

## TITLE 52

## STATE GOVERNMENT, DEPARTMENTS AND OFFICERS

### **52:27-1. Local Government Board to be constituted the "Municipal Finance Commission"**

All the powers and duties formerly exercised and performed by the Municipal Finance Commission and vested in the Local Government Board of the State Department of Local Government by chapter three hundred eighty-five of the laws of one thousand nine hundred and thirty-nine and in the Local Government Board of the Division of Local Government in the State Department of Taxation and Finance by the effect of chapter one hundred twelve of the laws of one thousand nine hundred and forty-four shall continue to be exercised and performed by the Local Government Board of said division, and the said Local Government Board shall be constituted the Municipal Finance Commission, hereinafter, in this chapter, called "Municipal Finance Commission" or "commission."

Amended by L.1947, c. 119, p. 583, s. 1.

### **52:27-2. Action where municipality defaults; judgment; powers and duties of commission**

Whenever it shall be made to appear to the Superior Court in an action brought by or on behalf of the holder of any notes or bonds of any municipality of this State against the municipality, that the municipality has defaulted for over sixty days in the payment of the principal or interest of any of its outstanding notes or bonds held by the plaintiff, the court may proceed in the action in a summary manner or otherwise.

If it shall be established to the satisfaction of the court that the municipality is so in default, it may enter judgment to that effect.

Upon the entry of the judgment, the commission shall have and exercise with respect to such municipality the powers and duties prescribed by this chapter.

Amended by L.1953, c. 49, p. 864, s. 27.

### **52:27-3. Resolution by municipality declaring inability to meet obligations; action in Superior Court; commission to function**

Any municipality may file with the Clerk of the Superior Court a certified copy of a resolution adopted by the governing body of the municipality, reciting in general terms that due to unusual conditions the municipality is not in a position to meet its obligations when due, in spite of the endeavors of its officers, and institute a civil action in the Superior Court, making the Director of the Division of Local Government a defendant and making application that the commission function in the municipality.

The court may proceed in the action in a summary manner or otherwise.

If it shall be established to the satisfaction of the court that the municipality is so unable to meet its obligations, it may enter judgment to that effect.

Upon the entry of the judgment, the commission shall function in such municipality with all the powers and duties conferred by this chapter.

Amended by L.1953, c. 49, p. 865, s. 28.

**52:27-4. Duration of commission in municipality; subsequent powers of Director of Division of Local Government**

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The commission shall continue in force in such municipality, and shall exercise the powers and perform the duties conferred by this chapter until all bonds or notes or other indebtedness of the municipality which has fallen due, and all bonds or notes which will fall due within one year, and the interest thereon, have been paid or funded or refunded, or the payment thereof in cash adequately provided for by a cash reserve, excepting tax anticipation or tax revenue notes or bonds of the current year, at which time its authority under this chapter shall cease.

Thereafter the Director of the Division of Local Government in the State Department of Taxation and Finance shall have the power to continue the employment of the auditor as provided for in section 52:27-6 of this Title, and to exercise the powers of the commission under section 52:27-22 of this Title, until the gross and net debt of such municipality, including notes or bonds issued under this chapter, is within all statutory limits, at which time his authority under this chapter shall cease.

Amended by L.1947, c. 119, p. 583, s. 2.

**52:27-5. Powers of commission and director to cease upon annulment of order adjudging municipality in default**

Whenever the Superior Court has heretofore made or shall hereafter make an order or judgment annulling, vacating and discharging any order or judgment theretofore made by it pursuant to this chapter adjudging that the municipality has defaulted in the payment of the principal or interest of any of its outstanding notes or bonds, the commission shall cease to continue in force in such municipality and neither the commission nor the said director shall thereafter exercise any powers or perform any duties in and for such municipality pursuant to this chapter, provided that the commission shall have heretofore or hereafter determined by resolution that it is not functioning in said municipality.

Amended by L.1947, c. 119, p. 584, s. 3; L.1953, c. 49, p. 865, s. 29.

**52:27-6. Secretary, auditor and other assistants; limitation on expenses**

For the purpose of enabling the commission to carry out this chapter it may appoint a secretary and counsel, employ an auditor and such other assistants, legal, clerical or otherwise, and fix their duties, terms of service and compensation, and incur such other expenses as it may deem necessary, but no expenses (other than expenses directly attributable to the municipality, such as costs of issuing notes or bonds of the municipality and the costs of audit) shall be incurred exceeding ten thousand dollars (\$10,000.00) in any one municipal fiscal year for any one municipality without the approval of a judge of the Superior Court.

Amended by L.1953, c. 49, p. 866, s. 30.

**52:27-7. Duties of secretary**

The secretary shall keep minutes of the transactions and proceedings of the commission and shall be the official reporter of the proceedings of the commission.

**52:27-8. Office for auditor; access to books and records**

The auditor employed by the commission shall have an adequate office in the municipal building, if any, and shall have access to all books of account, records, papers and memoranda of such municipality.

**52:27-9. Warrants and checks to be countersigned by auditor**

All warrants, checks or other instruments for the withdrawal or transfer of funds of the municipality shall be submitted to such auditor for his countersignature, and no banking institution in which funds of the municipality have heretofore been or shall hereafter be deposited shall honor warrants or checks drawn thereon unless the countersignature of such auditor shall appear on the face of such instruments.

**52:27-10. Rules; seal**

The commission may make all needful rules for its government and other proceedings not inconsistent with this chapter, and shall have and adopt a common seal.

**52:27-11. Majority may act; hearing; single member may sit**

The act of a majority of the commission shall be deemed the act of the commission. The commission may hold hearings and administer oaths to witnesses. The members of the commission may sit singly for the purpose of holding public hearings.

**52:27-12. Subpoenas; failure to obey or refusal to answer questions**

The commission may issue subpoenas, signed by a majority of the commission, to compel attendance of witnesses before it and the production of books, papers and records. Any failure to obey any subpoena so issued or refusal to answer questions propounded by the commission, shall be punishable by the Superior Court in the same manner as a similar failure or refusal would be punishable in a case pending in such court.

Amended by L.1953, c. 49, p. 866, s. 31.

**52:27-13. Commission may carry out directions not complied with by municipality**

Whenever any direction of the commission authorized under this chapter has not been fully performed or carried out by the officials of the municipality affected, the commission may perform directly, or cause to be performed by its agents, in the name of the municipality, any act so directed by the commission, including the power to execute, sell, issue and deliver any bonds or notes directed to be issued under a resolution certified in accordance with section 52:27-14 of this title.

**52:27-13.1. Powers and duties of auditor**

Whenever, pursuant to this chapter, the commission shall function in any municipality, the auditor appointed by the commission in and for such municipality shall, upon the adoption by the commission of a resolution providing therefor, have with respect to such municipality authority to recommend the tentative annual budget to the governing body thereof and to the commission; to review all contracts prior to their execution and their authorization by the governing body; to make recommendations concerning all capital improvements; to attend all meetings of the governing body with the right to take part in discussions but without the right to vote on any matters; to investigate the affairs of any department, officer, department head, employee, subordinate or assistant of such municipality; and to make recommendations with respect to any or all matters aforesaid both to the governing body and to the commission.

**52:27-13.2. Certifying failure of municipal officer or employee to perform duties; removal or suspension; appointment of another**

Whenever, pursuant to this chapter, the commission shall function in a municipality, it shall have, in addition to the powers granted in sections 52:27-13.1 of this title, the power, and it shall be its duty, to certify by resolution to the governing body and to the officer or employee concerned any failure on the part of such officer or employee of such municipality to perform any duty imposed upon such officer or employee under the provisions of any statute, local ordinance or regulation. Unless prior to the thirtieth day following the date of such certification, the governing body and the commission shall by resolution declare that such officer or employee has satisfactorily undertaken the performance of such duty, the governing body shall by resolution either remove, or suspend, with or without pay, such officer or employee; but nothing herein contained shall be deemed to authorize the removal or suspension hereunder without pay of any elected officer, but such officer may be suspended hereunder with pay for the remainder of his term of office. Upon the removal or suspension hereunder of any officer or employee, it shall be the duty of the governing body, with the concurrence and approval of the commission, to appoint a person or persons satisfactory to the governing body and to the commission to perform the duties of such officer or employee. In the event that no such satisfactory person can be found to perform such duties who is a resident of the municipality, it shall be lawful to appoint a person residing outside of the municipality.

### **52:27-13.3. Special collectors; appointment**

Whenever, pursuant to this chapter, the commission shall function in a municipality, it shall have, in addition to the powers granted in sections 52:27-13.1 and 52:27-13.2 of this title, the power by resolution to recommend to the governing body of such municipality the appointment of one or more persons to act as special collectors of delinquent taxes or any other revenues in such municipality. Thereupon it shall be the duty of the governing body, with the concurrence and approval of the commission, to appoint a person or persons satisfactory to the governing body and to the commission to act as such special collector or collectors and to fix his or their compensation, and it shall be lawful so to appoint a person or persons residing outside of the municipality.

### **52:27-13.4. Application of proceeds of taxes**

The commission shall have power from time to time by resolution to direct that for such period as may be stated in such resolution the proceeds of any taxes collected, received, or realized in any manner during such period shall be applied equally and ratably to the purposes for which such taxes were levied.

### **52:27-13.5. Manner of certifying resolution; binding effect**

Any resolution adopted by the commission pursuant to sections 52:27-13.1 to 52:27-13.4 of this title may be certified to the municipality by the commission in the manner provided in section 52:27-64 of this title, and when so certified the provisions of such resolution shall be binding upon such municipality.

### **52:27-14. Funding or refunding indebtedness; resolution by commission**

The commission may from time to time prepare and certify to the governing body of any municipality in which the commission is functioning, resolutions providing for the funding or refunding of notes or bonds, or other indebtedness of the municipality, and the interest thereon, which the commission shall have found after public hearing to be outstanding and unpaid and to be due or to become due.

### **52:27-15. Public hearing on resolution**

Any proposed resolution providing for the issuance of notes or bonds, if such notes or bonds are payable more than one year from the date of issue, shall be so certified only after a public hearing by the commission, but no resolution or amendment thereto determining or altering the form of notes or bonds or providing for their sale, execution or delivery shall require any public hearing before such certification.

**52:27-16. Adoption of resolution by municipality**

Such resolution shall, on direction of the commission, be adopted by the proper officials of such municipality in the form certified by the commission.

**52:27-17. Other laws not applicable; debt statements as including obligations issued after December 31, 1946**

Such resolutions and any notes or bonds issued thereunder shall not be subject to the limitations or other provisions of any other law. Notwithstanding the provisions of any other law, no notes or bonds issued after December thirty-first, one thousand nine hundred and forty-six by any municipality pursuant to this chapter shall be included in computing either the gross debt or the net debt of the municipality in any annual debt statement or in any supplemental debt statement filed in connection with the authorization of bonds or notes for other purposes, unless, by provision or recital in such resolution or in such notes or bonds, the faith and credit of such municipality shall have been pledged for the payment of principal of or interest on such notes or bonds.

Amended by L.1947, c. 54, p. 189, s. 1.

**52:27-18. Publication of resolution; when effective; validity**

Excepting resolutions determining or altering the form of notes or bonds or providing for their sale, execution or delivery, and resolutions amendatory thereof or supplemental thereto, such resolutions shall be published in a newspaper circulating in the municipality and shall take effect immediately upon such publication. Resolutions not required to be published shall take effect immediately upon adoption by the proper officials of such municipality. Thirty days after taking effect all resolutions shall be conclusively presumed to have been duly and regularly adopted by such municipality, and to comply with the provisions of this and every other law, and the validity of any such resolution shall not thereafter be questioned by either a party plaintiff, or a party defendant, except in a suit, action, or proceeding commenced prior to the expiration of such thirty days.

**52:27-19. Terms and form of notes or bonds; sale or exchange**

Subject only to the limitations of this chapter, such resolutions supplemental thereto shall determine the terms and the form of notes or bonds to be issued thereunder, and provide for their sale or exchange and their execution and delivery, by such officers of the municipality as shall be therein designated, and it shall be mandatory upon such officers to sell or exchange and execute and deliver such notes or bonds as so determined and provided.

**52:27-20. Public or private sale of notes or bonds; prices**

All such notes or bonds shall be sold in such manner as may be determined by resolution approved in writing by the commission, at public or private sale before or after public offering, or in exchange before or after public offering for any notes or bonds, including interest thereon, to be funded or refunded thereby, at such price or prices, computed in the manner or mode of procedure described by "Acme Tables of Bond Value" (published by Financial Publishing Company, Boston, Massachusetts), as will yield to the purchasers or the holders of the notes or bonds or interest thereon surrendered in exchange income at a rate not exceeding six per centum (6%) per annum to the maturity dates of the several notes or bonds so sold on the money paid or the face amount of notes, bonds and interest surrendered therefor. Such notes or bonds of any authorized issue or any authorized maturity may be sold or exchanged as hereinabove provided from time to time and in such blocks as may be

deemed advisable.

Amended by L.1941, c. 50, p. 132, s. 1.

**52:27-21. Presumption of validity of notes and bonds**

Unless a suit, action or proceeding questioning the validity of notes or bonds, purporting to be issued by virtue of any such resolution, be commenced prior to the expiration of the thirty-day period mentioned in section 52:27-18 of this title, any such notes or bonds reciting that they are issued pursuant to this chapter shall, after their issuance and delivery, if no suit relating thereto is then pending, be conclusively presumed to be fully authorized by all the laws of this state and to have been issued, sold, executed and delivered by the municipality in conformity therewith, and shall not be questioned by the municipality or any taxpayer thereof in any court, anything herein or in other statutes to the contrary notwithstanding.

**52:27-22. Consent of commission to municipality issuing notes or bonds; limitations on municipal expenditures; claims certified**

In order to conserve the financial resources of the municipality, its governing body, without the assent in writing of the commission, shall pass no ordinances or resolutions authorizing the issuance of notes or bonds of any kind or character or creating any obligation or indebtedness of the municipality, except tax anticipation or tax revenue notes or bonds for the current year. Nor shall such governing body, without like consent, include in any annual budget or tax ordinance amounts for local expenditures in excess of the like amounts for the preceding annual budget, exclusive of appropriations for the purpose of raising the principal and interest on the public debt.

After an appropriation has been approved by the commission, the actual expenditure thereunder shall be made by the municipal authorities, but no claims whether under appropriations approved by the commission, or included in the annual budget or tax ordinance or otherwise, shall be passed for payment by the officers of such municipality until the auditor shall have certified that the same have been examined by him and found to be within appropriations theretofore duly made by the municipality, and that there is or will be available in an appropriate account, sufficient ready funds for such payment.

**52:27-22.1. Scrip or tax anticipation notes or bonds; approval**

No municipality of this State which is under the jurisdiction of the municipal finance commission shall hereafter issue any scrip or tax anticipation notes or bonds in payment of payrolls, claims or other obligations or indebtedness of the municipality unless the issuance of such scrip or tax anticipation notes shall be approved, in writing, by the auditor to the municipal finance commission in the same manner as warrants for other like payments are required to be approved.

L.1938, c. 169, p. 379, s. 1.

**52:27-22.2. Penalty for violation of act**

Any official of any municipality who shall violate the provisions of this act in any municipality under the jurisdiction of the municipal finance commission shall be guilty of a misdemeanor and punished accordingly.

L.1938, c. 169, p. 380, s. 2.

**52:27-23. Limitation on school budget when municipality in default**

Whenever a municipality in which the commission is functioning has been or shall be in default for twelve months in the payment of interest on any of its bonds or notes or other written evidence of indebtedness (except where the same is under litigation as to its validity, or where the validity thereof has been denied by formal notice given by the municipality, and no suit, action or proceeding to enforce the same has been commenced by the holder); or whenever any such municipality has been or shall be in default for six months in the payment of any part of its regular pay roll, or in the payment of any sums due from the annual tax levy to the state, county or school district, no subsequent budget or tax ordinance or appropriation for local school purposes shall include any amounts in excess of such limits as may be fixed by the commission, exclusive of appropriations for the purpose of raising the principal and interest on the public debt, and exclusive of appropriations to create a reserve fund under the provisions of section 52:27-25 of this title.

**52:27-23.1. Authorized provisions in resolutions authorizing issuance of notes or bonds enumerated; enforcement**

To the end that the principal of and interest on the notes or bonds issued hereunder may be further secured and thereby a more favorable sale or exchange effected, any resolution authorizing the issuance of notes or bonds hereunder may contain provisions which shall be a part of the contract with the holders of such notes or bonds as to:

- a. The amount to be included in any budget or tax ordinance or to be appropriated by or raised by taxation in the municipality in each year for debt service and for reserve or sinking funds, which amount may be expressed in dollars, percentage of total assessed valuations or both, or otherwise;
- b. The setting aside of reserve or sinking funds, and the amount, securing, regulation, investment, application and disposition thereof;
- c. The pledging, depositing or trusteeing of moneys to be applied to the payment of the principal of and interest on the notes or bonds, and the securing of such deposits;
- d. The pledging of taxes, special assessments and other revenues or moneys of the municipality, which are due or to become due, directly to the payment of the principal of and interest on the notes or bonds, or to reserve or sinking funds;
- e. The use and application of unanticipated income or surplus revenue or both of the municipality;
- f. Limitations effective for not exceeding ten years from the effective date of such resolution or resolutions on the amount or nature of borrowing or incurring of indebtedness by the municipality;
- g. The holding of lawful tax sales of property against which there may then or thereafter be outstanding delinquent taxes or assessments or other charges and the foreclosing of the right of redemption with respect to tax titles theretofore or thereafter purchased by the municipality;
- h. The inclusion in any budget of appropriations as reserves for uncollected taxes, and the amount, computation and disposition thereof and of the proceeds of the tax levy therefor;
- i. The performance by the municipality of all or any specified provisions of any law relating to the preparation, adoption, and administration of budgets and the levying of taxes in municipalities;

j. Appointment of a fiscal agent by the municipality and the powers and duties thereof;

k. The approval and continuance of financial and legal practices and policies theretofore established in the municipality, including the functioning of a board established pursuant to section 52:27-29.1;

l. The levying of a special tax, in such amount as said resolution may provide, for the payment of the principal of and interest on the notes or bonds, which special tax shall be levied upon all the real and personal property in the municipality subject to taxation in addition to the taxes levied for all other purposes, and shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property are now or shall hereafter be assessed, levied and collected, and, when collected, shall be deemed trust funds and shall be applied and paid over by the collector or other officer having the custody of the collected taxes solely to the agreed payment of the principal of and interest on the notes or bonds, or if such agreed payment shall have been made, then in such manner and for such purposes as said resolution may provide;

m. The terms and conditions upon which any such resolution or any contract entered into thereby may be amended, rescinded or repealed;

n. Any other or further course of conduct on the part of the municipality which may tend to improve its credit standing.

Any municipality adopting a resolution containing any provision authorized hereunder shall have and possess all of the powers necessary and appropriate for the performance thereof. The provisions of any such resolution shall be enforceable by a proceeding in lieu of prerogative writ or other appropriate action or proceeding instituted by the commission or by the holder of any note or bond on his own behalf, or on behalf of all the holders of such notes or bonds, in either case in any court of competent jurisdiction whether or not there shall have been any default in the payment of the principal of or interest on any such notes or bonds.

Amended by L.1938, c. 202, p. 479, s. 1; L.1939, c. 47, p. 66, s. 7; L.1953, c. 49, p. 866, s. 32.

### **52:27-23.2. Reserve or sinking funds; payment to sinking fund commission**

Any resolution authorizing the issuance of notes or bonds hereunder may provide that any sums required pursuant to such resolution to be set aside by the municipality for reserve or sinking funds shall be paid to the sinking fund commission of such municipality, and all moneys so paid to such commission shall be held and applied by it only as in such resolution provided and shall not be commingled with any other moneys held by such commission.

The provisions of chapter 3 of the title Municipalities and Counties (s. 40:3-1 et seq.), in so far as they relate to the creation, setting aside or maintenance of sinking funds and the investment, application and disposition thereof, shall have no application with respect to notes or bonds issued under this chapter or any reserve or sinking funds provided therefor.

### **52:27-23.3. Cancellation of notes or bonds; payment of other municipal indebtedness**

Any resolution authorizing the issuance of notes or bonds hereunder may provide that the notes, bonds or other obligations of the municipality then held by the sinking fund commission thereof shall be canceled and that other property or funds in the custody of such commission shall be applied to the payment of other



indebtedness of the municipality as in such resolution provided, and said commission shall cancel said notes, bonds or other obligations and apply such property or funds accordingly; but nothing herein contained shall be deemed to permit, without the consent of such holder, the impairment of any rights of the holder of any note, bond or other obligation of the municipality for the security or payment of which any such notes, bonds, obligations, property or funds shall be held.

**52:27-24. Terms, provisions, conditions and limitations in notes or bonds; negotiability**

All notes or bonds issued under this chapter may be subject to such terms of redemption, with or without premium, and contain such provisions, conditions and limitations with respect to the acceleration of the obligation to pay the principal thereof upon such default in the payment of interest on or principal of any bonds or notes, or in respect to the provisions concerning debt service and sinking fund payments, as the resolution authorizing their issuance may provide.

Any notes or bonds issued under this chapter in exchange for any instrument issued under this chapter or any other law may be authorized by such resolution to contain a provision that, in case of default in payment of the principal of or interest on any such note or bond, the holder thereof shall not only have all his rights and remedies thereunder, but in addition shall be reinvested with such of the rights or remedies which he would have had were he then the owner and in possession of the instrument in exchange for which such note or bond shall have been issued as may be specified in such resolution.

Such notes or bonds may contain such reference to any special covenants or provisions contained in the resolution authorizing their issuance and such other terms, conditions or provisions not inconsistent herewith deemed by the commission to give such notes or bonds a higher degree of marketability as the resolution or resolutions determining the form of the notes or bonds may provide.

