

**COMMUNITY AFFAIRS**

**LOCAL FINANCE BOARD**

**Local Finance Board Rules**

**Proposed Readoption with Amendments: N.J.A.C. 5:30**

**Proposed New Rules: N.J.A.C. 5:30-2.7, 3.1, 3.7, 3.10, 3.11, 3.12, 3.13, 5.8, 6.4, 6.6, 6.7, 6.8, 8.6, 8.11, 10.1, 10.2, 10.3, 10.4, 15.6, 15.7, 15.8, 15.9, and 15.10, and 5:30 Appendix**

**Proposed Recodification: N.J.A.C. 5:30-10 as 5:31-9**

Authorized By: Local Finance Board, Jacquelyn A. Suárez, Chair.

Authority: N.J.S.A. 52:27BB-10, 28, 30, 32, and 66, 52:27D-18, 20.1, 118.30a.b, 40A:2-17.b and c, 22.1, and 51.c, 40A:4-10, 22, 43 through 45, 45.45.b, 78.b, and 83, 40A:5-16.c, 38, 45, and 48, 40A:12-6, 40A:14-194, 40A:26B-11.b, and 18A:24-61.5.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-015.

Please submit written comments by April 22, 2023, through email to [dlgs@dca.nj.gov](mailto:dlgs@dca.nj.gov) or by regular mail to:

Nick Bennett, Executive Secretary

Local Finance Board

Department of Community Affairs

PO Box 803

Trenton, NJ 08625-0803

For comments submitted through email, please include the subject heading "N.J.A.C. 5:30 Proposed Chapter Readoption."

The agency proposal follows:

## Summary

The proposed readoption of the chapter, approved by the Local Finance Board at its meeting on January 11, 2023, extends the chapter expiration date 180 days from January 15, 2023, to July 12, 2023, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The Local Finance Board (Board) has reviewed the rules proposed for readoption with amendments, new rules, and a recodification, and has determined them to be necessary, reasonable, and proper for purposes for which they were originally promulgated. In its review, the Board has determined that amendments to various subchapters of N.J.A.C. 5:30 are necessary, in addition to several proposed new rules. A summary of the rules proposed for readoption at N.J.A.C. 5:30, along with the proposed amendments, new rules, and a recodification, follows:

Subchapter 1 establishes the duties of the Local Finance Board and procedures to be followed for meetings of, and actions by, the Board. This subchapter establishes the official nature of electronic communications by the Board or the Director of the Division of Local Government Services (Director), as well as requirements pertaining to technical guidance in the form of Local Finance Notices issued by the Director of the Division of Local Government Services. In addition, this subchapter also establishes provisions pertaining to official forms.

The Board proposes to amend N.J.A.C. 5:30-1.1 to reflect current contact information for the Local Finance Board. Proposed amendments at N.J.A.C. 5:30-1.8 would eliminate references to the physical mailing of Local Finance Notices, and the Division of Local Government Services' (Division) website address would be updated at N.J.A.C. 5:30-1.9. N.J.A.C. 5:30-1.11 would be amended to permit the Division Director, in addition to the Board, to require a governmental unit to provide a realized revenue report. When requested, a realized revenue

report would also be required to list, for each revenue, the budgeted amount, realized amount, percent realized, and amount not realized.

Subchapter 2 contains requirements pertaining to various aspects of the Local Bond Law (N.J.S.A. 40A:2-1 et seq.), including the form of notice and summary publication for bond ordinances, automatic waivers of down payment, and payments for capital improvements. In addition, this subchapter sets forth criteria pertaining to electronic bond sales and when bonds can be refunded without prior Board approval. The Form of Notice and summary publication statement at N.J.A.C. 5:30-2.1 would be updated to read “20\_\_” rather than “200\_.” The Board proposes amending N.J.A.C. 5:30-2.9 and 2.10 to eliminate the requirement that an electronic platform for the sale of municipal bonds be approved by the Division Director before local units can utilize the platform.

Proposed new N.J.A.C. 5:30-2.7 would establish a regulatory framework implementing N.J.S.A. 40A:2-22.1 of the Local Bond Law, which authorizes a municipality or county to request that the Director of the Division of Local Government Services determine the period of usefulness of a capital improvement or property not included at N.J.S.A. 40A:2-22. Where N.J.S.A. 40A:2-22 establishes a period of usefulness for a particular improvement or purpose, municipalities, and counties are prohibited from authorizing debt obligations whose terms extend beyond said period. The statute prohibits the Director from establishing a period of usefulness that exceeds 15 years. As proposed, N.J.A.C. 5:30-2.7(a) defines the terms “capital improvement” and “property” for the purpose of making eligible useful life determination requests. N.J.A.C. 5:30-2.7(b) would establish mandatory elements to be included in each request, and bars requests for which the useful life is less than five years. N.J.S.A. 40A:2-21 prohibits municipalities and counties from authorizing the issuance of debt obligations for any

improvement or purpose having a period of usefulness of less than five years. Pursuant to subsection (c), the Director may apply any determination to all municipalities and counties upon publication in the New Jersey Register to establish a useful life determination for the same capital improvement or property. If the Director's useful life determination for a capital improvement or property has been published in the New Jersey Register, a municipality or county can only submit a request for the same item if the request is readily and clearly distinguishable from the published determination.

Subchapter 3 sets forth requirements pertaining to the annual operating budgets of municipalities and counties, including procedures for filing and adopting the annual budget, the detail required in support of same, and the examination thereof by the Director. This subchapter also addresses the user-friendly budget section of municipal annual budgets, the filing of municipal budget amendments, requirements pertaining to emergency appropriations, and exclusions to the property tax levy cap for extraordinary expenses due to emergencies.

Proposed new N.J.A.C. 5:30-3.1 would define the term "local unit" as used in the subchapter, as a municipality or county. The new section would also add definitions relevant to the implementation of P.L. 2015, c. 249, a law limiting to two percent, the annual increase in the portion of budget requests from the following county entities that are funded by the county property tax levy: Prosecutor, Sheriff, Clerk, Surrogate, Register of Deeds and Mortgages, Superintendent of Elections, Board of Elections, and Board of Taxation. Proposed new N.J.A.C. 5:30-3.7 codifies the existing structure of the county entity budget request cap that has been in place since 2017, including the base amount against which the increase is to be measured and the method by which a county may permit an entity to exceed the two percent budget request cap.

N.J.A.C. 5:30-3.2 addresses adoption procedures for municipal and county budgets. The

Board proposes updating paragraph (b)6 to reflect the current deadline at N.J.S.A. 40A:4-11 for submission of a municipal or county budget to the county tax board. New subsections (c) and (d) further codify the procedures for introducing and adopting municipal and county budgets, including the electronic submission of budget documents to the Division. New subsection (e) states that no municipality may adopt its annual budget unless it has submitted, to the Director, a user-friendly budget section corresponding with the previous year's adopted budget. Subsection (f) would codify the existing requirement that the budget of a municipal solid waste collection district is part of the municipal budget and subject to approval by the Director.

N.J.A.C. 5:30-3.3 pertains to the Division of Local Government Services' examination of a budget submitted for review by a municipality or county prior to their adopting their annual budget. The phrase "the Division of Local Government Services" would replace "his office" at subsection (a). Subsection (c) lists the purposes for which a dedication by rider may be included in a municipal or county budget without further approval of the Local Finance Board or the Division Director, to which the Board proposes adding Urban Enterprise Zone assistance funds received pursuant to N.J.S.A. 52:27H-88 and surcharges and convenience fees, as permitted for electronic receipt transactions pursuant to N.J.A.C. 5:30-9.9. This subsection would also be amended to require a copy of the governing body resolution establishing the dedication by rider to be supplied to the Director even if prior approval is not required. New subsection (d) would codify the current requirement that all county budgets include a budget request cap workbook for each county entity as defined at P.L. 2015, c. 249, and that no county shall be authorized to adopt its annual budget unless the budget request cap workbook for each county entity is completed and demonstrates compliance with the county budget request cap law. The county entity budget request cap workbook must display both the percentage and dollar amounts by which the

property tax-funded budget request has increased as a result of the base year adjustment.

Municipalities must prepare a user-friendly budget pursuant to N.J.S.A. 40A:5-48 for both its introduced and adopted budgets. While maintaining this requirement for both versions of the budget, the Board proposes amending N.J.A.C. 5:30-3.8 to only require a municipality to submit, to the Director, the user-friendly budget form associated with its adopted budget. Further amendments would require accumulated absence liability to be broken out with greater specificity, along with the identification of any positions subject to restrictions on accumulated absence compensation and/or accumulation pursuant to law.

Proposed new N.J.A.C. 5:30-3.10 codifies long-standing Division policy allowing a local unit to exclude from its levy cap calculation any costs falling within the general exclusions set forth at N.J.S.A. 40A:4-45.45 that are passed on by the provider of a shared service agreement to which the local unit is a party. For municipalities with solid waste districts, the Board is also proposing new N.J.A.C. 5:30-3.11 to codify the existing requirement to submit the unaudited annual financial statement for the solid waste district as part of the municipality's overall annual financial statement, along with the Director's ability to impose a monetary penalty on chief municipal finance officers that fail to submit an annual financial statement for the district in a timely fashion.

Proposed new N.J.A.C. 5:30-3.12 would require a municipality to notify the Director when undertaking the sale, or long-term lease, of certain municipally owned utilities or enterprises pursuant to N.J.S.A. 40:62-3 or 40:62-3.1 (for example, water, sewer, or electric utilities) and provide the governing body resolution authorizing bids or requesting proposals and authorizing the sale or long-term lease of the utility or enterprise.

In a municipality where a referendum is taking place concerning any tax levy, or

concerning the appropriations cap pursuant to N.J.S.A. 40A:4-45.3a and 45.3a1 or in a county where a referendum concerning any tax levy is taking place, proposed new N.J.A.C. 5:30-3.13 would require a municipality or county to provide the Director with a certified copy of the ordinance or resolution authorizing the referendum within five days of final adoption. The certified results of any such referendum would also have to be submitted to the Director within five days of the municipality or county, as applicable, receiving the certified results.

Subchapter 4 sets forth requirements pertaining to the capital budgets of municipalities and counties, including the form, content, review, and certification thereof. This subchapter also contains definitions of key terms, when capital budgets are required, procedures for adoption, and the authority of the Director of the Division of Local Government Services with respect to capital budgets. To implement N.J.S.A. 58:31-7, which requires all municipalities owning water systems to provide an annual asset management report to the Department of Environmental Protection and for the Division of Local Government Services to review the capital budget and program of such municipalities against said report to ensure compliance, new subsection (d) at N.J.A.C. 5:30-4.3 and amendments at N.J.A.C. 5:30-4.5(c)2 would require a local unit that owns a water system to prepare and adopt a capital budget for each budget year. The Board proposes further amending N.J.A.C. 5:30-4.6 to state that the capital budget and program of a municipality owning its own water system shall identify the capital infrastructure improvement projects to be undertaken in accordance with the local unit's asset management plan pursuant to N.J.S.A. 58:31-7, along with the estimated costs and the anticipated financing by sources and amounts. With respect to capital infrastructure improvement projects to be undertaken in accordance with the asset management plan, the Director may take into account the local unit's fiscal circumstances in determining appropriate measures for corrective action.

Subchapter 5 establishes the procedure and methods for the chief financial officer of a local unit to certify availability of funds prior to a local unit's award of a contract for goods or services. In addition, this subchapter sets forth accounting system requirements for local government units, in particular for the general ledger and fixed assets.

N.J.A.C. 5:30-5.2 would be updated to eliminate the reference to physical pre-printed purchase orders in lieu of a computerized accounting system, along with eliminating the reference to Technical Accounting Directive No. 1 that had been issued by the Division in 1985. Proposed new N.J.A.C. 5:30-5.3(d) and amendments at N.J.A.C. 5:30-5.4(a)4 and (b), as well as N.J.A.C. 5:30-5.5(b), would require all local units subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) that do not maintain an encumbrance accounting system to, at a minimum, maintain a record of all open contracts, including open purchase orders, with such record being updated to reflect the award of a contract, the issuance or amendment of a purchase order, or a purchase pursuant to an open-end contract. If a purchase or the execution of a contract does not require, either by State law or any State or local rule, specific authorization by formal action of the governing body, the individual approving the contract or release of the purchase order shall consult the record of open contracts in determining whether there are available sufficient uncommitted appropriations to provide for the payment. N.J.A.C. 5:30-5.6 would be updated to reference the most current U.S. Office of Management and Budget Circular concerning fixed asset accounting and reporting, along with deleting the reference to Technical Accounting Directive No. 2 that had been issued by the Division in 1985.

The Local Finance Board proposes several amendments at N.J.A.C. 5:30-5.7, that require a general ledger to be maintained for all funds, rather than just the current fund, and codify the guidance in Local Finance Notice CFO-2003-14 concerning how books of original entry and the

general ledger is to be structured, with one change that the totals for all funds would now be required to be posted to the general ledger on at least a monthly basis, including funds with minimal complexity and few transactions.

Proposed new N.J.A.C. 5:30-5.8 would codify the requirement that municipalities and counties implement for their general accounting systems the Flexible Chart of Account (FCOA) codes promulgated by the Director. Such FCOA codes shall be incorporated into the annual budget, annual audit, and all other financial statements.

Subchapter 6 establishes a uniform accounting system for purposes of a local unit's annual audit, along with a method for the governing body's certification of same. The Local Finance Board is proposing several amendments and new rules for this subchapter.

N.J.A.C. 5:30-6.1 would be amended to apply the Requirements of Audit for municipalities and counties to joint meetings (now known as regional service agencies). This and other amendments at N.J.A.C. 5:30-6.1 make joint meetings subject to the same regulatory accounting framework as municipalities and counties, instead of Generally Accepted Accounting Principles (GAAP). Subsection (c) would be amended to state that municipal, county, and joint meeting audits may list the most recent available Governmental Accounting Standards Board (GASB) 68 and 75 information concerning pension and post-retirement benefit liabilities, rather than wait for the most current version as entities subject to GAAP accounting must do, and update references to Circular 15-08 from the New Jersey Department of the Treasury's Office of Management and Budget and to the Federal OMB regulation codifying the former Circular A-133. New subsection (d) would codify the Division's existing requirement that the audit of a solid waste collection district be incorporated into the annual municipal audit. New subsection (e) would define "local unit," as used in this section. N.J.A.C. 5:30-6.5 would also be updated to

substitute “county commissioners” for “chosen freeholders” and that the governing body’s affidavit certifying review of the annual audit must state that the governing body reviewed all audit findings, comments, and recommendations.

