

Division of Local Government Services
PROPERTY TAX LEVY CAP ADMINISTRATION
N.J.S.A. 40A:4-45.44 et seq. (P.L. 2007, c. 62)

I. Introduction

Chapter 62 of the Laws of 2007, created several new property tax and local government budgeting initiatives (see [Local Finance Notice 2007-10](#) for an overview). This Local Finance Notice provides direction and guidance on implementing the Property Tax Levy Cap (levy cap). It should be carefully reviewed by local financial officials and auditors. Each year the Division will issue budget guidance specific for each budget cycle. This document will be updated as necessary to reflect substantive changes to levy cap administration.

It is also important to note the law provides the Director of the Division of Local Government Services authority (N.J.S.A. 40A: 4-45.47) to “take such action as is deemed necessary and consistent with the intent ... (of the law) ... to implement its provisions.”

This document provides information on how to calculate the levy cap, how to apply for waivers to the levy cap, and how to use the Excel workbook the Division has prepared to document the levy cap calculation. Separate Excel workbooks have been developed for each local unit budget: municipal, county and fire district budgets. They are posted as budget documents on the Division website. The worksheets provide a simple way of making all cap related calculations.

II. Calculation of the Levy Cap

The law (N.J.S.A. 40A: 4-45.44 through 45.47) establishes a formula that limits increases in each local unit amount to be raised by taxation (tax levy) for each local unit budget. The law also applies to existing municipal solid waste districts. The only exception to the levy cap are municipalities that have a municipal purpose tax rate of \$.10 or less for the previous tax year (this does not apply to fire and solid waste districts). The policies that affect municipalities also apply to solid waste districts. The law is written to expire after five years (after FY 2012) at which time the Legislature may consider extending or modifying it.

The levy cap is in addition to the existing appropriation cap for municipalities. The levy cap is a new limitation for fire districts and solid waste districts. Counties must abide by the calculation that results in the lower levy increase between the existing cap and the new law.

***Special Extraordinary Aid Procedure:** The Division has established a special Levy Cap Calculation procedure for municipalities that apply for Extraordinary Aid (EA) in the current year **and** also received Extraordinary Aid in the prior year. The steps are described below in italics. It only applies to this group of municipalities. The process is explained in detail in the Local Finance Notice covering each year’s Extraordinary Aid application information.*

The core of the formula is a four percent increase to the previous year’s amount to be raised by taxation, which is then subject to various modifications. The formula to calculate the levy cap is as follows:

Base Cap Formula

- Starting with the prior year amount to be raised by taxation for **municipal** purposes:
 - **Deduct** one-year waivers: i.e., retroactive salary payments or other capital improvements (see Sections 5 and 6 of this Notice). *This does not affect 2008 budgets.*
 - **Add/deduct** the net cost increase or decrease if service delivery is transferred from one government agency to another (i.e., police dispatching is transferred from the municipality to the county). Please consult with the Division for additional guidance if this provision will be used.
 - **Deduct:** Prior year **expenditures** for Capital Improvement Fund and Down Payments, and prior year Deferred Charges to Future Taxation Unfunded. Current year appropriations for these items are added back in as exclusions later.
 - **From the subtotal of the previous calculations, add** four percent (4%) of the prior year amount to be raised by taxation for municipal purposes
 - **Special Extraordinary Aid procedure:** *Add the amount awarded for the prior year (see information above on Extraordinary Aid).*
 - **Add** the municipal tax value of new construction and added assessments, as is done under the current cap process (Form CNC-1). The same process will be used for counties. Fire Districts have a special form that the Municipal Tax Assessor will use to prepare forms based on fire district boundaries.
 - The total is the “Adjusted Tax Levy Prior to Exclusions.”
- **Add** (or deduct if appropriate) “exclusions” to the Adjusted Tax Levy Prior to Exclusions. An exclusion is an amount that adjusts the otherwise allowable tax levy.
 - Increase or decrease (deduction) in debt service
 - Increases or decreases (deduction) in **existing** county improvement authority lease payments, including increases in Certificates of Participation, or lease “bank” agreements. An **existing** payment is considered to be part of a financing approved by the Local Finance Board prior to July 1, 2007.
 - Increases in amounts required to be raised to replace State formula aid due to a reduction in State formula aid from the previous local budget year. This includes reductions in Garden State Trust Fund Payments in Lieu of Taxes.
 - Increase in reserve for uncollected taxes over four percent that is required by law (the maximum collection percentage pursuant to the Annual Financial Statement). For this calculation, the previous year’s tax collection rate or other rate as allowed by law must be used.
 - Pension increases until contributions are fully phased in pursuant to existing law. The last year for the PFRS exclusion is CY 2008, and PERS in CY 2009.

