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Local Finance Notice

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Recently-Enacted Laws Pertaining to Local Government

This Local Finance Notice summarizes certain local government-related laws enacted in recent months. Each entry shows the public law chapter citation, original bill number, a synopsis and effective date; followed by a brief explanation and analysis. Links are provided to the pamphlet law.

1. [P.L. 2018, c. 9](#) (S104): *"Diane B. Allen Equal Pay Act"; modifies current law including the Law Against Discrimination ("LAD") to strengthen protections against employment discrimination and promote equal pay for all groups protected under the LAD. Signed April 24, 2018 but takes effect July 1, 2018.*

This law amends the Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) to prohibit employers from discriminating against an employee who is a member of a protected class by paying a rate of compensation (including benefits) which is less than the rate paid to employees outside the protected class for substantially similar work, when viewed as a composite of skill, effort, and responsibility. Employers that violate the law are prohibited from reducing the rate of compensation of any employee as a means of compliance. Comparisons of wage rates shall be based on wage rates in all of an employer's operations or facilities.

Employers are permitted to pay a different rate of compensation if the employer demonstrates that:

- the differential is made pursuant to a seniority system or a merit system, or is based on legitimate, bona fide factors other than sex or other characteristics of members of a protected class, such as training, education, experience, or the quantity or quality of production;
- each of the bona fide factors is applied reasonably;
- one or more of the bona fide factors account for the entire wage differential, and

- the factor or factors are not based on, and do not perpetuate, a differential based on sex or other characteristic of members of a protected class, are job-related and based upon legitimate business necessities.

A factor based on business necessity shall not apply if it is demonstrated that there are alternative business practices that would serve the same business purpose without producing the wage differential.

The term “member of a protected class” means:

an employee who has one or more characteristics, including race, creed, color, national origin, nationality, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or liability for service in the armed forces, for which subsection a of [N.J.S.A. 10:5-12] prohibits an employer from refusing to hire or employ or barring or discharging or requiring to retire from employment or discriminating against the individual in compensation or in terms, conditions or privileges of employment.

The law also prohibits an employer for taking reprisals against an employee for requesting from, discussing with, or disclosing to, other employees or former employees, attorneys, or government agencies, information about job titles, occupational categories, compensation rates, gender, race, ethnicity, military status, or national origin of employees or former employees. Employers are prohibited from requiring, as a condition of employment, any employee or prospective employee to waive their rights under the law.

Local governments should consult with labor counsel to ensure their compliance with the new law. Each paycheck issued during the period in which a protected employee is receiving discriminatory compensation restarts the statute of limitations governing discriminatory compensation claims under the LAD. If the violation continues to occur within the statute of limitations, liability shall accrue and an aggrieved person may obtain relief for back pay for the entire period of time in which the violation has been continuous, up to a maximum of six (6) years. If a violation is found by the Director of the Division of Civil Rights, the Director may award treble (3x) damages. In the event a jury determines that an employer has violated the law, a judge must award three times (3x) any monetary damages.

2. [P.L. 2018, c. 8](#) (A3382): *Permits taxpayers to make dedicated prepayment toward anticipated property taxes. Signed April 20, 2018 but retroactively took effect July 1, 2017.*

From the 2018 income tax year on forward, the federal government’s “Tax Reform and Jobs Act of 2017” has limited the maximum annual deduction against federal income tax liability for state and local taxes (SALT) to \$10,000. As a result, municipalities across the State experienced a substantial number of taxpayers making advance payments in 2017 toward their 2018 property taxes.

P.L. 2018, c. 8 now requires municipalities to accept prepayment of property taxes or local assessments ahead of the quarterly due date; a resolution of the governing body is no longer a prerequisite. Further, taxpayers that are not otherwise delinquent on property taxes or other municipal charges are permitted to make a “dedicated prepayment” which shall explicitly and conspicuously indicate the quarter against which the payment shall be credited (regardless of whether the quarter has been billed or unbilled). The tax collector shall issue the taxpayer a receipt for the dedicated prepayment. When the amount of the dedicated prepayment exceeds the amount due for the quarter as established by the final annual tax bill, the municipality shall refund the excess to the taxpayer within 60 days of the quarterly due date (or if the governing body does not meet within those 60 days the next regularly scheduled governing body meeting thereafter). If the dedicated prepayment includes the November quarter, before refunding any overage the tax collector should contact the tax assessor regarding whether there will be an added or omitted assessment bill for the current year. When the tax collector determines that a dedicated prepayment is insufficient to equal the total property tax (or assessment) due for the quarter, the difference due and payable shall be paid or collected as other taxes are collected. When a mortgagee pays any property tax and assessment installment, and the owner of the mortgaged premises also makes a dedicated prepayment, the municipality shall refund the excess payment to the second-in-time payor within the same 60-day timeframe. Each refund must still be authorized by a governing body resolution, except where the governing body has adopted a resolution pursuant to N.J.S.A. 40A:5-17.1 permitting a municipal employee to directly process a property tax refund of less than \$10.00.

