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Local Finance Notice

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Review of New Local Finance and General Government Laws

This Local Finance Notice summarizes laws passed during December and January of the 2010-2011 Legislature (aka, "lame duck" session). The Notice covers laws primarily related to municipal fiscal and general government matters.

Each entry shows the Chapter number, the original bill number, a synopsis and effective date; followed by a brief explanation and analysis. Links are provided to the most recent version of the bill available at the time this Notice was prepared. The Office of Legislative Services has prepared advance and pamphlet laws which are available online and in print. Chapter laws can be found on the [Office of Legislative Services](#) website.

Municipal Government Fiscal Operations

- P.L. 2011, c. 224 (A-3971):** *Prohibits municipal library trustees from transferring donated funds to a municipality; permits municipalities to finance deficits caused by payment of tax appeal refunds with notes approved by the Local Finance Board. Effective dates: Sections 1 and 2 – retroactive to October 27, 2010; remainder on January 17, 2012.*

This law prevents any funds donated to establish or maintain a municipal free library from being transferred as surplus to the municipality pursuant to N.J.S.A. 40:54-15. The impact of the retroactive nature of the law should be addressed by local legal counsel based on local circumstances.

In addition, Section Three of the law allows municipalities to bond for payment of tax appeal obligations arising from the previous budget year. The Division has issued a separate Local Finance Notice detailing the fiscal options open to a municipality dealing with the impact of tax appeals.

2. **P.L. 2011, c. 202 (S-3148)**: *Establishes procedures for districts, municipalities or voters to opt to move the annual school election to November, eliminating votes on school budgets for such districts except for separate proposals to spend above cap. Effective January 17, 2012.*

This law establishes procedures for moving the date of a Type II school district's annual school election from the third Tuesday in April to the date of the general election in November. The Division has issued a separate Local Finance Notice, [2012-3](#), detailing the relevant procedures and the implications of shifting to a November school election.

3. **P.L. 2011, c. 173 (A-4267)**: *Allows counties and municipalities to use open space trust funds for purchase of flood-prone properties. Effective January 5, 2012.*

This law allows counties and municipalities to utilize their open space trust funds for the additional purpose of purchasing flood-prone properties, otherwise known as "Blue Acres projects."

Counties and municipalities are authorized to expand their "Open Space, Recreation, and Farmland and Historic Preservation Trust Funds" to include "Blue Acres projects" and would revise the names of these open space trust funds to include "floodplain protection."

Blue Acres projects are defined as any project to acquire, for recreation and conservation purposes, lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage. Such projects may include the demolition of structures on and the removal of debris from flood-prone lands, as well as the restoration of such lands for recreation and conservation purposes.

Similar to the process of establishing the trust funds initially, a voter referendum is required to include "Blue Acres" projects as part of the trust fund.

4. **PL. 2011, c. 171 (A-4114)**: *Allows all municipalities to sell and lease unneeded public property for "urban" farming purposes. Effective January 5, 2012.*

This law permits all municipalities to sell or lease unneeded public property to non-profit entities for growing fruits and vegetables.

Programs must meet the following criteria:

- The plot of land sold or leased must be less than five acres.
- The non-profit entity must not be a political, partisan, sectarian, denominational or religious corporation or association.
- Municipalities may sell or lease for a nominal sum land to be used for urban farming, at which point it becomes exempt from property taxes.

- Any leases by a municipality of such land must last no more than 50 years, with extensions of no more than 25 years authorized by ordinance.
- Municipalities proposing a sale of property for urban farming must comply with the notice provisions for development applications set out in N.J.S.A. 40:55D-12.

The non-profit growing produce must not be controlled, either directly or indirectly, by any commercial, agricultural or other business. Although the non-profit is permitted to sell fresh produce either on or off the property, the net proceeds of those sales must go toward the non-profit's mission.

5. **[P.L. 2011, c. 153 \(S-1141\)](#)**: *Permits a Board of Fire Commissioners to amend a fire district's budget after adoption to insert special items of revenue. Effective January 5, 2012.*

This law permits a Board of Fire Commissioners to insert an additional item of revenue and an offsetting appropriation, into an already adopted fire district budget with the approval of the Director of the Division of Local Government Services.