The Local Finance Board proposes new N.J.A.C. 5:30-6.4 to codify the requirements for publishing a synopsis of the annual audit in a local newspaper, along with the required content. New N.J.A.C. 5:30-6.6 and 6.7 would codify the process for publishing a corrective action plan and summary schedule of prior audit findings currently set forth in Local Finance Notice CFO-97-16. New N.J.A.C. 5:30-6.8 codifies the procedure for a municipal, county, or joint meeting/regional service agency auditor to notify the Director and the local unit when fraud or illegal acts are discovered, along with the content that the confidential report must include. The content of the proposed new rule was adapted from N.J.A.C. 5:31-7.7, which applies to authorities subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.). The standard form of the confidential report is set forth as new N.J.A.C. 5:30 Appendix.

Subchapter 7 establishes the regulatory framework for the local (self) examination of municipal budgets in lieu of examination and approval by the Director of the Division of Local Government Services. The system for local municipal budget examination subjects municipal budgets to Director examination and approval once every three years, rather than every year, unless the municipality is otherwise ineligible pursuant to criteria set forth in this subchapter. Local budget examination is authorized at N.J.S.A. 40A:4-78(b) and (c), pursuant to rules promulgated by the Local Finance Board. This subchapter sets forth definitions of key terms, eligibility criteria for self-examination of municipal budgets, the procedure for municipalities to examine and certify their budgets, and the Director’s ability to revoke a municipality’s eligibility for local examination. The Board proposes amending N.J.A.C. 5:30-7.4(b) to make the following

municipalities ineligible for local examination:

- municipalities receiving Transitional Aid to Localities (N.J.S.A. 53:27S-118.42(a)) funds in the previous fiscal year;
- municipalities where, during the current or prior fiscal year, a private entity is or was temporarily fulfilling the duties of a chief municipal finance officer pursuant to N.J.S.A. 40A:9-140.10 or an individual who does not hold a municipal finance officer certificate is or was serving as a temporary municipal finance officer pursuant to N.J.S.A. 40A:9-140.13.f;
- municipalities where, in the prior fiscal year, voters approved the sale of a water or sewer system pursuant to N.J.S.A. 40:62-5 or the municipality has completed the approval process pursuant to the Water Infrastructure Protection Act (N.J.S.A. 58:30-1 et seq.) for the sale of a water or sewer system; and
- municipalities that failed to submit, to the Division, a user-friendly budget section corresponding with the previous year's adopted budget.

N.J.A.C. 5:30-7.4(a) would also be amended to remove the reference to 1997 municipal budgets.

Subchapter 8 sets forth requirements and guidelines for financial administration in the areas of surety bonds for certain local officials, receipt and custody of public funds, and electronic data processing systems for accounting purposes. The Local Finance Board is proposing several amendments and new rules for this subchapter.

Proposed amendments at N.J.A.C. 5:30-8.1 would update paragraph (a)1 to remove "after June 1, 1998," and "Technical Accounting Directives," along with deleting paragraph (a)3 and the second sentence of paragraph (a)4 as they pertain to Y2K compatibility. The Board proposes

amending N.J.A.C. 5:30-8.2, which pertains to surety bonding for chief financial officers, to establish the currently suggested exposure index as a mandatory minimum, along with amending the exposure index to add as examples of revenue to be accounted for revenue from payments in lieu of taxes (PILOTs), revenue, grants, and other tax revenue (for example, hotel-motel, local cannabis tax). N.J.A.C. 5:30-8.3, which establishes minimum surety bond coverage for tax collectors, would be amended to clarify that the term “tax duplicate” refers to all tax levies (municipal, school, county, etc.) and add to the exposure index special assessment revenues, PILOT revenues if the tax collector collects PILOT payments, and any other revenues collected by the tax collector’s office. N.J.A.C. 5:30-8.1, 8.2, and 8.3 would also be updated in accordance with P.L. 2013, c. 2, which allows for blanket bonds to cover CFOs, tax collectors, municipal court judges, and municipal court administrators.

The Board proposes new N.J.A.C. 5:30-8.6 to establish standard accounting requirements pertaining to the hiring of off-duty law enforcement officers by private third-parties for duties, such as traffic control on a road construction site, and defining permissible administrative expenses that can be charged to private entities utilizing off-duty law enforcement officers on a project or as security. Each local unit that permits employment of off-duty law enforcement officers by outside entities or individuals would be required to adopt a formal policy relating to such employment. The new rule codifies and augments guidance issued by the Division of Local Government Services in Local Finance Notice CFO-00-14.

Proposed amendments at N.J.A.C. 5:30-8.8, which establishes standard procedures and content for municipal reporting of all projects with long-term tax exemptions (PILOTs), would remove such reporting from the municipal annual financial statement and make the report stand-alone with the deadline for submission to coincide with the annual financial statement. N.J.A.C.

5:30-8.10, which addresses the acceptance payments from third-party financial organizations, would be updated to reference online banking.

Any municipality or county that establishes a stormwater utility pursuant to N.J.S.A. 40A:26B-1 et seq., must submit, concurrent with the adoption of the annual budget, an annual stormwater utility report to both the Division of Local Government Services and the Department of Environmental Protection. Proposed new N.J.A.C. 5:30-8.11 would implement N.J.S.A. 40A:26B-11 by establishing standard content and procedures for submitting the stormwater utility report.

Subchapter 9 establishes the regulatory framework authorized pursuant to N.J.S.A. 40A:5-43 et seq., for local government acceptance of credit cards, debit cards, and electronic fund transfers. This subchapter sets forth definitions for key terms, along with requirements for accounting and controls, preauthorized transactions, bulk payment of property taxes, electronic receipts, surcharges, and contracts with processors. This subchapter would be updated to reflect Section 9 at P.L. 2020, c. 34, that amended the Government Electronic Payment Acceptance Act (GEPA) to permit acceptance of certain additional internet-based and in-person methods of payment.

Subchapter 9A sets forth standards for contracting units to follow when using procurement cards and electronic fund transfers for the acquisition of goods and services, as authorized pursuant to N.J.S.A. 40A:5-16.c. This subchapter includes definitions for key terms and criteria for issuers and authorized use, as well as requirements for controls, policies, and practices. The Board proposes amending N.J.A.C. 5:30-9A.6 to clarify this provision's relationship to N.J.S.A. 40A:5-16.b, which pertains to the general requirement that an officer or duly designated employee of the local unit certify that goods or services have been received prior

to the local unit, making payment for same, including language clarifying that the certification requirement at N.J.S.A. 40A:5-16.b applies absent another statute or Board regulation expressly authorizing advance payment.

Subchapter 10 currently pertains to the review and approval of municipal port authority budgets. The Board proposes recodifying this subchapter as N.J.A.C. 5:31-9, which pertains to authorities subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) and proposing new Subchapter 10 pertaining to the interpretation and administration of N.J.S.A. 52:27BB-54 through 100, which apply when the Local Finance Board places a municipality under what is commonly referenced as State Supervision. The Board proposes new N.J.A.C. 5:30-10.1, 10.2, 10.3, and 10.4. N.J.A.C. 5:30-10.1 would set forth the purpose and scope of the rules at Subchapter 10. N.J.A.C. 5:30-10.2 would interpret N.J.S.A. 52:27BB-55(1) to allow the Board to place a municipality under State Supervision if a default exists in the payment of bonded obligations or notes due to insufficient funds, failure to authorize payment, or failure to make payment for any other reason. N.J.A.C. 5:30-10.3 would further define the Director's authority to order a municipality under State Supervision to authorize or make disbursements in accordance with the adopted budget, or any temporary or emergency appropriations adopted by the Board or by the governing body pursuant to N.J.S.A. 40A:4-19, 19.1, or 20, as applicable, and make such disbursements directly if the municipality fails to do so. N.J.A.C. 5:30-10.4 would codify the authority granted to a fiscal control officer appointed by the Board to oversee a municipality pursuant to State Supervision, along with the Board's authority to appoint a fiscal control officer, should the municipality fail to select from one of the three names presented by the Board, and the procedures for terminating a fiscal control officer.

Subchapter 11 establishes procedures and general requirements pertaining to open-end

contracts and the approval of change orders to existing contracts. At this time, the Local Finance Board is not proposing any changes to this subchapter.

Subchapter 12 sets forth accounting procedures to be used by local units in accounting for Federal grants pursuant to the Federal Library Services Construction Act and State Library Aid. At this time, the Local Finance Board is not proposing any changes to this subchapter.

Subchapter 13 establishes the powers and duties of a financial review board created pursuant to N.J.S.A. 52:27D-118.30a. The statute permits the Director of the Division of Local Government Services to recommend that the Local Finance Board establish, by resolution, a financial review board to approve, implement, and enforce a financial plan for any eligible municipality that possesses conditions creating extreme difficulty in either: 1) adopting a budget complying with the Local Budget Law (N.J.S.A. 40A:4-1 et seq.); 2) issuing indebtedness as permitted by law; or 3) funding capital improvements essential to protecting the public health, safety, and welfare. The term “eligible municipality” is defined at N.J.S.A. 52:27D-118.26 as a municipality that fits in one or more of the following categories: 1) is qualified to receive assistance pursuant to N.J.S.A. 52:27D-178 et seq.; 2) is under the supervision of the Local Finance Board pursuant to the Local Government Supervision Act (1947) (N.J.S.A. 52:27BB-1 et seq.); 3) has issued qualified bonds pursuant to the provisions of the Municipal Qualified Bond Act (N.J.S.A. 40A:3-1 et seq.); or 4) has been identified by the Director to be facing serious fiscal distress. The financial review board shall consist of an individual, selected by the Governor, who is a resident of the municipality, but not an elected official or employee thereof, the Commissioner of the Department of Community Affairs, or his or her designee, the State Treasurer, or his or her designee, the municipality’s mayor, or his or her designee, and an individual selected by the Governor who is an officer of the Executive Branch of State

government. Subchapter 13 sets forth the powers and responsibilities of the financial review board, as well as the responsibilities of the Local Finance Board and the Director of the Division of Local Government Services, with respect to a financial review board. Definitions for key terms are also included. In order to conform with the statute, the Board proposes amending N.J.A.C. 5:30-13.3(a) to state that a financial review board shall consist of a total of five members, rather than seven.

Subchapter 14 establishes a regulatory framework for the creation and operation of an emergency service volunteer length of service award program (LOSAP). This subchapter sets forth key definitions along with requirements for determining a sponsoring agency, enacting LOSAP ordinances/resolutions, ballot questions for voter approval of an LOSAP, budget provisions, and the procedure for abolishing or amending LOSAPs. In addition, the subchapter addresses pre-existing LOSAP programs, the deposit of LOSAP contributions, adjustment of maximum LOSAP contributions by the Director of the Division of Local Government Services, the process for awarding LOSAP credits, and appeals relating to same. The Local Finance Board is not proposing any changes to this subchapter.

Subchapter 15 authorizes and establishes procedures for local government units to follow in accounting for accumulated absences and for the payment of employees on the basis of such absences, and in establishing reserves for compensated absences. This subchapter sets forth key definitions, along with requirements for calculating accumulated absence liability, authorizing payment thereof, and displaying the same in a local unit's financial statements. The Local Finance Board is proposing several amendments to this subchapter.

The definition of the term "local unit" to encompass regional service agencies (also known as joint meetings), and "employer agreement" at N.J.A.C. 5:30-15.2 would be amended

to emphasize that the agreement shall be subject to such laws as may be in place concerning accumulated absences. The Board also proposes amending N.J.A.C. 5:30-15.3 to expressly state that the local unit's accumulated absence liability be reported on the introduced and adopted budget. A more detailed breakdown of a local unit's accumulated absence liability, including the number of individuals that are subject to restrictions on accumulated absence compensation and/or accumulation pursuant to P.L. 2007, c. 92 or P.L. 2010, c. 3, would have to be provided as well. For municipalities, the accumulated absence liability breakdown included on the User-Friendly Budget section of the adopted budget would need to be submitted to the municipal auditor on an annual basis. This section would be further amended to state that all compensated absence calculations shall be subject to any restrictions on accumulated absence compensation and/or accumulation pursuant to State law. N.J.A.C. 5:30-15.4 would be amended to state that no payments for compensated absence shall be authorized that exceed any limitations established pursuant to State law. Subsection (b) would be amended to require, as a prerequisite to paying the accumulated absence compensation to an employee, documentation of the employee's hire date in addition to the amount of accumulated absence time and, if an employee is subject to P.L. 2007, c. 92, the date on which the employee entered a title subject to said law. Subsection (d) would be amended to state that, for officers and employees subject to P.L. 2007, c. 92 or P.L. 2010, c. 3, payment for unused sick leave shall be payable only at the time of retirement from a State-administered or locally administered retirement system based on the leave credited on the date of retirement.

New N.J.A.C. 5:30-15.6 and 15.7 would codify guidance set forth in Local Finance Notice 2008-10 with respect to defining which officials come under the restrictions on accumulated sick and vacation leave pursuant to P.L. 2007, c. 92. New N.J.A.C. 5:30-15.8 and

15.9 incorporate the limitation on sick leave payouts and accrued vacation leave pursuant to P.L. 2010, c. 3, for employees hired after May 21, 2010, or after expiration of a labor agreement in effect on that date. Further, the Board proposes new N.J.A.C. 5:30-15.10 to require a local unit's auditor to undertake sample testing of a local unit's compensated absence liability, if any, to confirm the accuracy of the local unit's accumulated absence records, reported dollar value of such accumulated absence, and payouts to employees for accumulated absence, along with a local unit's compliance with the limitation provisions at P.L. 2007, c. 92 or P.L. 2010, c. 3.

Subchapter 16 establishes a regulatory framework for the Local Finance Board's and Director of the Division of Local Government Services' electronic communication with local units. In addition to substituting the word "Commissioners" for "chosen freeholders" and clarifying that a representative of a regional authority subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) shall be registered in GovConnect, the Board proposes amending N.J.A.C. 5:30-16.2(c) to require the following officials to be registered in GovConnect: the manager or business administrator of a municipality or county, the certified public works manager of a municipality, or the individual designated to serve as a local unit's purchasing agent regardless of whether the individual is licensed as a Qualified Purchasing Agent.