Because P.L. 2018, c. 8 is retroactive to July 1, 2017, any prepayments made between July 1 and December 31, 2017 with the intent that they satisfy 1Q, 2Q, 3Q, and 4Q 2018 property taxes should be presumed to be dedicated prepayments toward those quarters. Upon issuance of the final annual tax bill for 2018, if the tax collector determines that the amount of the dedicated prepayment for the third and fourth quarters of 2018 exceeds the total amount due for said quarters, the municipality shall refund the excess to the taxpayer pursuant to the new law. Hereinafter, if a taxpayer submits a request for a refund of all dedicated prepayments made toward the third and fourth quarters of 2018, the municipality should not honor that request.

If a municipality wishes to allow taxpayers the option to apply the excess toward subsequent quarters (billed or unbilled) in lieu of a refund, the governing body should adopt a resolution expressly permitting taxpayers to do so upon written request to the tax collector. For prepayments made in the current year that are not “dedicated” (i.e. those that do not explicitly and conspicuously indicate the quarter against which the payment shall be credited) and are in excess of the property tax levied, the excess amount shall continue to be refunded on or before December 1st of the current year pursuant to N.J.S.A. 54:4-69. Municipalities should consult with their auditors and municipal attorneys on whether to require a W-9 from taxpayers seeking refunds and whether to issue a 1099 to each taxpayer receiving a refund. Finally, the Division reminds municipalities that there is no statutory authorization to charge a fee for refunding property tax payments.

Due to the enactment of P.L. 2018, c. 8, Local Finance Notice 2018-04 is hereby repealed and superseded by this Notice.

3. [P.L. 2017, c. 272](#) (A4124): *Requires public employers to implement certain policies for handling and responding to reports of domestic violence. Effective January 8, 2018.*

This law requires the Civil Service Commission to develop a uniform domestic violence policy to be adopted by all public employers and distributed to their employees, regardless of whether a public employer is in Civil Service. The Civil Service Commission is currently in the process of crafting a uniform domestic policy for implementation by public employers throughout the State. Upon implementation, the uniform domestic violence policy shall include:

- A declaration encouraging employees who are victims of domestic violence to contact their human resources officer and seek assistance;
- A confidential method for employees to report domestic violence incidents to human resources officers;
- A confidentiality policy to which human resources officers receiving reports of domestic violence are to adhere, unless a domestic violence incident poses an emergent danger to employees and the involvement of law enforcement is necessary;
- A listing of available State and local resources, support services, treatment options, advocacy and legal services, medical and counseling services, and law enforcement assistance services for domestic violence victims;
- A requirement that an employee's records pertaining to a domestic violence incident or domestic violence counseling be kept separate from the employee's other personnel records;
- An explanation of the requirements of the [New Jersey Security and Financial Empowerment \(SAFE\) Act](#); P.L. 2013, c.82 (N.J.S.A. 34:11C-1 through 5); and
- A requirement for the public employer to develop a plan to identify, respond to, and correct employee performance issues that may be caused by a domestic violence incident.

Public employers may modify the uniform domestic violence policy to suit their unique needs, so long as the above-referenced elements remain in place.

4. [P.L. 2017, c. 266](#) (A2741): *Authorizes municipal governing bodies to create and maintain list of municipal residents in need of special assistance in case of emergency for public safety purposes. Effective January 8, 2018.*

This law permits municipalities to adopt an ordinance requiring the municipal clerk to maintain a list of residents identifying themselves as in need of special assistance in the event of an emergency. The list shall be cross-indexed by the name and address of each resident that opts onto the list, identifying the special circumstances for each, and is to be used solely for public safety purposes. The clerk shall provide the list, which must be updated at least monthly, to the municipality's police department as well as each fire department (or fire district) and each first aid or rescue squad serving the municipality. This list is exempt from disclosure under the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).