- Health insurance costs increase in excess of four percent but less than the State Health Benefits Program index promulgated by the Division of Pensions and Benefits.
- Other capital improvements (see Section VI-3)
- **Deduct** starting with FY 2009 budgets, the amount of cancelled or unexpended prior year waivers.
- **Deduct** cancelled or unexpended exclusions as reflected on the Levy Cap Calculation worksheet.
- **Special Extraordinary Aid procedure: Deduct prior year EA award *once* current year EA has been awarded (see information above on Extraordinary Aid).**
- **Add Waivers** (discussed in detail below in Section VI) – The Local Finance Board is authorized to grant waivers to address “extraordinary costs.” The Board’s decision on a waiver is final and cannot be appealed. Pursuant to the law, these extraordinary costs “may include but not limited to:”
 - Energy and insurance costs over a four percent increase
 - Increases in capital lease payments for leases entered into after July 1, 2007 (as described in Section VI-2)
 - Offset of the loss of non-recurring revenues
 - Total net expenditures for new mandates¹
 - Net expenditure increases above four percent in mandated costs¹
 - Purposes deemed by LFB to be “essential to protect or promote the public health, safety, or welfare.”

The Board may also approve annual waivers for municipalities affected by an extraordinary circumstance. Worksheet lines have been provided for both types of waivers.

- **Add local referendums**

The law includes a procedure for holding referendums that permit spending over the cap limit. One important provision is that they require a 60 percent approval of those voting to pass.

Waivers that are denied by the Local Finance Board may be put to a referendum. There are two referendum dates in each municipal/county budget cycle to permit referendums before and after consideration of waivers by the Board. A referendum question that fails the 60 percent approval requirement cannot be the subject of a waiver request. The Division will announce the referendums dates for each budget cycle as part of the routine Local Finance Notice for each budget cycle. Budgets must be introduced 20 days prior to either referendum. Because their budgets are already subject to a referendum, fire districts only have the single referendum opportunity. A municipality applying for Extraordinary Aid cannot use the second referendum option.

¹ For this purpose, the law defines a “mandate” as those services “that are mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditure on certification to the Local Finance Board by the State agency.

III. Budget Process Issues

The levy cap requires changes to technical elements of the Division's budget review process. Budgets must comply with the following provisions:

1. The introduced budget must be "cap compliant." This means that the budget must be at or under cap for all cap requirements (i.e., the municipal appropriation and levy caps). All required budget documentation must be consistent with the introduced budget.
2. The budget package must include a Levy Cap Calculation Workbook (see Section IV). The completed workbook must be submitted by e-mail when the introduced budget is sent to the Division.
3. With the exception of municipalities applying for Extraordinary Aid, waiver applications required to make the introduced budget cap compliant, must be filed within three days of introduction of the budget. This includes applications for levy, surplus, asset sale, and cash deficit waivers (see Section V). Based upon budget review or local circumstances, a municipality may apply for additional waivers.
 - Extraordinary Aid applicant budgets must show waiver requests in the budget in order for the budget to be cap compliant. The needed waiver request application must be filed after EA has been awarded and a budget amendment is filed to "true up" the budget.
4. An introduced budget including waivers for increased appropriations must show the waiver requests as separate budget line items reflecting the waiver application.
5. Extraordinary Aid cannot be anticipated in the budget.
6. Special Extraordinary Aid Municipalities: those municipalities applying for EA in the current year and that received EA in the prior year and are applying in the current year can introduce their budget with the prior year's EA award as an adjustment to the prior year levy. The process is explained in the Local Finance Notice covering Extraordinary Aid for the fiscal year. Local officials should note that this process will result in delay of budget adoption until mid to late July at the earliest.
7. A Levy Cap waiver or Extraordinary Aid application eliminates a municipality from participating in the local examination process.