Subchapter 17 establishes standards for local governments to follow when contracting with a third-party organization to make disbursements on the local unit's behalf, as permitted at N.J.S.A. 52:27D-20.1. This subchapter authorizes third-party disbursement for payroll purposes and utility bills, setting forth key definitions, standard contract terms, and requirements applicable to local units and disbursing organizations. In addition to updating the subchapter heading to "Electronic Disbursement Controls for Authorized Third-Party Disbursement

Services,” the Board proposes amending N.J.A.C. 5:30-17.1 and 17.2 to further clarify that no local unit or school district may utilize a third-party disbursement service for a purpose that is not expressly authorized by the Board, and amend N.J.A.C. 5:30-17.5 and 17.6 to update the reference to the current American Institute of Certified Public Accountants’ attestation engagement standard relevant to third-party disbursement services.

Subchapter 18 implements P.L. 2018, c. 11, which permits municipalities and counties to establish one or more charitable funds for specific public purposes, such as public safety, capital improvements, and social services, and permits certain donations to those charitable funds to be credited toward the donor’s annual property tax obligation. The charitable fund would be administered by the municipality’s or county’s chief financial officer, whose responsibilities would include, but are not necessarily limited to, the disbursement of funds donated to charitable funds and any spillover funds in accordance with their specified public purposes, investing donated funds pursuant to the municipality’s or county’s cash management plan, and ensuring compliance with applicable State rules. At this time, the Local Finance Board is not proposing changes to this subchapter.

As the Board has provided a 60-day comment period for this notice of proposal, the notice is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The rules proposed for readoption with amendments, new rules, and a recodification will both continue and enhance State oversight over municipalities, counties, and other forms of local government, ensuring their operation in accordance with sound financial and operational principles. As proposed for amendment, N.J.A.C. 5:30 also provides the general public with

assurance that public funds are being properly managed and safeguarded. The proposed amendments, new rules, and a recodification concerning accumulated absence liability management serve to improve transparency and better protect against waste, fraud, and abuse, as do the codification and standardization of various budgeting, accounting, and audit procedures. The implementation of P.L. 2021, c. 184, which amended N.J.S.A. 40A:4-43 and 40A:4-44 to state that the capital budget and “statement of capital undertakings” for a municipality required to prepare an asset management plan for its water system “shall identify the infrastructure improvements to be undertaken in accordance with the local unit's asset management plan ... and their cost,” will help ensure the integrity of municipal water systems by ensuring that municipalities are undertaking required infrastructure maintenance and upgrades. The implementation of stormwater utility reporting as proposed at N.J.A.C. 5:30-8.11 will help achieve the purpose at N.J.S.A. 40A:26B-1 et seq., by allowing the tracking of local government resources directed to the remediation of stormwater runoff.

### **Economic Impact**

The rules proposed for readoption with amendments, new rules, and a recodification will maintain and improve procedures that protect the fiscal integrity of New Jersey local governments, and do not impose new fees on to municipalities, counties, or other local units. Although requiring sample testing for employee accumulated absence liability could have an indeterminate increase in the cost of completing the audit of a municipality, county, or regional service agency, the testing is necessary to strengthen controls on, and ensure compliance with, State laws concerning accumulated absence payouts upon employee retirement. Therefore, it is expected to result in long-term cost savings. Requiring a minimum level of surety bonding for

municipal and county chief finance officers, as is currently the case for tax collectors, municipal court judges, and municipal court administrators will better protect public funds against the risk of misappropriation and theft. The above-referenced measures will better protect public funds against waste, fraud, and abuse.

The amendments pertaining to capital budgets for municipalities with water systems will promote long-term fiscal sustainability of such systems by helping ensure the integrity of water mains, pipes, treatment facilities, and other infrastructure. By standardizing administrative costs that can be charged to private entities utilizing off-duty law enforcement officers on a project or as security, new N.J.A.C. 5:30-8.6 will discourage excessive and unjustified costs unrelated to personnel compensation from being passed on to business owners and, in the case of infrastructure projects, on to taxpayers.

### **Federal Standards Statement**

As amended, N.J.A.C. 5:30-5.6(a) would update the regulatory citation to the U.S. Office of Management and Budget's Circular A-87 as pertains to fixed asset management and reporting, and N.J.A.C. 5:30-6.1 would reference the Federal OMB regulation codifying the former Circular A-133. Proposed new N.J.A.C. 5:30-6.6 would codify the requirement that, when a single audit conducted pursuant to 2 CFR Part 200 Subpart F results in one or more findings, that the local unit shall prepare a separate corrective action plan and summary schedule of prior audit findings relative to the Federal awards. N.J.A.C. 5:30-8.6(a) requires that a formal policy adopted by a local unit concerning outside employment of off-duty law enforcement officers be consistent with the Federal Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 et seq. These rules do not exceed the Federal standards, and, therefore, no Federal standards analysis is required.

In all other cases, the rules proposed for re adoption with amendments, new rules, and a recodification are not being readopted pursuant to the authority of, or in order to implement, comply with, or participate in any program established pursuant to Federal law or a State law that incorporates or refers to Federal law, standards, or requirements.

### **Jobs Impact**

The Local Finance Board does not anticipate that the rules proposed for re adoption with amendments, new rules, and a recodification will result in the creation or loss of any jobs.

### **Agriculture Industry Impact**

The Local Finance Board does not anticipate that the rules proposed for re adoption with amendments, new rules, and a recodification will have an impact on the State's agriculture industry.

### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the rules proposed for re adoption with amendments, new rules, and a recodification do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined pursuant to the Regulatory Flexibility Act (N.J.S.A. 52:14B-16 et seq.).

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments, new rules, and a recodification are not expected to evoke a change in housing production costs nor will they affect the affordability of housing in New Jersey, as the rules pertain to the Local Finance Board.

### **Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments, new rules, and a recodification are not expected to evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, as the rules pertain to the Local Finance Board.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The rules proposed for readoption with amendments, new rules, and a recodification will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:30.

**Full text** of the proposed amendments, new rules, and a recodification follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 5:30-1.1 Rules and regulations

(a)-(d) (No change.)

(e) Additional information on the Board and its practices can be obtained by contacting the Executive Secretary, Local Finance Board, 101 South Broad Street, PO Box 803, Trenton, New Jersey 08625-0803, (609) [292-4537] **292-6613**, or by [e-mail] **email** at [dlgs@dca.state.nj.us](mailto:dlgs@dca.state.nj.us).

(f) (No change.)

#### 5:30-1.8 Use of Local Finance Notices

(a) (No change.)

(b) Local Finance Notices shall be [sent by mail or] made available by electronic means to those officers or individuals affected by the Notice, as determined necessary by the Director, at no charge. [Individual copies may be obtained for no charge from the Division, and all] **All** Notices shall be posted on the Division's [web site] **website**. [Annual mail subscriptions for all Notices shall be available for an annual fee of \$50.00.] Receiving [e-mail] **email** notification of publication of a Notice by [e-mail] **email** shall be available to any person at no charge.

#### 5:30-1.9 Use of electronic communications networks

(a) Where practicable, the Division and Board shall provide notices, information, and copies of forms to the public through a [World Wide Web site] **website** maintained by the Division. While subject to change, the [web site] **website** is found at [<http://www.state.nj.us/dca/lgs.htm>] **<https://www.nj.gov/dca/dlgs/index.shtml>**. As an alternate, users may access the Division's information at the State's home page at [www.state.nj.us](http://www.state.nj.us) and then use appropriate links to find the Department of Community Affairs or Division of Local Government Services.

(b) (No change.)

5:30-1.11 Realized revenue **report**

(a) When required to do so by the Local Finance Board **or the Director**, governmental units shall file a form entitled "Realized Revenue Report." The form of the Realized Revenue Report shall be approved by the Board **or the Director, and shall list, for each revenue, the budgeted amount, realized amount, percent realized, and amount not realized.**

(b) All statements shall be certified as being accurate and complete by the [Chief Financial Officer] **chief financial officer** of the local unit.

SUBCHAPTER 2. LOCAL BOND LAW

5:30-2.4 Form of Notice of Pending Bond Ordinance and Summary publication

(a) Pursuant to N.J.S.A. 40A:2-[17(b)]**17.b**, a local unit may choose to publish a bond ordinance in summary form and shall use the following form of summary of bond ordinance and notice of adoption:

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the \_\_\_\_\_ of \_\_\_\_\_, in the County of \_\_\_\_\_, State of New Jersey, on \_\_\_\_\_, [200\_\_] **20**\_\_. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the \_\_\_\_\_, in the \_\_\_\_\_ on \_\_\_\_\_, [200\_\_] **20**\_\_ at \_\_\_\_\_ o'clock \_\_M. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the Clerk's office for

the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title:

Purpose(s):

Appropriation:

Bonds/Notes Authorized:

Grants (if any) Appropriated:

Section 20 Costs:

Useful Life:

\_\_\_\_\_, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

#### BOND ORDINANCE STATEMENTS AND SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the \_\_\_\_\_ of \_\_\_\_\_, in the County of \_\_\_\_\_, State of New Jersey on \_\_\_\_\_, [200\_\_] **20\_\_** and the 20 day period of limitation within which a suit, action, or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available

at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title:

Purpose(s):

Appropriation:

Bonds/Notes Authorized:

Grants (if any) Appropriated:

Section 20 Costs:

Useful Life:

\_\_\_\_\_, Clerk

### **5:30-2.7 Request for determination of period of usefulness**

**(a) As used in this section, the terms set forth below shall have the following meanings:**

**1. “Capital improvement” means any of the following:**

**i. Development of land;**

**ii. Acquisition, construction, improvement, rehabilitation, and/or renovation**

**of buildings, roads, structures, facilities, and infrastructure; or**

**iii. Major repairs, reconditioning, or overhaul that meaningfully extends the useful life of an existing capital asset.**

**2. “Property” means real property, or personal property of a substantial nature, such as vehicles or major equipment.**

**(b) For any capital improvement or property with a useful life of five years or more that is not included at N.J.S.A. 40A:2-22, a municipality or county may request that the Director of the Division of Local Government Services in the Department of Community Affairs determine a period of usefulness for the same, provided that no law, including the Local Bond Law, expressly prohibits the authorization of obligations for the capital improvement or property. Any request to the Director shall:**

**1. Identify the subject capital improvement or property;**

**2. Request a useful life determination of not less than five years, but not more than 15 years;**

**3. Provide a certification from an engineer, architect, or other appropriate professional that the physical useful life of the capital improvement or property meets, at a minimum, the period of usefulness being requested, including such supporting documentation and other information as may be required by the Director;**

**4. State whether the issuance of an obligation for the capital improvement or property would require Local Finance Board approval; and**

**5. Supply such other information, as may be required by the Director.**

**(c) Once the Director issues a period of usefulness determination regarding property or a capital improvement, the Director may make said determination applicable to all municipalities and counties upon publication of a notice in the New Jersey Register. If the Director’s useful life determination has been published in the New Jersey Register, a municipality or county may only submit a request for a determination for the same capital**

**improvement or property if the request is readily and clearly distinguishable from the published determination.**

5:30-2.9 Submission of electronic proposals for sale of bonds

(a) Local units (including municipalities, counties, authorities, and fire districts) and authorities planning to issue bonds may receive proposals for the competitive or negotiated sale of such bonds through an open or closed electronic auction managed by a nationally recognized electronic securities bidding service [approved by the Director. Bidding services desiring to operate an open or closed electronic auction shall apply to the Director for authorization to do so by filing an application with the Director. The Director shall make available an application form that provides the Director with information regarding the technology and security practices maintained by the bidding service, the requirements to be established for bidding by bidders, the methods by which auction sales are conducted, the experience of the bidding service in conducting electronic auctions of bonds, and other information the Director may deem relevant]. For the purposes of this section, a closed auction includes the submission of electronically sealed bids that are opened at a set time and an open auction is where bidders submit bids against each other in real time.

(b) [If the Director determines that the requirements and conditions of the auction are in accordance with the provisions of the Local Bond Law and the bidding service provides a secure, open and competitive opportunity for qualified bidders to submit proposals, the application shall be deemed approved.] Requirements that bidders be members of the National Association of Security Dealers, have a business relationship with the Depository Trust Corporation, or require

participation in a similar financial industry-based program shall not be construed as limiting competition.

[(c) The Director shall post information regarding the nationally recognized electronic securities bidding services that have been approved for use by local units on the Local Finance Board website.]

#### 5:30-2.10 Use of financial surety bonds in electronic bond sale auctions

(a) (No change.)

(b) The financial surety bond must be provided by an insurance company or other guarantor that is licensed and authorized to do business in the State of New Jersey [and approved by the Director. The Director shall develop and make available an application form for issuers of financial surety bonds]. Applicants shall [demonstrate to the satisfaction of the Director that they] possess the requisite financial capability and experience in issuing financial surety bonds to guarantee a bid deposit on the sale of government securities and further, that they possess the capability to respond to requests for the provision of financial surety bonds in a timely and secure manner for the use of bidders who seek to purchase local unit securities.

(c) Acceptance of a financial surety bond by a local unit shall be subject to the following conditions:

[1. The issuer of the financial surety bond shall have received approval of the Director to issue financial surety bonds;]

Recodify existing 2.-9. as **1.-8** (No change in text.)

### SUBCHAPTER 3. ANNUAL BUDGET

### **5:30-3.1 Definitions**

**The following words and terms, as used in this subchapter, shall have the following meanings, unless the context indicates otherwise:**

**“County entity” means a county board of taxation, office of the county superintendent of election, office of the county board of election, office of the county register of deeds and mortgages, office of the county clerk, office of the county surrogate, office of the county prosecutor, and county sheriff’s department.**

**“County entity budget authority” means the county tax administrator, county superintendent of election, county board of election, county register of deeds and mortgages, county clerk, county surrogate, county prosecutor, and county sheriff, in their role as the appointing authority of their respective offices.**

**“Election expenses” means all necessary expenses incurred by the superintendent of elections, county clerk, and board of elections for each county related to election costs and the administration, preparation, and implementation of all elections, including all vendor related contract services; voting machine maintenance, repairs, parts and equipment, certification, and technical coding; transportation of voting machines and election supplies; overtime for all staff related to election duty; food services during election; poll workers, machine technicians, and other temporary workers; supplies; office equipment; printing; postage; advertisement costs, upon being certified to by the superintendent of elections, county clerk, and board of elections for each county; but shall not mean or include staff salaries for the office of the superintendent of elections, staff salaries for the county clerk, or staff salaries for the county board of elections.**

**“Local unit” means a county or municipality.**

5:30-3.2 Procedures for adoption of budget

(a) (No change.)