All notes or bonds issued under this chapter containing any one or more of such references, terms, provisions or conditions shall be deemed negotiable instruments, the provisions or limitations of any other law to the contrary notwithstanding; but nothing in this section shall be construed to impair the negotiability of any other instruments negotiable under other laws of this state.

**52:27-25. Municipal tax to pay notes and bonds; reserve fund; withdrawals**

Any municipality in which the commission is functioning may levy taxes ad valorem upon all taxable property therein for the purpose of paying the principal of or interest on any notes, bonds or other obligations or indebtedness of such municipality issued under this or any other law, except notes or bonds issued after December thirty-first, one thousand nine hundred and forty-six pursuant to this chapter for the payment of principal of or interest on which the faith and credit of the municipality shall not have been pledged by provision or recital in such notes or bonds or in the resolution or resolutions providing for the issuance of such notes or bonds, and such municipality may also provide for a reserve fund for the payment of said principal and interest, which fund shall be under the immediate jurisdiction of the sinking fund commissioners or of a financial officer of the municipality, as the commission shall approve.

No money shall be withdrawn from said reserve fund or sinking fund for investment or otherwise without the approval of the commission.

Amended by L.1947, c. 54, p. 189, s. 2.

### **52:27-26. Compromise or adjustment of delinquent taxes and assessments**

The governing body of any municipality in which the commission is functioning may compromise and adjust the whole or any part of any special assessments or taxes delinquent to the municipality, but nothing in this section shall be construed to impair or affect in any way the existing rights and remedies of any holder of a certificate of tax sale, representing any tax title or titles to lands in such municipality sold on account of delinquent taxes or delinquent assessments, or both.

No claims of the municipality for taxes or assessments, and interest thereon, in excess of five hundred dollars, shall be compromised without the assent in writing of the commission.

All moneys received by the municipality by compromise or adjustment of taxes or special assessments shall, if the commission so provide, be paid only to the account of the reserve fund referred to in section 52:27-25 of this title.

### **52:27-27. Assessment, reassessment, etc., of taxable ratables; cost; employment of experts**

The commission may require the municipality to cause to be made an assessment, reassessment, valuation, revaluation, appraisal or reappraisal, or any one or all of them, of the taxable ratables of the municipality as the basis for any subsequent tax levy, and the cost thereof, whether or not directed by the commission, shall at the request of the governing body, be included in the amount of indebtedness to be refunded under this chapter. Any tax duplicate based thereon shall be used for all purposes in connection with the levy, apportionment and collection of taxes. For any or all such purposes the governing body of the municipality may employ such experts as it may deem advisable.

### **52:27-28. Appeals from taxation**

Notice of all appeals from taxation affecting any municipality in which the commission is functioning shall be given by the county board of taxation to the auditor employed by the commission, and the commission shall be entitled to be represented at hearings on all such appeals.

### **52:27-29. Installment payments of assessments for local improvements**

Whenever, pursuant to this chapter, the commission shall function in any municipality, such municipality may with the approval in writing of such commission extend the period theretofore granted for the payment of assessments for benefits for local improvements, by granting to the owner of the property so assessed the privilege of paying in five additional equal annual installments the amount of all such assessments confirmed and due and payable, by reason of a default or otherwise, as of the date of the resolution hereinafter mentioned, and of the interest thereon and penalties and other charges relating to such assessments accrued to such date. Such action shall be taken by resolution of the governing body of the municipality describing with clearness sufficient for identification the property so affected, the amount of such assessments, interest, penalties and other charges, and the annual dates when the installments of such amount shall thereafter be due and payable. Such resolution shall not take effect until approved in writing by the commission after public notice published in a newspaper having a substantial circulation in the municipality. There need not be a separate resolution for each property or property owner.

### **52:27-29.1. Certificate of tax sale or tax title; real estate; sale, exchange, lease or other disposition**

The governing body of any municipality in which the commission is or may be functioning may, upon the express consent in writing of the commission, sell, exchange or otherwise dispose of any certificate of tax sale or tax title, standing in the name of the municipality, or sell, exchange, lease or otherwise dispose of any real

estate or rights or interests therein owned by the municipality and determined by the governing body to be not needed for public use. Any such sale, exchange, lease or other disposition may be authorized by resolution of the governing body and, subject to the consent of the commission as aforesaid, may be at public or private sale, through a broker, agent or otherwise, for cash or upon credit, for such consideration, and subject to such conditions and commissions, as the governing body in its discretion may determine. All moneys received by the municipality from any such sale, exchange, lease or other disposition shall, if the commission so provide, be paid only to the account of the reserve fund referred to in section 52:27-25 of this Title.

The governing body of any municipality in which the commission is or may be functioning may, upon the express consent in writing of the commission, adopt an ordinance providing for the establishment of a board in the municipality to manage and effect the liquidation of assets theretofore acquired by the municipality (and accruals thereto) consisting of real estate or rights or interests therein acquired by virtue of the enforcement of taxes or special assessments and certificates of tax sale or tax titles standing in the name of the municipality. The function of said board shall be to exercise its powers and perform its duties in such fashion as to liquidate such assets as soon as reasonably possible by the realization of reasonable amounts thereon in cash. Without limitation of the foregoing, the powers and duties of said board to manage and effect such liquidation may include power to require the sale or other disposition of such assets or the compromise of sums due to the municipality in respect thereto, subject to such restrictions as such ordinance may provide. The ordinance shall set forth in particularity the powers and duties of said board and shall determine the size of the membership of the board, and shall fix the terms of office of the members of the board and their qualifications and compensation and the method of computing and paying their compensation and the expenses of the board. The ordinance may provide that the compensation of the members of the board shall be determined, in whole or in part, by the assignment judge of the Superior of the county in which the municipality is located, and it shall be the duty of said judge from time to time to make such determination in accordance with the terms of the ordinance. The members of said board may or may not be residents of the municipality and their terms of office may extend for such period as the ordinance may provide. The ordinance may provide that for all the purposes of the local budget law (R.S. 40:2-1 et seq.) said board shall constitute and be governed as a publicly-owned or operated utility or enterprise, or may provide that the compensation of the members of the board and the expenses of the board may be paid out of the proceeds of such liquidation without further budget or other appropriation or tax levy therefor. Upon the adoption of the ordinance, the clerk of the municipality shall file a certified copy thereof with the assignment judge of the Superior Court of the county in which the municipality is located, and it shall thereupon and thereafter be the duty of said judge to appoint the members of said board, and their successors from time to time, in accordance with the terms of the ordinance. It shall be the duty of the governing body and all other officers of the municipality to do and perform all such acts and things as may be required by said board in order for said board to fulfill its function in accordance with the terms of the ordinance and of this section except when, with respect to any particular such act or thing, the governing body shall adopt a resolution questioning the necessity or advisability thereof in order for said board to fulfill its function in accordance with the terms of the ordinance and of this section. Such resolution shall become of no further force and effect ten days after the adoption thereof unless the clerk of the municipality shall have filed a certified copy thereof with the assignment judge of the Superior Court of the county in which the municipality is located. Upon such filing it shall be the duty of said judge, upon such notice to the board and other interested parties as he may direct, to make a summary investigation into the facts and for that purpose he shall have the power to subpoena witnesses and call before him any officers or employees of the municipality or of the board. Said judge shall determine whether said particular act or thing required by the board is necessary or advisable in order for the board to fulfill its function in accordance with the terms of the ordinance and of this section. He shall embody his determination in an order and file the same, together with the said resolution, in

the office of the Clerk of the Superior Court. Upon the filing of such order embodying an affirmative determination, the said resolution of the governing body shall be of no further force and effect, and the governing body and other officers of the municipality shall proceed to do and perform such act or thing. If his determination is in the negative the requirement of the board shall be without force or effect and neither the governing body nor any officer of the municipality shall be under any duty to do and perform such act or thing.

Amended by L.1938, c. 202, p. 481, s. 2; L.1953, c. 49, p. 868, s. 33.

**52:27-29.2. Acceptance of municipal or school district bonds in payment of tax or assessment title liens authorized; refunding bonds; tax payment certificates**

Any municipality in which the commission is functioning may, with the approval of the commission, accept its own bonds and the bonds of the board of education of a coterminous school district, in payment of all or any part of the purchase price of tax title liens and assessment title liens held by such municipality or in payment of all or any part of the purchase price of real property acquired by such municipality through the foreclosure of such tax title liens and assessment title liens and may exchange such tax title liens and assessment title liens and such real property for such bonds at such times and for such prices as the governing body of such municipality shall determine, subject to the approval of the commission. Such municipalities and boards of education may issue refunding bonds in the manner now or hereafter provided in this chapter or any other law for the purpose of refunding all or any part of the balance due to the holders of the bonds presented in payment of such tax title liens and assessment title liens or such real property, and such municipalities and boards of education may also issue nontransferable, noninterest-bearing tax payment certificates in such denominations as may be determined by such municipalities and such boards of education for the purpose of refunding all or any part of the balance due to the holders of the bonds presented in payment of such tax title liens and assessment title liens or such real property, which tax payment certificates shall not be payable in cash but shall be acceptable at their face value in payment of future taxes levied by the state, county or municipality and school district for state, county, local municipal and school district purposes; provided, that such tax payment certificates shall recite on their face that they are nontransferable and noninterest-bearing and not payable in cash but acceptable at their face value only in payment of such future taxes, and provided further that the issuance of such refunding bonds and of such tax payment certificates be approved by the commission. It is the intention of this section that such municipalities and boards of education may issue both refunding bonds and tax payment certificates as herein above provided in such proportions as may be determined by them, or may issue such refunding bonds only or such tax payment certificates only, as may be determined by them, in payment of all or any part of the balance due to the holders of the bonds presented in payment of the purchase price of such tax title liens and assessment title liens or such real property.

Tax payment certificates issued under this section shall be authorized and issued in accordance with the procedure for the issuance of refunding bonds, and may be in such form as shall be determined by the governing body of the municipality, and shall be signed by such officers as may be designated by such governing body.

No municipality may avail itself of the authority contained in this section for the acceptance of bonds in payment of the purchase price of real property and tax title liens and assessment title liens except that the sale of such property and liens shall be an integral part of the comprehensive refunding program, which program shall have received the consent of the holders of at least eighty-five per cent of the amount of bonds outstanding.

**52:27-30. Expenses of commission to be paid by municipality**

The commission shall from time to time certify to the proper officials of the municipality the amount of the commission's expenses, which expenses shall be a legal charge upon the municipality and may be paid by the issuance of emergency notes or bonds, but if not so paid prior to the end of the fiscal year shall be included in the budget of the ensuing year.

**52:27-31. Expenses of issuing notes or bonds and of foreclosure or perfecting title; including in debt to be funded; appropriation**

The estimated expense of issuing and selling any notes or bonds under this chapter including estimated cost of printing, advertising, attorneys' fees, execution, certification, exchange, delivery, and any other cost or expense in connection with the formulation, approval, acceptance or consummation of a refinancing operation resulting in the issuance of such notes or bonds, and provision for any estimated discount to be incurred upon the sale or exchange of such notes or bonds, and provision for any estimated cost and expense, including counsel fees, of foreclosing or otherwise perfecting titles to real estate acquired at any sale or sales of real estate for delinquent taxes or special assessments, may be included by the commission in the amount of indebtedness to be funded or refunded under this chapter, or, in whole or in part, may be provided for by appropriation made by the resolution authorizing the issuance of such notes or bonds of available cash on hand.

Amended by L.1941, c. 50, p. 132, s. 2; L.1947, c. 54, p. 190, s. 3.

**52:27-32. Article inapplicable to bonds issued after June 1, 1936**

This article shall not apply to bonds issued after June first, one thousand nine hundred and thirty-six, by any municipality pursuant to this chapter, nor to actions or proceedings for the enforcement of such bonds, nor to the enforcement of any judgment, decree, levy or execution for the recovery of the amount due on such bonds.

**52:27-32.1. Enforcement of judgments, etc., against municipality stayed; necessity of court order**

Whenever the commission shall function in any municipality and so long as it shall continue so to do, no judgment, levy or execution against the municipality or the property thereof for the recovery of the amount due on any bonds, notes or other obligations of the municipality, in the payment of which the municipality has defaulted, shall be enforced until otherwise directed by the Superior Court in an appropriate action or proceeding for such purpose, after notice to the commission; and the enforcement of any such judgment, levy or execution shall be stayed until otherwise directed as aforesaid.

Amended by L.1953, c. 49, p. 871, s. 34.

**52:27-33. Proceedings against municipality for assessment or collection of taxes prohibited; exceptions; remedies of holders of unpaid claims against municipality**

Whenever the commission shall function in any municipality and so long as it shall continue so to do, no action or proceeding of any kind, either direct or ancillary, including a proceeding in lieu of prerogative writ, shall be brought against such municipality or any public officers for the assessment, levy or collection of taxes by or for such municipality and any and all actions or proceedings therefor shall be and they hereby are stayed; except that first, the Superior Court, after notice to the commission, may authorize one or more creditors of such municipality to bring and maintain an action or proceeding therefor in the Superior Court, which shall be brought for the benefit of themselves and all other creditors of such municipality and in which all other creditors of such municipality shall have the right to intervene and assert their claim and in which all other creditors of such municipality may, and the commission shall, be made parties in such manner and upon such notice as the court shall prescribe; and except that, second, the commission may bring and maintain an action

or actions or a proceeding in lieu of prerogative writ or any other appropriate proceeding or proceedings for the assessment, levy or collection of taxes by such municipality for the payment of principal or interest of the indebtedness of the municipality found to be outstanding as provided in section 52:27-14 of this Title.

Without limiting its power otherwise to direct by a proceeding in lieu of prerogative writ the assessment, levy or collection of taxes, the Superior Court, in the action or proceeding aforesaid may, to the extent which it shall deem just and equitable, afford to the holders collectively of any due and unpaid claims against a municipality any remedy which might be afforded under any other law to any individual creditor in any proceeding in lieu of prerogative writ for the assessment, levy or collection of taxes, to the same extent as if there had been an entry of judgment in their favor, issuance of execution and return thereof unsatisfied, service thereof upon public officials and performance of any and all other conditions precedent to the affording of such relief by a proceeding in lieu of prerogative writ under such other law; provided, that the court be first satisfied from proof submitted by affidavit or otherwise that the claims for the enforcement of which such remedy is sought are claims upon which a judgment could be obtained.

Amended by L.1953, c. 49, p. 872, s. 35.

#### **52:27-33.1. Taxes collected by municipality paid to designated banks**

Whenever the commission shall function in any municipality and so long as it shall continue so to do, it may prepare and certify to the governing body of the municipality resolutions providing in substance that any and all moneys collected as taxes by the municipality over and above an amount sufficient to pay the reasonable current operating expenditures of the municipality (not including therein the principal or interest of any bonds or notes of the municipality) and such capital expenditures, if any, as may be approved by the commission as reasonably necessary to preserve the value of the taxable property within the municipality, shall be paid by the municipality to such banks or trust companies as the governing body of the municipality may designate.

#### **52:27-33.2. Action in Superior Court to determine application and distribution to creditors of property or funds of municipality**

Whenever the commission shall function in any municipality and so long as it shall continue to do so, no action or proceeding shall be brought or prosecuted, the purpose of which is to affect the disposition of property or funds owned or controlled by the municipality, except as provided in this chapter.

If any such municipality has in its possession or under its control, or there is in the possession or under the control of the commission, any property or funds of such municipality which are or may be available for the payment of interest or principal upon any of the debts of such municipality (over and above the payment of the current operating expenses of the municipality and the maintenance of a reasonable working capital), then such municipality in its discretion may bring an action, or if directed by the commission shall do so, in the Superior Court to determine the application and distribution of such property or funds to and among the creditors of the municipality, and in any such case the court in its discretion may permit an action for relief of the same character to be made by any creditor of the municipality. In any such action all creditors of the municipality shall be made parties thereto, and any creditor may appear therein and assert his rights to receive all or any part of such property or funds. The court may proceed in the action in a summary manner or otherwise.

In case any such action shall be instituted, the court may direct the municipality to make no payments from any of such moneys so available until the determination of the action or until permitted by the court. Unless and until such a direction shall be made, payments may be made by such municipality on account of principal

and interest as the municipality may determine and as may be approved by the commission.

Amended by L.1953, c. 49, p. 873, s. 36.

**52:27-33.3. Court may vacate, modify or restrict statutory stay**

Upon the application of any creditor made upon notice to the municipality and the commission, the Superior Court may vacate, modify or restrict any statutory stay contained in this article.

Amended by L.1953, c. 49, p. 874, s. 37.

**52:27-34. Action by creditors; plan of adjustment or composition; parties**

The Superior Court may take jurisdiction of an action brought by any creditors of a municipality in which the commission shall function, where the action is instituted by the plaintiff or plaintiffs on behalf of themselves and all other creditors of the municipality, for the approval of a plan of adjustment or composition of the claims of all creditors or of a class or classes of them similarly situated. The court may proceed in the action in a summary manner or otherwise.

The municipality, the commission and all creditors of the municipality shall be made parties to the action and any creditor of the municipality may appear and assert his rights.

Amended by L.1953, c. 49, p. 874, s. 38.

**52:27-36. Approval by Supreme Court justice of plan of adjustment or composition; findings**

In any such action, after hearing on the plan proposed or on the plan as modified by order and if such plan as proposed or modified is approved in writing by creditors representing eighty-five per centum (85%) in amount of the indebtedness affected thereby and by the municipality and the commission, the Superior Court may authorize and approve such adjustment or composition if the court determines (1) that the municipality is unable to pay in full according to their terms the claims proposed to be adjusted or composed, and perform its public functions and preserve the value of property subject to taxation, (2) that the adjustment or composition is substantially measured by the capacity of the municipality to pay, (3) that it is in the interest of all the creditors affected thereby, and (4) that it is not detrimental to other creditors of the municipality.

Amended by L.1953, c. 49, p. 875, s. 40.

**52:27-37. Approved plan binding on all creditors; substituted obligations**

The plan of adjustment so authorized and approved shall forthwith and without any further action of any kind be binding upon all the creditors included in the plan, whether or not they appear in the proceeding. In so far as said plan provides for the substitution of any new bonds, notes or other obligations of the municipality in place of any outstanding bonds, notes or other obligations, or claims then outstanding, such substitution shall be effectual from and after such date as may be fixed in such order.

**52:27-38. Continuance of stay of proceedings against municipality; action by creditor to enforce claim restricted**

After the institution of any action or proceeding provided for by this article and pending the determination thereof, the Superior Court may by order continue the stay provided by sections 52:27-32.1 and 52:27-33 of this Title.

In the event that a plan shall be authorized and approved pursuant to this article the court shall retain jurisdiction of such action or proceeding and thereafter no creditor whose claim is included in such adjustment or composition shall be authorized to bring any action or proceeding of any kind or character for the enforcement of his claim except with the permission of the court and then only to recover and enforce the rights given him by the adjustment or composition.

Amended by L.1953, c. 49, p. 875, s. 41.

### **52:27-39. Reduction in principal of outstanding notes or bonds prohibited**

Notwithstanding any provisions of this article the commission shall not approve any adjustment or composition, or plan presented pursuant to this article, which provides for the reduction in the principal amount of any outstanding notes or bonds of the municipality.

#### **52:27-39.1. State, State school or county taxes, compromise of county's claim against certain municipalities for**

If a municipality in which the municipal finance commission may be or may have been functioning shall for eight years have been in arrears in the payment of the whole or any part of any taxes levied in the municipality for either State, State school or county purposes or any interest thereon, the county may in accordance with this act enter into a compromise settlement in full discharge of all claim of such county and its treasurer for any taxes for State, State school or county purposes, or any interest thereon, or for any note or bond or other receivable, due and in arrears at the date of such settlement from the municipality, together with any interest thereon, whether such taxes, interest or other receivable have been due and in arrears for more or for less than eight years.

L.1946, c. 35, p. 76, s. 1.

#### **52:27-39.2. Resolution of county board required; previous payment by county to State required**

Such compromise settlement shall be entered into only upon authorization by resolution of the board of chosen freeholders of the county and only if prior thereto the county or its treasurer shall have paid to the State the full amount of any taxes included in such settlement levied for State or State school purposes.

L.1946, c. 35, p. 77, s. 2.

#### **52:27-39.3. Settlement may include what; terms; consideration**

Such compromise settlement may include and be made on such terms as the board of chosen freeholders may deem fair and equitable and, without limiting the generality of the foregoing, may provide for the acceptance by the county or its treasurer in full and final discharge of the claim covered thereby of a sum in cash or of notes or bonds, or both, or of any other consideration, whether or not the face value or market value of such considerations shall equal the amount of such claim.

L.1946, c. 35, p. 77, s. 3.

#### **52:27-39.4. County treasurer to perform compromise settlement--disposition of consideration received**

The county treasurer shall carry out and perform any such compromise settlement so authorized in accordance with its terms and provisions. Any notes or bonds or other considerations received other than cash



may be sold, exchanged, renewed, refinanced or otherwise disposed of at any time or from time to time at such price or prices and upon such terms as the board of chosen freeholders may by resolution authorize, and such notes or bonds, or other obligations received in exchange, renewal or refinancing thereof, shall be enforceable by the county in accordance only with their terms and the laws governing the same.

L.1946, c. 35, p. 77, s. 4.

**52:27-39.5. Effective date; limitation of time for adoption of resolution**

This act shall take effect immediately, but no compromise settlement shall be entered into under this act unless a resolution authorizing the same shall have been adopted pursuant to section two of this act within two years from the effective date of this act.

L.1946, c. 35, p. 77, s. 5.

