the Superior Court, Tax Court or local unit in excess of the total obligation owed by a person or organization to offset processing charges or discount fees for the use of a card payment system or an electronic funds transfer system.

L.1995,c.325,s.2.

40A:5-45. Electronic payment systems established by resolution of governing body.

Subject to the provisions of sections 5 and 6 of P.L.1995, c.325 (C.40A:5-47 and C.40A:5-48), a local unit may establish a card payment system or electronic funds transfer system upon passage of a resolution of the governing body. The resolution shall specify those types of charges, taxes, fees, assessments, fines, or other obligations approved for card based or electronic funds transfer payment, except that credit card payment shall not be authorized for the payment of delinquent local unit obligations or for the redemption of local unit liens.

L.1995,c.325,s.3.

40A:5-46. Service charges; collection, assessment.

Notwithstanding the provisions of any other law to the contrary and if not legally prohibited by an association or by an issuer, local units are authorized to assess and collect service charges related to obligations owed to or collected by the local unit when credit cards, debit cards or electronic funds transfer systems are utilized.

L.1995,c.325,s.4.

40A:5-47. Rules, regulations.

The director, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate such rules and regulations as are necessary to effectuate the purposes of sections 2 through 4 of P.L.1995, c.325 (C.40A:5-44 through C.40A:5-46).

L.1995,c.325,s.5