(b) The procedure shall be as follows:

1. -5. (No change.)

6. The clerk of the local unit shall transmit a certified copy of the budget, as adopted, to the county board not later than [March 31 of the fiscal year] **15 days following the adoption of the budget.**

**(c) The budget shall be introduced, in writing, at a meeting of the governing body.**

**Approval of the introduction of the budget shall constitute a first reading, which may be by title. Within three days of approval, the certified approved budget shall be electronically submitted to the Director through the Financial Automation Submission Tracking (FAST) system, or such other automated system as may be implemented by the Director. Together with the approved budget, the governing body's certification that the local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration and Arrest of Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," as amended, 42 U.S.C. §§ 2000 et seq. (April 25, 2012), shall also be transmitted in such a manner as may be specified by the Director. The Director shall have the discretion to require the submission of one or more certified paper copies of the approved budget, together with all relevant information and documentation, as prescribed in this section, or as otherwise may be required by the Director, parallel to electronic submission.**

**(d) Within three days after adoption of the budget, the certified adopted budget shall be transmitted to the Director through the FAST system or such other automated system as may be implemented by the Director. The Director shall have the discretion to require the submission of one or more certified paper copies of the adopted budget, together with all relevant information and documentation, as prescribed in this section, or as otherwise may be required by the Director, parallel to electronic submission.**

**(e) No municipality may adopt its annual budget unless it has submitted to the Director a user-friendly budget section corresponding with the previous year's adopted budget. This provision shall not be interpreted to allow a municipality to avoid submitting a user-friendly budget section together with the corresponding annual budget form.**

**(f) The governing body of any municipality that operated a solid waste collection district as of December 31, 1989, shall determine the amount of money necessary for the support of the solid waste collection district. The amount so determined shall become part of the municipal budget on forms furnished and prescribed by the Director, and during those years when the annual budget of the municipality is subject to Director approval prior to adoption, shall be subject to approval by the Director.**

#### 5:30-3.3 Examination of budget

**(a) The Director shall examine the budget filed in [his office] the Division of Local Government Services with reference to all estimates of revenue and to the following appropriations:**

1. -5. (No change.)

**(b) (No change.)**

(c) A local unit may, by resolution, include any of the following dedications by rider in the budget of the local unit, without further approval of the Board or Director of the Division of Local Government Services. **A copy of the adopted resolution shall be submitted to the Director.** All such receipts shall be for the sole purpose for which the funds are intended.

1.-10. (No change.)

11. Tax appeal filing fees collected by the county boards of taxation; [and]

12. Sanitary landfill closure trust fund[.];

**13. Surcharges and convenience fees as permitted for electronic receipt transactions pursuant to N.J.A.C. 5:30-9.9, the dedicated trust fund account which shall be entitled “Electronic Receipt Fees”; and**

**14. For Urban Enterprise Zone municipalities, any funds received from the enterprise zone assistance fund pursuant to N.J.S.A. 52:27H-88.**

(d) **A county budget request cap workbook for each county entity shall accompany every county budget submitted to the Director for review, in such a manner as determined by the Director. No county shall be authorized to adopt its annual budget unless the budget request cap workbook for each county entity is completed and demonstrates compliance with the county budget request cap law. The county entity budget request cap workbook must display both the percentage and dollar amounts by which the property tax-funded budget request has increased as a result of the base year adjustment.**

**5:30-3.7 County entity budget request cap**

**(a) A budget request submitted to the county governing body, as appropriate to the form of government, by a county entity budget authority on behalf of a county entity shall be consist of two parts:**

**1. The amount to be funded by property taxation; and**

**2. The amount to be funded wholly through State or Federal funds, fees raised by the county entity, or other sources.**

**(b) In the preparation of the portion of its budget request to be raised by property taxation, a county entity budget authority shall limit any increase in that portion of its budget request to two percent of the previous year's budget request, with the exception of election expenses and the exclusions set forth at N.J.S.A. 40A:4-45.45.b. The county entity budget request cap shall be applied by measuring current year anticipated revenue against the prior year adopted budget appropriations. No budget request exceeding the cap may be submitted to a county governing body.**

**(c) Any permitted exceptions to the county entity budget request cap will not be relevant for a county entity's budget request if the costs that fall within those exceptions are budgeted pursuant to the county's central budget.**

**(d) In those situations where non-property tax-based revenues fully funded a county entity's prior year budget request but are not expected to fully fund the county entity's upcoming year's budget request, the county entity can certify a base amount to be signed off on by the county's chief finance officer and approved by the county governing body, as appropriate to the form of government.**

**(e) Once the county governing body receives a county entity budget request, as appropriate to the form of government, the governing body has the discretion to determine whether to**

**allow a county entity to exceed the limit imposed by the budget request cap, subject to any limitations on the county tax levy in the 1977 and 2010 levy cap laws (N.J.S.A. 40A:4-45.4 and 40A:4-45.45, respectively).**

**1. If a county governing body allows a county entity budget request to exceed 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 the increase exceeds the budget request cap, and a statement 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 the 1977 and 2010 levy cap laws.**

**2. If a county governing body intends the increase to become the base from which subsequent county entity budget request increases are to be measured, the resolution must expressly state as such; otherwise, the maximum statutorily permitted budget request increase for the prior year shall serve as the base.**

**(f) The limitation on transfers established at N.J.S.A. 40A:4-45.38 does not apply to the county entity budget request cap.**

5:30-3.8 Municipal budgets, user-friendly budget section

(a) (No change.)

(b) The user-friendly budget shall be in a format set forth by the Director, who shall provide standard forms for required use by each municipality, and be submitted electronically and in such other manner as may be set forth by the Director. **The municipality need only submit to the Director the user-friendly budget section of the adopted budget; however, the Director may request from the municipality the user-friendly budget section corresponding with the**

**introduced budget.**

(c) (No change.)

(d) The user-friendly budget section shall include the following:

1. – 13. (No change.)

14. As of the final day of the prior budget year[, the]:

**i. The gross number of days of accumulated absences[,]** **and** the dollar value [thereof] **of the same as of the final day of the prior budget year, broken down by bargaining unit in the case of unionized employees, and by individual position in the case of non-unionized employees with those non-union employees holding more than one position reported based on the accumulated absence liability for all positions held;**

**ii. For each collective bargaining unit or individual position,** [and] the legal basis for the benefit[. All non-unionized employees eligible for the benefit shall be displayed individually. For unionized employees, the number of days and the dollar value of same shall be broken down by bargaining unit]; **and**

**iii. Each individual position, regardless of whether part of a collective bargaining unit, for which an individual serving therein is subject to restrictions on accumulated absence compensation and/or accumulation pursuant to law.**

15. – 20. (No change.)

### **5:30-3.10 Property tax levy cap exclusion; increase in certain shared services costs**

**A local unit may exclude from its levy cap calculation any costs falling within the general exclusions set forth at N.J.S.A. 40A:4-45.45 that are passed on by the provider of a shared service agreement to which the local unit is a party.**

**5:30-3.11 Annual financial statement for solid waste collection districts**

(a) By no later than February 10, or August 10 for a municipality on a State fiscal year budget cycle, the chief financial officer of a municipality with a solid waste collection district shall file with the Director a statement showing in detail the items of moneys received and disbursed by the district during the preceding fiscal year, and also the balance of unexpended funds at the end of the fiscal year. Such statement shall be filed on forms furnished and prescribed by the Director. The deadline for submission may be extended by the Local Finance Board pursuant to N.J.S.A. 40A:4-5.1.

(b) If the chief financial officer fails to file the annual financial statement of the municipality's solid waste collection district with the Director within 10 days after the applicable deadline, the chief financial officer shall be subject to a penalty of \$5.00 for each day of neglect to file the statement, to be recovered in a summary proceeding against the chief financial officer instituted and prosecuted pursuant to the penalty enforcement law (N.J.S.A. 2A:58-1 et seq.).

**5:30-3.12 Notice of intent to sell or lease a municipal public utility service**

In a municipality undertaking the process of selling or leasing a sewer plant, water plant, heat, light, or power plant, system of transportation, or other public utility plant or system to another municipality, or a county, authority, commission, or other public body pursuant to N.J.S.A. 40:62-3 or N.J.S.A. 40:62-3.1, the transfer of a municipal water utility serving less than five percent of the population of that municipality to any person or entity, the municipal clerk shall provide the Director with a certified copy of the ordinance

**authorizing the sale or long-term lease and, if applicable, the resolution authorizing the issuance of a bid or request for proposals, within five days of final adoption.**

**5:30-3.13 Notice of certain referenda and results thereof**

**(a) In a municipality where a referendum is taking place concerning any tax levy, or concerning the appropriations cap pursuant to N.J.S.A. 40A:4-45.3a and 45.3a1, the municipal clerk shall provide the Director with a certified copy of the ordinance or resolution authorizing the referendum within five days of final adoption. The municipal clerk shall also provide the Director with a copy of the ballot question and copy of any notice published regarding the referendum.**

**(b) In a county where a referendum concerning any tax levy is taking place, the clerk of the board of county commissioners shall provide the Director with a certified copy of the ordinance or resolution authorizing the referendum within five days of final adoption. The clerk of the board of county commissioners shall also provide the Director with a copy of the ballot question and copy of any notice published regarding the referendum.**

**(c) The municipality or county shall provide the Director with the certified results of any referendum referenced at (a) or (b) above within five days of the municipality or county, as applicable, receiving the certified results.**

**SUBCHAPTER 4. CAPITAL BUDGETS AND CAPITAL IMPROVEMENT PROGRAMS**

**5:30-4.3 When required**

**(a)-(c) (No change.)**

**(d) Notwithstanding (a) above to the contrary, a local unit that owns a water system shall prepare and adopt a capital budget for each budget year.**

5:30-4.5 Forms and content

(a) – (b) (No change.)

(c) Capital program forms rules are as follows[.]:

1. (No change.) 2. A municipality with population under 10,000 **that does not own a water system** may discontinue annual capital program submissions whenever it shall, in compliance with the terms of this [regulation] **section**, have had no capital budgets for three consecutive years provided, that the capital program shall be reinstated when a capital budget is adopted.

5:30-4.6 Review and certification

(a) [The director shall, as part of his review of each] **In reviewing a** local unit's annual budget, **the Director shall** determine whether a capital budget and program are required, and if so, whether it has been included in the proper form. This review shall not extend to any determination as to the sufficiency or wisdom of its content **except that, in the case of a local unit that owns its own water system, the capital budget and program shall identify the capital infrastructure improvement projects to be undertaken in accordance with the local unit's asset management plan pursuant to N.J.S.A. 58:31-7, along with the estimated costs and the anticipated financing by sources and amounts.**

(b) If the required capital budget and programs are not included in accordance with the requirements of this regulation, approval of the entire budget may be withheld, pending local

corrective action. **With respect to capital infrastructure improvement projects to be undertaken in accordance with the local unit's asset management plan pursuant to N.J.S.A. 58:31-7, the Director may take into account the local unit's fiscal circumstances in determining appropriate measures for corrective action.**

## SUBCHAPTER 5. CERTIFICATIONS OF AVAILABILITY OF FUNDS AND ACCOUNTING SYSTEM REQUIREMENTS FOR LOCAL UNITS

### 5:30-5.2 Encumbrance systems

(a) All local units except those subject to the Local Authorities Fiscal Control [Act] **Law** (N.J.S.A. 40A:5A-1 et seq.) shall maintain an encumbrance accounting system for all funds as follows:

1. – 2. (No change.)

3. Local units shall maintain internal controls that ensure that all purchases charged to "Other Expense" or other non-salary line items shall be sequentially numbered [either] through [pre-printed multiple copy purchase orders or] a computerized system that produces appropriate purchasing internal control.

(b) (No change.)

[(c) The provisions of this section codify and continue the provisions of Technical Accounting Directive No. 1, issued in April of 1985 and effective January 1, 1986.]

### 5:30-5.3 General requirements

(a)-(c) (No change.)

**(d) Notwithstanding (c) above, if a local unit subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) does not maintain an encumbrance system, the certifying finance officer of the local unit shall, at a minimum, maintain a record of all open contracts, including open purchase orders. If a purchase or the execution of a contract does not require, either by State law or any State or local rule, specific authorization by formal action of the governing body, the individual approving the contract or release of the purchase order shall consult with the record of open contracts in determining whether there are available sufficient uncommitted appropriations to provide for the payment.**

#### 5:30-5.4 Procedure

(a) The following procedure shall be utilized for the certification of funds when a contract is to be authorized by the governing body of the local unit:

1. – 3. (No change.)

4. When a contract is issued as a purchase order or amendment thereto, **the certification of availability of funds shall be executed through** the budgetary accounting encumbrance process set forth [in] **at (b) below and N.J.A.C. 5:30-5.3(c) [and (b)], which** shall take the place of, and be used instead of, the written certification of available funds described [in] **at (a)1** above. **If a local unit subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) does not maintain an encumbrance system, the record of open contracts maintained pursuant to N.J.A.C. 5:30-5.3(d) shall be updated to reflect the issuance of the purchase order or amendment thereto.**

(b) When a contract is awarded and a resolution or ordinance of the governing body is not required, the chief financial officer or certifying finance officer shall cause an appropriate entry

to be made into the local unit's encumbrance system pursuant to N.J.A.C. 5:30-5.1 and 5.2 prior to the issuance of a contract. **If a local unit subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) does not maintain an encumbrance system, the record of open contracts maintained pursuant to N.J.A.C. 5:30-5.3(d) shall be updated to reflect the awarded contract.**

#### 5:30-5.5 Methods of accounting for and certifying available funds for special situations

(a) (No change.)

(b) Open-end contracts: When a contract provides for certain goods or services to be provided upon request, up to an established maximum, and the local unit is not obligated to order, accept, or pay for said goods or services, except when it orders them, the local unit may enter into the contract upon compliance with the following:

1. (No change.)

2. If the full amount of the contract would not be charged against the budget at the time the contract is awarded by the governing body, no amount shall be encumbered until such time as goods or services are ordered, pursuant to the open-end contract. When this option is utilized, the budgetary accounting encumbrance process set forth [in] **at N.J.A.C. 5:30-5.3(c) and [5:30-]5.4(b) shall take the place of, and be used instead of, the written certification of available funds set forth at N.J.A.C. 5:30-5.4(a). If a local unit subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) does not maintain an encumbrance system, the record of open contracts maintained pursuant to N.J.A.C. 5:30-5.3(d) shall be updated to reflect any purchases made pursuant to the open-end contract.**

(c)-(f) (No change.)