**52:27-40. Filing of petition by political subdivision; approval of commission**

Any county, municipality, school district or other political subdivision of this State, hereinafter in this article referred to as "political subdivision," shall have power to file a petition or petitions with any United States court or court in bankruptcy under an act of the Congress of the United States entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July first, one thousand eight hundred and ninety-eight, and acts amendatory thereof and supplementary thereto, as the same may be amended from time to time, hereinafter in this article referred to as the "municipal bankruptcy act," for the purpose of effecting a plan of readjustment of its debts or for the composition of its debts, which adjustment and composition are hereinafter interchangeably referred to as readjustment. Such petition or petitions shall not be so filed unless the approval of the municipal finance commission, which is hereby constituted a commission for the purposes of this article, be first had and obtained.

Amended by L.1938, c. 243, p. 551, s. 1.

**52:27-41. Ordinance or resolution of governing body to authorize filing of petition**

The filing of such petition shall be authorized only by ordinance of the governing body of the political subdivision adopted by the affirmative vote of not less than two-thirds of all the members elected to such governing body, except that in the case of a county or of a school district governed by the provisions of chapter 7 of the title Education (s. 18:7-1 et seq.), such filing shall be authorized by resolution of the governing body adopted by the affirmative vote of not less than two-thirds of all the members elected to such governing body. For the purposes of this article the board of education of a school district governed by the provisions of said chapter 7 shall be deemed to be the "governing body" of such school district.

**52:27-42. Approval by commission of readjustment plan necessary**

No plan of readjustment filed with or in the proceedings upon any such petition shall be approved by the court or put into temporary effect or finally confirmed without the approval of the commission. No political subdivision shall so file any such plan which shall not have been approved by the commission nor shall any political subdivision accept any such plan as thereafter changed or modified without express authority from the commission to do so.

Amended by L.1938, c. 243, p. 551, s. 2.

#### **52:27-43. Commission authorized to approve petition and plan; restrictions**

The commission may in its discretion give its approval in the manner provided by this article to the filing of any petition for the purpose of effecting readjustment of its debt which any political subdivision proposes to file, and of any plan of readjustment filed with or in the proceedings upon any such petition; but no such plan of readjustment shall provide for the payment of fees, compensation, reimbursement or other allowances for attorneys, agents, committees, or other representatives of creditors of the political subdivision, except subject to the express approval in writing by the commission of every such payment.

Amended by L.1946, c. 31, p. 72, s. 1.

#### **52:27-44. Powers of political subdivision upon confirmation of readjustment plan; issuance of bonds or notes**

Upon the confirmation of any plan of readjustment approved by the commission, the political subdivision assenting to such plan of readjustment may, by ordinance in the case of a municipality, by resolution in the case of a county, and by resolution of the board of education in the case of a school district governed by the provisions of chapter seven of the Title Education (s. 18:7-1 et seq.), authorize, issue, sell and deliver such bonds, notes or other obligations and enter into such agreements and do such other acts and things as may be required of it pursuant to said plan of readjustment. Such ordinance or resolution, as the case may be, shall not take effect until approved by the commission, and shall provide for the issuance of bonds in one or more series, bearing such date or dates, maturing at such time or times, bearing interest at such rate or rates of interest, not exceeding six per centum (6%) per annum, payable at such time or times, in such denominations, in such form, either coupon or registered, carrying such registration privileges, payable in such medium of payment at such place or places, subject to such terms of redemption, with or without premium, as the commission may approve. The foregoing powers shall be deemed to be in addition to and not in substitution for any powers which such political subdivision would, except for the foregoing grant thereof, have under any other provision of law.

Amended by L.1938, c. 243, p. 552, s. 3; L.1947, c. 54, p. 190, s. 4.

#### **52:27-45. Request for approval of petition, plan, etc.; procedure**

The approval of any petition, plan of readjustment or other papers to be filed in any United States court or court in bankruptcy, or of any ordinance or resolution shall be requested by filing in the office of the commission a certified copy of a resolution of the governing body of the political subdivision adopted by the affirmative vote of not less than two-thirds of all the members elected to such governing body, requesting such approval, together with a true and correct transcript duly certified of any proceedings relating to such petition, plan of readjustment, other papers, ordinance or resolution, and the authorization thereof, accompanied by, in the case of documents to be filed in the United States court or court in bankruptcy, the original and one certified copy of such documents, and in the case of an ordinance or resolution, two certified copies of such ordinance or resolution. The approval of the commission under this article of any petition, plan of readjustment or other papers filed or to be filed in a United States court or court in bankruptcy, shall be evidenced only by written indorsement thereof on the petition, plan of readjustment or other papers so filed and the approval of the commission under this article of any ordinance or resolution of the governing body of any political subdivision shall be evidenced only by written indorsement thereof on a certified copy of such ordinance or resolution.

**52:27-45.1. Municipalities effecting plan for readjustment or composition of debts; powers; "court" defined**

Any municipality in which the Municipal Finance Commission, continued by chapter twenty-seven of Title 52 of the Revised Statutes, may be functioning and which may have heretofore filed or shall hereafter file a petition pursuant to section 52:27-40 of the Revised Statutes, with any United States Court or court in bankruptcy for the purpose of effecting a plan of readjustment of its debts or for the composition of its debts, may, pursuant to express provisions in such plan or in such plan as changed or modified, have and exercise the powers hereinafter provided and shall thereupon be charged with the duties hereinafter provided. The term "court" as used in this act shall mean the United States Court or court in bankruptcy in which is or may be pending the proceeding begun by such petition of the municipality, or, if no such proceeding is pending in said court or if said court shall not assume to act pursuant to this act, the Superior Court.

L.1939, c. 56, p. 82, s. 1. Amended by L.1953, c. 49, p. 876, s. 42.

**52:27-45.2. Warrants for funding or refunding indebtedness; ordinance or resolution; special fund for payment of warrants; form; interest**

Any such municipality may provide in any such plan or plans for the issuance of warrants for the purpose of funding or refunding all or any part of the principal of and interest on the indebtedness of such municipality including the principal of and interest on the indebtedness of such municipality to any school district coterminous with said municipality. Such warrants may be authorized by and issued, sold or exchanged pursuant to ordinance or resolution, which ordinance or resolution shall provide for the creation of a special fund or funds for the payment thereof in the manner hereinafter provided, and such warrants shall be payable solely from said fund or funds. Such warrants shall be in such form and tenor and executed in such manner and shall be dated at such time or times and shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, as the council or other governing body of such municipality shall determine. Such warrants may contain a reservation of an option of redemption at such time or times upon such terms and conditions and with such premiums as the council or other governing body of such municipality may elect. Said warrants shall state upon their face that they are payable solely from such special fund, naming the same, and shall be issued in registered form only. Payment of interest on said warrants shall be by check or bank draft and suitable provisions for the registration of said warrants and the transfers of same and provisions regarding the payment of interest shall be endorsed thereon. The ordinance or resolution authorizing the issuance of any such warrants shall specify the source of revenue for the special fund therein created for the payment thereof, which shall consist of all or a specified part of the proceeds of the sale and other liquidation of real estate or rights or interests therein, acquired by the municipality by virtue of the levy, collection and enforcement of taxes and special assessments theretofore levied or confirmed and the certificates of tax sale or tax and assessment title liens standing in the name of the municipality, theretofore acquired and subsequent taxes and assessments accruing thereto (sometimes hereinafter referred to collectively as "assets" ). Such ordinance or resolution shall pledge the assets to such special fund.

L.1939, c. 56, p. 83, s. 2.

**52:27-45.3. Board for liquidation of assets; members, appointment, compensation and expenses; nature and government of board**

The ordinance or resolution authorizing the issuance of any such warrants shall provide for the creation of a board for the liquidation of such assets to be known as the "Board of Liquidation for the \_\_\_\_\_ of " (hereinafter referred to as the "board" ), and shall set forth the number of members of the board, and the members thereof

shall be appointed pursuant to such ordinance or resolution upon nominations to be made in such manner as the ordinance or resolution establishing said board may provide, subject to the approval of the court to which said plan or plans has been or will be submitted for approval. The ordinance or resolution establishing said board shall fix the terms of office of the members thereof, and shall provide for the appointment of the successors to such members in the same manner. The members of said board need not be residents of the State of New Jersey. The compensation and expenses of the members of such board and the expenses of its operation shall be paid in such amounts as may from time to time be fixed and approved by the court, and such expenses and compensation shall be payable solely from the special fund created and established by said ordinance or resolution authorizing the issuance of warrants thereunder. The ordinance or resolution establishing said board may provide that for all the purposes of the local budget law (R.S. 40:2-1 et seq.) said board shall constitute and be governed as a publicly owned or operated utility or enterprise, or may provide that compensation and expenses of the members of the board and the expenses of its operations and all its other disbursements may be paid from the special fund created and established by said ordinance or resolution without further budget or other appropriation or tax levy therefor.

L.1939, c. 56, p. 84, s. 3. Amended by L.1953, c. 49, p. 876, s. 43.

**52:27-45.4. Duties of board in liquidation of assets pledged to special fund; proceeds of liquidation; cancellation of outstanding and unpaid warrants after properties and assets liquidated**

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It shall be the duty of any board created and established pursuant to this act and any such ordinance or resolution, to effect, manage and control the liquidation of the assets pledged to the special fund or funds pursuant to such ordinance or resolution in a speedy, efficient and economical manner. Any such board is hereby authorized to compromise, adjust or otherwise settle any certificates of tax sale, or tax and assessment title liens, or other receivables included in such assets, and may, in its discretion for and in the name of such municipality, foreclose certificates of tax sale or tax and assessment title liens in the manner provided by law for the foreclosure of such liens by the municipality and shall liquidate such properties and assets pledged to said fund or funds by sale, exchange, lease or other disposition thereof, but this act, or any action taken pursuant thereto, shall not be deemed to relieve the municipality from liability on any contract with respect to such foreclosures existing at the time of adoption of such ordinance or resolution. The proceeds of such liquidation shall be paid into such special fund or funds and shall be withdrawn therefrom solely for the purpose of paying the compensation and expenses of the board and paying or otherwise discharging in accordance with such ordinance or resolution the principal of and interest on the warrants payable therefrom until all such warrants and the interest thereon have been paid, redeemed or otherwise satisfied. Any balance remaining in said fund or funds after the expenditures for the purposes above specified may be expended as is provided in the ordinance or resolution authorizing the issuance of any such warrants. If any warrants remain outstanding and unpaid after all of the properties and assets pledged to said fund or funds have been liquidated in the manner hereinabove provided, such warrants shall be void and of no force or effect, and shall be surrendered to the municipality upon demand, for cancellation.

L.1939, c. 56, p. 85, s. 4.

**52:27-45.5. Periodic accountings by board as trustee; cooperation of council or other governing body; suspension of performance of acts**

The ordinance or resolution authorizing warrants hereunder and establishing any such board shall provide for periodic accountings as trustee in the court. The council or other governing body of any municipality in which any such board has been established and created, and the corporate authorities thereof, shall do and perform all

acts, deeds and things as may be required by said board in order for said board to compromise, adjust or otherwise settle any certificates of tax sale or tax and assessment title liens or other receivables pledged to any special fund or funds created hereunder, and in order to foreclose any such certificates of tax sale and tax or assessment title liens pledged to said fund or funds or in order to effectuate the sale, exchange, lease or other disposition of any of the real estate or rights or interest therein under the control and disposition of said board and pledged to said fund or funds; Provided, however, that if the governing body of such municipality shall adopt a resolution questioning the necessity or advisability of any such act, deed or thing, and a certified copy of such resolution shall have been brought before and filed with the court, the performance of such act, deed or thing shall be suspended unless and until the court shall have entered an order or judgment determining the necessity or advisability for the performance thereof in order for said board to perform its duties under section four of this act. Upon the filing of such order or judgment, the resolution of the council or other governing body shall be of no further force and effect and the said governing body and corporate authorities of said municipality shall proceed to do and perform such act, deed or thing. Any such determination by said court shall be final and binding, and the board and the governing body and the corporate authorities of such municipality shall not appeal therefrom.

L.1939, c. 56, p. 86, s. 5. Amended by L.1953, c. 49, p. 877, s. 44.

#### **52:27-45.6. Covenants in ordinance or resolution protecting security and rights of warrant holders**

Any ordinance or resolution authorizing the issuance of warrants hereunder may contain covenants of any such municipality to protect and safeguard the security and rights of the holders of any such warrants, and without limiting the generality of the foregoing, such ordinance or resolution may contain covenants as to

(1) the manner in which warrants issued thereunder may be issued or be exchanged for outstanding claims or evidences of indebtedness funded or refunded thereby and the terms and conditions upon which such warrants may become a charge upon the special fund or funds created by any such ordinance or resolution;

(2) the collection, depositing, custody and disbursement of moneys or other assets coming into any special fund or funds created hereunder for the payment of warrants, including a specification of the depositaries to be designated to hold such deposits and granting to such depositaries or other banks or trust companies authority to act as fiscal agent of any such municipality for the custody of the moneys or other assets held in any special fund or funds created hereunder, and to represent holders of such warrants in the event of a default on same or in the event of a default in the performance of any duty or obligation of any such board, municipality or the corporate authorities thereof in connection therewith, with such powers and duties for the enforcement of such warrants as such ordinance or resolution may provide;

(3) the deposit of collateral security or indemnity bonds to secure the proceeds of the liquidation of all moneys and assets under the control of the board, and limitations on the amount, if any, of additional warrants or other claims or obligations of whatsoever kind or nature which may be issued and payable from the special fund or funds established in the ordinance or resolution authorizing issuance of warrants hereunder;

(4) limitations upon the creation of additional liens or encumbrances on the real estate or other assets to be liquidated by said board, the terms and conditions upon which the real estate and other assets under the control of the board for liquidation may be sold, exchanged, leased or otherwise disposed of, and the use or other disposition of all funds received in the process of liquidation;

(5) the validity and enforceability of the certificates of tax sale, or tax and assessment title liens, and the title of the municipality to real estate or rights or interests therein standing in the name of the municipality which shall have been pledged to any special fund or funds created hereunder, and the obligation of any such municipality to replace in said fund or funds additional assets of at least equal book value in lieu of any such assets which have been declared by any court of competent jurisdiction to be illegal or unenforceable;

(6) such other covenants as may be deemed necessary or desirable to insure the speedy, efficient and economical liquidation of the assets pledged to such special fund or funds and the application of the proceeds thereof to the payment of the principal of and interest on the warrants issued pursuant to such ordinance or resolution within a reasonable time and at reasonable expense.

The provisions of this act and of any such ordinance or resolution shall constitute a contract with the holders of such warrants and the provisions thereof shall be enforceable by a proceeding in lieu of a prerogative writ or any other appropriate action or proceeding in any court of competent jurisdiction by the commission or by any owner or holder of such warrants on behalf of himself individually or all other owners or holders of said warrants.

L.1939, c. 56, p. 87, s. 6. Amended by L.1953, c. 49, p. 878, s. 45.

**52:27-45.7. General powers and duties of board; by-laws and rules; employees; real estate brokers; liquidation of assets**

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Any board created and established pursuant to this act shall have power to:

(a) adopt its own by-laws and rules of procedure; appoint and remove at pleasure such assistants or assistance, agents and employees, practical, technical or otherwise, at such terms and at such expense as the judge may authorize or approve;

(b) employ real estate brokers to assist in the disposing of the assets to be liquidated by the board and to pay commissions for the services of such brokers;

(c) generally to control and manage the liquidation of the assets pledged to such special fund or funds in accordance with the provisions of this act and any covenants contained in any ordinance or resolution enacted or adopted pursuant hereto in connection with the issuance of warrants pursuant to this act;

(d) perform such other duties not inconsistent with the provisions of this act as may be prescribed by the ordinance or resolution establishing such board.

L.1939, c. 56, p. 89, s. 7.

**52:27-45.8. Discharge of board; extension of existence; surplus in special fund**

Upon the payment of all warrants issued under any ordinance or resolution adopted or enacted pursuant to the provisions of this act, together with all expenses and claims whatsoever incurred or contracted by any such board, or upon the liquidation of all of the assets pledged to any special fund or funds created by any such ordinance or resolution adopted or enacted pursuant hereto, any such board established pursuant to this act shall cease to exist upon being discharged by the court; provided, however, that any ordinance or resolution establishing such a board may extend the existence of any such board in such manner and upon such terms and

conditions as any such ordinance or resolution shall provide. Any such ordinance or resolution may also provide for the collection, deposit and disbursement of the proceeds of the liquidation of assets pledged to any special fund or funds created hereunder after the payment of warrants issued pursuant thereto in such manner and upon such terms and conditions and for such purposes as any such ordinance or resolution shall provide.

L.1939, c. 56, p. 90, s. 8. Amended by L.1953, c. 49, p. 880, s. 46.

**52:27-45.9. Invalidity or illegality of ordinance or resolution; board prevented from performance of duties**

Should any ordinance or resolution establishing or creating any board hereunder be declared to be invalid or illegal by any court of competent jurisdiction, or should said board be prevented for any reason from performing the powers and duties herein prescribed for the collection, enforcement and liquidation of the assets and properties pledged to any such special fund or funds, all warrants payable from said fund or funds shall nevertheless remain and be a lien against the assets and properties so pledged, and shall be and remain payable from the proceeds of such assets when and as collected by such municipality, and such municipality and the corporate authorities thereof are hereby directed in such case to proceed with the liquidation of such assets as in this act and as in the ordinance or resolution authorizing the issuance of said warrants provided, and all powers, duties and liabilities imposed on the board shall be assumed and performed by the governing body of such municipality.

L.1939, c. 56, p. 90, s. 9.

**52:27-45.10. Issuance of new warrants of different denominations at request of registered holders**

Any municipality which has issued or may hereafter issue warrants, under the authority of an act entitled "An act in relation to the powers and duties of municipalities in which the Municipal Finance Commission may be functioning and supplementing chapter twenty-seven of Title 52 of the Revised Statutes," approved May sixteenth, one thousand nine hundred and thirty-nine, is hereby empowered and shall, upon the request of a registered holder of any such warrant, issue a new warrant or warrants, of like form and tenor as the warrant originally issued but of such different denomination or denominations as requested by the registered holder.

L.1941, c. 62, p. 147, s. 1.

**52:27-45.11. Execution and delivery of new warrants**

A registered holder of any warrant issued by any municipality in accordance with said act desiring a warrant or warrants of different denomination or denominations shall request in writing the issuance of such new warrant or warrants, stating the denomination or denominations desired, and file such request with the chief financial officer of the municipality. When any such request is so filed, said financial officer of the municipality shall cause a warrant or warrants of like tenor and effect as those originally issued to be prepared, of the denomination or denominations requested by the registered holder of the warrant or warrants originally issued, but not exceeding in aggregate the amount of the warrants originally issued and referred to in said request. Said new warrant or warrants shall be executed in the same manner as the warrants originally issued, by the persons holding the offices of the officers who originally executed the outstanding warrants. When a new warrant or warrants have been prepared and executed, the same shall be delivered by said financial officer of the municipality to the registered holder of the warrant or warrants originally issued upon surrender of such warrants originally issued, which shall thereupon be cancelled. The municipality shall be permitted to make a reasonable charge for such services as rendered.

L.1941, c. 62, p. 148, s. 2.

**52:27-46. School districts to which applicable; resolution by commission**

Whenever, pursuant to this chapter, the commission shall function in a municipality having a school district coterminous therewith which is governed by the provisions of chapter 7 of the title Education (s. 18:7-1 et seq.), the commission may from time to time prepare and certify to the board of education of such school district, in the manner and mode of procedure provided in this chapter, resolutions providing for the funding or refunding of notes or bonds or other indebtedness of such school district, and the interest thereon, which the commission shall have found after public hearing to be outstanding and unpaid and to be due or to become due. The commission may include in the amount of indebtedness to be funded or refunded the expense of issuing and selling notes or bonds hereunder, including the estimated cost of printing, advertising, attorney's fees, execution, certification, exchange and delivery.

**52:27-47. Public hearing on resolution**

Any proposed resolution providing for the issuance of notes or bonds, if such notes or bonds are payable more than one year from the date of issue, shall be certified as aforesaid only after a public hearing by the commission; but no resolution or amendment thereto determining or altering the form of notes or bonds or providing for their sale, execution or delivery shall require any public hearing before such certification.

**52:27-48. Adoption of resolution by board of education**

Such resolutions shall, on direction of the commission, be adopted by the board of education of such school district, by the vote of a majority of the members thereof, in the form certified by the commission.

**52:27-49. No referendum; other laws inapplicable**

Such resolutions and any notes or bonds authorized to be issued thereunder shall not be subject to a referendum of the legal voters of the school district or to the limitations or other provisions of any other law.

**52:27-50. Form of notes or bonds; terms, provisions and conditions**

Subject only to the limitations of this article, such resolution or resolutions supplemental thereto shall determine the terms and the form of notes or bonds to be issued thereunder. Such notes or bonds may be subject to such terms of redemption, with or without premium, and contain such provisions, conditions and limitations with respect to the acceleration of the obligation to pay the principal thereof upon such default in the payment of the interest on or principal of any bonds or notes, or in respect to the provisions concerning debt service and sinking fund payments, as the resolution authorizing their issuance may provide. Any notes or bonds issued under this article in exchange for any instrument issued under any other law may be authorized by such resolution or resolutions to contain a provision that, in case of default in payment of the principal of or interest on any such note or bond, the holder thereof shall not only have all his rights and remedies thereunder, but in addition shall be reinvested with such of the rights or remedies which he would have had were he then the owner and in possession of the instrument in exchange for which such note or bond shall have been issued as may be specified in such resolution. Such notes or bonds may contain such reference to any special covenants or provisions contained in the resolution authorizing their issuance and such other terms, provisions or conditions not inconsistent herewith as may be deemed by the commission to give such notes or bonds a higher degree of marketability as the resolution or resolutions determining the form of the notes or bonds may provide. All notes or bonds issued under this article containing any one or more of such references, terms, provisions, or conditions shall be deemed negotiable instruments, the provisions or limitations of any other law



to the contrary notwithstanding; but nothing in this section shall be construed to impair the negotiability of any other instruments negotiable under other laws of this state.

