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Implementation of New County Entity Budget Cap

[P.L. 2015, c. 249](#), signed into law on January 19, 2016, was enacted to limit the annual increase in the portion of certain county entity budget requests funded by the county property tax levy. The law became effective upon signing and shall first apply to the county budget year commencing on January 1, 2017. The law applies to the following county offices (called "county entities" under the law):

- Prosecutor
- Sheriff
- Clerk
- Surrogate
- Register of Deeds & Mortgages
- Superintendent of Elections
- Board of Elections
- Board of Taxation

The law controls increases in the budgets of the above-referenced county entities, thereby closing a loophole in the laws capping county levy increases.

Mechanics of the County Entity Budget Request Cap

Each budget request submitted to the county governing body (i.e. Board of Chosen Freeholders) by an affected county entity must be divided into 1) the portion of the request funded by the county tax levy and 2) the portion of the request funded wholly through federal or State funds, fees raised by the county office, or other sources of revenue generated by the county office.

The increase in the portion of a county entity's budget request funded by the county tax levy shall be limited to two percent (2%) of the previous year's county office budget request, subject to certain limited exceptions. The cap is applied by measuring the current year anticipated revenue against prior year appropriations paid/charged plus encumbrances and reserve amounts.

The law does not give any county entity the ability to submit a budget request to a county governing body that exceeds the cap.

Budget Request Cap Exceptions

There are five exceptions to the county entity budget request cap as described below.

Limited Collective Bargaining Agreement Exception

Increases in a county entity's budget request attributable to the county's obligations under a collective bargaining agreement in effect on January 19, 2016 (the effective date of P.L. 2015, c. 249) may be excluded from the budget request. Increases as a result of collective bargaining agreements entered into after January 19, 2016 do not fall within this exception and must be taken into account in the budget request cap.

Applicability of 2% Property Tax Levy Cap Exceptions

The exceptions to the 2% property tax levy cap set forth in N.J.S.A. 40A:4-45.45(b) apply to the budget request cap as well. These exceptions are as follows:

- Capital expenditures, including debt service
- Increases in pension contributions, and accrued liability for same, in excess of 2%
 - Increases over 2% in pension costs attributable to early retirement, prepayment of deferred pension obligations, and LOSAP appropriations fall within this exception.
 - Increased costs to a shared service agreement, pursuant to certifications by service provider, can be included under this exception.
- Health benefit coverage cost increases in excess of 2 percent, but no greater than the average percentage increase in the State Health Benefit Program (SHBP)
 - Increased costs to a shared service agreement, pursuant to certifications by service provider, can be included under this exception.
 - Increases in costs attributable to health insurance waiver payments shall not be treated as exclusions.
- Extraordinary costs directly related to a declared emergency, as defined by N.J.A.C. 5:30-3.9, included in the county office budget request under the temporary budget and temporary emergency (N.J.S.A. 40A:4-19, N.J.S.A. 40A:4-20).

These exceptions as well as the limited collective bargaining agreement exception identified above will not be relevant for a county entity's budget request if the costs that fall within those exceptions are budgeted under the county's central budget.

Specific Cap Exception for "Election Expenses"

The budget request cap law also creates an exception for "election expenses" incurred by the following county entities: County Clerk, Superintendent of Elections and Board of Elections. Election expenses are defined as all necessary expenses related to election costs and the administration, preparation and implementation of all elections, including:

All vendor-related contract services	Printing and supplies
Voting machine maintenance, repairs, parts and equipment, certification and technical coding	Advertising costs certified by the county clerk, superintendent of elections and board of elections
Transportation of voting machines and election supplies	Poll workers, machine technicians and other temporary workers
Staff overtime related to election duty	Postage
Food services during election	Office equipment

Staff salaries are excluded from the definition of “election expenses” for purposes of this cap exception.

County Entity Budget Request Cap Workbook and County Budget Adoption:
First-Year Implementation of Cap

The Division in collaboration with County representatives has crafted a budget request cap [workbook](#) that shall be utilized for each county entity budget request. This workbook can be found on the Division’s Municipal and County Budgets webpage under the heading “CY2017 Budget Forms”. Completed budget request cap workbooks for each county office must be submitted to the Division via e-mail at dlgs@dca.nj.gov when the county budget is submitted. The budget cap workbook must be saved under the following filename in order to facilitate Division review: **municode_(pro, shf, clk, rdm, soe, boe, bot)_year**. For example, if your municode is 0100, any one of the following filenames will work: 0100_pro_2017; 0100_shf_2017; 0100_clk_2017; 0100_rdm_2017; 0100_soe_2017; 0100_boe_2017; 0100_bot_2017.