## 5:30-5.6 Accounting for governmental fixed assets

(a) All local units shall have and maintain a fixed assets accounting and reporting system that:

1. Establishes and maintains a physical inventory of fixed assets of nonexpendable, tangible property as defined and limited by the U.S. Office of Management and Budget Circular A-87, Cost Principles for State, Local and Indian Governments, **2 CFR Part 225**, incorporated herein by reference, as amended [by 62 FR 45934 (August 29, 1997), and published at [www.whitehouse.gov/omb/circulars/a087/a087-all.html](http://www.whitehouse.gov/omb/circulars/a087/a087-all.html)] **and supplemented**. A local unit may establish a capitalization level less than, but not in excess of, the threshold in Circular A-87, except that [the] **nonexpendable, tangible personal property shall have a** useful life of [such property is] at least five years;

2. Places a value on all fixed assets whether constructed or acquired through purchase, grant, or gift. Fixed assets acquired after December 31, 1985, shall be valued on the basis of actual cost; prior to that time, they may be valued at cost or estimated historical cost, the basis of which shall be disclosed in the local unit's annual financial statement;

3. Has a subsidiary ledger, consisting of detailed property records for controlling additions, retirements, and transfers of fixed assets. Such ledger shall be maintained and reconciled periodically and at the end of every fiscal year with the general ledger control accounts for fixed assets;

4. -5. (No change.)

[(b) The provisions of this section codify and continue the provisions of Technical Advisory Directive No. 2, issued in April of 1985 and effective January 1, 1986, and as amended by Local Finance Notice CFO 96-13.]

5:30-5.7 General ledger accounting systems

(a) All local units shall have and maintain a general ledger for [at least] the current fund **and all other funds**. [Nothing shall prohibit a local unit from maintaining a general ledger for other funds.]

(b) (No change.)

[(c) The provisions of this section codify and continue the provisions of Technical Advisory Directive No. 3, issued in April of 1985 and effective January 1, 1986.]

**(c) In support of the general ledger, the following books of original entry (journals) are required to be maintained in an electronic format:**

- 1. Cash receipts journal;**
- 2. Cash disbursements journal;**
- 3. Payroll journal; and**
- 4. General journal.**

**(d) The cash receipts journal shall be used to record all transactions where cash is received by the local unit; either for revenue or non-revenue (reimbursement of expenditures).**

**(e) The cash disbursements journal shall be used to record all transactions where cash is disbursed by the local unit for any purpose such as: budget appropriations, grant expenditures, capital ordinances, trust funds, or payroll.**

**(f) The payroll journal shall be used to record the details of each payroll for each employee indicating the pay period, employee's name, hours worked, rate of pay, overtime, and payroll deductions.**

**(g) The general journal shall be used to record any transactions that cannot be recorded in any other journals. Examples of journal entries in the general journal include:**

- 1. Opening accounts at the beginning of the accounting period;**
- 2. Recording temporary and adopted budgets;**
- 3. Closing budgetary and operating accounts at the end of the accounting period;**
- 4. Recording adjusted entries or corrections to previously recorded transactions;**
- 5. Recording non-cash budgetary transactions such as:**
  - i. Charging deferred charges to appropriations;**
  - ii. Charging surplus to realized revenue;**
  - iii. Charging State and Federal grants;**
  - iv. Charging reserves for uncollected taxes to appropriations; and**
  - v. Recording non-municipal tax levies;**
- 6. Recording the adoption of bond ordinances; and**
- 7. Recording grant awards.**

**(h) The general ledger is the final record in which a financial transaction is recorded. An accounting transaction is not to be considered completed, unless it is:**

- 1. Documented and supportable;**
- 2. Recorded in the applicable book of original entry; and**
- 3. Posted from the book of original entry to the affected general ledger accounts.**

**(i) At the beginning of the local unit's fiscal year, before any current period transactions are recorded, the general ledger accounts shall reflect opening balances in assets, liability, reserves, and fund balance only. All books of original entry shall be closed at the end of each accounting period by totaling the recorded transactions and posting the totals to the**

**general ledger. Totals for all funds shall be posted to the general ledger on at least a monthly basis.**

**(j) General ledger accounts shall reflect the following normal balances at the end of each accounting period:**

**1. Balance sheet accounts, as follows:**

- i. Assets – debit balances;**
- ii. Liabilities – credit balances;**
- iii. Reserves – credit balances; and**
- iv. Fund balance – credit balances; and**

**2. Budgetary and operating accounts, as follows:**

- i. Anticipated revenues – debit balances;**
- ii. Appropriations – credit balances;**
- iii. Revenues – credit balances;**
- iv. Expenditures – debit balances; and**
- v. Encumbrances – debit balances.**

**5:30-5.8 Chart of accounts for municipalities and counties**

**Municipalities and counties shall implement for their general accounting systems the Flexible Chart of Account (FCOA) codes promulgated by the Director. Such FCOA codes shall be incorporated into the annual budget, annual audit, and all other financial statements.**

**SUBCHAPTER 6. ANNUAL AUDIT**

5:30-6.1 Uniform accounting system for local units

(a) The Requirements of Audit that have been promulgated for municipalities, and counties, which are deemed to include the county surrogate's office and the county probation department, are considered as minimum requirements and should be elaborated upon whenever, in the judgment of the registered municipal accountant, it is required. **The Requirements of Audit shall also apply to regional service agencies created by a municipality or county.**

(b) (No change.)

(c) In addition to the Requirements of Audit, the registered municipal accountant of each local unit shall also utilize the requirements of the following authoritative resources, incorporated herein by reference, in conducting the annual audit, as appropriate and applicable:

1. (No change.)

2. Government Accounting Standards Board with regard to disclosure of notes to the financial statements, **except that municipalities, counties, and regional service agencies may use the most recent available audited GASB 68 and GASB 75 financial information published by the New Jersey Department of the Treasury, Division of Pensions and Benefits;**

[3. U.S. Office of Management and Budget Circular A-133;]

**3. 2 CFR Part 200 Subpart F;**

4. New Jersey Office of Management and Budget Circular [98-07] **15-08**; and

5. Generally Accepted Government Auditing Standards promulgated by the U.S. General Accounting Office (**Yellow Book**).

**(d) A municipality that operates a solid waste collection district as of December 31, 1989, shall incorporate the district into its annual municipal audit.**

**(e) As used in this section, the term “local unit” shall mean a municipality, county, and any regional services agency created by a municipality or county.**

**5:30-6.4 Synopsis of audit**

**(a) Within 30 days of receipt of the annual audit, the clerk of the county board of commissioners, the municipal clerk, or the secretary of the regional services agency, as applicable, shall have a synopsis of audit published at least once in the official newspaper of the local unit, if there is one, or if there is none, in a newspaper published in the local unit. If there is no newspaper published within the local unit, it shall be published in a newspaper having a general circulation in the local unit. The synopsis of audit shall include the following:**

- 1. A comparative balance sheet;**
- 2. A comparative statement of revenue, expenses/expenditures, and changes in retained earnings/fund balance;**
- 3. A summary of all comments, findings, and recommendations. If the audit contains one or more findings repeated from the prior year’s annual audit, the summary shall specifically identify those findings as repeat findings; and**
- 4. If the annual audit contains one or more findings, a statement that a corrective action plan outlining actions to be taken to correct the finding or findings will be placed on file for public inspection with the clerk of the county board of commissioners or the municipal clerk, as applicable. The statement shall include the date on which the corrective action plan will be on file with the clerk, which date shall be no later than 60**

**days from the date on which the registered municipal accountant filed the completed annual audit with the local unit.**

**(b) If the clerk of the county board of commissioners or the municipal clerk, as applicable, fails to have publication of the synopsis and recommendations made within 30 days of receipt of the annual audit, the clerk shall be subject to a fine of \$10.00 payable to the local unit for each day after the expiration of the 30 days that such publication fails to appear.**

#### 5:30-6.5 Certification of governing body

(a) The annual audit of accounting records and transactions required of every local unit pursuant to N.J.S.A. 40A:5-4 shall be filed by the local unit's registered municipal accountant with the clerk of the board of [chosen freeholders] **county commissioners** or municipal clerk pursuant to N.J.S.A. 40A:5-6, and a copy shall be delivered to each member of the governing body.

(b) The governing body of each local unit shall, by resolution, certify to the Local Finance Board that all members of the governing body have personally reviewed, [as] **at** a minimum, the sections of the annual audit entitled: [General Comments, Recommendations, Auditor's Opinions, and Single Audit Findings] **all audit findings, comments, and recommendations.**

1. - 2. (No change.)

(c) Failure to comply with [these] **the requirements of this section** may subject the members of the local governing body to the penalty provisions [of] **at** N.J.S.A. 52:27B-52.

#### 5:30-6.6 Corrective action plan; summary schedule of prior year audit findings

**(a) The local unit is responsible for follow-up and corrective action on all audit findings. If the local unit's annual audit contains one or more findings, the local unit shall prepare a**

**corrective action plan to address each finding. No later than 60 days from the date on which the registered municipal accountant filed the annual audit with the local unit, a corrective action plan shall be adopted by the governing body and placed on file with the clerk of the board of county commissioners or municipal clerk, as applicable. For each finding, the plan shall include:**

- 1. The reference number assigned by the registered municipal accountant;**
- 2. The corrective action planned and the anticipated completion date;**
- 3. The contact person(s) responsible for the corrective action; and**
- 4. For each audit finding with which the governing body disagrees, or believes**

**corrective action is not required, an explanation with specific reasons.**

**(b) The local unit must also prepare a summary schedule of prior audit findings, if any.**

**The summary schedule must include the reference numbers assigned to each finding by the registered municipal accountant, along with the fiscal year in which the finding initially occurred. No later than 60 days from the date on which the registered municipal accountant filed the annual audit with the local unit, a summary schedule of prior audit findings shall be adopted by the governing body and placed on file with the clerk of the board of county commissioners or municipal clerk, as applicable.**

**1. When an audit finding in the prior year annual audit has been fully corrected and is not repeated in the current year annual audit, the summary schedule need only list the audit findings and state that corrective action was taken.**

**2. When audit findings either remain uncorrected or were only partially corrected, the summary schedule must describe the reason or reasons for the findings' recurrence and planned corrective action, and any partial corrective action already taken.**

**3. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the management decision of a State agency, Federal agency, or a pass-through entity, the summary schedule must provide an explanation with specific reasons.**

**4. When the local unit believes one or more audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:**

**i. Two years have passed since the audit report in which the State or Federal award finding occurred was submitted to the Federal Audit Clearinghouse or the Division of Local Government Services;**

**ii. The State agency, Federal agency, or pass-through entity is not currently following up with the local unit on the audit finding; and**

**iii. A management decision was not issued.**

**(c) When a single audit is required pursuant to 2 CFR Part 200 Subpart F or New Jersey Office of Management and Budget Circular 15-08 that results in one or more findings, the local unit shall prepare a separate corrective action plan and summary schedule of prior audit findings relative to the State or Federal awards.**

**(d) Each corrective action cited in a corrective action plan shall be initiated within six months after the registered municipal accountant files the annual audit with the local unit.**

**(e) Members of the local governing body who, after the date fixed for compliance with this section, fail or refuse to obey an order of the Director to comply, shall be subject to the penalty provisions at N.J.S.A. 52:27BB-52.**

**5:30-6.7 Required submissions to Director**

(a) A certified duplicate copy of the annual audit shall be filed with the Director, over the signature of the registered municipal accountant, within five days of the original report of audit being filed with the clerk of the county board of commissioners or the municipal clerk, as applicable.

(b) A certified copy of the resolution and group affidavit required pursuant to N.J.A.C.

**5:30-6.5(b)** shall be filed with the Director within five days of the resolution being adopted by the governing body. Proof of publication of the synopsis of audit pursuant to N.J.A.C.

**5:30-6.4** shall be included in the submission.

(c) The corrective action plan and summary schedule of prior audit findings shall be filed with the Director within five days of being filed with the clerk of the county board of commissioners or the municipal clerk, as applicable.

**5:30-6.8 Discovery of fraud or illegal acts**

(a) The Division of Local Government Services has the prerogative to take full charge of the auditing of any local unit where any shortage, embezzlement, or fraud is discovered.

Where there is detection of an illegal act, shortage, or irregularity, the Division shall be notified at once by means of a special confidential report. The independent auditor's responsibility for the detection of illegal acts and irregularities in an audit of financial statements shall be according to Generally Accepted Accounting Standards (GAAS).

(b) Confidential report blanks shall be submitted in triplicate; one copy for filing in the Division, one copy for filing with the local unit, and the third copy for the auditor's files.

**Blanks can be procured upon request and may be secured either in advance or immediately upon the discovery of any condition requiring a special report. The special confidential report (see N.J.A.C. 5:30 Appendix, incorporated herein by reference) shall be prepared, as follows:**

**1. Section One is a preliminary report and must be filed with the Division within 48 hours after the discovery of any irregularity or shortage regardless of whether or not the facts have been definitely established;**

**2. Section Two shall be filed immediately after the auditor has completed the work or after the auditor has completed the preliminary work to a point where the auditor can make a fair determination as to the amount involved. The auditor shall file supplements or preliminary reports from time to time pending the filing of Section Two in completed form; and**

**3. Section Three shall be filed upon final disposition of the case.**

**(c) In connection with every shortage discovered by the auditor, there shall be an immediate report to the Division of Local Government Services, Bureau of Financial Regulation, and the governing body. The governing body shall make immediate report to the bonding company upon presentation of the preliminary report of the auditor. It is the duty of the governing body to report the discovery of any shortage or irregularity involving public moneys to the county prosecutor serving the county in which the entity is located. The Director shall render a report to the responsible deputy attorney general. The independent auditor shall follow up on these matters in each and every instance and keep the Division informed as to progress and procedure.**

## SUBCHAPTER 7. MUNICIPAL BUDGET LOCAL EXAMINATION AND APPROVAL

### 5:30-7.4 Eligibility for local examination

(a) [Upon adoption of this rule, the] **The** Director shall randomly assign each municipality to one of three reporting year pools. Each pool shall be assigned the years in which the budget shall be considered for local examination.

[1. For calendar fiscal year 1997 budgets, the Director shall notify municipalities of their status as soon as practicable.]

[2.] **1.** [In subsequent years, within] **Within** 30 days after the start of each fiscal year, the Director shall determine and notify all municipalities if they are eligible or ineligible for local examination for the fiscal year.

