

LFN 2012-14

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Local Finance Notice

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Municipal Clerk
Chief Financial Officer
Treasurer
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Freeholders

State Fiscal Year 2013

Municipal Appropriations Cap Cost-of-Living Adjustment

This Local Finance Notice applies only to those municipalities operating on a State Fiscal Year budget. Pursuant to N.J.S.A. 40A:4-45.1a (PL 1991 c. 75), the Director of the Division of Local Government Services must promulgate the Cost-of-Living Adjustment (COLA) applicable to the municipal budget appropriation cap.

The COLA is based upon the lesser of the Implicit Price Deflator for State and Local Governments, calculated by the U.S. Department of Commerce, Bureau of Economic Analysis or 2.5% (N.J.S.A. 40A:4-45.2). The actual Price Deflator calculation for the period July 1, 2011 through June 30, 2012 reflects a three percent (**3.0%**) increase. Therefore, the 1977 appropriations cap for SFY 2013 is the 2.5% statutory maximum.

However, pursuant to N.J.S.A. 40A:4-45.14(b)

[n]otwithstanding the provisions of 40A:4-45.2 to the contrary, in any year in which the cost-of-living adjustment is equal to or less than 2.5%, a municipality may, by ordinance... provide that in the local fiscal year to which the ordinance applies, the final appropriations of the municipality shall be increased by a percentage rate greater than the cost-of-living adjustment, but not to exceed 3.5% over the previous year's final appropriations."

In other words, because the 3.0% COLA exceeds the 2.5% statutory maximum, the cap rate for SFY 2013 appropriations is 2.5%. However, the governing body may pass a COLA ordinance increasing the cap base up to 3.5%.

For years where a municipality's total appropriations subject to the 1977 appropriations cap is less than its authorized cap (either 2.5% or up to 3.5%) the difference may be set aside in a "bank" for use in future budgets, for up to two years N.J.S.A. 40A:4-45-15a(b). Please note that **cap banking is not automatic**.

A single ordinance can be used both to increase appropriations and to bank any unused cap. Cap bank balances from SFY 2011 and SFY 2012 are available

for use in SFY 2013. A model ordinance is included within this Finance Notice and is available for download as a Word document on the Division's [Local Finance Notice website](#).

Using the Allowable Percentage Increase

If a governing body wants to increase its allowable percentage in its budget to 3.5 % or bank any unused cap, the following steps must be taken:

1. After July 1st, and **prior to introduction** and approval of the budget, an ordinance must be introduced that details the following:
 - a. The new rate (increase percent) to be adopted; and,
 - b. The additional amount of appropriations to be added by the increase.
2. The ordinance must be approved by a majority of the full membership of the governing body, published, and a public hearing needs to be held at least 10 days after the publication date. A certified copy of the introduced ordinance must be filed with the Director of the Division of Local Government Services (DLGS) within 5 days of its introduction.
3. The governing body may take a final vote on the ordinance any time after the public hearing and prior to adoption of the budget. Depending on the form of government, the chief executive may veto the action in accordance with local procedures.
4. The ordinance takes effect immediately upon passage, and a certified copy of the adopted ordinance must be filed with the Director of DLGS within 5 days.
5. Cap increase referendums are not permitted if this option is chosen.

If you have any questions regarding this determination, please call the Bureau of Financial Regulation and Assistance at (609) 292-4806 or by the DLGS [e-mail](#).

Implementation of the "Tax Levy Cap"

The COLA referenced in this Local Finance Notice applies only to the 1977 Appropriation Cap. Municipalities must also apply the 2010 Tax Levy Cap to their budgets. Please use the updated version of the Tax Levy Cap Workbook, which will be on our website under SFY 2013 Budget Forms.

Approved:

Table of Web Links

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| 1 | DLGS Website | www.nj.gov/dca/lgs/lfns/lfnmenu.shtml |
| 2 | DLGS Email | dlgs@dca.state.nj.us |

**STATE FISCAL YEAR 2013
MODEL ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriations and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the *<insert the name of the governing body>* of the *<insert the name of the municipality>* in the County of *<insert the name of the county>* finds it advisable and necessary to increase its SFY 2013 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the *<insert the name of the governing body>* hereby determines that a *<insert the rate of increase>* % increase in the budget for said year, amounting to \$ *<insert the dollar amount increase>* in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the *<insert the name of the governing body>* hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the *<insert the name of the governing body>* of the *<insert the name of the municipality>*, in the County of *<insert the name of the County>*, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the SFY 2012 budget year, the final appropriations of the *<insert the name of the municipality>* shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by *<insert the rate increase>* %, amounting to \$ *<insert the dollar amount increase>*, and that the SFY 2013 municipal budget for the *<insert the name of the municipality>* be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.