**52:27-51. Collateral agreements; provisions in resolutions as to taxation, sinking fund, pledges and limitations; enforcement**

To the end that the principal of and interest on the notes or bonds issued hereunder may be further secured and thereby a more favorable sale or exchange effected, any resolution authorizing the issuance of notes or bonds hereunder may contain provisions which shall be a part of the contract with the holders of such notes or bonds as to (a) the amount to be raised by taxation in the school district in each year for debt service and for reserve or sinking funds, which amount may be expressed in dollars, percentage of total assessed valuations or both, or otherwise; (b) the setting aside of reserve or sinking funds, and the amount, source, securing, regulation, investment, application and disposition thereof; (c) the pledging, depositing or trusteeing of moneys to be applied to the payment of the principal of and interest on the notes or bonds, and the securing of such deposits; (d) the pledging of taxes and other revenues or moneys of the school district directly to the payment of the principal of and interest on the notes or bonds, or to reserve or sinking funds; (e) limitations effective for not exceeding ten years from the effective date of such resolution or resolutions on the amount or nature of borrowing or incurring of indebtedness by the school district; (f) appointment of a fiscal agent by the school district and the powers and duties thereof; (g) the levying of a special tax, in such amount as said resolution may provide, for the payment of the principal of and interest on the notes or bonds, which special tax shall be levied upon all the real and personal property in the school district subject to taxation in addition to the taxes levied for all other purposes, and shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property are now or shall hereafter be assessed, levied and collected, and, when collected, shall be deemed trust funds and shall be applied and paid over by the collector or other officer having the custody of the collected taxes solely to the agreed payment of the principal of and interest on the notes or bonds, or if such agreed payment shall have been made, then in such manner and for such purposes as said resolution may provide; (h) the terms and conditions upon which such resolution or resolutions or any contract entered into thereby may be amended, rescinded or repealed; (i) any other or further course of conduct on the part of the school district which may tend to improve its credit standing. Any school district adopting a resolution containing any provision authorized hereunder shall have and possess all of the powers necessary and appropriate for the performance thereof. The provisions of any such resolution shall be enforceable by a proceeding in lieu of prerogative writ or other appropriate action or proceeding instituted by the commission or by the holder of any note or bond on his own behalf, or on behalf of all the holders of such notes or bonds, in either case in any court of competent jurisdiction whether or not there shall have been any default in the payment of the principal of or interest on any such notes or bonds.

Amended by L.1939, c. 47, p. 69, s. 2; L.1953, c. 49, p. 881, s. 47.

**52:27-51.1. Sinking fund commission; payments of reserve or sinking fund to**

Any resolution authorizing the issuance of notes or bonds hereunder may provide that any sums required pursuant to such resolution to be set aside by the school district for reserve or sinking funds shall be paid to the sinking fund commission of such school district, and all moneys so paid to such commission shall be held and applied by it only as in such resolution provided and shall not be commingled with any other moneys held by such commission. The provisions of chapter 3 of the title Municipalities and Counties (s. 40:3-1 et seq.), in so far as they relate to the creation, setting aside or maintenance of sinking funds and the investment, application and disposition thereof, shall have no application with respect to notes or bonds issued under this article or any reserve or sinking funds provided therefor.

### **52:27-51.2. Release of sinking funds**

Any resolution authorizing the issuance of notes or bonds hereunder may provide that the notes, bonds or other obligations of the school district then held by the sinking fund commission thereof shall be canceled and that other property or funds in the custody of such commission shall be applied to the payment of other indebtedness of the school district as in such resolution provided, and such commission shall cancel such notes, bonds or other obligations and apply such property or funds accordingly; provided, that nothing herein contained shall be deemed to permit, without the consent of such holder, the impairment of any rights of the holder of any note, bond or other obligation of the school district for the security or payment of which any such notes, bonds, obligations, property or funds shall be held.

### **52:27-52. Sale or exchange of notes or bonds**

Subject only to the limitations of this article, such resolution or resolutions supplemental thereto shall provide for the sale or exchange and the execution and delivery by such officers of the school district as shall be therein designated of the notes or bonds to be issued thereunder, and it shall be mandatory upon such officers to sell or exchange and execute and deliver such notes or bonds as so determined and provided.

### **52:27-53. Conditions of sale or exchange**

All such notes or bonds shall be sold at not less than par at public sale after notice setting forth the terms and conditions of sale, published in such newspaper circulating in the school district, and in such financial newspaper, as shall be designated by any such resolution, except in the following cases:

a. If no bids are received at such public sale, or if all bids are rejected, any notes or bonds or part thereof may with the written assent of the commission be sold without further notice at private sale at any time within six months.

b. With the approval in writing of the commission, any notes or bonds or part thereof may be exchanged for any notes or bonds, including interest thereon, of the school district issued under this or any other law. The rate of interest borne by any such notes or bonds may be higher or lower than the rate of interest borne by the notes or bonds surrendered.

c. With the approval in writing of the commission, any notes or bonds may be issued directly to any creditor of the school district in absolute and unconditional payment of the indebtedness and interest thereon of such school district to such creditor, provided that notes or bonds shall not be so issued unless and until the amount due such creditor has been determined by the board of education and by the commission, nor unless and until the school district receives from such creditor a release running to the school district and if such creditor is a party plaintiff in any suit, action or proceeding pending against the school district relative to such indebtedness, a stipulation of dismissal of such suit, action or proceeding. Such release and such stipulation shall be approved as to form by counsel to the school district and by counsel to the commission.

d. Any notes or bonds, or any part thereof, may be sold without any previous public offering to, and be purchased by, any sinking fund commission or the insurance or pension fund commissioners of the school district offering the bonds, or be sold to any board, commission or officers of the state, authorized by law to purchase such notes or bonds.

e. Any notes or bonds payable not more than seven years from their date may be sold at private sale with the

written assent of the commission.

**52:27-54. Effect of resolutions; publication; validity; presumptions**

Excepting resolutions determining or altering the form of notes or bonds or providing for their sale, execution and delivery, and resolutions amendatory thereof or supplemental thereto, such resolutions adopted by the board of education shall be published in a newspaper circulating in the school district and shall take effect immediately upon such publication. Resolutions not required to be published shall take effect immediately upon adoption by the board of education. Thirty days after taking effect all resolutions shall be conclusively presumed to have been duly and regularly adopted by the board of education, and to comply with the provisions of this and of every law; and the validity of any such resolution shall not thereafter be questioned by either a party plaintiff or a party defendant, except in a suit, action or proceeding, commenced prior to the expiration of such thirty days; and unless a suit, action or proceeding questioning the validity of notes or bonds purporting to be issued by virtue of any such resolution be commenced prior to the expiration of such thirty-day period, any such notes or bonds reciting that they are issued pursuant to this article shall, after their issuance and delivery, if no suit relating thereto is then pending, be conclusively presumed to be fully authorized by all the laws of this state and to have been issued, sold, executed and delivered by the school district in conformity therewith and shall not be questioned by the school district or any taxpayer or legal voter thereof in any court, anything herein or in any other statutes to the contrary notwithstanding.

**52:27-55. Tax to pay notes and bonds; reserve or sinking fund**

Any school district which shall have issued any notes or bonds pursuant to this article shall have the power to raise by a district tax any sum or sums for the purpose of providing for the payment of the interest thereon and the principal thereof and for the setting aside of necessary reserve or sinking funds therefor. The full faith and credit of such school district shall be deemed to have been pledged for the punctual payment of interest on and principal of all notes and bonds issued pursuant to this article.

**52:27-56. Additional indebtedness and expenditures; assent of commission necessary**

In order to conserve the financial resources of the school district, neither the legal voters nor the board of education thereof, without the assent in writing of the commission, shall issue or authorize the issuance of notes or bonds of any kind or character, or create any obligation or indebtedness of the school district, except pursuant to section 18:7-60 of the title Education. Nor shall any action taken by the legal voters of the school district be effective in so far as it purports to raise by tax in any year any sum or sums for any purpose or purposes, except to provide for the payment of the interest on or principal of any debt or obligation of such school district or for the setting aside of necessary reserve or sinking funds therefor, in excess of the sum or sums voted to be raised by tax for like purposes in the preceding year without like assent of the commission.

**52:27-57. Default in payment of interest, salaries, etc.; limitation on expenditures**

Whenever such school district, or the municipality with which such school district is coterminous, has been or shall be in default for twelve months in the payment of interest on any of its bonds or notes or other written evidence of indebtedness (except where the same is under litigation as to its validity, or where the validity thereof has been denied by formal notice given by the school district or municipality, and no suit, action or proceeding to enforce the same has been commenced by the holder); or whenever any such school district or municipality has been or shall be in default for six months in the payment of any part of its regular pay roll, or, in the case of the municipality, in the payment of any sums due from the annual tax levy to the state, county or school district, then in any event no action taken by the legal voters of the school district shall be effective in so far as it purports to raise by tax in any year any sum or sums for any purpose or purposes, except to provide for

the payment of the interest on or principal of any debt or obligation of such school district or for the setting aside of necessary reserve or sinking funds therefor, in excess of such limits as may be fixed by the commission.

**52:27-58. Auditors and assistants; expenses limited**

For the purpose of enabling the commission to carry out this article, the commission shall have power to employ an auditor and such other assistants, legal, clerical or otherwise, and to fix their duties, terms of service and compensation and to incur such other expenses as it may deem necessary, but no expenses (other than expenses directly attributable to the school district such as the costs of issuing the obligations of the school district and the costs of audit) shall be incurred exceeding ten thousand dollar (\$10,000.00) for any one school district in any fiscal year of such school district without the consent of a judge of the Superior Court.

Amended by L.1953, c. 49, p. 882, s. 48.

**52:27-59. Powers and duties of auditor; office**

Whenever the commission shall certify to the board of education that it intends to exercise the powers conferred by this section, thereafter no claims shall be passed for payment by the board of education or other officers of the school district until the auditor of the commission shall have certified that the same have been examined by him and found to be within the amount voted to be raised by tax therefor, and that there is or will be available in an appropriate account sufficient ready funds for its payment. Furthermore, thereafter all warrants, checks or other instruments for the withdrawal or transfer of funds of the school district shall be submitted to such auditor for his counter-signature and no banking institution in which funds of the school district have theretofore been or shall thereafter be deposited shall honor warrants or checks drawn thereon unless the counter-signature of such auditor shall appear on the face of such instruments. The board of education shall provide an adequate office for such auditor, who shall have access to all books of account, records, papers and memoranda of such school district.

**52:27-60. Expenses to be paid by school district**

The commission shall from time to time certify to the board of education the amount of its expenses, which amount shall be a legal charge upon the school district payable to the commission, and may be raised by the issuance of notes by the board of education, but the amounts so certified, if remaining unpaid, and the amounts of any notes so issued shall be included by the board of education, without any authorization by the legal voters of the school district, in the next succeeding amount certified to the county board of taxation as the amount to be raised by taxation for the purposes of the school district.

**52:27-61. Failure of school authorities to act; commission to act directly**

Whenever any direction of the commission authorized under this article has not been fully performed or carried out by the board of education or other officials of the school district affected, the commission shall have power to perform directly, or cause to be performed by its agents, in the name of the school district, any act so directed by the commission under the provisions of this article, including the power to execute, sell, issue and deliver any notes or bonds directed by the commission to be issued by the school district for the funding or refunding of its indebtedness in the manner and mode of procedure provided by this chapter for the issuance of notes or bonds by a municipality.

Amended by L.1947, c. 119, p. 585, s. 4; L.1948, c. 156, p. 892, s. 2.

**52:27-62. Remedies; enforcement of judgments, etc.; bringing of actions or proceedings stayed; exceptions**

Whenever the commission shall function in a municipality having a school district coterminous therewith which is governed by the provisions of chapter seven of the Title Education (s. 18:7-1 et seq.):

a. No judgment, levy or execution against such school district or the property thereof for the recovery of the amount due on any bonds, notes or other obligations of the school district, in the payment of which such school district has defaulted shall be enforced until otherwise specially directed by the Superior Court in an appropriate action or proceeding for such purpose, after notice to the commission; and the enforcement of any such judgment, levy or execution shall be and it hereby is stayed until otherwise specially directed as aforesaid;

b. No action or proceeding of any kind either direct or ancillary, by way of a proceeding in lieu of prerogative writ or otherwise, shall be brought against such school district, municipality, or any public officers for the assessment, levy or collection of taxes for such school district and any and all actions or proceedings therefor shall be and they hereby are stayed; except that first, the Superior Court, after notice to the commission may authorize one or more creditors of such school district to bring and maintain an action or proceeding therefor in the Superior Court, which shall be brought for the benefit of themselves and all other creditors of such school district and in which all other creditors of such school district shall have the right to intervene and assert their claim and in which all other creditors of such school district may, and such commission shall, be made parties in such manner and upon such notice as the court shall prescribe; and except that, second, the commission may bring and maintain an action or actions or a proceeding in lieu of prerogative writ or any other appropriate proceeding or proceedings for the assessment, levy or collection of taxes for such school district for the payment of principal or interest of the indebtedness of the school district found to be outstanding as provided in section 52:27-46 of this Title; without limiting its power otherwise to direct by a proceeding in lieu of prerogative writ the assessment, levy or collection of taxes, the Superior Court in the action or proceeding aforesaid may, to the extent which it shall deem just and equitable, afford to the holders collectively of any due and unpaid claims against a school district any remedy which might be afforded under any other law to any individual creditor in any such proceeding in lieu of prerogative writ for the assessment, levy or collection of taxes, to the same extent as if there had been an entry of judgment in their favor, issuance of execution and return thereof unsatisfied, service thereof upon public officials and performance of any and all other conditions precedent to the affording of such relief by a proceeding in lieu of prerogative writ under such other law; provided, that the court be first satisfied from proof submitted by affidavit or otherwise that the claims for the enforcement of which such remedy is sought are claims upon which a judgment could be obtained;

c. No action or proceeding shall be brought or prosecuted, the purpose of which is to affect the disposition of property or funds owned or controlled by the school district, except as herein provided; if any such school district has in its possession or under its control, or there is in the possession or under the control of the commission, any property or funds of such school district which are or may be available for the payment of interest or principal upon any of the debts of such school district (over and above the payment of the current operating expenses of the school district and the maintenance of a reasonable working capital), then such school district in its discretion may bring an action, or if directed by the commission shall do so, in the Superior Court to determine the application and distribution of such property or funds to and among the creditors of the school district, and in any such case the court in its discretion may permit an action for relief of the same character to be made by any creditor of the school district; in any such action, the court may proceed therein in a summary manner or otherwise, and all creditors of the school district shall be made parties thereto, and any creditor may appear therein and assert his rights to receive all or any part of such property or funds; in

case any such action shall be instituted, the court may direct the municipality to make no payments from any of such moneys so available until the determination of the action or until permitted by the court; unless and until such a direction shall be made, payments may be made by such municipality on account of principal and interest as the municipality may determine and as may be approved by the municipal finance commission;

d. Upon the application of any creditor made upon notice to the school district and the commission, the Superior Court may vacate, modify or restrict any statutory stay contained in this article.

Amended by L.1953, c. 49, p. 883, s. 49.

**52:27-63. Plan of adjustment or composition of claims of creditors; procedure; effect**

a. Whenever the commission shall function in any municipality having a school district coterminous therewith which is governed by the provisions of chapter seven of the Title Education (s. 18:7-1 et seq.), then, the Superior Court may take jurisdiction of an action brought by any creditors of such school district where the action is instituted by the plaintiff or plaintiffs on behalf of themselves and all other creditors of the school district for the approval of a plan of adjustment or composition of the claims of all creditors or of a class or classes of them similarly situated. The court may proceed in the action in a summary manner or otherwise, and the school district, the commission and all creditors of the school district shall be made parties to the action. Any creditor of the school district may appear and assert his rights.

b. In any such action, after hearing on the plan proposed or on the plan as modified by order and if such plan as proposed or modified is approved in writing by creditors representing eighty-five per centum (85%) in amount of the indebtedness affected thereby and by the school district and the commission, the Superior Court may authorize and approve such adjustment or composition if the court determines (1) that the school district is unable to pay in full according to their terms the claims proposed to be adjusted or composed, and perform its public functions and preserve the value of property subject to taxation, (2) that the adjustment or composition is substantially measured by the capacity of the school district to pay, (3) that it is in the interest of all the creditors affected thereby, and (4) that it is not detrimental to other creditors of the school district or of the municipality.

c. The plan of adjustment or composition so authorized and approved shall forthwith and without any further action of any kind be binding upon all the creditors included in such plan, whether or not they appear in such action, and in so far as said plan provides for the substitution of any new bonds, notes, or other obligations of the school district in place of any outstanding bonds, notes or other obligations or claims then outstanding, such substitution shall be effectual from and after such date as may be fixed by the court.

d. After the institution of any action provided for by this section and pending the determination thereof, the Superior Court may continue the stay provided by section 52:27-62 of this Title. In the event that a plan shall be authorized and approved pursuant to this article, the court shall retain jurisdiction of such action and thereafter no creditor whose claim is included in such adjustment or composition shall be authorized to bring any action or proceeding of any kind or character for the enforcement of his claim except with the permission of the court and then only to recover and enforce the rights given to him by such adjustment or composition.

e. Notwithstanding any provisions of this article, the commission shall not approve any adjustment or composition, or plan presented pursuant to this section, which provides for the reduction in the principal amount of any outstanding notes or bonds of the school district.

Amended by L.1953, c. 49, p. 885, s. 50.

**52:27-64. "Certified" resolutions defined; form of certificate; signing**

The word "certified" as used in this chapter shall, as to resolutions prepared by the commission and certified to the governing body of a municipality, be construed to mean transmission by first-class mail of a copy of a resolution of the commission, accompanied by a certificate substantially in the following form:

"The annexed resolution is hereby certified by the municipal finance commission to the (insert name of governing body of municipality) pursuant to chapter 27 of the title State Government, Departments and Officers, of the Revised Statutes (s. 52:27-1 et seq.)." Such certificate shall be signed in the name of the commission by at least a majority of its members under its common seal, and attested by its secretary.

**52:27-65. Remedial law to meet public emergency; liberal construction**

It is declared that this chapter is intended by the legislature to meet the public emergency arising from a default in the payment of municipal and school district obligations and the resulting impairment of public credit, requiring intervention by the state to provide for the payment of existing obligations in such a way as to cause the least embarrassment to property owners as taxpayers, and that this chapter is remedial in nature and the powers hereby granted shall be liberally construed.

**52:27-66. Powers and duties severable**

The powers granted and duties imposed by this chapter shall be construed to be independent and severable, and a judicial determination that one or more of such powers or duties are not constitutionally conferred or imposed shall not invalidate or affect the remainder thereof.

**52:27A-19.1. Powers and duties of Funding Commission vested in Local Government Board**

All the powers and duties heretofore exercised and performed by the Funding Commission, constituted by Article VI-A of chapter seventy-seven of the laws of one thousand nine hundred and thirty-five, and the acts amendatory thereof and supplemental thereto (R.S. 40:1-61 to 40:1-73, inc.), are hereby vested in and shall be hereafter exercised and performed by the Local Government Board of the State Department of Local Government, constituted by chapter one hundred and fifty-eight of the laws of one thousand nine hundred and thirty-eight.

L.1939, c. 384, p. 919, s. 1.

**52:27B-1. Terms defined**

As used in this act, unless the context clearly indicates otherwise:

"Department" means the State Department of Taxation and Finance herein established.

"Commissioner" means the commissioner and head of the State Department of Taxation and Finance.

"Director" means the director of an indicated division, herein established, in the State Department of Taxation and Finance.

"Request Officer" means the principal officer of a department or board in the Executive Branch of the State

Government.

L.1944, c. 112, art. 1, p. 287, s. 1.

**52:27B-2. State Department of Taxation and Finance established**

There is hereby established, in the Executive Branch of the State Government, the State Department of Taxation and Finance.

L.1944, c. 112, art. 2, p. 288, s. 1.

**52:27B-3. Divisions established**

The following are hereby established as divisions in the department:

The Division of Budget and Accounting.

The Division of Purchase and Property.

The Division of Taxation.

L.1944, c. 112, art. 2, p. 288, s. 2. Amended by L.1983, c. 36, s. 9, eff. Jan. 26, 1983.

**52:27B-4. State Commissioner of Taxation and Finance; appointment and removal**

The administrator and head of the department shall be the State Commissioner of Taxation and Finance. The commissioner shall be appointed by the Governor by and with the advice and consent of the Senate and shall hold his office until the next Governor shall be elected and qualified and until the commissioner's successor shall be appointed and qualified. The Governor, however, shall have power to remove the commissioner for cause.

L.1944, c. 112, art. 2, p. 288, s. 3.

**52:27B-5. Compensation of commissioner**

The commissioner shall receive an annual compensation of twelve thousand dollars (\$12,000.00).

L.1944, c. 112, art. 2, p. 288, s. 4.

**52:27B-6. General powers and duties of commissioner**

The commissioner, in addition to powers and duties specifically conferred and imposed upon him, shall have the following general powers and duties, to:

- a. Maintain suitable headquarters for the department and such other quarters within the State as he may deem necessary to the department's proper functioning;
- b. Have general responsibility for all of the department's operations under this act;
- c. Supervise the organization of the department and changes in the organization thereof except that the divisions and bureaus of the department herein specifically provided shall be maintained; formulate and adopt



rules and regulations for the efficient conduct of the work and general administration of the department, its officers and employees;

d. Make an annual report to the Governor and to the Legislature of the department's operations, and render such other reports as the Governor shall from time to time request.

L.1944, c. 112, art. 2, p. 288, s. 5.