Municipalities electing to maintain a special assistance list shall each year include with the mailing of the annual tax bill a notice advising residents that such a list is being maintained by the municipal clerk for public safety purposes. This notice shall include information as to how municipal residents may add their names and addresses onto the list. The municipal clerk shall notify each landlord who has filed a certificate of registration with the municipality pursuant to N.J.S.A. 46:8-28 of the existence of the list, and provide the landlord with a copy of the notice to be forwarded on to the landlord's tenants; the landlord shall forward this notice to their tenants within 30 days following notification by the municipal clerk. Thereafter, upon creation of a tenancy, a landlord shall advise each tenant of the special assistance list how they may add themselves to the list. Appendix "A" of this Notice contains a model notice for use by municipalities.

5. [P.L. 2017, c. 260](#) (A1427): *Permits an increase in the municipal free public library tax upon voter approval at the November general election. Effective January 8, 2018.*

This law allows voters to approve a change in the municipal free public library tax rate to an amount higher than the minimum 1/3 of a mil required pursuant to N.J.S.A. 40:54-8. The proposition may be placed on the November general election ballot by either 1) a resolution of the governing body or 2) a petition to the governing body by qualified voters in the municipality equal in number to at least fifteen percent (15%) of the votes cast at the last preceding November general election, filed with the municipal clerk at least 90 days prior to the November general election. The preparation of the ballot question shall adhere to N.J.S.A. 40:54-8.2, the text of which is annexed to this Notice as Appendix "B".

N.J.S.A. 40:54-8.1 limits an increase in the amount to be raised by taxation for library purposes to no more than fifteen percent (15%) of the previous year's total municipal expenditure to maintain a free public library. Also, any excess funds not intended for use in the operating budget, or in restricted accounts of capital, grants, gifts or in the temporarily restricted account equal to twenty percent (20%) of the last audited operating budget for surplus, are generally required to be transferred to the municipality pursuant to N.J.S.A. 40:54-15. However, if voters

approve the proposition, the additional sum raised by taxation would be exempt from the above-referenced requirements for the first tax year in which the proposition is implemented.

Once the proposition has been submitted to the voters, a further change to the municipal library tax rate may not be placed on the next two subsequent November general election ballots. If the voters approve the proposition, the new library tax rate exceeding 1/3 of a mill shall expire after 10 years or after the tax year in which a new proposition establishing a different tax rate (that meets or exceeds 1/3 of a mil) is approved by the voters, whichever occurs first. If the higher library tax rate expires after 10 years, the rate shall revert to 1/3 of a mill upon expiration.

This same process may also be utilized in municipalities that are members of a joint free library (N.J.S.A. 40:54-29.3 et seq.); however, if one municipality in a joint free public library system changes its dedicated rate while others do not, any of the participating municipalities may demand to have the joint free public library agreement amended or renegotiated.

6. [P.L. 2017, c. 253](#) (S2226): *Subject to Local Finance Board approval, allows a municipality to authorize its parking authority to serve as a redevelopment entity. Effective January 8, 2018.*

Subject to prior Local Finance Board approval, a municipality may adopt an ordinance authorizing its parking authority to serve as a redevelopment entity under the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.). The municipality should provide an introduced ordinance as part of its Local Finance Board application. A parking authority so authorized may exercise redevelopment powers within an area in the municipality designated as in need of redevelopment or rehabilitation; however, revenue from fees charged for parking shall be utilized solely for the purposes set forth in N.J.S.A. 40:11A-6.

Upon a parking authority being authorized to serve as a redevelopment entity, authority commissioners and any executive director must complete the [training courses](#) required for commissioners and executive directors of municipal redevelopment agencies pursuant to N.J.A.C. 5:44-2.1; parking authority commissioners and executive directors must complete the requisite courses within eighteen (18) months and two (2) years of final authorization, respectively. So long as the parking authority is authorized to act as a redevelopment entity, all newly appointed authority commissioners and executive directors must complete these mandatory courses within the same eighteen (18) month and two (2) year timeframe, respectively, as set forth in N.J.A.C. 5:44-2.4. The authority is given the option of requiring applicants for employment to submit to criminal history background checks subject to the provisions of N.J.S.A. 40A:12A-22.1 et seq.