(b) Municipalities that meet one or more of the following criteria shall not be eligible for local examination in a given year and shall have their budgets examined by the Director:

1. Have outstanding fiscal year adjustment bonds [or refunding obligations of fiscal year adjustment bonds];

2. (No change.)

3. Received Supplemental Municipal Property Tax Relief Discretionary (N.J.S.A. 52:27D-118.35) funds or **Transitional Aid to Localities (N.J.S.A. 53:27S-118.42a) funds** in the previous fiscal year;

4. – 6. (No change.)

**7. If, during the current or prior fiscal year, a private entity is or was temporarily fulfilling the duties of a chief municipal finance officer pursuant to N.J.S.A. 40A:9-140.10;**

**8. If, during the current or prior fiscal year, an individual who does not hold a municipal finance officer certificate is or was serving as a temporary municipal finance officer pursuant to N.J.S.A. 40A:9-140.13.f;**

**9. If, in the prior fiscal year, voters approved the sale of a water or sewer system pursuant to N.J.S.A. 40:62-5;**

**10. If, in the prior fiscal year, the municipality has completed the approval process pursuant to the Water Infrastructure Protection Act (N.J.S.A. 58:30-1 et seq.) for the sale of a water or sewer system;**

**11. Failed to submit to the Division a user-friendly budget section corresponding with the previous year's adopted budget;**

[7.] **12.** The Director's subsequent review of the previous year's locally examined adopted budget shows that the budget failed to meet the requirements of local examination. Such a finding shall disqualify a municipality from local examination for the following three years; **or**

[8.] **13.** If, in the opinion of the Director, the fiscal integrity or solvency of the municipality will be jeopardized by local examination[;or].

[9. If the most recently filed audit indicates the municipality does not maintain a general ledger accounting system or encumbrance system for the current fund.]

(c) At the initiative of the Director, the criteria [in] **at** (b) above may be waived if the Director determines the fiscal integrity or solvency of the municipality shall not be jeopardized by local examination. Requests for waivers by a municipality shall not be considered by the Director.

## SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-8.1 Electronic data processing systems for financial, revenue, and property tax accounting

(a) Local units utilizing electronic data processing systems or services for financial, payroll, revenue, or property tax accounting, and equipment used for cash receipting purposes, are subject to the following provisions:

1. Local units procuring or upgrading systems or services [after June 1, 1998] shall ensure that they meet the following requirements:

i. Transaction recording and reporting elements shall provide audit trails and reports that meet generally accepted government accounting standards, and meet requirements of audit[, Technical Accounting Directives] and all relevant provisions of the Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.) **and rules promulgated by the Local Finance Board and the Director of the Division of Local Government Services.**

ii. – iii. (No change.)

2. (No change.)

[3. All systems and services shall be capable of handling transactions, making calculations, storing dates, and properly operating as of, or with information dated on or after, January 1, 2000, on the following timetable: local units operating on a calendar fiscal year, as of December 31, 1998, and local units operating on any other fiscal year, by June 30, 1998. Local units shall obtain vendor certifications, perform tests, or take other appropriate action to ensure these deadlines are met.]

[4.] **3.** The requirements of this section shall be subject to review by the local unit auditor as part of the annual review of internal controls. [Failure of a local unit to comply with (a)3 above shall be noted in the general comments and recommendations section of the annual audit.]

5:30-8.2 Recommended surety bond coverage for chief financial officers

(a) Local units [are encouraged to] **shall** provide a fidelity bond with faithful performance coverage for the chief financial officer or other individual holding overall management responsibility for the local unit's finances [separate from]. **If coverage is being provided pursuant to the local unit's blanket fidelity bond, coverage pursuant to the blanket bond for the chief financial officer or other individual holding overall management responsibility for the local unit's finances shall be subject to the application of individual rating criteria and underwriting standards that consider the risk and potential liability presented by the individuals covered by the blanket bond as if the individuals were covered by an individual bond.**

(b) The following schedule [is recommended] **shall serve** as the basis for the bond amount:

1. The exposure index from which the amount of the bond is calculated, is **at least 10** percent of the total revenues of the local unit, including, but not limited to:

- i. (No change.)
- ii. Current, trust, capital, and utility funds for municipalities or counties; [and]
- iii. Grants;**
- iv. Revenues from payments in lieu of property taxes (PILOTs);**
- v. All taxes other than property taxes collected by the municipality; and**
- [iii.] **vi. (No change in text.)**

Exposure Index

[Suggested] Minimum Bond Amount

...

5:30-8.3 Minimum surety bond coverage for tax collectors

(a) Each tax collector and collector of utility rents shall be bonded with a surety bond, calculated as follows:

1. The minimum requirement for the surety bond of each tax collector shall be such percentage of the preceding year's tax duplicate **for all tax levies** as is required by the schedule set forth in this subsection[.], **along with such percentage of the following revenues collected by the tax collector in the preceding year:**

**i. Payments in lieu of taxes (PILOTs), if collected by the tax collector;**

**ii. Local assessments; and**

**iii. Any other revenues collected by the tax collector.**

2. – 4. (No change.)

(b) The following additional provisions shall apply to such surety bonds:

1. – 4. (No change.)

**5. If coverage is being provided pursuant to the local unit's blanket fidelity bond, coverage under the blanket bond for the tax collector and collector of utility charges shall be subject to the application of individual rating criteria and underwriting standards that consider the risk and potential liability presented by the individuals covered by the blanket bond as if the individuals were covered by an individual bond.**

5:30-8.4 Minimum surety bond requirements for municipal courts

(a) – (b) (No change.)

(c) The municipal judge and the municipal court administrator shall be bonded in such amount as may be deemed appropriate and adequate [under] **pursuant to** the circumstances, the amount, including all assistants, to be not less than the minimum referred to [in] **at** (a) above, and in every case where the minimum requirement applies, based on the volume of annual transactions, the municipal judge and the municipal court administrator shall be bonded in the amount of not less than \$1,000 each. **If coverage is being provided pursuant to the local unit's blanket fidelity bond, coverage pursuant to the blanket bond for the municipal judge and the municipal court administrator shall be subject to the application of individual rating criteria and underwriting standards that consider the risk and potential liability presented by the individuals covered by the blanket bond as if the individuals were covered by an individual bond.**

(d) – (g) (No change.)

#### **5:30-8.6 Managing and accounting for outside employment of off-duty law enforcement officers**

(a) **Each local unit that permits employment of off-duty law enforcement officers by outside entities or individuals shall adopt a formal policy relating to such employment. The policy shall provide for exercise of the local unit's authority to regulate outside employment of off-duty law enforcement officers and to set hourly compensation rates for law enforcement officers engaging in outside employment that is consistent with the Federal Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 et seq. For purposes of this section, off-duty work or off-duty employment shall be work performed on behalf of an outside entity or individual performed outside of a law enforcement officer's regular shift or overtime.**

**(b) If an outside entity or individual utilizes off-duty law enforcement officers for police-related activities at assignments or projects, such as, but not limited to, security and traffic safety control, any payment by the outside entity or individual in connection therewith must be remitted directly to the local unit.**

**(c) Any rates or fees charged by a local unit for employment of off-duty law enforcement officers by outside entities or individuals shall be subject to the provisions of this section and incorporated into the local unit's formal policy regulating such off-duty employment. The rates or fees shall either be established by ordinance or resolution, as appropriate to the form of government, unless the hourly compensation paid to off-duty law enforcement officers is specified in a collective negotiated agreement. Such rates or fees shall not incorporate local unit costs other than those directly attributable to the provision of off-duty law enforcement officers for the project or event. Rates or fees charged by the municipality shall be itemized as follows:**

- 1. Personnel;**
- 2. Administrative;**
- 3. Vehicle;**
- 4. Equipment; and**
- 5. Other costs.**

**(d) Subsection (c) above shall not be interpreted to require a local unit to charge a fee for each of the above categories. Charges for "Equipment" or "Other costs" shall be directly related to those goods or services not encompassed within the "Personnel," "Administrative," or "Vehicle" categories that are necessary for an off-duty law enforcement officer to effectively fulfill the duties of the off-duty employment; however,**

any costs relating to personnel, administration, vehicles, and equipment that are barred from being incorporated into the rate or fees charged for said categories pursuant to this section may not be included pursuant to the categories “Equipment” or “Other costs.”

(e) Hourly compensation paid to off-duty law enforcement officers and payroll taxes attributable to the off-duty employment of law enforcement officers, along with any additional liability insurance that may be required, are the only costs that may be charged as personnel-related costs. The cost of pension benefits, health benefits, and other fringe benefits that are part of base salary and employment shall be excluded from personnel costs charged to an outside entity or individual utilizing off-duty law enforcement officers for police-related activities.

(f) Administrative costs shall be limited to the scheduling of officers for off-duty employment, maintenance of time records, payroll processing, and billing.

1. If a third-party firm administers the contracting unit’s program for off-duty employment of law enforcement officers, the contracting unit may only incorporate the amount billed by the third-party administrator for performing the above-referenced tasks.

2. A contracting unit that directly administers such a program shall charge only up to the cost of hourly compensation for the lowest paid employee or employees that can efficiently perform the above-referenced tasks. Charges for staff may also include the prorated cost of payroll taxes and employer contribution toward worker’s compensation insurance, pension benefits, health benefits, and other fringe benefits.

(g) Costs charged for use of a law enforcement vehicle shall not exceed the cost of operating the vehicle during the off-duty assignment, together with travel to and from the

**assignment. If the charge for use of a law enforcement vehicle exceeds the per-hour or per-mile rate, as applicable, established for police automobiles or motorcycles by the most recent Federal Emergency Management Agency's Schedule of Equipment Rates for reimbursement-eligible equipment costs pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121, et seq., a written explanation and detailed calculation justifying the rate shall accompany the written itemized estimate issued pursuant to (h) below.**

**(h) In advance of the police-related activities being performed by the local unit's off-duty law enforcement officers, the outside entity, or individual shall pay to the local unit the estimated cost of the police-related activities. The local unit shall issue a written itemized estimate to the outside entity or individual. Items charged pursuant to the "equipment" and "other costs" categories must be necessary to carry out the duties associated with the off-duty employment, and shall be specifically itemized and justified in the estimate. If a third-party firm administers the local unit's program pursuant to (f) above, the local unit may permit the third-party administrator to receive payment from the outside entity or individual in the amount of the written estimate, which the third-party administrator must pay over to the local unit in advance of the police-related activities being performed.**

**(i) If a contractor will be utilizing a local unit's off-duty law enforcement officers for purposes of traffic safety in performance of a contract awarded by the same local unit, the local unit may charge the cost of employing the off-duty law enforcement officers to the capital ordinance, grant, or other appropriation.**

**(j) A local unit shall establish a trust fund pursuant to N.J.A.C. 5:30-3.3(c)5, within which receipts from outside entities and individuals employing off-duty law enforcement officers**

charged by local units pursuant to (i) above, shall be deposited. Local units are not permitted to use “contra” accounting methods, where the local unit pays law enforcement officers for off-duty employment, along with any staff administering such employment, through the normal salary and wage budget line item and the funds paid by the outside entity or individual serve to reimburse the salary and wage budget line item.

(k) A local unit shall issue a written statement to the outside entity or individual no later than 30 days after the police-related activities were performed. The statement must show the law enforcement officers and vehicles assigned to the project, as well as itemized by the categories set forth at (c) above with a further breakdown of the component costs for each category. Any outstanding balance must be included with the statement, which shall also include any interest and penalties for which the outside entity or individual would be liable in the event of late payment.

(l) Outside entities and individuals employing off-duty law enforcement officers on a regular basis may be required to maintain a minimum balance in the trust fund equal to the average amount paid to assigned off-duty law enforcement officers within a specified time period, and the local unit may cease making off-duty law enforcement officers available for police-related activities until such time as the outside entity or individual replenishes the minimum balance. In circumstances where the local unit is not requiring an outside entity or individual to maintain a minimum balance in the trust fund, any monies in the trust fund that exceed the cost of the police-related activities for an individual assignment or project shall be returned to the outside individual or entity within 30 days after conclusion of the assignment or project.

5:30-8.8 Reporting requirements for long-term tax exemption projects

(a) [The annual financial statement required for municipalities by the Director pursuant to N.J.S.A. 40A:5-12] **Municipalities with one or more long-term tax exemption projects** shall [include] **submit to the Director** a [schedule of] "Long-Term Tax Exemption [Projects.] **Report**" by no later than the deadline for submission of the annual financial statement pursuant to N.J.S.A. 40A:5-12. [The schedule shall be subject to audit as part of the annual audit of the municipality performed pursuant to N.J.S.A. 40A:5-4.] The Director may require the [schedule] **report** to be prepared and submitted on a computerized spreadsheet or through other computerized form or structure as the Director may specify, as well as, or in lieu of, a printed form.

(b) For each long-term tax exemption project, the schedule shall include the following information:

1. – 8. (No change.)

9. For the fiscal year payment obligation [represented by the Annual Financial Statement]:

i. - vi. (No change.)

10. – 11. (No change.)

(c) The payment schedule of any project [approved after September 21, 2009] shall be submitted to the Division of Local Government Services, pursuant to the filing requirements set forth [at N.J.S.A. 40A:5-12] **in this section.**

(d) (No change.)

5:30-8.10 Acceptance of [third party] **third-party** financial organization payments

When authorized through bona fide "bank-by-phone" or "**online banking**" systems, local units are permitted to accept [check based] **check-based** payments made by banks or other financial organizations on behalf of individual persons when authorized by such persons and when such transactions provide payor information.