Budget Message: The Budget Message section of the budget must include information concerning the levy cap in addition to the traditional information on the appropriation cap. The budget document preparer must include the following elements in the message:

- Narrative describing compliance issues relating to both caps
- "Split function tables" that show the total appropriations of services that are inside and outside of the appropriation cap, and of any appropriations that are subject to a waiver request
- Explanation of all waiver requests
- In addition to the appropriation cap calculation, the Levy Cap Calculation Summary worksheet
- County budgets must show both cap calculations to explain the cap limit that applies

IV. Levy Cap Calculation Workbook

The Division has prepared Excel spreadsheet workbooks for local units to calculate and document levy cap related calculations.

Levy Cap Calculation Workbooks are single files with several worksheets and designed for use in versions of Excel 2000 or later. The workbook is posted with each year's budget forms on the [Division's Financial Regulation and Assistance](#) (for municipalities and counties) and the [Authority Regulation](#) (fire district) websites.

Each workbook contains several tab worksheets that will calculate the following elements:

1. An instructions/data entry sheet
2. Levy Cap Summary
3. Debt Service change calculation
4. Pension contribution calculation
5. Reserve for Uncollected taxes calculation
6. Health care costs calculation

The county workbook contains additional worksheets for calculation of the original 2.5 percent levy cap (still in effect) along with the four percent levy cap, with guidance on determining the levy to use in the budget.

The cap calculation workbook is designed using spreadsheet protection features. Users can only edit the cells on the Data Entry tab. This sheet is in narrative style that prompts the user to insert appropriate amounts. The amounts and subsequent calculations are displayed in the individual tabs. By completing all the relevant questions on the data entry tab, the spreadsheet will complete itself. Users can then save and print the sheet (File/Print and check Entire Workbook).

For FY 2008 budgets, those cells that do not have an impact the first year (i.e., deduction of one-time waivers) have been locked and blackened out in the workbook. They will be updated for FY 2009 and forward budgets.

Naming and Submitting the Cap Levy Workbook

The completed workbook file **must be submitted by e-mail** to the Division at lfb@dca.state.nj.us. So the Division's computer program will recognize the file, it must be named in accordance with a precise naming requirement. A key to that is the municipality's four-digit "municode" – the code number found at the top of all Division of Local Government Services online aid certifications and Municipal Information Sheets.

The name includes three elements: the Municode, an abbreviation for Levy Cap Calculation (LCC), and the fiscal year: (*MuniCode_LCC_Year.xls*). The use of an underscore () in the file name means the uppercase hyphen and must be included in two separate places in each filename.

For municode 2205, the Levy Cap Calculation for FY 2008 would be 2205_lcc_2008.xls . Similar procedures are used for filing waiver applications.

V. Documenting and Applying for Budget Cap Waivers

The Local Finance Board requires an online application filing process for all cap waivers. This includes the new Levy Cap and Appropriation Cap waivers (surplus, cash deficit, and asset sale). An Excel workbook and several other documents that may be submitted by e-mail make up the full application.

Waiver Application Filing: A Budget Cap Waiver application consists of two primary documents; an Excel workbook for data elements (like the Levy Cap Calculation) and a Word document for the Executive Summary. Both **must** be submitted by e-mail. Other documents related to the application **may** be submitted by e-mail. This includes the required governing body authorizing resolution and application certification, and any exhibit documents in TIF (image), PDF (Acrobat), Word, or Excel formats.

The Waiver Application form and a separate document with instructions on completing them are on the [Local Finance Board web site](#).

Extraordinary Aid and Waivers: The Board will not review waiver requests of applicants for EA until the Division makes EA awards. This is why EA applicants are encouraged to amend their budgets and apply for waivers after EA is awarded. Additional information on EA and waivers is found in the Local Finance Notice for each EA cycle.