#### **52:27B-7. Transfer of personnel**

The commissioner may, in consultation with the heads of other departments or branches of the State Government, and subject to section six, article eight, of this act, arrange for the interdepartmental and intradepartmental transfer of personnel with a view to the greatest possible efficiency of departmental operations.

L.1944, c. 112, art. 2, p. 289, s. 6.

#### **52:27B-8. Administrative Division authorized**

The commissioner shall have authority to organize and maintain in his offices an Administrative Division and to employ therein such secretarial, clerical and other assistants as his office and the internal operations of the department shall require.

L.1944, c. 112, art. 2, p. 289, s. 7.

#### **52:27B-9. Deputy commissioner**

The commissioner shall designate as deputy commissioner one of the directors who shall exercise the powers and perform the duties of the commissioner during his disability or absence, which designation, in writing, shall be filed with the Secretary of State.

L.1944, c. 112, art. 2, p. 289, s. 8.

#### **52:27B-9.1. Cancellation of uncollectible claims of state for grant or rental of riparian lands**

Where any institution, department, commission, officer or other agency charged with the receipt and collection of any moneys due the State, for the grant, lease or rental of riparian lands or interests therein, shall determine by resolution that moneys due the State as aforesaid are uncollectible, notification to this effect shall be given to the Commissioner of Taxation and Finance, and the said commissioner is hereby authorized and empowered, after investigation and upon review, in his discretion, to cancel any such sum or sums due as aforesaid, and further to order such claims removed from the State financial records and from the records of any such institution, department, commission, officer or agency as aforesaid.

L.1945, c. 120, p. 475, s. 1.

#### **52:27B-10. Director of division**

The Division of Budget and Accounting shall be headed by a director who shall be the Commissioner of Taxation and Finance.

L.1944, c. 112, art. 3, p. 290, s. 1.

**52:27B-11. Organization of division**

The commissioner shall have authority to organize the division for the effective performance of its functions and purposes herein set forth.

L.1944, c. 112, art. 3, p. 290, s. 2.

**52:27B-12. Bureau of the Budget**

There is hereby established in the Division of Budget and Accounting the Bureau of the Budget. The commissioner, through the Bureau of the Budget, shall carry into effect and execute the formulation of the annual budget submitted by the Governor to the Legislature and shall control the execution of the budget through a system of allotments by work programs.

L.1944, c. 112, art. 3, p. 290, s. 3.

**52:27B-13. Procedures prescribed**

The commissioner, through the Bureau of the Budget, shall follow the provisions and procedures set forth in sections five through twenty-three, inclusive, of this article.

L.1944, c. 112, art. 3, p. 290, s. 4.

**52:27B-14. Expenditures for ensuing year to be requested**

On or before October first in each year each department of the State Government, board, commission, officer or other State agency, hereinafter in this article called "spending agency," shall file with the commissioner a request for appropriation or permission to spend, as the case may be, which shall specify all expenditures proposed to be made by such spending agency during the next ensuing fiscal year.

L.1944, c. 112, art. 3, p. 290, s. 5.

**52:27B-15. Request officers**

A request provided in section five shall be made by the request officer. In the case of the Supreme and Superior Courts, the request officer shall be the administrative director of the courts under the direction of the Chief Justice of the Supreme Court and, in the case of the Legislature, the request officer shall be the secretary of the Senate and the clerk of the General Assembly, respectively.

L.1944, c. 112, art. 3, p. 290, s. 6. Amended by L.1953, c. 49, p. 887, s. 51.

**52:27B-16. Form of request**

Said request shall be made on forms to be furnished by the commissioner and subject to such rules and regulations as he shall prescribe from time to time and shall show in detail:

- a. A statement exhibiting for the next ensuing fiscal year all estimated revenues; the estimate of revenues for the current fiscal year and the actual revenues for the past completed fiscal year;
- b. The several purposes and itemized amounts for which appropriations or permissions to spend are requested, without deductions for estimated revenues allocated to such spending agency;

c. A statement exhibiting for the last preceding fiscal year the amounts of the annual and supplemental appropriations, transfers of appropriations, allotments from the emergency fund, dedicated receipts, if any, and of all expenditures made thereunder and the unexpended balance, if any, and the extent to which the same is obligated or encumbered;

d. A statement indicating how much of the requested appropriation will be spent in each quarter of the fiscal year.

In case an appropriation is requested for a project which cannot be completed within the next ensuing fiscal year, the request shall set forth in detail a complete description of the whole project and the estimated and detailed cost thereof, and shall show separately the part of the project which has been completed, if any, and the actual cost thereof; the part remaining to be completed and the estimated cost thereof, and the part proposed to be completed within the ensuing fiscal year and the estimated cost thereof.

L.1944, c. 112, art. 3, p. 290, s. 7.

#### **52:27B-17. State highway program**

On or before the first of October in each year, the State Highway Commissioner shall submit to the commissioner the schedule and program for which he proposes to expend or use the amounts appropriated to said department for the ensuing fiscal year, according to purposes, routes and sections of routes.

Such program may include alternate projects which may be substituted for other projects included in the program, should it be found impossible or impracticable to construct or carry on any one or more of said projects in the program. This schedule shall become a part of the request for appropriation made by the State Highway Commissioner.

On or before December tenth of each year the State Highway Commissioner shall notify the clerk of the board of chosen freeholders of each county as to the amount of county and township and borough aid appropriated and available for the county and each municipality within the county applicable to the ensuing calendar year, and it shall be lawful for the several counties and municipalities to include such amount in their respective budgets, and said amounts shall be available to the State Highway Commissioner for allotment to the said counties and municipalities at the beginning of said ensuing calendar year, and commitments may be made against said amounts by said counties and municipalities, subject to the approval of the State Highway Commissioner, immediately after the beginning of said ensuing calendar year.

L.1944, c. 112, art. 3, p. 291, s. 8.

#### **52:27B-18. Investigation of requests**

Upon the receipt of requests for appropriations, the commissioner, or a member of the department designated by him, shall examine such requests and determine the necessity or advisability thereof, and for that purpose may hold hearings thereon which shall be open to the public, and may summon and examine the request officers and any witnesses and order the production of any State records for his examination, and make any investigation which he deems necessary or advisable for the purpose of making such determination.

L.1944, c. 112, art. 3, p. 292, s. 9.

**52:27B-19. Transmission to Governor of requests and findings**

On or before December thirty-first of each year, or at such other time or times as the Governor may request, the commissioner shall certify and transmit to the Governor and Governor-elect the requests of the spending agencies, together with his findings, comments and recommendations thereon.

L.1944, c. 112, art. 3, p. 292, s. 10.

**52:27B-20 Governor's budget message; presentment; form.**

11. The Governor shall examine and consider all requests for appropriations, together with the findings and recommendations of the Director of the Division of Budget and Accounting, and shall formulate the Governor's budget recommendations, which shall be presented as a budget message by the Governor during an appearance before a joint session of the Legislature which shall be convened at 12 noon on a date on or before the fourth Tuesday in February in each year.

The budget message shall include the proposed complete financial program of the State Government for the next ensuing fiscal year, and shall set forth in columnar form detailed as to each source of anticipated revenue and the purposes to which the recommended appropriations and permissions to spend shall apply for each spending agency in substantially the following form:

A. Revenues for the General Fund, other budgeted State revenues, all other dedicated funds, Federal aid funds, and trust funds:

(1) An estimate of all balances to be on hand on the first of July next ensuing which are to be available for appropriations, supported by the calculations used in arriving at the estimated figures;

(2) An estimate of the anticipated revenues from all sources applicable to the budget period, together with the actual amount earned from each source during the last completed fiscal year, and the estimate of revenues expected to be earned from each source for the current fiscal year.

B. (Deleted by amendment, P.L.2003, c.275).

C. Appropriations. The total of the appropriations recommended for the ensuing fiscal year in substantially the following form:

Detailed Budget:

(1) An itemized statement of all appropriation requests and requests for permission to spend from the General State Fund, other budgeted State revenues, other dedicated funds and Federal aid and trust funds;

(2) An itemized statement of the amounts recommended by the Governor with respect to item "1" above;

(3) An itemized statement of all amounts appropriated and permissions granted for the current fiscal

year with respect to item "1" above;

(4) An itemized statement of all amounts appropriated and permissions granted for the last preceding fiscal year with respect to item "1" above detailed as to annual and supplemental appropriations, transfers of appropriations, State Emergency Fund allotments, and permission to spend, as the case may be, and showing also total expenditures, reserves, lapses and unencumbered balances;

(5) In addition, such other statistical information as may more fully show comparisons and costs of the several departments.

L.1944,c.112,s.11; amended 1946, c.1; 1946, c.199; 2003, c. 275, s.1.

**52:27B-20a State tax expenditure report included in Governor's budget message.**

1. a. In addition to the requirements of section 11 of article 3 of P.L.1944, c.112 (C.52:27B-20), and any other provisions of law, the Governor's budget message transmitted annually to the Legislature shall include a State tax expenditure report setting forth estimates of the tax expenditures under existing State law for the last completed fiscal year, the current fiscal year and the fiscal year to which the budget message applies. The tax expenditures report shall take into account projected economic factors, and any changes in State tax expenditures as may be enacted or reasonably expected to be enacted for any fiscal year.

b. The State tax expenditures report shall:

(1) list each State tax expenditure,

(2) identify the statutory authority for each State tax expenditure, and the year in which it was enacted or the tax year or tax period in which it became effective,

(3) describe the objective of each State tax expenditure,

(4) detail in columnar enumeration for each State tax expenditure an estimate of the amount of State revenue loss for the last completed fiscal year, the current fiscal year and the fiscal year to which the budget message applies,

(5) determine whether each State tax expenditure has been effective in achieving the purpose for which the tax expenditure was enacted and currently serves, including an analysis of the persons, including corporations, individuals or other entities, benefited by the expenditure,

(6) the effect of each State tax expenditure on the fairness and equity of the distribution of the tax burden, and

(7) the public and private costs of administering the State tax expenditures.

c. As used in this section:

"State tax expenditure" means those revenue losses attributable to provisions of State tax law which

establish special tax treatment, including but not limited to tax law definition, deduction, exclusion, exemption, deferral, credit, preferential tax rate or other special tax provision resulting in a reduced tax liability for certain persons, individuals, types of income, transactions or property from the liability which would be presumed to exist without the State tax expenditure.

d. The Division of Taxation in the Department of the Treasury shall advise and assist the Governor in the preparation of the State tax expenditure report.

L.2009, c.189, s.1.

#### **52:27B-20.1. Short title**

1. This act shall be known and may be cited as the "Environmental Fee Accountability Act of 1991."

L.1991,c.426,s.1.

#### **52:27B-20.2. Findings, determinations**

2. The Legislature finds and determines that:

The Department of Environmental Protection is one of the largest executive agencies in the State, and exerts considerable influence on the economy and quality of life in the State;

In recent years, revenues from fees generated by departmental enforcement and other activities have accounted for a steadily increasing percentage of total departmental revenues;

A significant percentage of fee revenues is anticipated by the department each state fiscal year as "off-budget" or "below the line" revenue, for which inadequate program data or no program data are provided to the Legislature;

This deleterious trend is clearly illustrated by the Governor's proposed budget for the 1992 State fiscal year, in which the department anticipates receiving over \$161 million in fees and fines, only \$59.7 million, or a mere 37% of which is anticipated "on budget;"

It is the Constitutional responsibility of the Legislature to adopt a budget for each State fiscal year, and, as a fundamental principle of sound fiscal policy, the Legislature must be able to perform a detailed evaluation of major State spending programs;

It is, therefore, entirely proper and in the interest of the people of this State, that the Legislature require the Department of Environmental Protection to include, as part of its annual budget proposal, all fee revenues and anticipated fee revenues as "on budget" or "above the line" items, to provide the same date for the programs funded by those revenues as is provided for other spending programs, and to make such information available to the budget committees and the key environmental policy committees in the Legislature; and

It is also entirely proper, and in the interest of the people of this State, that the Legislature require the State Treasurer, in preparing the Governor's proposed budget for each State fiscal year, to include all anticipated fee revenues for the department "on budget," or "above the line," and to include these fees and the appropriate program information in the public document containing that proposed budget.

L.1991,c.426,s.2.

**52:27B-20.3. Definitions**

3. As used in this act:

"Department" means the Department of Environmental Protection.

"Fee" means any fee, assessment or other charge imposed by the department pursuant to any law, rule or regulation for licenses, permits or other approvals, or for regulatory actions or services performed or provided by the department pursuant to federal or State law.

"Program" means any regulatory or other activity, or systematically designed group of activities, undertaken by the department pursuant to law, for which the department imposes a fee.

L.1991,c.426,s.3.

**52:27B-20.4. DEP fees as anticipated revenues; statistical information required**

4. a. In preparing the Governor's proposed budget, for each State fiscal year, the State Treasurer shall include the total estimated amount of fees anticipated by the department for that fiscal year as Schedule I Anticipated Revenues.

b. In addition to such other information as the State Treasurer deems necessary to include in the objectives, program classifications and evaluation data of all programs administered by the department and funded entirely or in part by fees, the Treasurer shall include, in the Governor's proposed budget for each State fiscal year, the information which is required of the department pursuant to section 5 of this act.

In the case of two or more fees which fund the same program, the information required pursuant to this subsection may be aggregated to reflect such overlap.

L.1991,c.426,s.4.

**52:27B-20.5. Program statements, data required**

5. a. In preparing its budget proposal for each State fiscal year, the department, no later than February 15 of the current State fiscal year, shall compile and submit to the State Treasurer, to the General Assembly Appropriations Committee and the Senate Revenue, Finance and Appropriations Committee, or their respective successors, and to the General Assembly Energy and Environment Committee and the Senate Environmental Quality Committee, or their respective successors, a statement for each program funded entirely or in part by fees, identifying:

(1) The objectives of the program;

(2) The program classification, which shall include a summary description of all activities undertaken by each program;

(3) For the current State fiscal year, each of the two immediately preceding State fiscal years, and the State fiscal year for which the budget is proposed, program activity data, including, but not limited to, a listing of: activities performed; applications submitted and reviewed for permits, licenses or other approvals; permits, licenses or other approvals issued; planning documents reviewed; inspections performed; enforcement actions taken; remediations overseen; acreage managed; fish and game propagated and released; and studies conducted or contracted for; and

(4) For the current State fiscal year, each of the two immediately preceding fiscal years, and the State fiscal year for which the budget is proposed, personnel data, including but not limited to: the total number of positions; the total number of budgeted positions; the number of positions budgeted for in lump sum appropriations; the number of positions supported by the appropriate fees; the number of positions supported by federal funds; all other authorized positions; and the number of vacant positions.

b. In the case of a program which is funded in part by fees and in part by other sources of revenue, the department shall supply a breakdown of the percentages and relative amounts of all respective sources of revenue used to fund the program, and, if not provided pursuant to paragraph (4) of subsection a. of this section, the number and percentage of personnel involved in the program who are supported by each source of revenue.

c. The data required pursuant to paragraphs (3) and (4) of subsection a. of this section, and pursuant to subsection b. of this section, shall be actual data, revised estimated data or estimated data, in accordance with directives of the State Treasurer concerning budget program data in general.

L.1991,c.426,s.5.

#### **52:27B-21. Recommendations**

The Governor may recommend in connection with his budget message and under separate head new or additional sources of revenue, and set forth in connection therewith his recommendations as to the purpose or purposes to which such proposed new or additional revenue may be appropriated. The total of the recommendations in the budget shall not be in excess of the estimate of all funds available for disbursement during the fiscal year to which such recommendations are applicable.

L.1944, c. 112, art. 3, p. 296, s. 12.

#### **52:27B-22. Applications for supplemental appropriations**

All applications for supplemental appropriations not included in the budget message shall be made, in the first instance, to the commissioner in substantially the same form as is required for regular requests, setting forth how much of the amount requested will be expended in each quarter of the fiscal year. The commissioner shall certify and transmit forthwith such application to the Governor, together with his findings, comments and recommendations thereon. The Governor shall transmit to the chairman of the joint appropriations committee such applications as he shall approve in whole or in part with his recommendations thereon, but the Governor shall not approve and recommend any appropriation in excess of the total anticipated funds available for disbursement during the fiscal year to which such recommendations are applicable.



L.1944, c. 112, art. 3, p. 296, s. 13.

**52:27B-23. Copies of budget message to be distributed**

The commissioner shall cause copies of the budget message to be printed forthwith and a copy thereof shall be presented to each member of the Legislature, public libraries in the State and each newspaper in the State, and shall be available for distribution to any citizen on request.

L.1944, c. 112, art. 3, p. 296, s. 14.

**52:27B-24. Revision and amendment of requests**

The commissioner shall have authority, after consultation with the various spending agencies concerned, to revise and amend quarterly allotment requests to the end that each such request, as revised and amended by the commissioner, shall not exceed the amount appropriated for the spending agency.

L.1944, c. 112, art. 3, p. 296, s. 15.

**52:27B-25. Submission of allotments to spending agencies by quarters**

Not later than the first day of June following the passage of an annual appropriation act, the commissioner shall submit to each spending agency his allotment by quarters of such appropriation. In the case of a supplemental appropriation, the commissioner shall submit his allotment by quarters within two weeks after passage of such appropriation.

L.1944, c. 112, art. 3, p. 297, s. 16.

**52:27B-26. Reserves; revision of quarterly allotments**

In order to protect against and meet emergencies that may arise during each fiscal year, the commissioner shall have the power to set aside a reserve out of each appropriation, the exact amount of which shall be determined by him. Any time during the fiscal year that occasion may require this reserve or any portion of it may be returned to the appropriation to which it belongs, providing the commissioner finds such action necessary.

Whenever it appears to the satisfaction of the Governor that revenues have fallen seriously below those anticipated, the commissioner, on order of the Governor, shall have the power to revise the quarterly allotments.

L.1944, c. 112, art. 3, p. 297, s. 17.

**52:27B-27. Requests for revision**

A request officer, whenever he deems it necessary by reason of changed conditions or for some other cogent reason, may request the commissioner to revise the work program of quarterly allotments. The commissioner shall examine such request for revision, shall promptly make a determination thereon, and shall advise such request officer as to his determination with respect thereto; and, if the request is granted, the necessary amendment to the quarterly allotments shall be made by the commissioner.

L.1944, c. 112, art. 3, p. 297, s. 18.

**52:27B-28. Transfer of appropriations**

In order to afford reasonable flexibility, any spending agency receiving an appropriation may make written application to the commissioner for leave to transfer a part of any item granted or allowed to such spending agency to any other item in such appropriation, and such application shall indicate the quarter or quarters affected as to both items. Such application shall be made only during the current year for which the appropriation was granted. No transfer shall be authorized or made after the close of any fiscal year. The commissioner shall have authority to make such transfers of appropriation.

L.1944, c. 112, art. 3, p. 297, s. 19.

#### **52:27B-29. Allotments from State Emergency Fund**

All allotments from the State Emergency Fund to an appropriation shall be authorized and allowed by the commissioner, with the approval of the Governor, but no such allotment shall be authorized until the commissioner shall have been served with a copy of the application therefor, and shall have had two days after his receipt of said application within which to submit his written recommendation thereon, together with his reasons therefor, to the Governor. All allotments thus made to an appropriation from the emergency fund shall indicate which quarterly allotment or allotments shall be increased.

The warrant checks for payment of all expenditures to be made from appropriations shall be drawn on the basis of the quarterly allotments.

L.1944, c. 112, art. 3, p. 298, s. 20.

#### **52:27B-30. Study of departmental requirements and personnel**

In order effectually to discharge and execute his duties in relation to the quarterly allotment system, the commissioner, or a member of the department designated by him, shall make continuous studies of all departmental requirements including personnel. All requests for additional personnel made by request officers to the civil service agency in the State Government shall first be approved by the commissioner.

L.1944, c. 112, art. 3, p. 298, s. 21.

#### **52:27B-31. Governor may prohibit or control expenditures**

Whenever, in the case of extravagance, waste or mismanagement, it appears to the satisfaction of the Governor that any appropriation by a spending agency is not in the best interest of the State, he may prohibit and enjoin such expenditure or any future expenditure under the appropriation and prescribe the terms upon which the same may be made, if at all, by making and signing an order to that effect and serving it on the request officer of such spending agency, and also serving a certified copy of the order upon the commissioner and upon the director of purchase and property, whereupon the order shall immediately become operative. Upon such service future expenditures under the appropriation shall be limited according to the terms of the executive order. The Governor, in such cases, may make other and further orders as may be necessary or advisable in his discretion which orders shall become operative upon such service.

L.1944, c. 112, art. 3, p. 298, s. 22.

#### **52:27B-32. Provisions not applicable to Legislature**

Nothing in this act concerning the work program of quarterly allotments shall apply to the Legislature.

L.1944, c. 112, art. 3, p. 299, s. 23.

**52:27B-33. Bureau of Accounting established; functions**

There is hereby established in the Division of Budget and Accounting the Bureau of Accounting. The commissioner, through the Bureau of Accounting, shall prescribe the procedures for the collection of revenues; institute and direct prosecution against delinquent officers of the revenue and for just claims and accounts against the State; provide and maintain a uniform system of accounting for the State, its departments, institutions, courts and other State agencies. The commissioner, through the Bureau of Accounting, shall follow the provisions and procedure set forth in sections twenty-five through thirty-eight, inclusive, of this article.

L.1944, c. 112, art. 3, p. 299, s. 24.

**52:27B-34. Deposit of revenues; reports**

All State revenue collected by any department, institution, commission, board, committee or official of this State shall, except as otherwise provided by law, be deposited, in the method prescribed by the commissioner, to the credit of the State of New Jersey in such depositories as the State Treasurer shall designate. A report of such moneys collected shall be submitted to the commissioner and the State Treasurer in such form as the commissioner shall prescribe. Such report shall be submitted not later than the tenth day of the month following that during which such moneys were received. The commissioner, upon receiving such report, shall audit and register all amounts contained therein and make proper accounting thereof.