The Division will not authorize the adoption of a county budget unless the cap workbook for each county entity is present and demonstrates compliance with the budget request cap law.

Once the county governing body receives the cap-compliant budget request, the governing body at that point has the discretion to determine whether to allow a county entity to increase its appropriations in excess of the limit imposed by the cap. However, the governing body’s discretion is limited by the levy cap laws set forth in 1977 and 2010 levy cap laws ([N.J.S.A. 40A:4-45.4](#) and [N.J.S.A. 40A:4-45.45](#), respectively). These levy cap laws still apply and limit the county’s tax levy. If a county governing body allows a county entity to increase its appropriations in excess of the limit imposed by the cap, then the governing body shall adopt a resolution to that effect stating the amount of the increase, the extent to which increase exceeds the budget request cap, and that the governing body has determined that the increase in the budget request cap shall not cause the county to exceed the levy caps set forth in 1977 and 2010 levy cap laws ([N.J.S.A. 40A:4-45.4](#) and [N.J.S.A. 40A:4-45.45](#) respectively). Said resolution, a [model version](#) of which is on the Division’s Municipal and County Budgets webpage under the heading “Sample Resolutions”, shall be included as part of the county budget submission.

For initial implementation of the cap only, the CFO will certify the base year costs for each county entity budget request for 2016 and 2017. In order to establish the cap base for the first year when there are certain county entity appropriations being budgeted in different line items in the County Budget, the County CFO will have to separately list each appropriation on the last page of the Workbook and certify that said appropriations were specifically used for the respective county entity.

Impact of a County Prosecutor “Bigley Action” on the County Entity Budget Cap Law

N.J.S.A. 2A:158-7 permits a County Prosecutor to seek approval from their County’s Assignment Judge to exceed the budget request approved by the freeholders, commonly known as a “Bigley Action”. The budget request cap law does not abolish the Bigley Action; however, the law now requires an Assignment Judge to weigh the financial impact of the request on the county’s governing body, taxpayers and residents, along with the impact on the limitations imposed upon the county’s property tax levy by the 1977 and 2010 levy cap laws (N.J.S.A. 40A:4-45.4 and N.J.S.A. 40A:4-45.45, respectively) in determining whether to grant the Prosecutor’s request.

Frequently Asked Questions

What is the impact on collective bargaining units that had contracts in effect as of January 19, 2016, the effective date of the budget request cap law?

The law is effective as of January 19, 2016 and first applies to the county budget year beginning on January 1, 2017. Any increases resulting from a collective bargaining agreement that was in effect as of January 19, 2016, and remains in effect during the 2017 budget year, are subject to the budget request cap exception. Any increases attributable to collective bargaining agreements ratified after January 19, 2016 are **not** exceptions and must be accounted for in ensuring that the budget request cap is not exceeded.

Does the budget request cap law apply to centralized expenses not included in the individual budget requests of the county entities impacted by the cap law?

No. The budget request cap law does not apply to expenses not included in the property-tax funded portion of the county entity budget request presented to the governing body. However, keep in mind that the 1977 and 2010 levy cap laws (N.J.S.A. 40A:4-45.4 and N.J.S.A. 40A:4-45.45 respectively) still apply and serve to limit the county’s property tax levy.

How does the budget request cap law apply when a county entity’s revenue completely covers their individual operating budget?

The budget request cap law applies only to that portion of a county entity’s budget request funded by the county’s property tax levy. If the entirety of a county entity’s budget request is funded by revenue other than the county levy (e.g. fees, federal or State funds), that county entity’s budget request would not be subject to the budget cap law.

Can a county entity “bank” any unused portion of their budget request cap for use in future years?

No. The county entity budget request cap law does not permit the “cap banking” mechanism set forth in the 2010 levy cap law (N.J.S.A. 40A:4-45.45(a)).

Document	Internet Address
P.L. 2015, c. 249	http://www.njleg.state.nj.us/2014/Bills/PL15/249_.PDF
County Office Budget Cap Calculation Wkbk	http://www.nj.gov/dca/divisions/dlgs/programs/mc_budgets.html
Model Resolution to Exceed Budget Request Cap	http://www.nj.gov/dca/divisions/dlgs/programs/mc_budgets.html