The law establishes a process for fire districts similar to that of municipalities and counties to insert special items of revenue into their budgets after the budget is adopted. The new revenue item may have been made available by any private or public funding source, but the amount of the corresponding appropriation cannot exceed the amount of revenue received.

General Local Government Matters

1. **[P.L. 2011, c.222 \(A-3537\)](#)**: *Requires certain owners of foreclosed property to file contact information with municipality and common interest community. Effective January 17, 2012.*

This law requires an owner who has taken title to a residential property, either through a sheriff's sale or a deed in lieu of foreclosure, to provide the owner's contact information, within 10 business days of taking title, to the municipality where the property is located and any association or common interest community of which the residential property is a part.

Owners residing outside New Jersey shall designate a representative authorized to accept service of process on behalf of the owner and provide the municipality with the representative's contact information. Exempted from this law are those owners having already noticed the municipality as a creditor by serving a summons and complaint in a foreclosure action pursuant to N.J.S.A. 46:10B-51. It is likely that County Sheriffs will provide new owners information concerning their responsibilities under the law.

2. **P.L. 2011, c. 192 (S-2411)**: *Permits appointment of certain EMT's laid-off for reasons of economy to vacant paid positions. Effective January 17, 2012.*

This law establishes a special reemployment list permitting municipalities with paid Emergency Medical Technicians to hire those who have been laid-off for reasons of economy into vacant EMT positions. The law has primary impact on Civil Service municipalities as this procedure permits them to bypass an existing local list.

To be eligible for appointment, a laid-off EMT must have:

1. Successfully completed either a working test period (Civil Service) or comparable probationary period (non-Civil Service) in an EMT title; and,
2. Been in good standing when laid-off. Residents must be given priority, and permanent EMT's have priority over non-permanent EMT's.

The laid-off EMT's seniority and, if applicable, promotion title does not carry over into the new position. Municipalities who have laid-off an EMT before his or her completing a working test or probationary period, and now wish to rehire that person, may do so with the EMT only having to complete the balance of his or her probationary or work-test period. In Civil Service municipalities, a laid-off EMT may not be hired or rehired under this law if the municipality has a special reemployment list in existence for a vacant EMT position.

Non-Civil Service employers have the discretion to employ individuals pursuant to the law. Civil Service employers should contact their Civil Service Commission Consultant Team for details on appointing individuals.

3. **P.L. 2011, c. 167 (A-3908)**: *Requires State, regional, and local authorities, boards and commissions to establish an Internet website and post information related to each entity's mission, finances, meetings and employees. Effective February 1, 2013.*

This law requires all State, regional, environmental and local authorities, boards and commissions to maintain an internet website or webpage; providing increased public access to each entity's operations and activities. The agencies have one year to have the website active and up-to-date; the law takes effect February 1, 2013.

Nearly all authorities, boards or commissions must maintain a website (or a webpage on another government entity's website) displaying a wide variety of information on their activities. The Division will issue a separate Local Finance Notice at a later date which details, among other things, the information that must be posted.

4. **P.L. 2011, c. 158 (S-2731)**: *Establishes that certification for police training course lasts five years. Effective January 5, 2012.*

This law exempts certain laid-off police officers from having to retake a basic police training course. The law relieves police officers who were terminated for reasons of economy or efficiency from having to retake the basic police training course if, within five (5) years from the termination date the officer either a) is appointed to a similar law enforcement position in another agency; or b) is reemployed by the agency from which they were terminated. Prior to this law, the Police Training Commission required a police officer to retake the basic training course, if they had a break in service lasting more than three (3) years.

5. **P.L. 2011, c. 141 (S-2126)**: *Permits development of solar and wind facilities and structures on landfills and resource extraction operations. Effective December 14, 2011.*

This act amended existing law to authorize, as a permitted use in every municipality, photovoltaic and wind energy* generation facilities or structures constructed and operated on the site of any landfill or closed resource extraction operation. The new law also:

- Eliminated quarries and existing resource extraction operations from the permitted use requirement.
- Effectively added active landfills to the permitted use list.
- * Treats photovoltaic energy and wind energy structures and facilities the same, except in the pinelands area, where wind energy structures are prohibited.

For land within the pinelands area, the law requires the Pinelands Commission to adopt rules and regulations providing for development approval, consistent with its comprehensive management plan, of solar or photovoltaic energy facilities or structures on landfills or resource extraction operations.

Approved: Thomas H. Neff, Director