L.1944, c. 112, art. 3, p. 299, s. 25.

**52:27B-35. Commissioner may prescribe forms**

The commissioner shall have authority to prescribe uniform forms to be used by all departments or other agencies of the State Government in encumbering any funds appropriated.

The commissioner shall prepare the forms upon which shall be rendered all statements of indebtedness against any department, institution, commission, committee, official, board, or body of State Government.

The forms, in this section provided, shall, when so prepared, be the only forms used for the evidence and record of such encumbrances and indebtedness.

L.1944, c. 112, art. 3, p. 300, s. 26.

**52:27B-36. Certain powers and duties of State Comptroller transferred to Division of Budget and Accounting**

The powers and duties heretofore vested by P.L.1940, c. 35, in the State Comptroller are hereby transferred to the Division of Budget and Accounting and to the commissioner, as the head thereof, to be exercised through the Bureau of Accounting.

L.1944, c. 112, art. 3, p. 300, s. 27.

**52:27B-37. Designation of officer to approve encumbrance requests and statements of indebtedness; investigations by commissioner; warrants**

Each department, commission, committee, official, board or body of any institution or organization of the State shall designate the proper officer who shall approve and sign all encumbrance requests and statements of indebtedness. The designation shall be filed in the office of the commissioner; and the requests and statements of indebtedness shall be presented to the commissioner.

The commissioner shall examine, audit and adjust all encumbrances and statements of indebtedness so presented. He may administer an oath to the persons presenting the encumbrance or statement of indebtedness and to any witness presented on behalf of such person and may examine such person or witness as to the truth, fairness and correctness of such encumbrance or statement of indebtedness.

The commissioner shall execute and register warrant checks in settlement of statements of indebtedness, approved by him, and shall transmit them forthwith to the State Treasurer who shall thereupon sign and deliver the same to the payees.

L.1944, c. 112, art. 3, p. 300, s. 28.

**52:27B-38. Checks and drafts for transfer of funds between depositories need not be signed by commissioner**

Checks or drafts used only for the transfer of State funds from one depository to another, drawn to the order of the State of New Jersey and restrictively endorsed by the treasurer in the following manner: "Transfer of State Funds--For Deposit Only," need not be signed by the commissioner.

L.1944, c. 112, art. 3, p. 301, s. 29.

**52:27B-39. Certain laws applying to comptroller to apply to commissioner instead**

Wherever a provision of law relating to the presentation of claims or bills for approval, the drawing of warrants, the countersigning of receipts and checks, and the administration of petty cash funds, the apportionment of taxes on railroad and canal property, applies to the Comptroller, such provision of law shall when this act takes effect apply instead to the commissioner.

L.1944, c. 112, art. 3, p. 301, s. 30.

**52:27B-40. Centralized payroll system; notice of payroll changes**

The commissioner shall have authority to prescribe and enforce, to every extent practicable, a centralized payroll system. For the purposes of the preaudit of all payrolls, the commissioner shall have authority to require of the civil service agency in the State Government notice of payroll changes in the form prescribed by the commissioner, which form the commissioner is hereby authorized to prescribe.

L.1944, c. 112, art. 3, p. 301, s. 31.

**52:27B-41. Secretary of State to notify banks of termination of power of State Treasurer and commissioner**

The Secretary of State shall, when the offices of State Treasurer and commissioner or either of them shall become vacant or the officers or either of them shall no longer be authorized to act as such, respectively, give written notice forthwith to all national banks located in this State and institutions authorized by the State to carry on a banking business of such vacancy or termination of power. No bank shall thereafter pay any check

or draft of the State Treasurer, signed or countersigned by any person after his office shall become vacant or after he shall no longer be authorized to act.

L.1944, c. 112, art. 3, p. 301, s. 32.

**52:27B-42. Suits in name of State for recovery of money**

The commissioner shall, except as otherwise provided by law, cause suit to be instituted in any competent court of this or any other State for the recovery of any money due the State or any of its institutions, departments, commissions or officers. The suit shall be in the name of the "State of New Jersey" as plaintiff.

L.1944, c. 112, art. 3, p. 301, s. 33.

**52:27B-43. Commissioner to keep accounts**

The commissioner shall keep and maintain, at all times, within the division all such books of accounts and other accounting records leading to and including the general ledger as may be necessary for the centralized control of all accounts.

L.1944, c. 112, art. 3, p. 302, s. 34.

**52:27B-44. Double-entry accounts; requirements**

The commissioner shall install, keep and maintain in the division a complete set of double-entry accounts, which shall reflect directly or through proper controlling accounts, on an accrual basis, all assets, liabilities, revenues, and expenditures of the State, and all of its accounting agencies. Such accounts shall reflect all accounts receivable and payable, all balances of all funds, and such other information as is required for a proper statement of the financial conditions and operations of the State.

L.1944, c. 112, art. 3, p. 302, s. 35.

**52:27B-45. Form of accounts; reports**

The commissioner shall prescribe and enforce the form, manner and content of accounts to be kept by each accounting agency, and the form, manner and content of accounting reports and statements to be rendered to him with respect thereto. The commissioner, if he deems such action necessary, may install a system of accounts in an accounting agency of the State Government. He shall provide for reports and statements to be submitted to him at least once each month which shall show the complete operation of each accounting agency and such other information as may be necessary in his judgment. This requirement shall not be in limitation of such other reports and statements, at longer or shorter intervals, containing the same or other information, as may be necessary in the judgment of the commissioner.

L.1944, c. 112, art. 3, p. 302, s. 36.

**52:27B-46. Annual reports; contents; distribution; monthly report of general state fund**

The Director of the Division of Budget and Accounting shall prepare, within 60 days following December 31 and 90 days following the last day in which annual appropriations are available for expenditure during each fiscal year, a complete report showing:

- a. Balance sheet of all assets and liabilities for all State funds.

b. Statement of General State Fund accrued revenues as compared with anticipated revenues.

c. Summary report of the General State Fund showing the condition of the appropriations, which shall reflect the original appropriation, supplemental appropriations, appropriated revenue, reappropriations, transfers to and from, allotments from the emergency fund and expenditures made against such appropriations.

d. Such other information as he may deem necessary and proper.

Such statement, certified by the director, shall be transmitted forthwith to the Governor, and shall be and remain a public document on file in the office of the director, subject to inspection by any citizen of the State, who shall have the right to make or obtain copies thereof under such reasonable regulations as the director may prescribe. Copies of said statement shall be transmitted at the same time to the President of the Senate, the Speaker of the General Assembly, the chairman of the respective appropriation committees, the State Treasurer and the State Auditor. In addition the director shall prepare a summarized monthly report of the General State Fund no later than 30 days following the end of each month which shall reflect the accrued revenues as compared with anticipated revenues, itemized by revenue source for major taxes, by department for miscellaneous revenues, by department for major sources of Federal aid budgeted and with information on income to the General State Fund from the major dedicated and trust funds. The report shall reflect the condition of the appropriations and other such data which the director shall determine.

L.1944, c. 112, art. 3, p. 302, s. 37. Amended by L.1977, c. 158, s. 1, eff. July 14, 1977.

**52:27B-47. Failure or refusal of officers or heads of departments to keep accounts or make reports; hearing on charges; removal**

If the commissioner should find that any officer or head of a department of the State Government willfully or negligently fails or refuses to keep or have kept such accounts, render such reports or perform such other duties as may be prescribed by the commissioner under this article, or refuses to conform to any of the provisions of this article, he shall notify such officer or head of a department in writing of such failure or refusal, and the particulars thereof, and shall allow him reasonable opportunity to be heard thereon. If such failure is not explained to the satisfaction of the commissioner, he shall prepare written charges against such officer or head of a department, and submit the same to the Governor forthwith, and serve a copy thereof upon such officer or head of a department charged with such failure or refusal. Thereupon the Governor shall fix a time and place for hearing such charges by giving not less than five days' notice thereof in writing to such officer or head of a department so charged and to the commissioner. After due hearing, the Governor may take such action as may be necessary, in his judgment, including the removal of such officer or head of a department found guilty of such charges, but if the right of removal in any case is vested exclusively in the Legislature, the Governor shall transmit to the Legislature a written report of his findings with his recommendations thereon for consideration and action by the Legislature.

L.1944, c. 112, art. 3, p. 303, s. 38.

**52:27B-48. Transfer of powers and duties of State Tax Department and State Tax Commissioner**

The powers and duties heretofore vested by law in the State Tax Department and in the State Tax Commissioner are hereby transferred to the Division of Taxation, and the director thereof, respectively, in the State Department of Taxation and Finance.

L.1944, c. 112, art. 4, p. 304, s. 1.

**52:27B-49. Director to head division; appointment; term**

The Division of Taxation shall be headed by a director who shall be appointed by the Governor by and with the advice and consent of the Senate, to serve until the next Governor shall be elected and qualified and until the director's successor shall be appointed and qualified. The Governor, however, shall have power to remove the director for cause.

L.1944, c. 112, art. 4, p. 304, s. 2.

**52:27B-50. Compensation of director**

The director shall receive an annual compensation, fixed by the commissioner, of not exceeding ten thousand dollars (\$10,000.00).

L.1944, c. 112, art. 4, p. 304, s. 3.

**52:27B-51. Powers and duties of director**

Unless otherwise provided by law, the director of the Division of Taxation shall perform all the acts formerly required by law to be performed by the State Tax Commissioner.

The director shall have authority, subject to the approval of the commissioner, to continue, within the division, the various bureaus of the State Tax Department as they exist on the date this act takes effect; or, subject to the commissioner's approval, to reorganize those bureaus as he may deem desirable.

L.1944, c. 112, art. 4, p. 304, s. 4.

**52:27B-53. Division to be headed by director; appointment; removal**

The Division of Purchase and Property shall be headed by a director who shall be appointed by the Governor by and with the advice and consent of the Senate, to serve until the next Governor shall be elected and qualified and until the director's successor shall be appointed and qualified. The Governor, however, shall have power to remove the director for cause.

L.1944, c. 112, art. 6, p. 305, s. 1.

**52:27B-54. Compensation of director**

The director shall receive an annual compensation, fixed by the commissioner, of not exceeding ten thousand dollars (\$10,000.00).

L.1944, c. 112, art. 6, p. 305, s. 2.

**52:27B-55. Transfer of powers and duties of State Purchasing Department and State Purchase Commissioner**

The powers and duties heretofore vested by law in the State Purchasing Department, and the State Purchase Commissioner, are hereby transferred to the Division of Purchase and Property and to the director, respectively, as the head of that division of the State Department of Taxation and Finance.

L.1944, c. 112, art. 6, p. 305, s. 3.

**52:27B-56 Powers, duties of director.**

4. The director is hereby vested with the powers, duties, and responsibilities involved in the efficient operation of a centralized State purchasing service, and with the custody, operation and maintenance of all State property not chargeable to a particular department. The director shall have authority, subject to the State Treasurer's approval, to organize the division for the effective performance of its functions and purposes herein set forth, and to establish and assess fees to cover administrative costs. The director or the director's designee shall have the authority to conduct investigations and informal hearings regarding any bid protest or vendor performance issues. The director shall also have the authority to issue final agency decisions regarding any bid protest or vendor performance issues. Except as otherwise provided by statute and subject to the State Treasurer's approval, the director shall have final approval of all State contracts including, but not limited to, those entered into pursuant to P.L.1964, c.290 (C.30:6-17 et seq.).

L.1944,c.112,s.4; amended 1999, c.440, s.94.

**52:27B-56a. Keys for use in locks in or on real property leased or owned by state; rules and regulations**

The Department of the Treasury shall establish rules and regulations governing the use, distribution, manufacture, duplication, and possession of keys designed to be used in locks in or on real property leased or owned by the State and under its jurisdiction.

L.1981, c. 248, s. 2.

**52:27B-56b. Keys not to be duplicated; identification**

Any key which according to rules and regulations established under section 2 of this act is not to be duplicated, shall be clearly identified by the words "Property of the State of New Jersey: Do Not Duplicate."

L.1981, c. 248, s. 3.

**52:27B-56.1 Joint purchases.**

1. The Director of the Division of Purchase and Property may, by joint action, purchase any articles used or needed by the State and the Palisades Interstate Park Commission, the New Jersey Highway Authority, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Port Authority of New York and New Jersey, the South Jersey Port Corporation, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, Rowan University, the New Jersey Sports and Exposition Authority, the New Jersey Housing Finance Agency, the New Jersey Mortgage Finance Authority, the New Jersey Health Care Facilities Financing Authority, the New Jersey Education Facilities Authority, the New Jersey Economic Development Authority, the South Jersey Transportation Authority, the Hackensack Meadowlands Development Commission, the New Jersey Water Supply Authority, the Higher Education Student Assistance Authority or any other agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

L.1959, c.40, s.1; amended 1980, c.36; 1981, c.325, s.18; 1999, c.440, s.89; 2012, c.45, s.134.



### **52:27B-57. Reports**

The director shall make an annual detailed report to the commissioner of his operations under this act and render such other reports as the commissioner shall, from time to time, request.

L.1944, c. 112, art. 6, p. 306, s. 5.

### **52:27B-58. Standard specifications for commodities; laboratory tests; fees**

The director shall, in consultation with heads of departments, develop standard specifications for all commodities commonly purchased, and shall establish and maintain a system of inventories of properties, supplies and equipment of all State departments and agencies.

The director shall:

- a. Determine and establish and from time to time change standards and specifications according to the needs of all using agencies so far as their needs are in common, and for groups of using agencies or for single using agencies so far as their needs differ;
- b. Fix physical or chemical formulae and otherwise determine the service, quality, fitness and suitability of all articles tendered or furnished;
- c. Make use for such purposes of the existing laboratories maintained by the State;
- d. Establish a list of other public or private laboratories whose tests and analysis will be accepted; and
- e. Fix the fees required to be paid for tests or analysis made in any State laboratory.

The fees required by any State or other laboratory for any analysis or test made for any prospective vendor, prior to the award of a contract, shall be paid by such prospective vendor. Inspection analysis or tests shall be at the expense of the State.

L.1944, c. 112, art. 6, p. 306, s. 6.

### **52:27B-59. Purchases to comply with standards**

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In the purchase of all articles, the standards and specifications determined and established pursuant to section six shall be adhered to and complied with, and no deviation shall be permitted without the written consent of the commissioner first obtained.

L.1944, c. 112, art. 6, p. 306, s. 7.

### **52:27B-60. Rejection of articles failing to comply with standards**

Any using agency may reject any article delivered or tendered which fails to comply with the standards and specifications applicable to such article.

L.1944, c. 112, art. 6, p. 307, s. 8.

### **52:27B-61. Schedules and contracts; bids; payment**

Each using agency shall, at all times, in the form and for the periods prescribed by the director, present to him detailed applications and schedules for all articles to be purchased. The director shall then arrange such schedules or parts thereof for purchase and contract, in the manner best calculated to attract competition and advantageous prices. He shall award contracts or orders for purchase to the lowest responsible bidder meeting all specifications and conditions. He shall have authority to reject any or all bids or to award in whole or in part if deemed to the best interest of the State to do so. In case of tie bids, he shall have authority to award orders or contracts to the vendor or vendors best meeting all specifications and conditions. Public bids shall not be waived except with the written approval of the commissioner and except after notice in writing to the State Auditor. The director shall prescribe the terms and conditions for delivery, inspection, payment and all other detail whatsoever. In purchases of fresh milk and as a condition thereof, the director shall require each vendor to certify in writing that he purchased during the immediately preceding year fresh milk produced within the State at least equal in amount to the amount he seeks to furnish to the using agency, and, in addition, to agree to purchase during the year in which he proposes to furnish such milk to the using agency an amount of fresh milk produced within the State at least equal to the amount he proposes to furnish to the using agency plus an amount equal to the amount, if any, he shall be required to furnish to any other using agency.

Upon the award of contracts or orders for purchase, the director shall thereupon make an encumbrance request to the commissioner for the amount necessary to defray the cost thereof, indicating the appropriations or authorizations to spend funds against which the contract or purchase order will be charged.

The bills for such purchases shall be apportioned by the director among the using agencies in proportion to the purchases made therefor, and certified as apportioned to the commissioner, to be charged against the respective appropriations or authorizations to spend as indicated by the certificate of the director. The bills therefor shall be paid by warrant check of the commissioner and State Treasurer.

Nothing in this article shall be construed to repeal or otherwise affect any law of this State relating to the purchase or use of the products of the labor of the inmates of a charitable, reformatory or penal institution of this State.

L.1944, c. 112, art. 6, p. 307, s. 9. Amended by L.1964, c. 194, s. 2.

### **52:27B-62. Insurance**

The director shall, subject to the approval of the commissioner, effect and maintain insurance against loss or damage by fire upon the State House and the contents thereof in such sum as may be deemed necessary. The director is hereby authorized, and it shall be his duty, after consultation with the heads of State departments and agencies, to purchase and secure all necessary casualty insurance, marine insurance, fire insurance, fidelity bonds, and any other insurance necessary for the safeguarding of the interest of the State. He is hereby authorized, subject to the commissioner's supervision and approval, to establish, in the Division of Purchase and Property, a bureau to administer a centralized system of insurance for all departments and agencies of the State Government.

L.1944, c. 112, art. 6, p. 308, s. 10.

### **52:27B-63. Existing contracts to be completed**

All contracts and purchase orders heretofore awarded by the State Purchase Commissioner and all operative State insurance contracts, which are outstanding and uncompleted when this act takes effect, shall continue and

be completed under the terms thereof by the director of the Division of Purchase and Property.

L.1944, c. 112, art. 6, p. 308, s. 11.

**52:27B-64. Powers and duties vested in State house commission transferred**

12. The powers and duties vested in the State House Commission by sections 52:20-7, 52:20-13, 52:20-14, 52:20-20 and 52:20-25 of the Revised Statutes are hereby transferred to the General Services Administration and the administrator thereof.

The administrator, with the commissioner's approval, shall to every practicable extent arrange, and from time to time rearrange, the office space assigned to the various departments and other agencies of the State Government in a manner to provide for the most efficient conduct of the business of such departments and agencies. The leasing of office space shall be done in accordance with the provisions of P.L.1992, c.130 (C. 52:18A-191.1 et al.).

L.1944,c.112,s.12; amended 1992,c.130,s.11.

**52:27B-65. Right-of-way over lands acquired by State**

Whenever land is acquired by the State pursuant to any law and the owner of any portion of the land adjacent thereto has not a prescribed right-of-way from his lands and over the land so acquired by the State to any public highway, the owner of the lands and the State Treasurer and the commissioner, representing the State, may agree upon a right-of-way, which agreement shall be reduced to writing and signed by the parties thereto and filed and recorded in the office of the county clerk as deeds and mortgages are filed and recorded.

L.1944, c. 112, art. 6, p. 309, s. 13.

**52:27B-66. Sales of personal property; claims**

The director may, with the approval of the commissioner, sell any personal property in the possession of the State which is perishable in character and from which no revenue is derived, at public sale, after the same shall have been advertised at least ten days in a newspaper published in the city of Trenton and all persons claiming any lien or interest in such property shall take notice of the same at their peril. If any person shall thereafter establish a claim to any interest in the goods so sold according to law, the fund received from such sale shall be liable for the space of one year from the date of the sale for such interest or claim. All claims and interest in such property, other than that provided in this section, shall be forever barred. The sum realized from the sale shall, after the expiration of the period of one year, be covered into the State treasury.

L.1944, c. 112, art. 6, p. 309, s. 14.

**52:27B-67. Transfer of personal property to departments, etc.**

Whenever, in the opinion of the director, any personal property in the custody and control of any State department, institution, commission, board, body, or other agency of the State is deemed surplus, obsolete or not longer suitable for the purpose for which it was intended, he may make a transfer of the custody and control of such personal property to any other State department, institution, commission, board, body, or other agency of the State by which the property so reported may be advantageously used.

Whenever such property so reported cannot be used by any State department, institution, commission, board,

body or other agency of the State, the director may, with the commissioner's approval and after notification in writing to the State Auditor, dispose thereof, and thereupon the director shall pay the proceeds arising from such disposition into the general fund of the State.

L.1944, c. 112, art. 6, p. 309, s. 15.

**52:27B-68 Director to provide rules and regulations.**

16. The director shall provide by rule and regulation, subject to the commissioner's approval, for the use and disposal of property which, pursuant to any law of this State, has been seized and forfeited and which has been turned over to the director. Whenever such seized and forfeited property has been turned over to the director, he may, by order, retain the property for the benefit of State institutions and other boards, commissions, agencies and instrumentalities of the State Government; but if, in the opinion of the commissioner, the property can to the greater advantage of the State be sold, the director may cause the same to be sold at public auction at a time and place to be designated by the director, notice of which sale shall be given at least three days before the sale, by publication at least once in a newspaper published in the city of Trenton. The proceeds of any such sale shall be turned over to the treasurer of the State for the use of the State.

L.1944, c.112, s.16.

**52:27B-67.1 Distribution of surplus computer equipment.**

1. a. (1) Whenever any computer, computer equipment, or portable communication device in the custody and control of any State department, institution, commission, board, body, or other agency of the State is deemed by that State entity to be surplus, obsolete or no longer suitable for the purpose for which it was intended pursuant to subsection c. of section 1 of P.L.2011, c.225 (C.52:27B-67.2), and the item is not claimed by another State entity pursuant to subsection d. of that section, the Director of the Division of Purchase and Property in the Department of the Treasury may declare the item available for distribution and make a transfer of the custody and control of the item to local units, boards of education, nonpublic schools or nonprofit charitable corporations organized pursuant to N.J.S.15A:1-1 et seq. in accordance with this section.