### **5:30-8.11 Stormwater utility reports**

**(a) Any local unit that establishes a stormwater utility pursuant to N.J.S.A. 40A:26B-1 et seq., shall submit, concurrent with the adoption of the local unit's annual budget, an annual stormwater utility report to both the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The stormwater utility report shall be certified by the chief financial officer.**

**(b) The stormwater utility report shall contain the following information for the local unit's prior and current budget years:**

- 1. Service area of the local unit's stormwater utility;**
- 2. Schedule of stormwater fees, other charges, and credits established by the local units, including whether the rate structure is individually calculated, tiered, or a uniform flat fee. If the rate structure is individually calculated, the calculation method shall be described;**
- 3. Billing frequency and whether the local unit directly bills tenants of a property;**
- 4. The number of properties that are subject to stormwater fees and other charges, including rights-of-way and easements regardless of whether or not they are assigned a lot and block number;**

**5. Total realized and anticipated revenues from stormwater fees and other charges;**

**6. The number of properties granted credits or exemptions from any fees or charges broken down by land use type, including, but not necessarily limited to, residential, commercial, industrial, and agricultural, along with the cumulative value of credits granted to properties of each land use type. The term “properties” shall include rights-of-way and easements regardless of whether or not they are assigned a lot and block number;**

**7. A breakdown of credits by the following types:**

**i. A property maintaining and operating a stormwater management system complying with the State and local stormwater management standards that were in place at the time the system was approved and that effectively reduces, retains, or treats stormwater onsite;**

**ii. A property that has installed and is operating and maintaining current stormwater best management practices that reduce, retain, or treat stormwater onsite and which are approved by the local unit establishing the stormwater utility; and**

**iii. Any property that has installed and is operating and maintaining green infrastructure that reduces, retains, or treats stormwater onsite and that exceeds any requirements for green infrastructure that may be applicable to that property pursuant to any rule or regulation adopted by the Department of Environmental Protection or the local stormwater control ordinance;**

**8. The percentage and amount of revenues from fees and other charges appropriated and spent on each of the following purposes:**

**i. Initial establishment of the stormwater utility;**

**ii. Administrative support;**

**iii. Capital expenditures, including planning, design, engineering, acquisition, construction, and improvement of the stormwater management system; and**

**iv. Any action required pursuant to any New Jersey Pollutant Discharge Elimination System Permit, including the following:**

**(1) Development and implementation of an asset management program for the stormwater management system, a stormwater management plan, and stormwater control ordinances pursuant to N.J.S.A. 40:55D-93;**

**(2) Any long-term control plan to mitigate combined sewer overflows pursuant to State or Federal law, rule, regulation, permit, or consent decree;**

**(3) Other capital expenditures;**

**(4) Operation and maintenance expenditures of the stormwater management system;**

**(5) Shared services agreements with other local units;**

**(6) Monitoring, inspection, and enforcement activities related to stormwater management and mitigation; and**

**(7) Public education and outreach related to stormwater management;**

**9. FCOA codes used for stormwater utility-related revenues and appropriations in the local unit's budget;**

**10. All capital projects listed in the capital budget and program that are related to stormwater management and mitigation;**

**11. Whether there is an asset management plan for the stormwater management system in place or one currently under development; and**

**12. Methods of stormwater management-related public education and outreach that are being undertaken by the local unit.**

**(c) The stormwater utility report shall contain the following information for the local unit's prior budget year:**

**1. A list of all fully implemented stormwater capital projects; and**

**2. Broken down by land use type, the number of properties for which tax liens attributable to delinquent stormwater charges were sold, the number of properties for which delinquent stormwater charges remained unsold at tax sale and were struck off to the municipality, and the average arrearage amount.**

**(d) The chief financial officer shall electronically submit a certified copy of the stormwater utility report to the Director of the Division of Local Government Services through the Division's Financial Automation Submission Tracking (FAST) system, together with all relevant information and documentation as prescribed in this section or as otherwise may be required by the Director or the Department of Community Affairs.**

## **SUBCHAPTER 9. GOVERNMENT ELECTRONIC RECEIPT ACCEPTANCE**

### **5:30-9.1 Purpose and authority**

**(a) – (b) (No change.)**

**(c) While the title of the legislation refers to "electronic payment," [these rules] **this subchapter** utilizes the phrase "electronic receipt," as the use of "payment" could be confused with the ability of a local government unit to pay its own obligations electronically[, a procedure not authorized by law].**

## 5:30-9.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account, **and includes an in-person funds transfer and an online funds transfer.**

...

**"In-person funds transfer" means any transfer of funds through a service that accepts a payment made in-person, by any method, and then transmits those funds to a payee by electronic funds transfer, but shall not include a service that requires a local unit to maintain, and funds to be transmitted to, an account that is not a designated depository of the local unit pursuant to N.J.S.A. 40A:5-14.**

...

**"Online funds transfer" means any Internet-based transfer of funds through an Internet-based payment system, but shall not include a service that requires a local unit to maintain, and funds to be transmitted to, an account that is not a designated depository of the local unit pursuant to N.J.S.A. 40A:5-14.**

...

## 5:30-9.8 Individual electronic receipts

(a) Local units may permit electronic receipts generated by individuals, generically known as "bank-by-phone" or "**online banking**," where an individual authorizes a bank or other processor organization to process a payment transaction to the local unit on the individual's behalf.

(b) (No change.)

## SUBCHAPTER 9A. ELECTRONIC DISBURSEMENTS AND CLAIMANT CERTIFICATION

5:30-9A.6 [Claimant certification; when payment can be made without claimant certification]

### **Certifications required for paying out moneys; exceptions**

(a) A certification pursuant to N.J.S.A. 40A:5-16.a that a bill or demand is correct or **N.J.S.A. 40A:5-16.b that the goods have been received by or services rendered to the local unit** must either feature an original signature, signature stamp, facsimile signature, or electronic signature of the individual making the certification.

(b) (No change.)

(c) For a local unit, including a county college, payments may be made without certification by [the vendor or claimant as to the bill or demand being correct under the following circumstances] **an officer or duly designated employee of the local unit having knowledge of the facts that the goods have been received by, or the services rendered to, the local unit when payment to vendors is required in advance of the delivery of the following materials or services, if those materials or services cannot be obtained from any other source at comparable prices:**

[1. When payment to vendors is required in advance of the delivery of the following materials or services, if those materials or services cannot be obtained from any other source at comparable prices, including:

i. For such purposes as may be permitted pursuant to N.J.S.A. 40A:5-16.2 and 16.3;

ii. Payment obligations to the State or Federal governments;

iii. Membership in a nonprofit organization;

iv. Educational courses, including, but not limited to, those where continuing education credits are awarded;

v. Registration for a conference or convention sponsored by a nonprofit organization; and

vi. Website hosting, including registration and maintenance of a domain name;

2. When ordering, billing, and payment transactions for goods or services are made through a computerized electronic transaction utilizing standard electronic funds transfer technologies; and

3. Where the local unit institutes a standard policy through resolution or ordinance, as appropriate, to not require a vendor or claimant certification if said vendor or claimant does not provide, as part of its normal course of business, a certification from an individual with knowledge of the transaction that a bill or demand is correct. In instituting such a policy, the local unit shall have the discretion to require vendor or claimant certification as the local unit deems necessary or appropriate.]

**1. For such purposes as may be permitted pursuant to N.J.S.A. 40A:5-16.2 and 16.3;**

**2. Payment obligations to the State or Federal governments;**

**3. Membership in a nonprofit organization;**

**4. Educational courses, including, but not limited to, those where continuing education credits are awarded; and**

**5. Website hosting, including registration and maintenance of a domain name.**

**(d) For a local unit, including a county college, payments may be made without certification by the vendor or claimant as to the bill or demand being correct pursuant to the following circumstances:**

**1. When ordering, billing, and payment transactions for goods or services are made through a computerized electronic transaction utilizing standard electronic funds transfer technologies;**

**2. The circumstances specified at (c) above; and**

**3. Where the local unit institutes a standard policy through resolution or ordinance, as appropriate, to not require a vendor or claimant certification if said vendor or claimant does not provide, as part of its normal course of business, a certification from an individual with knowledge of the transaction that a bill or demand is correct. In instituting such a policy, the local unit shall have the discretion to require vendor or claimant certification, as the local unit deems necessary or appropriate.**

[[d)] (e) The provisions [of (c)2 and 3] **at (d)** above shall not apply to the reimbursement of employee expenses or payment for personal services.

1. No employee expenses shall be reimbursed, unless the employee provides a detailed statement, certified, in writing, by the employee, along with documentation in support of each expense.

2. (No change.)

[(e)] **(f)** Vendor or claimant certification shall not be required as a condition for payment to be made for debt service or any services set forth [under] **at** N.J.S.A. 40A:5-16.d.

(**Agency Note:** Subchapter 10, Municipal Port Authorities, is proposed for recodification as N.J.A.C. 5:31-9.)

## **SUBCHAPTER 10. MUNICIPALITIES UNDER STATE SUPERVISION**

### **5:30-10.1 Purpose and scope**

**This subchapter establishes rules for the interpretation and administration of N.J.S.A. 52:27BB-54 through 100, commonly referenced as “State Supervision.”**

### **5:30-10.2 Default in municipal debt obligations**

**A default in the payment of bonded obligations or notes due to insufficient funds, failure to authorize payment, or failure to make payment for any other reason shall be grounds for the Local Finance Board to place a municipality under State Supervision pursuant to N.J.S.A. 52:27BB-55(1).**

### **5:30-10.3 Authorization and execution of disbursements**

**For a municipality under State Supervision, the Director may order the governing body or an officer to authorize disbursements, or an officer to make disbursements, in accordance with the adopted budget, or any temporary or emergency appropriations adopted by the Board or by the governing body pursuant to N.J.S.A. 40A:4-19, 40A:4-19.1, or 40A:4-20, as applicable. The orders may be enforced as authorized by law. Whenever such an order of the Director has not been fully performed or carried out by the officials or employees of the municipality, the Board may perform directly, or cause to be performed**

by its agents, including the director, in the name of the municipality, the authorization and execution of disbursements.

#### **5:30-10.4 Fiscal control officer**

(a) The Board may recommend to the municipal governing body that a fiscal control officer be appointed for a municipality under State Supervision. The fiscal control officer shall have some of the powers and duties of the Director at N.J.S.A. 52:27BB-57 and 58, and 52:27BB-82 through 87 inclusive, as may be specifically assigned by the Board. A fiscal control officer shall exercise authorized power and perform required duties pursuant to the general supervision of the Director.

(b) If the Board recommends the appointment of a fiscal control officer, the Board shall submit, to the governing body, the names of not less than three persons who are found by the Board to be qualified to perform the duties of fiscal control officer for that municipality. Within 14 days of the names being submitted, or such other period as may be agreed to by the Board, the governing body shall appoint as fiscal control officer one of the persons so named. If the governing body fails to appoint a fiscal control officer within the required period, the Director shall appoint as fiscal control officer one of the persons so named.

(c) The fiscal control officer shall receive compensation to be paid out of the funds of the municipality in an amount fixed by the governing body and approved by the Board. The fiscal control officer shall give bond for the faithful performance of duties in an amount fixed by the governing body and approved by the Board.

**(d) The employment of a fiscal control officer shall continue until termination by the governing body, subject to approval of the Board, or termination by the Board. The Director may recommend termination of the fiscal control officer and the appointment of a replacement, and may suspend the fiscal control officer pending a determination by the Board on whether to terminate the officer.**

#### SUBCHAPTER 13. FINANCIAL REVIEW BOARDS

##### 5:30-13.3 Financial review board

(a) The board shall consist of [seven] **five** members appointed by the Governor.

(b) - (k) (No change.)

#### SUBCHAPTER 15. ACCUMULATED ABSENCE MANAGEMENT AND FINANCING

##### 5:30-15.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Employer agreement" or "agreement" means a duly negotiated and approved labor agreement between the local unit and a collective bargaining organization; or a local unit employer practice or an agreement provided by ordinance or resolution as appropriate to the local unit, which, **subject to law**, allows the employee to accumulate sick days, vacation days, personal days, compensatory time, or other absence time, and which obligates the local unit to compensate the employee for the value of that time upon separation from employment.

"Local unit" means any county, municipality, **regional service agency**, or a local public authority or fire district that is subject to the Local Authorities Fiscal Control Law, N.J.S.A.

40A:5A-1 et seq.

...

5:30-15.3 Calculation of compensated absence liability

(a) Each municipality and county shall include a breakdown of accumulated absences and a preliminary schedule of the value of compensated absence, to be submitted as part of the local unit's **introduced and adopted** annual budget. The report shall [indicate the amount of accumulated absence and the value of compensated absence by the legal basis for the benefit, such as labor contract, local ordinance, or an agreement with an individual employee, and shall summarize any offsetting reserves or budgeted appropriations.] **provide the following information:**

**1. The gross number of days of accumulated absences and the dollar value of same as of the final day of the prior budget year, broken down by:**

**i. Sick days, vacation days, personal days, compensatory time, and other absence time; and**

**ii. Bargaining unit in the case of unionized employees, and individual position in the case of non-unionized employees, with those non-union employees holding more than one position reported based on the accumulated absence liability for all positions held;**

**2. For each collective bargaining unit or individual position, the legal basis for the benefit;**

**3. The number of individuals, regardless of whether part of a collective bargaining unit, that are subject to restrictions on accumulated absence compensation and/or accumulation pursuant to P.L. 2007, c. 92 or P.L. 2010, c. 3;**

**4. A summary of any offsetting reserves or budgeted appropriations; and**

**5. For municipalities, accumulated absence liability reporting shall be incorporated into the municipal user-friendly budget pursuant to N.J.A.C. 5:30-3.8. On an annual basis, the municipality shall provide a copy of its accumulated absence liability reporting to the municipal auditor.**

(b) (No change.)

(c) All compensated absence calculations shall be made pursuant to GASB Statement Number 16 (1992), Accounting for Compensated Absences (C. 60), incorporated herein by reference, as amended and supplemented, **and shall be subject to any restrictions on accumulated absence compensation and/or accumulation pursuant to State law.**

(d) (No change.)

5:30-15.4 Authorization for compensated absence payments

(a) (No change.)

**(b) No payments for compensated absence shall be authorized that exceed limitations established pursuant to State law.**

[(b)] (c) Payment for compensated absence shall be made upon certification by the chief financial officer of the local unit that sufficient documentation of the amount of the accumulated absence has been provided, and that funds are available to pay for the amount of compensated absence due. Sufficient documentation shall include:

1. (No change.)

2. Documentation of the **employee's hire date and the amount of accumulated absence time broken down by category; [and]**

**3. If the employee is subject to accumulated absence restrictions established by P.L. 2007, c. 92, the date the employee entered a title subject to P.L. 2007, c. 92; and**

[3.] **4.** (No change in text.)

[(c)] **(d)** (No change in text.)