Displaying waivers in budget: Separate FCOA CAFR Codes have been created to reflect waivers:

- 47 - for Levy Cap Waivers
- 49 - for Appropriation Cap Waivers (surplus, sale of asset, cash deficit)

Appropriation waivers (as separate from revenue waivers) are shown on budget sheets as separate line items in the budget in accordance with the following procedures:

1. The Subsidiary Level code (next three digits) for the type of appropriation would be the regular code for the line item. It is similar to the procedure used to code Shared Service Agreements.
2. Appropriation Cap Waivers continue to appear on sheet 20 of the budget with this new coding system and the appropriation heading of Appropriation Cap Waiver.
3. Levy cap waiver appropriation line items are shown as: "Levy Cap Waiver (appropriation name)" with the corresponding FCOA code.
4. For example, a Levy Cap waiver for energy costs would be listed immediately below its inside the cap appropriation: i.e.:

Electricity Other Expenses	31-430	xxx,xxx
----------------------------	--------	---------

Levy Cap Waiver Electricity Other Expenses	47-430	xx,xxx
--	--------	--------

5. If a Levy Cap Waiver request is for a purpose that spans multiple line items (i.e., if energy costs are broken into several line items and the request is for energy cost increases that exceed four percent), the waiver may be displayed as a single line item for the total on an appropriate sheet in the budget.

6. The waiver application should include any breakouts or other calculation data as an exhibit in the application.

Waiver requests to offset losses in local revenues are not reflected as budget line items. If approved by the Board, they will be reflected as an increase in the allowable amount to be raised by taxation without any other offsetting line item.

Waiver Reviews: Waiver applications are not automatically scheduled for the Board meeting following submission. They become part of the budget review process. When budget review is complete, the waiver application will be scheduled for a Board meeting. If waivers are requested it is likely that the Division's budget review may not be completed in time for the local unit's budget hearing date.

It is possible that amendments to a waiver may be required based on budget review and consultation with local officials. If so, staff may make those changes internally and reflect them for LFB review. Other changes may require a revised waiver application.

Post Local Finance Board Action: Once the Board has acted, the results will be sent electronically to the applicant. The municipality must then amend the budget if necessary to reflect any Division amendments or Board action that was not reflected on the original budget or subsequent amendments.

If a levy cap waiver is denied, the local unit can proceed, pursuant to the law and conduct a local cap referendum.

VI. Other Levy Cap Issues

This section reviews several special circumstances and interpretations concerning how the levy cap is implemented. Please review them carefully to determine any impact on individual circumstances.

1) Transfers and waivers: Transfers to or from waiver line item appropriations are not permitted at any time. In addition, waivers that are unexpended or reserved at the end of the fiscal year must be cancelled at year end, unless reserves are justified to the Division. The Division will order the cancellations if balances are found during review of the following year's budget, and the levy cap adjusted accordingly.

2) County Improvement Authority (CIA) Lease Issues: The following principles can be applied to determine how CIA lease agreements are treated:

- Lease obligations stemming from Local Finance Board financing applications that received positive findings prior to July 1, 2007 are to be included as eligible CIA obligations.
- Excess funds cannot be transferred to other appropriations.
- The Division will treat CIA "bank" program "loans" the same as leases. Changes in existing obligations are handled as levy cap adjustments. New loan agreements must be handled either inside the base or as a waiver.

- A lease obligation resulting from financings executed after July 1, 2007 that is treated by the local unit as debt by including the obligation as net debt through the Supplemental Debt Statement will be treated as a debt service exclusion.

3) Capital spending based adjustments: The Division recognizes that the law does not address various accounting transactions related to capital spending and its relationship to debt authorizations and deferred charges. To that extent, the Director has determined that the following practices will apply:

- Increases in deferred charges to future taxation unfunded will be treated as an exclusion to the levy cap when used for capital improvement purposes.
- Increases in the capital improvement fund will be treated as an exclusion to the levy cap.
- Capital items fully funded in the current year budget must be either covered within the levy cap base or by requesting a waiver.

4) Treatment of Unexpended Appropriations: Any unexpended appropriations for exclusions will be deducted from the adjusted levy based on the audit report.

Questions concerning any of the procedures or forms in this Notice can be e-mailed to the Division at dlgs@dca.state.nj.us.

Table of Web Links

Page	Shortcut text	Internet Address
1	Local Finance Notice 2007-10	http://www.nj.gov/dca/lgs/lfns/07lfns/2007-10.doc
4	Division's Financial Regulation and Assistance	http://www.nj.gov/dca/lgs/fiscal/budmenu.shtml
4	Authority Regulation	http://www.nj.gov/dca/lgs/authreg/authmenu.shtml#firebud
4	Local Finance Board e-mail	lfb@dca.state.nj.us
5	Local Finance Board website	http://www.nj.gov/dca/lgs/lfb/lfbmenu.shtml#CapWaiver
6	DLGS e-mail	dlgs@dca.state.nj.us