(2) To assist in the coordination of any distribution, the director of the division, in consultation with the Division of Property Management and Construction in the Department of the Treasury, shall designate a storage facility to be utilized for holding and processing any item designated for distribution.

(a) The storage facility shall utilize reasonable protocols in order to secure any item being stored, including but not limited to, employee and visitor sign-in procedures, required escorts for each visitor, and multilayered supervision of loading and unloading operations.

(b) The director of the division shall only accept an item at the storage facility from a sending State department, institution, commission, board, body, or other agency for holding and subsequent transfer to local units, boards of education, nonpublic schools or nonprofit charitable corporations that upon arrival at the facility is accompanied by a certification of the removal of all data storage devices pursuant to paragraph (3) of subsection c. of section 1 of P.L.2011, c.225 (C.52:27B-67.2).

b. Whenever such computer, computer equipment, or portable communication device deemed surplus, obsolete or no longer suitable for the purpose for which it was intended cannot be used by local units, boards of education, nonpublic schools or nonprofit charitable corporations, the director may, with the State Treasurer's approval, dispose thereof, and thereupon the director shall pay the proceeds arising from such disposition into the general fund of the State.

c. The director shall develop a plan for the notification and distribution to local units, boards of education, nonpublic schools or nonprofit charitable corporations of computers, computer equipment, or portable communication devices designated as surplus, obsolete or no longer suitable for the purpose for which it was intended by any State department, institution, commission, board, body or other agency of the State. The distribution of any designated item to local units, boards of education, nonpublic schools or nonprofit charitable corporations shall only be permitted through the distribution plan established pursuant to this section.

d. The State shall not be liable for any damages that may result from the use or operation of any transferred computer, computer equipment, or portable communication device.

L.1999, c.194, s.1; amended 2011, c.225, s.2.

**52:27B-67.2 Definitions relative to the disposition of certain State computers, other electronic devices.**

1. a. As used in this section:

"Computer" means an electronic, magnetic, optical, electrochemical or other high speed data processing device or another similar device capable of executing a computer program, including arithmetic, logic, memory, data storage or input-output operations and includes all computer equipment connected to the device, but shall not include an automated typewriter or typesetter or a portable, hand-held calculator.

"Computer equipment" means any equipment or device, including all input, output, processing, storage, or communications facilities, intended to interface with the computer.

"Computer system" means a set of interconnected computer equipment intended to operate as a cohesive system.

"Data" means information, facts, concepts, or instructions contained in a computer, computer equipment, or computer system. It shall also include, but not be limited to, any alphanumeric, hexadecimal, octal or binary code.

"Data base" means a collection of data.

"Division" means the Division of Purchase and Property in the Department of the Treasury.

"Portable communication device" means a computer that is designed to be personally portable and capable of sending, receiving, storing, reproducing, or displaying communications or information.

"State entity" means any department, institution, commission, board, body, or other agency of the State.

b. The director of the division, in consultation with the Chief Technology Officer of the Office of Information Technology, in but not of the Department of the Treasury, shall develop a program regarding the disposition of any computer, computer equipment, or portable communication device in the custody and control of any State entity that the entity determines to be surplus, obsolete or no longer suitable for the purpose for which it was intended. The program may include procedures concerning the redistribution of items among State entities, the distribution of items to local governmental entities, boards of education, nonpublic schools and nonprofit charitable corporations pursuant to section 1 of P.L.1999, c.194 (C.52:27B-67.1), the public purchase of items, and the final disposal of items not distributed or purchased.

c. In accordance with regulations promulgated by the director of the division, whenever a State entity possesses any unused computer, computer equipment, or portable communication device that includes a hard drive or other data storage device and is unable to redistribute the item for further use within the entity, that entity shall:

(1) declare the item to be surplus, obsolete or no longer suitable for the purpose for which it was intended, subject to further disposition by the division;

(2) in the case of any computer, computer equipment, or portable communication device, remove all data storage devices and destroy such devices by any means approved by the Office of Information Technology concerning data security as authorized pursuant to "The Office of Information Technology Reorganization Act," sections 6 through 16 of P.L.2007, c.56 (C.52:18A-224 through C.52:18A-234);

(3) notify the division with respect to the entity's declaration of the item as surplus, obsolete or no longer suitable for the purpose for which it was intended, and include in that notice:

(a) a certification of the removal of all data storage devices pursuant to paragraph (2) of this subsection, if applicable; and

(b) the name and contact information, including a telephone number, of the director of information technology for that entity, the person named in the certification accompanying the notice pursuant to subparagraph (a) of this paragraph, or another person with knowledge regarding the entity's declaration of the item as surplus, obsolete or no longer suitable for the purpose for which it was intended.

d. (1) The director of the division shall coordinate the redistribution or disposition of any item declared by a State entity to be surplus, obsolete or no longer suitable for the purpose for which it was intended to another State entity, by developing and maintaining a comprehensive list for all State entities consisting of their directors of information technology and relevant contact information.

(2) Upon receipt of a notice from a State entity declaring an item to be surplus, obsolete or no longer suitable for the purpose for which it was intended pursuant to paragraph (3) of subsection c. of this section, the director shall determine whether such item is suitable for redistribution to another State entity. Items deemed suitable for redistribution shall be offered with appropriate written notice to all other State entities through their directors of information technology. The director may establish appropriate deadlines for responses from interested State entities, which shall respond to the director in writing with a request for such item. In

determining how to fairly and equitably prioritize requests and allocate items that are requested by more than one entity, the director shall have the discretion to direct surplus items to the highest possible use, acting in the best interest of the State.

e. If an item that has been declared by a State entity to be surplus, obsolete or no longer suitable for the purpose for which it was intended and has been deemed suitable for redistribution is not claimed by another State entity pursuant to subsection d. of this section, then the director of the division may declare the item eligible for distribution to local governmental entities, boards of education, nonpublic schools and nonprofit charitable corporations pursuant to section 1 of P.L.1999, c.194 (C.52:27B-67.1).

f. The director of the division may, with the State Treasurer's approval, take any item that is not otherwise distributed pursuant to the provisions of this section or section 1 of P.L.1999, c.194 (C.52:27B-67.1) and dispose thereof, and thereupon the director shall pay the proceeds arising from the item's disposition into the General Fund of the State.

g. The State shall not be liable for any damages that may result from the use or operation of any computer, computer equipment, or portable communication device distributed or purchased pursuant to this section.

h. Within 18 months of the effective date of this act, P.L.2011, c.225, the director of the division shall issue a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), regarding the disposition programs and data security measures established pursuant to this act.

L.2011, c.225, s.1.

#### **52:27B-68.1. Purchasing Federal surplus property**

The Director of the Division of Purchase and Property of the Department of Taxation and Finance is hereby empowered to use the facilities of the State Purchase Revolving Fund in the acquisition of Federal surplus property for State purposes.

L.1946, c. 144, p. 681, s. 1.

#### **52:27B-68.2. Appropriation**

There is hereby appropriated out of the earnings derived from the Federal surplus transactions to the Director of the Division of Purchase and Property such sums as may be necessary to defray the administrative cost and expenses incident to the acquisition of such Federal surplus property.

L.1946, c. 144, p. 681, s. 2.

#### **52:27B-69.1. Authority to hold office as member of local government board and municipal office**

It shall be lawful for a member of the Local Government Board in the Division of Local Government in the State Department of the Treasury who has been or shall be selected by reason of his experience either as a member of a municipal governing body or as a municipal official, to hold simultaneously his office as a member of the said local government board and a municipal office.

L.1964, c. 252, s. 1.

**52:27B-69.2. Authority to hold office as member of local government board and county office**

It shall be lawful for a member of the Local Government Board in the Division of Local Government in the State Department of the Treasury who has been or shall be selected by reason of his experience either as a member of a county governing body or as a county official, to hold simultaneously his office as a member of the said local government board and a county office.

L.1964, c. 252, s. 2.

**52:27B-69.3. Conflict of interest; abstention from voting; challenge of right to vote**

Nothing contained in this act shall be deemed to prevent a member of the said local government board who is also a municipal or county officer, from abstaining from voting in any matter in which he believes he has a conflict of duty or interest, nor to prevent a challenge of a right to vote on that account under the principles of the common law or any statute.

L.1964, c. 252, s. 3.

**52:27B-69.4. Applicability of act**

This act shall be applicable to persons now holding membership in the said local government board as well as to members of the said board heretofore or hereafter appointed and qualified into the said office of member of the said local government board.

L.1964, c. 252, s. 4.

**52:27B-70. Director; appointment; removal**

The administrative head of the Division of Local Government shall be the director who shall be appointed by the Governor by and with the advice and consent of the Senate, to serve until the next Governor shall be elected and qualified and until the director's successor shall be appointed and qualified, but the Governor shall have the power to remove the director for cause.

L.1944, c. 112, art. 7, p. 311, s. 2.

**52:27B-71. Compensation of director**

The director shall receive an annual compensation, fixed by the commissioner, of not exceeding ten thousand dollars (\$10,000.00).

L.1944, c. 112, art. 7, p. 311, s. 3.

**52:27B-72. Compensation of members of Local Government Board**

The members of the Local Government Board shall each receive such compensation as shall be provided by law.

L.1944, c. 112, art. 7, p. 311, s. 4. Amended by L.1962, c. 65, s. 13, eff. July 1, 1962.

**52:27B-73. Powers and duties**

The powers and duties of the Local Government Board shall be the same as heretofore, and the powers and



duties of the director shall be the same as those heretofore vested in the Commissioner of Local Government, except that the board and the director shall be under the general supervisory authority of the Commissioner of Taxation and Finance.

L.1944, c. 112, art. 7, p. 311, s. 5.

#### **52:27B-74. Reports**

The director and the board shall make an annual report to the commissioner of the work of the division and the financial condition of counties and municipalities. The report shall include such recommended changes and legislation pertaining to local government as may seem proper and desirable. The director shall also publish annually a report of comparative financial statistics of local government tabulated to show the costs of government, the costs of principal services, the amount of debt and other pertinent data.

The annual report and the report of local financial statistics shall be published for general distribution. The director may make a reasonable charge for copies of the annual reports to cover costs of printing.

The director shall make such special reports as the commissioner may request.

L.1944, c. 112, art. 7, p. 311, s. 6.

#### **52:27B-75. Assistants**

The director of each division in the Department of Taxation and Finance shall have authority to appoint such clerical and other assistants as he may deem necessary to the division's work and to fix their duties, all of whom shall be subject to the provisions of Title 11, Civil Service.

L.1944, c. 112, art. 8, p. 312, s. 1.

#### **52:27B-76. Commissioner may exercise powers of directors**

Any power which may be vested in a director of any division in the Department of Taxation and Finance may be exercised by the commissioner. To the extent that the commissioner exercises such power the power of the director shall be superseded.

L.1944, c. 112, art. 8, p. 312, s. 2.

#### **52:27B-77. Oath of commissioner and directors; bond**

Before entering upon his duties, the commissioner and each division director shall make and subscribe an oath, to be filed in the office of the Secretary of State, that he will faithfully, impartially and without fear, favor or prejudice discharge the duties of his office and carefully preserve all records, papers, writings, or property intrusted to him by virtue of his office, and make such disposition of them as may be required by law.

The commissioner and each division director shall give bond conditioned upon the faithful performance of his duties. Each bond shall be approved by the Governor and shall be in an amount, fixed by the Governor, not exceeding fifty thousand dollars (\$50,000.00). The Governor shall have authority to require any other employee of the department to give bond conditioned upon the faithful performance of his duties, which bond shall be approved by the Governor and the amount thereof fixed by him. The premiums on bonds provided for herein shall be paid by the State.

L.1944, c. 112, art. 8, p. 312, s. 3.

**52:27B-78. Reports and certifications**

Unless specifically provided otherwise in this act or by any operative law, whenever, pursuant to existing law, reports and certifications are required to be made to a department, board or officer whose powers and duties are herein transferred, such reports and certifications shall hereafter be required to be filed with the director of the appropriate division, in the Department of Taxation and Finance, through whom such transferred powers and duties are to be exercised pursuant to this act.

L.1944, c. 112, art. 8, p. 313, s. 4.

**52:27B-79. Transfer of employees to Department of Taxation and Finance**

All persons employed, when this act takes effect, in a department or other agency which is transferred, or whose powers, duties and functions are transferred, to the Department of Taxation and Finance by this act are hereby transferred to the Department of Taxation and Finance. Persons so transferred shall be assigned to such duties as the commissioner shall determine.

L.1944, c. 112, art. 8, p. 313, s. 5.

**52:27B-80. Rights under other acts**

Nothing in this act shall be construed to deprive any persons of any rights or protection provided them by Title 11 of the Revised Statutes or by any pension law or retirement system or any other law.

L.1944, c. 112, art. 8, p. 313, s. 6.

**52:27B-81. Transfer of files, etc., to Department of Taxation and Finance**

All files, books, papers, records, equipment and other property of departments or other agencies which are transferred to the Department of Taxation and Finance by this act shall, to the extent that the powers and duties of such departments or other agencies are herein transferred, be transferred to the Department of Taxation and Finance upon the effective date of this act.

L.1944, c. 112, art. 8, p. 313, s. 7.

**52:27B-82. Transfers of appropriations**

To the extent necessary to carry out the intent and provisions of this act, the commissioner, with the approval of the Governor, may make transfers of appropriations, in whole or in part, made to any department, board, officer or other agency affected by the provisions of this act.

L.1944, c. 112, art. 8, p. 313, s. 8.

**52:27B-83. Reduction of salary where commissioner holds other office**

In the event that a person appointed and serving as commissioner or as a director shall hold another State office or position, his salary as commissioner or director shall be reduced by the amount paid to him as the holder of such other office or position.

L.1944, c. 112, art. 8, p. 314, s. 9.

**52:27B-84. Repeals**

The following sections of the Revised Statutes, as amended, are repealed: 52:18-22, 52:18-23; 52:19-16 to 52:19-36, inclusive; 52:20-3, 52:20-8, 52:20-9, 52:20-10, 52:20-11, 52:20-12, 52:20-16; 52:22-1 to 52:22-22, inclusive; 52:23-1 to 52:23-16, inclusive; 52:25-7, 52:25-8, 52:25-9, 52:25-10, 52:25-15, 52:25-17, 52:25-18, 52:25-19, 52:25-20, 52:25-21, 52:25-22, 52:25-24; 52:31-1, 52:31-7, 52:31-9, 52:31-10, 52:31-11; 54:1-3, 54:1-4, 54:1-5.

Sections eight and twelve of an act entitled "An act creating a State department of local government, prescribing its powers and duties, and transferring to it certain powers and duties vested in the State Auditor," approved May ninth, one thousand nine hundred and thirty-eight (P.L.1938, c. 158), are repealed.

L.1944, c. 112, art. 8, p. 314, s. 10.

**52:27B-85. Effective date**

This act shall take effect July first, one thousand nine hundred and forty-four. Any appointment and any confirmation of any appointment permitted by this act may be made after the enactment thereof.

L.1944, c. 112, art. 8, p. 314, s. 11.

**52:27BB-1. Short title**

This act may be cited as the "Local Government Supervision Act (1947)."

L.1947, c. 151, p. 647, s. 1.

**52:27BB-2. Definitions**

As used in this act, unless the context indicates otherwise:

"Department" means the State Department of Community Affairs.

"Commissioner" means the Commissioner and head of the State Department of Community Affairs.

"Division" means the Division of Local Finance in the State Department of Community Affairs.

"Director" means the administrative head of the Division of Local Finance in the State Department of Community Affairs.

"Board" means the Local Finance Board of the Division of Local Finance in the State Department of Community Affairs.

"Governing body" means, in the case of a county, the board of chosen freeholders, and in the case of a municipality, the body exercising general legislative and administrative authority within the municipality, and in the case of a county or municipal authority, the body exercising general legislative and administrative authority over the actions of said county or municipal authority.

"Political subdivision" includes a municipality, county, school district, county or municipal authority, or a regional authority or district other than an interstate authority or district.

"Local government" means the government of political subdivisions.

"Municipality" includes a city, town, village, borough, township, special district, municipal authority, or other municipal corporations other than a school district or a county.

"Municipality under supervision" means a municipality to which the provisions of this act apply by virtue of a resolution of the Local Finance Board in the Division of Local Finance in the State Department of Community Affairs made in accordance with section 21 of this act.

"Administrator" means the local administrator of finance.

"Cash deficit" means the amount, if any, by which liabilities and cash disbursements of a municipality for lawful yearly expenditures (as defined in section 40A:4-42 of the New Jersey Statutes) exceed the cash receipts in a budget year, whether the municipality is operating under a cash basis budget or not.

"Accountant" means a registered municipal accountant.

"Regular audit" means the annual or biennial audit, as the case may be, required by law.

"Fiscal year" or "year" means the calendar year beginning January 1 and ending December 31.

"County or municipal authority" means a body corporate and politic of this State created by a county or municipality having corporate succession and the power to issue bonds, or other obligations.

L.1947, c. 151, p. 647, s. 2. Amended by L.1969, c. 288, s. 2, eff. Jan. 15, 1970.

### **52:27BB-3. Arrangement and headnotes**

The arrangement of the sections of this act have been made for the purpose of convenience, reference and order, and except where the context indicates otherwise, no implication or presumption of a legislative construction is to be drawn therefrom. No headnote to any article or section shall be deemed to be a part of this act.

L.1947, c. 151, p. 648, s. 3.

### **52:27BB-4. Act is a revision**

This act is a revision of the statutory law repealed by sections ninety-seven and ninety-eight of this act.

L.1947, c. 151, p. 649, s. 4.

### **52:27BB-5. Powers, duties and functions continued**

The powers, duties and functions of the Division of Local Government in the State Department of Taxation and Finance of the Local Government Board in said division, and of the director of said division, as provided for by law, are continued.

L.1947, c. 151, p. 649, s. 5.

**52:27BB-6. Division to supervise local government**

The division shall exercise State regulatory and supervisory powers over local government, assist local government in the solution of its problems, and plan and guide needed readjustments for effective local self-government.

L.1947, c. 151, p. 649, s. 6.

**52:27BB-7. Director's office at Capitol**

The director shall have his office at the State Capitol.

L.1947, c. 151, p. 649, s. 7.

**52:27BB-8. Powers and duties of the director**

The director, in addition to powers and duties specifically granted shall have the following general powers and duties: To

- (1) Administer the work of the division.
- (2) Keep and preserve all papers and records pertaining to the division.
- (3) Receive and preserve as public records all papers, reports and other documents required to be filed with the division.
- (4) Prescribe the organization of the division and the duties of his subordinates and assistants.
- (5) Administer State laws, pertaining to local government, which are included within the jurisdiction of the division.
- (6) Recommend to the board reasonable rules and regulations for the interpretation and administration of the laws administered by the division.
- (7) Invoke any legal, equitable or special remedy for the enforcement of orders and the provisions of law administered by the division.
- (8) Offer advice, consultation and instruction to local officials in improved methods of local administration.

L.1947, c. 151, p. 649, s. 8.

**52:27BB-9. Delegation of authority**

All powers, duties and functions vested in the director, including the making of inspections, examinations, audits and investigations and the conducting of hearings, may be delegated to, and exercised by, his duly authorized deputies, agents, appointees or employees of the division; but any such exercise of power, duty or function shall be at his direction and under his supervision, and he shall be responsible for all official acts.

L.1947, c. 151, p. 650, s. 9.

**52:27BB-10. Powers and duties of the board**

The board shall have the following powers and duties: To

(1) Study the entire field of local government in New Jersey.

(2) Promulgate reasonable rules and regulations for the interpretation and administration of State laws included within the jurisdiction of the division.

(3) Hold hearings when required by law, and also when it determines that interested persons should be given an opportunity to be heard.

(4) Hear appeals from determinations made by the director.

(5) Advise the director concerning the administration of the division, the exercise of his powers, and the problems of local government.

L.1947, c. 151, p. 650, s. 10.

**52:27BB-11. Continuation of powers**

The division, the board and the director shall have and shall continue to have all the powers, duties and functions which, under any law, could be exercised by the division, the board and the director at the time this act takes effect.

L.1947, c. 151, p. 650, s. 11.

**52:27BB-12. Legal assistance**

The Attorney-General of the State shall render, without additional compensation, such legal services as the director or the board may request for the discharge of their duties.

L.1947, c. 151, p. 650, s. 12.

**52:27BB-13. Meetings; proceedings**

The board shall hold regular meetings each year, as follows: On the third Monday in January, April, July and October. Special meetings may be convened at the call of the director or a majority of the members. The director and a majority of the members shall constitute a quorum for the conduct of official business. Minutes of all meetings shall be kept and shall be open to inspection as public records. Final action of the board shall be by resolution adopted by majority vote.

L.1947, c. 151, p. 651, s. 13.

**52:27BB-14 Hearings; rules of procedure.**

14. The board shall adopt rules of procedure to govern hearings and other proceedings before the board. The board may hold hearings at the office of the director, or any other place convenient to the parties.

The rules of procedure adopted by the board shall govern all hearings and a record of proceedings shall be taken, which at the request of a party to the hearing may be stenographic. Decision shall be made by a majority vote of the board; provided, however, that the board shall not authorize fees charged for financings that are greater than 0.125 percent of the par value of the bonds to be issued unless the same is approved by at least a two-thirds majority of the board.

L.1947, c.151, s.14; amended 2015, c.95, s.30.

#### **52:27BB-15. Appeals from determinations of the director**

A person, including a taxpayer or citizen, aggrieved by a determination made or an order issued by the director may apply to the board for a review and redetermination. Application for review and redetermination shall be filed with the director not more than ten days after the date of the determination or order. Within thirty days after filing of the application the board shall give the applicant an opportunity to be heard, and shall sustain, reverse or modify the determination of the director. The action taken by the board shall be by majority vote, shall be spread upon its minutes and shall be open to inspection as a public record.