**(e) For officers and employees subject to P.L. 2007, c. 92 or P.L. 2010, c. 3, payment for unused sick leave shall be payable only at the time of retirement from a State-administered or locally administered retirement system based on the leave credited on the date of retirement.**

**5:30-15.6 Payment for accumulated sick leave for certain officers and employees who are subject to P.L. 2007, c. 92**

**(a) A local unit shall not pay supplemental compensation to any officer or employee as defined at (b) below for accumulated unused sick leave in an amount in excess of \$15,000, except an officer or employee who:**

**1. On July 1, 2007, or upon the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on July 1, 2007, has accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so accumulated or not more than \$15,000, whichever is greater; or**

**2. Becomes an officer or employee after July 1, 2007, and has previously accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so previously accumulated or not more than \$15,000, whichever is greater.**

**(b) As set forth at (a) above, "officer or employee" shall mean:**

**1. An elected official;**

**2. The statutory-based, untenured chief administrative officer of the local unit, including business administrators, county administrators, municipal or county managers, municipal or county administrators appointed pursuant to the authority of a local ordinance, executive directors, or similar positions;**

**3. Individuals with principal operating responsibility of a government function(s) (commonly called "department heads" or similar title), that are appointed by the governing body or a municipal or county manager, as applicable to the form of government, and who directly report to an elected official(s) or chief administrative officer;**

**4. Legal counsel to the local unit, regardless of title, directly employed by the local unit;**

**5. Municipal engineers or county engineers directly employed by the local unit;**

**6. Municipal court judges;**

**7. Appointed commissioners of a local authority subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.);**

**8. Gubernatorial appointees serving in municipal or county government for a fixed term; or**

**9. A person appointed by an elected public official or elected governing body of a local unit, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution. The Director may provide interpretations of this subpart at the request of a local unit.**

**(c) For purposes of (a) above, an “officer or employee” shall not include a person who:**

**1. Is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the local unit;**

**2. Holds a professional license or certificate to perform and is performing in any of the following capacities, regardless of the position the officer or employee holds:**

- i. Certified health officer;**
- ii. Tax assessor;**
- iii. Tax collector;**
- iv. Municipal planner;**
- v. Chief financial officer;**
- vi. Registered municipal clerk;**
- vii. Construction code official;**
- viii. Licensed uniform subcode inspector;**
- ix. Qualified purchasing agent; or**
- x. Certified public works manager; and**

**3. Individuals serving in an acting or temporary capacity in any of the positions listed at (c)2 above, for which a local unit may appoint an individual on an acting or temporary basis.**

**5:30-15.7 Payment for accumulated vacation leave for certain officers and employees that are subject to P.L. 2007, c. 92**

**(a) A local unit officer or employee who does not take vacation leave that accrues on or after July 1, 2007, or on or after the date on which the person becomes an officer or employee, in a given year because of business demands shall be granted that accrued leave only during the next succeeding year, except that:**

**1. Vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the officer or employee's appointing authority, the leave is used, or the employee or officer is compensated for that leave, which shall not be subject to collective negotiation or collective bargaining; and**

**2. A person who is an officer or employee on July 1, 2007, or becomes an officer or employee after July 1, 2007, and has previously accrued vacation leave shall be eligible and shall be permitted to retain and use that accrued vacation leave.**

**(b) As set forth at (a) above, "officer or employee" shall mean:**

- 1. An elected official;**
- 2. The statutory-based, untenured chief administrative officer of the local unit, including business administrators, county administrators, municipal or county managers,**

**municipal or county administrators appointed pursuant to the authority of a local ordinance, executive directors, or similar positions;**

**3. Individuals with principal operating responsibility of a government function(s) (commonly called “department heads” or similar title), that are appointed by the governing body or a municipal or county manager, as applicable to the form of government, and who directly report to an elected official(s) or chief administrative officer;**

**4. Legal counsel to the local unit, regardless of title, directly employed by the local unit;**

**5. Municipal engineers or county engineers directly employed by the local unit;**

**6. Municipal court judges;**

**7. Appointed commissioners of a local authority subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.);**

**8. Gubernatorial appointees serving in municipal or county government for a fixed term; or**

**9. A person appointed by an elected public official or elected governing body of a local unit, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution. The Director may provide interpretations of this subsection at the request of a local unit.**

**(c) For purposes of (a) above, an “officer or employee” shall not include a person who:**

**1. Is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the local unit;**

**2. Holds a professional license or certificate to perform and is performing in any of the following capacities, regardless of the position the officer or employee holds:**

- i. Certified health officer;**
- ii. Tax assessor;**
- iii. Tax collector;**
- iv. Municipal planner;**
- v. Chief financial officer;**
- vi. Registered municipal clerk;**
- vii. Construction code official;**
- viii. Licensed uniform subcode inspector;**
- ix. Qualified purchasing agent; or**
- x. Certified public works manager; and**

**3. Individuals serving in an acting or temporary capacity in any of the positions listed at (c)2 above, for which a local unit may appoint an individual on an acting or temporary basis.**

**5:30-15.8 Accumulated absence liability for officers and employees who are subject to P.L. 2010, c. 3**

**A local unit shall not pay supplemental compensation for accumulated unused sick leave in an amount in excess of \$15,000 to any officer or employee who commences service**

**with the local unit on or after May 21, 2010, or, if a collective negotiations agreement in force on May 21, 2010, contained a provision concerning supplemental compensation for accumulated unused sick leave, to any officer or employee who commences service with the local unit on or after the expiration of the collective negotiations agreement.**

**5:30-15.9 Use of accrued vacation leave by officers and employees who are subject to P.L. 2010, c. 3**

**(a) A local unit officer or employee commencing service with the local unit on or after May 21, 2010, who does not take vacation leave that accrues in a given year because of business demands shall be granted that accrued leave only during the next succeeding year, except that vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the officer or employee's appointing authority, the leave is used or the employee or officer is compensated for that leave, which shall not be subject to collective negotiation or collective bargaining.**

**(b) Notwithstanding (a) above to the contrary, if a collective negotiations agreement in force on May 21, 2010, contained a provision concerning the accrual of unused vacation leave, this section shall apply to any officer or employee who commences service with the local unit on or after the expiration of the collective negotiations agreement.**

**5:30-15.10 Compensated absence compliance testing in annual audit**

**(a) As part of the annual audit, the auditor shall undertake sample testing of the local unit's compensated absence liability, if any, using the following procedures:**

**1. Inspect employee personnel records to:**

**i. Confirm whether those records support the number of hours or days of accumulated absence recorded for the employee; and**

**ii. Determine whether the employee is subject to the provisions at P.L. 2007, c. 92 or P.L. 2010, c. 3, pertaining to accumulated or compensated absence;**

**2. Confirm that the dollar value of compensated absence recorded for the employee is authorized by a labor contract, individual employment agreement, or an ordinance or resolution, as appropriate to the local unit. If the employee is subject to the provisions at P.L. 2007, c. 92 or P.L. 2010, c. 3, pertaining to accumulated or compensated absence, the auditor shall confirm that the recorded dollar value does not exceed that authorized pursuant to law; and**

**3. Confirm that a payout to an employee for accumulated absence is authorized by a labor contract, individual employment agreement, or an ordinance or resolution, as appropriate to the local unit. If the employee is subject to the provisions at P.L. 2007, c. 92 or P.L. 2010, c. 3, pertaining to compensation for accumulated absence, the auditor shall confirm that the payout is authorized pursuant to law.**

**SUBCHAPTER 16. AGENCY COMMUNICATIONS WITH LOCAL UNITS**

**5:30-16.2 GovConnect**

(a) (No change.)

(b) Pursuant to (c) below, the covered local officials must register in their official capacity with the GovConnect website [<http://mynewjersey.state.nj.us/>] **on the myNewJersey portal** by the date shown [herein] **in this section**. Additionally, these individuals must have Internet access for

the conduct of local unit business. Registration means being enrolled as an authorized user of the GovConnect system. Covered local officials will receive information from the Division of Local Government Services on how to register on the system.

(c) Covered local officials and the date by which they must be registered in GovConnect are as follows:

1. - 3. (No change.)
4. Clerk to the County Board of [Chosen Freeholders] **Commissioners**: April 30, 2002.
5. (No change.)
6. Representative designated by the Board of Commissioners from each local authority, **including regional authorities subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.)**: October 1, 2004.
7. (No change.)
8. **Business administrator or manager of a municipality: April 30, 2023.**
9. **Administrator or manager of a county: April 30, 2023.**
10. **Individual designated to serve as a local unit’s purchasing agent, regardless of whether the individual is licensed as a Qualified Purchasing Agent: April 30, 2023.**
11. **Certified public works manager of a municipality: April 30, 2023.**

SUBCHAPTER 17. ELECTRONIC DISBURSEMENT CONTROLS FOR [PAYROLL PURPOSES] **AUTHORIZED THIRD-PARTY DISBURSMENT SERVICES**

5:30-17.1 Purpose

This subchapter sets forth standards for local governments to follow when contracting with an organization to make disbursements on the local unit's behalf, as permitted [by] **at**

N.J.S.A. 52:27D-20.1 **and this subchapter**. [The] **This** subchapter is intended to ensure that local units understand the risks associated with electronic disbursements and implement sound fiscal and control practices governing such disbursements. This subchapter is limited in application to **third-party disbursement services authorized for use by the Local Finance Board by local units, namely** third-party preparations and calculations for and the disbursement of salaries and wages, all withholdings, and additional related liabilities, as well as disbursements for utility bills.

#### 5:30-17.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Third-party disbursement service organization or disbursing organization" means an organization engaged either directly or indirectly to perform any of the services [indicated in these rules] **authorized pursuant to this subchapter**.

"Third-party disbursement service" means such service or services of the type [described in these rules] **authorized pursuant to this subchapter**. Such service or services may include the processing and disbursing of payroll and payroll agency obligations and energy tracking and utility bill management systems.

...

#### 5:30-17.5 Eligibility requirements for disbursing organizations

(a) Disbursing organizations shall meet the following conditions and/or requirements:

1. The disbursing organization shall provide evidence of satisfactory internal control, evidence of which shall be required by the CFO. Such evidence may be:

i. The disbursing organization's Report on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness, performed pursuant to AICPA (American Institute of Certified Public Accountants) Statement on Standards for Attestation Engagements No. [16] **18, or such successor standards as may be promulgated by AICPA;**

ii.-iii. (No change.)

2. (No change.)

5:30-17.6 Contract terms and conditions

(a) – (b) (No change.)

(c) Upon reasonable notice, the disbursing organization shall allow an independent auditor compensated by the local unit to examine its internal controls applying SSAE [16] **18 standards, or such successor standards as may be promulgated by AICPA, SysTrust™ standards, or other standards and procedures mutually agreed upon to ensure accurate, complete, and timely work product. Upon completion, the independent auditor's report shall be provided to the CFO and governing body and shall be for internal use only.**

(d) – (k) (No change.)

**APPENDIX**

**SPECIAL CONFIDENTIAL REPORT – SECTION 1, PAGE 1  
(Preliminary report to be filed within forty-eight hours after discovery)**

**NOTE:** File one copy with the Division of Local Government Services, and where a shortage develops, one copy with the municipality.

**MUNICIPALITY:** \_\_\_\_\_ **MUNI CODE:** \_\_\_\_\_

**COUNTY:** \_\_\_\_\_

**1. OFFICIAL**

- (a) Name and Title
- (b) Length of service
- (c) Name of other person working in or having access to the same
- (d) Duties of persons referred to in (c)

**2. AMOUNT INVOLVED** \$ \_\_\_\_\_

(If amount involved is not definitely known, so state, but give known amounts and facts as determined to date – render supplemental reports of findings from time to time, and give final report in Section 2.)

**3. DISCOVERY**

- (a) Date
- (b) Facts and circumstances leading to discovery

(attention is directed to the text of the "Requirements of Audit")

**SPECIAL CONFIDENTIAL REPORT – SECTION 1, PAGE 2**

**MUNICIPALITY:** \_\_\_\_\_ **MUNI CODE:** \_\_\_\_\_

**COUNTY:** \_\_\_\_\_

**4. SURETY BONDS**

**Corporate**

(a) **Amounts and Company** \_\_\_\_\_  
\_\_\_\_\_

(b) **New bond each year**      **Yes** \_\_\_\_      **No** \_\_\_\_

(c) **Continuation certificate**      **Yes** \_\_\_\_      **No** \_\_\_\_

**Personal**

(d) **Name, address, and business of each bondsman**

(e) **Amount**

**5. REPORTED TO**

(a) **Governing Body**  
(1) **How – written or oral**

(2) **Date**

(b) **Bonding Company**

(1) **By whom**

(2) **Company Direct**

(3) **Agent of Company**

(4) **How**

(5) **Date**

(c) **Prosecutor**

(1) **By whom**

(2) How

(3) Date

Date \_\_\_\_\_ 20\_\_\_\_

Signed \_\_\_\_\_

Print Name: \_\_\_\_\_

Registered Municipal Accountant

**SPECIAL CONFIDENTIAL REPORT – SECTION 2, PAGE 3**  
(To be filed upon completion, or reasonable determination of amount)

MUNICIPALITY: \_\_\_\_\_

MUNI CODE: \_\_\_\_\_

COUNTY: \_\_\_\_\_

**6. METHOD OR METHODS USED BY OFFICIAL**

- (a) In obtaining funds
- (b) In covering up shortage

**7. AMOUNT OF SHORTAGE AS DETERMINED AT THIS DATE, AND DATE OF DETERMINATION**

**8. REPORT OR REPORTS TO**

- (a) **Governing Body**
  - (1) How – written or oral
  - (2) Date
- (b) **Bonding Company**
  - (1) By whom
  - (2) To Whom
  - (3) How reported
  - (4) Date
- (c) **Prosecutor**
  - (1) By whom

(2) How

(3) Date

Date \_\_\_\_\_ 20\_\_\_\_

Signed \_\_\_\_\_

Print Name: \_\_\_\_\_

Registered Municipal Accountant

**SPECIAL CONFIDENTIAL REPORT – SECTION 3, PAGE 4**  
**(To be filed upon disposition of case)**

MUNICIPALITY: \_\_\_\_\_

MUNI CODE: \_\_\_\_\_

COUNTY: \_\_\_\_\_

**9. DISPOSITION OF SHORTAGE OF** \_\_\_\_\_

- (a) Repayment by
- (b) Terms of Bonding Company Settlement

**10. REMARKS**

(Note: Legal or criminal action and results)

Date \_\_\_\_\_ 20\_\_\_\_

Signed \_\_\_\_\_

Print Name: \_\_\_\_\_

**Registered Municipal Accountant**

**Note: To Registered Municipal Accountant  
No report will be considered complete  
Until all three (3) sections are filed**

CHAPTER 31

LOCAL AUTHORITIES

**SUBCHAPTER 9. MUNICIPAL PORT AUTHORITIES**

[5:30-10.2] **5:31-9.1** (No change in text)