Approved: Timothy J. Cunningham, Director

Document	Internet Address
P.L. 2018, c.9	http://www.njleg.state.nj.us/2018/Bills/PL18/9_.PDF
P.L. 2018, c.8	http://www.njleg.state.nj.us/2018/Bills/PL18/8_.PDF
P.L. 2017, c.272	http://www.njleg.state.nj.us/2016/Bills/PL17/272_.PDF
P.L. 2017, c.266	http://www.njleg.state.nj.us/2016/Bills/PL17/266_.PDF
P.L. 2017, c.260	http://www.njleg.state.nj.us/2016/Bills/PL17/260_.PDF
P.L. 2017, c.253	http://www.njleg.state.nj.us/2016/Bills/PL17/253_.PDF
NJ SAFE Act Notice	http://nj.gov/labor/forms_pdfs/lwdhome/AD-289_9-13.pdf
Rutgers CGS - Redevelopment Training Courses	https://cgs.rutgers.edu/programs/housing

APPENDIX "A"**P.L. 2017, c. 266 Model Notice - Residents Requiring Special Assistance (Public Safety)****Notice to Residents and Landlords**

Pursuant to *<insert ordinance number or municipal code citation>*, the *<name of municipality>* has established a list of all residents who require special assistance in an emergency. The list is maintained by the Municipal Clerk for public safety purposes and will be made available only to police, fire, and first aid/rescue. This list is exempt from disclosure under the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).

Residents who wish to be included on the special assistance list shall provide their name, address, home or personal cell phone number, special circumstances and the type of assistance needed, along with an affirmative statement that they wish to be included on the list, to *<insert contact>* via email at *<insert e-mail address>*; or by written correspondence hand-delivered to the Municipal Clerk's office during *<insert regular business hours>* or mailed to

<insert mailing address>

LANDLORDS SHALL PROVIDE THIS NOTICE TO THEIR TENANTS WITHIN THIRTY (30) DAYS. UPON CREATION OF ANY NEW TENANCY, A LANDLORD SHALL ADVISE EACH TENANT OF THE SPECIAL ASSISTANCE LIST AND HOW THEY MAY ADD THEMSELVES TO THE LIST.

Please contact the Office of the Municipal Clerk at *<insert e-mail address>* or *<insert telephone number>* if you have any questions regarding the list.

APPENDIX "B"

N.J.S.A.40:54-8.2 Preparation of ballots (change in municipal free library or joint free public library tax rate)

4. a. The officer charged with the duty of preparing the ballots for an election in which a proposition is to be submitted to the voters pursuant to subsection b. of R.S.40:54-8 or pursuant to subsection b. of section 7 of P.L.1959, c.155 (C.40:54-29.9) shall cause the proposition to be printed on the official ballots for such election in substantially the following form, as applicable.

(1) If the proposition is to increase the rate of the tax to annually be raised for the support of a free public library established pursuant to R.S.40:54-1 et seq.:

"Shall the rate of the tax annually levied for the support of the free public library in (name of municipality) be increased from cents per \$100 of assessed equalized value of real property to cents per \$100 of assessed equalized value of real property?"

(2) If the proposition is to reduce the rate of the tax to annually be raised for the support of a free public library established pursuant to R.S.40:54-1 et seq.:

"Shall the rate of the tax annually levied for the support of the free public library in (name of municipality) be reduced from cents per \$100 of assessed equalized value of real property to cents per \$100 of assessed equalized value of real property?"

b. The officer charged with the duty of preparing the ballots for an election in which a proposition is to be submitted to the voters pursuant to subsection b. of R.S.40:54-8 shall also cause an accompanying explanatory statement to be printed on the official ballots for such election, which statement shall include the following, as applicable:

(1) The minimum amount required to annually be raised by taxation for the support of the free public library pursuant to subsection a. of R.S.40:54-8;

(2) The current amount annually raised by taxation for the support of the free public library if above the minimum amount required to annually be raised by taxation pursuant to subsection a. of R.S.40:54-8;

(3) The proposed change in the amount to annually be raised by taxation for the support of the free public library;

(4) The effect of the proposed change on the property taxes of a residential property assessed at the average assessed value of residential properties in the municipality; and

(5) The length of time that a higher tax rate will be in effect, if applicable.