L.1947, c. 151, p. 651, s. 15.

#### **52:27BB-16. Compulsory process**

The director or the board, as the case may be, may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts or other documents, in any hearing, investigation or other proceeding. A subpoena may be served by any person duly authorized or by registered mail.

L.1947, c. 151, p. 651, s. 16.

#### **52:27BB-17. Enforcement of process**

If a person subpoenaed or ordered under the provisions of section sixteen fails to obey the subpoena, submit to examination, answer legal and pertinent questions, or produce books, papers, accounts or other documents when ordered, the director may apply to the Superior Court to compel the person to comply forthwith with the subpoena or order.

L.1947, c. 151, p. 652, s. 17. Amended by L.1953, c. 49, p. 887, s. 52.

#### **52:27BB-18. Issuance of orders; compliance**

The director may issue instructions and orders to a sinking fund commission of a political subdivision or governing body, as the case may be, requiring compliance with the requirements of law and the regulations of the board. Each order shall state a date giving reasonable time for compliance.

The local governing body and other local officers concerned shall comply with the instructions and orders. At the request of the local governing body the board shall grant a public hearing upon the matter in question. If the hearing is requested, the director shall not proceed to enforce the order until the hearing has been held and final determination is made.

L.1947, c. 151, p. 652, s. 18.

#### **52:27BB-19. Enforcement of orders**

Orders of the director may be enforced by a proceeding in lieu of prerogative writ or by an action for injunctive relief in appropriate cases, or by an action to compel the specific performance by the officers or governing bodies of political subdivisions of the orders of the director or of the duties imposed by law.

L.1947, c. 151, p. 653, s. 19. Amended by L.1953, c. 49, p. 887, s. 53.

**52:27BB-20. Judicial review**

The provisions of this act shall not be construed to prevent the judicial review of an order of the director after exhaustion of the remedy provided by section fifteen.

L.1947, c. 151, p. 653, s. 21. Amended by L.1953, c. 49, p. 888, s. 54.

**52:27BB-21. Certifications as evidence**

The official documents, orders and proceedings when certified to by the director shall be evidence in the courts of the State. The director may make a reasonable charge for copies of such records.

L.1947, c. 151, p. 653, s. 20.

**52:27BB-22. Certified and attested copies of records relating to bond issues**

The director shall receive and preserve as public records the certified copies of the procedures and other papers filed with the division in connection with bond issues. Upon request, the director shall furnish attested copies of such papers. The director may make a reasonable charge for such copies.

L.1947, c. 151, p. 653, s. 22.

**52:27BB-23. Duty of local officers**

It shall be the duty of the governing body and officers of a political subdivision of the State to co-operate with the director and the board toward giving effect to the purposes of this act, and the powers and duties of the division.

L.1947, c. 151, p. 653, s. 23.

**52:27BB-24. Authority of director as to budget; reduction in rate of interest; powers of county board of taxation**

The director may inquire into any item of budget or certification of requirements and may order any item required by law to be raised by taxation for municipal, county or school purposes which has been omitted in whole or in part from any budget to be included in the budget or the tax ordinance or resolution or tax levy, or he may inquire into any item of the budget and if wrongly stated in such budget, may order said item to be corrected and properly stated in the budget before its adoption, or to have the error corrected and adjusted in the tax ordinance or resolution or in the tax levy. All such orders shall constitute a mandatory obligation upon the governing body of any municipality, county or school district or the sinking fund commission or the county board of taxation, as the case may be.

Where any county or other municipality has agreed or shall agree with the holders of fifty per centum (50%) in amount of any evidence of indebtedness of any such county or other municipality to accept a reduced rate of interest thereon, or postpone any amortization requirement concerning any such evidence of indebtedness, the



county board of taxation may reduce to such extent the item or items so certified by the director. Upon application to such county board of taxation by any county or other municipality for such reduction or reductions, such county board shall within thirty days fix a date for the hearing of such application, of which hearing public notice shall be given by the county board of taxation, and at the time and place so fixed any party in interest may be heard. Upon being satisfied of the sufficiency of such application the county board of taxation may correct and reduce the item or items within the limits fixed by this section.

L.1947, c. 151, p. 654, s. 24.

**52:27BB-25. Director not to issue order with respect to budget in certain cases**

Whenever the board shall be functioning as the municipal finance commission in any municipality pursuant to the provisions of law, the director may issue no order with respect to the budget or the tax ordinance or tax levy of such municipality pursuant to the provisions of section twenty-four of this act, except upon the direction of such board so functioning.

L.1947, c. 151, p. 655, s. 25.

**52:27BB-26. Purpose of article**

The purpose of this article is to make provision for modernized practices of fiscal administration in local government.

L.1947, c. 151, p. 655, s. 26.

**52:27BB-27. Uniform accounting systems**

The board shall, after careful study and investigation of accounting requirements, prescribe uniform accounting systems for municipalities and counties, and may, from time to time, revise or amend such systems. The board may classify municipalities and counties in accordance with different types of accounting requirements and may prescribe a suitable variation of the uniform system to apply to each class. The use of the system when prescribed, shall be mandatory in accordance with the regulations of the board. This section shall not be construed to prevent the director, with the consent of the board, from approving the continued use of a system used by county or municipality that meets the requirements of and is in substantial conformity with the uniform system prescribed.

L.1947, c. 151, p. 655, s. 27.

**52:27BB-28. Rules and regulations as to accounting methods**

The board may promulgate rules and regulations for the proper use of uniform accounting systems and for proper accounting methods.

L.1947, c. 151, p. 655, s. 28.

**52:27BB-29. Account books and forms**

The board may have prepared account books, blank forms and other accounting materials for use in uniform accounting systems and may furnish them at cost to municipalities and counties.

L.1947, c. 151, p. 656, s. 29.

### **52:27BB-30. Installations of accounting systems**

The director may make installations of uniform accounting systems prescribed by the board at the request of the governing body of a municipality or county, and may make installations on his own motion with or without the consent of the governing body if local officers or a governing body fail or refuse to comply with the regulations of the board as to accounting systems or methods. The cost of installation shall be paid by the municipality or county.

L.1947, c. 151, p. 656, s. 30.

### **52:27BB-31. Instruction and consultation**

Where the director installs accounting systems he shall supply without additional charge reasonable instruction and consultation in the use of the system and in proper accounting methods. So far as possible, instruction and consultation shall be extended to all municipalities and counties.

L.1947, c. 151, p. 656, s. 31.

### **52:27BB-32. Systems of financial administration**

The board may prescribe systems of financial administration for municipalities and counties. Systems may be prescribed for a group or class of municipalities or counties having similar requirements, and separate systems may be prescribed for each of as many groups or classes as the board may determine.

Systems of financial administration shall include:

- (1) Definite procedures for the receipt, custody, control and disbursement of public funds.
- (2) Forms for receipts, requisitions, disbursement, purchase orders and other necessary documents.
- (3) The exercise of a comptroller function by a designated local officer.
- (4) Definitions of the respective powers and duties of the several local officers engaged in financial administration.
- (5) Instructions, rules and regulations for the proper procedures and practices of financial administration.

A system of financial administration, when prescribed, shall be mandatory upon the municipalities and counties to which it applies.

L.1947, c. 151, p. 656, s. 32.

### **52:27BB-33. Advisory committees**

The board may appoint special or standing advisory committees to render advice and consultation to the director and to the board in the preparation, operation and revision of uniform accounting systems and systems of financial administration. An advisory committee shall perform only those duties specifically assigned to it by the board. An advisory committee may consist of local officers, registered municipal accountants, other persons, or any combination of them, as the board may determine. Members of the committee shall serve

without compensation but actual and necessary expenses, as determined by the board, may be paid.

L.1947, c. 151, p. 657, s. 33.

**52:27BB-34. Form of reports and financial statements**

The board shall prescribe the forms upon which financial statements and other reports pertaining to local financial affairs shall be made. The director shall supply forms to local officers at least thirty days prior to the date upon which the report is due.

L.1947, c. 151, p. 657, s. 34.

**52:27BB-35. Audits; authority of board**

The board shall promulgate rules and regulations governing the method, scope and procedure of regular audits of the financial affairs of municipalities and counties. Regulations shall prescribe the form and content of the audit report and shall specify the matters upon which comment and analysis shall be required of the auditing accountant.

L.1947, c. 151, p. 657, s. 35.

**52:27BB-36. Audits by department**

Whenever the director finds that the financial affairs of a municipality or county require special supervision, he may require that the regular audits of such municipality or county be made only by the auditing staff of the division. In such cases the director may make such investigations and analyses in addition to the standard requirements for audits, as the financial affairs of the municipality may warrant. Reasonable notice of the decision of the director to make the regular audit in a municipality or county shall be given to the governing body.

L.1947, c. 151, p. 657, s. 36.

**52:27BB-37. Rejection of audit report**

If the director finds that an audit report as filed is incomplete or inaccurate; was not made in accordance with the regulations promulgated by the board; or does not reflect the true financial condition of the municipality or county, he may:

- (1) Order supplementary examinations to be made of specified funds, accounts or offices by the accountant making the original audit.
- (2) Reject the audit report and require that the audit be made de novo in whole or in part.
- (3) Require that supplementary or de novo examinations be made by the auditing staff of the division.

L.1947, c. 151, p. 658, s. 37.

**52:27BB-38. Examination of sinking fund**

The director shall examine and audit the books, papers, securities and moneys in the custody of the sinking fund commission of a political subdivision. Examination and audit shall be made at least once every two years

and oftener if the director deems necessary.

L.1947, c. 151, p. 658, s. 38.

**52:27BB-39. Duty of sinking fund commission**

A sinking fund commission of a political subdivision shall at the request of the director produce its books, papers, securities and moneys, and all other records pertaining to its business. The sinking fund commission shall cooperate with the director and facilitate examination and audit in every way.

L.1947, c. 151, p. 658, s. 39.

**52:27BB-40. Sinking fund; recommendation by the director**

The director shall examine the report of audit of a sinking fund commission and may make such recommendations pertaining to the management and administration of the affairs of the sinking fund commission as he finds desirable. Notice and statement of recommendations shall be filed forthwith with the secretary of the commission. The secretary shall immediately send a copy of the statement to each member of the commission and to the executive head of the political subdivision. The secretary shall, within thirty days after receipt of the statement of recommendations, report to the director the action taken by the sinking fund commission.

L.1947, c. 151, p. 658, s. 40.

**52:27BB-41. Sinking funds; enforcement of recommendations**

If after forty-five days following filing of notice and statement of recommendations with the secretary of a sinking fund commission, the commission has failed or refused to act in accordance with such recommendations, the director may order the sinking fund commission to take such specific steps as he may find necessary and proper to protect the solvency and proper administration of the sinking fund. Orders may be enforced in accordance with sections fifty and fifty-two of this act.

L.1947, c. 151, p. 659, s. 41.

**52:27BB-42. Sinking funds; accounting**

The board shall prescribe and enforce a uniform system for the setting up and keeping of sinking fund accounts in political subdivisions. The director may at the request of a sinking fund commission install the system of accounts in a political subdivision, and may make such installations on his own motion with or without consent of the sinking fund commission if he finds that sinking fund accounts are not kept in accordance with the uniform system prescribed by the board. The cost of installation shall be charged against the political subdivision.

L.1947, c. 151, p. 659, s. 42.

**52:27BB-43. Sinking funds; examination of requirements**

The director shall, upon receipt, examine and audit the statement of annual sinking fund requirements of a political subdivision. The director shall determine the sufficiency of the amount certified, and shall make such corrections as may be necessary. After correction or approval the director shall certify sinking fund requirements at the time and in the manner required by section 40:3-19 of the Revised Statutes.

L.1947, c. 151, p. 659, s. 43.

**52:27BB-44. Sinking funds; amortization requirements**

The director shall examine the calculations and tabulations of the conditions of sinking funds as submitted by a sinking fund commission of a political subdivision, and shall determine the sufficiency of the funds for the amortization of bonded debt in accordance with the standards fixed by law.

If the director finds that the sinking funds are insufficient for such amortization, he shall certify to the sinking fund commission a statement of the amount required to make good the deficiency and the additional annual requirements to be made to the special sinking fund account as required by sections 40:3-20 and 40:3-24, both inclusive, of the Revised Statutes.

L.1947, c. 151, p. 659, s. 44.

**52:27BB-45. Compensation of department for services rendered**

The board shall fix reasonable charges, for the services rendered under sections twenty-nine, thirty, thirty-six, thirty-seven, thirty-eight and forty-two of this act, and by agreement for the making of a regular audit. Such charges shall represent, as nearly as possible, the actual cost of the services, but shall not exceed twenty-five dollars (\$25.00) per diem for each person actually engaged in the performance of the services. The charges for the services, as so fixed, shall be paid by the political subdivision receiving the services. The charges may be recovered, in the name of the State, by the director, as a contractual debt, in any court of competent jurisdiction. All moneys received or collected for such charges shall be paid forthwith into the State treasury.

L.1947, c. 151, p. 660, s. 45.

**52:27BB-46. Inspection of local administration**

The director may at any time during regular business hours make inspections and examinations of the financial administration of a county or municipality. Inspection and examination may extend to the use of the uniform accounting system; accounting methods; the collection, custody and disbursement procedure; a selective audit of particular funds and accounts; and to any other matter or practice subject to regulation by the board, or regulated by any State law which is administered by the division.

Reports of inspection and examination shall be certified to the local governing body together with instructions for the correction of procedures or practices found not to be in accordance with the requirements of law or of the regulations of the board. Instructions of the director shall fix a date for compliance by the local governing body. On or before the date for compliance the local governing body shall give effect to the instructions and shall so certify to the director.

L.1947, c. 151, p. 660, s. 46.

**52:27BB-47. Inquiring into financial affairs**

The director may make a special investigation of a county or municipality, if, upon examination of the reports of audit and recommendations of an accountant, there appear to be errors, inaccuracies or omissions in the report of audit or recommendations, or evidence of illegal financial practices; or if the director has reason to believe that irregularities in the conduct of the financial affairs have occurred.

L.1947, c. 151, p. 661, s. 47.

**52:27BB-48. Special investigation; enforcement of orders**

The director may issue such orders as he may find appropriate to correct errors, inaccuracies or omissions in the report of audit or recommendations, illegal financial practices, or irregularities in the conduct of financial affairs, disclosed at an investigation made in accordance with section forty-seven of this act. Orders may be enforced in accordance with sections fifty and fifty-two of this act.

L.1947, c. 151, p. 661, s. 48.

**52:27BB-49. Powers of inquiry**

In any inspection, audit, inquiry, examination or other investigation authorized by this act, the director may hold hearings and exercise the powers of investigation granted by law.

L.1947, c. 151, p. 661, s. 49.

**52:27BB-50. Issuance of orders; compliance**

The director may issue instructions and orders requiring compliance with the requirements of this article and the regulations of the board. Instructions and orders may be based upon the audit report and recommendations of accountants or of the director; a special investigation; an inspection and examination; reports filed with the division; failure or refusal to file documents or make reports; or any other evidence of illegal financial practice or procedures in the political subdivision.

An order shall be issued and may be enforced in the manner provided for other orders of the director.

L.1947, c. 151, p. 661, s. 50.

**52:27BB-51. Duty of local officers**

An officer of a municipality or county who is charged with duties pertaining to fiscal administration shall keep accounts and in other respects perform his duties in accordance with the regulations promulgated by the board. An officer who wilfully violates this section shall be guilty of a misdemeanor. Upon conviction he shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00), or imprisoned not less than ten days nor more than one year, or both; and shall in addition forfeit his office.

L.1947, c. 151, p. 662, s. 51.

**52:27BB-52. Enforcement of orders; penalties**

A local officer or member of a local governing body who, after the date fixed for compliance, fails or refuses to obey an order of the director, under the provisions of this article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, and in addition shall forfeit his office.

L.1947, c. 151, p. 662, s. 52.

**52:27BB-53. Construction of this article**

The provisions of this article shall be construed to be in addition to the provisions of sections 40:4-1 to 40:4-3, inclusive, and sections 40:4-13 to 40:4-16, inclusive, of the Revised Statutes.

L.1947, c. 151, p. 662, s. 53.

**52:27BB-54. Purpose of article**

The purpose of this article is to make provision for the imposition of special restraints upon municipalities in, or in danger of falling into, unsound financial condition and in this way to forestall serious defaults upon local obligations and demoralized finances that burden local taxpayers and destroy the efficiency of local services.

L.1947, c. 151, p. 662, s. 54.

**52:27BB-55. Application of article**

The provisions of this article and sections 20 and 21 of this amendatory and supplementary act shall take effect in a municipality when any of the following conditions exists:

(1) A default exists in the payment of bonded obligations or notes for which no funds or insufficient funds are on hand and segregated in a special trust fund.

(2) Payments due and owing the State, county, school district or special district, or any of them, are unpaid for the year just closed and the year next preceding that year.

(3) An appropriation for "cash deficit of preceding year" in an amount in excess of 4% of the total amount of taxes levied upon real and personal property for all purposes in such preceding year, is required to be included in the next regular budget and was required to be included in the budget for the year just closed; provided, however, in establishing the excess, if any, over the 4% there shall first be deducted from such appropriation the amount, if any, that was caused by the failure to receive miscellaneous anticipated revenue from franchise and gross receipts taxes.

(4) Less than 70% of the total amount of taxes levied for all purposes upon real and personal property in the taxing district, in the year just closed and in the year next preceding that year, respectively, were collected during the year of levy.

(5) The appropriation required to be included in the next regular budget for the liquidation of all bonded obligations or notes exceeds 25% of the total of appropriations for operating purposes (except dedicated revenue appropriations) in the budget for the year just ended.

(6) A judicial determination of gross failure to comply with provisions of the "Local Bond Law" (N.J.S. 40A:2-1 et seq.), the "Local Budget Law" (N.J.S. 40A:4-1 et seq.) or the "Local Fiscal Affairs Law" (N.J.S. 40A:5-1 et seq.) which substantially jeopardizes the fiscal integrity of the municipality.

L.1947, c. 151, p. 663, s. 55. Amended by L.1981, c. 211, s. 1, eff. July 20, 1981.

**52:27BB-56. Determination by the board: Notice and hearing**

If the director finds in the course of his duties that any of the conditions listed in section 55 of this act exists in a municipality not subject to supervision under sections 52:27-1 to 52:27-66, inclusive, of the Revised

Statutes, he shall forthwith give notice to the governing body that the question of the application of this article to that municipality will be placed before the board for its determination at a time and place which shall be stated in the notice.

The board, at the time and place stated in the notice, shall give the local governing body and any other interested parties an opportunity to be heard. If the board finds, after hearing, that any of the conditions listed in section 55 of this act exists in the municipality, it may by resolution determine that the municipality is subject to supervision pursuant to this article (C. 52:27BB-54 et seq.) and sections 20 and 21 of this amendatory and supplementary act.

The resolution shall be submitted to the Commissioner of the Department of Community Affairs, the State Treasurer and the Attorney General and shall be effective upon the approval by any two of the above cabinet officers. To remain effective, the resolution shall be renewed each year by the board and approved by two of the above named officers.

The resolution shall state for each municipality subject to supervision pursuant to this article and sections 20 and 21 of this amendatory and supplementary act, which of the provisions of this article and sections 20 and 21 of this amendatory and supplementary act are in effect within the municipality.

Thereafter, the board may modify the resolution to terminate or limit the operation of any provisions of this article, or, with the approval of any two of the above cabinet officers, to put additional provisions into effect.

Notice shall be given by registered mail to the clerk of the municipality. Upon receipt of such notice the governing body and municipal officers shall observe the provisions of this article and shall comply with all orders of the director issued under it while the municipality remains subject to its provisions.

L.1947, c. 151, p. 664, s. 56. Amended by L.1981, c. 211, s. 2, eff. July 20, 1981.

#### **52:27BB-57. Limitation on debt and other financial liabilities**

The board may require that obligations, bonded or otherwise, shall not be issued or authorized by the municipality, including school districts or any special districts except as expressly authorized by the director.

The board may require that the municipality and its special districts shall not borrow any moneys, make any purchase, enter into any arrangements or contracts requiring the expenditure of any revenues or engaging the credit of the municipality in any way or undertake any financial liabilities or indebtedness whatsoever unless expressly authorized by the director. The board shall limit those purchases and contracts requiring authorization of the director to those exceeding \$4,500.00, unless the board shall find good and sufficient cause for requiring otherwise. In any case, the board shall inform the municipal governing body, by resolution, of the types and amounts of the purchases and contracts which shall require authorization.

L.1947, c. 151, p. 665, s. 57. Amended by L.1981, c. 211, s. 3, eff. July 20, 1981.

#### **52:27BB-58. Limitation upon appropriations and expenditures**

The board may require that any or all expenditures and appropriations of a municipality subject to this article and sections 20 and 21 of this amendatory and supplementary act be expressly authorized by the director.



This section shall not be construed to authorize an appropriation of less than the full amount required for the payment of debt service; or to authorize the abrogation of any covenant entered into with bondholders. With the approval of the director, the municipality may exceed the spending limitations of P.L.1976, c. 68 (C. 40A: 4-45.1 et seq.).

L.1947, c. 151, p. 665, s. 58. Amended by L.1981, c. 211, s. 4, eff. July 20, 1981.

### **52:27BB-59. Limitations upon counties**

The provisions of section fifty-seven of this act (for the purpose of limiting the issuance of county obligations bonded or otherwise) and of section fifty-eight of this act (for the purpose of limiting the amount to be raised by taxation for county purposes) shall apply to a county when and so long as:

(1) The limitations of sections fifty-seven and fifty-eight of this act apply to three or more municipalities within the county because of the operation of section fifty-five of this act; and five or more per centum of the average of assessed valuations of taxable real property (including improvements) of the county, as stated in the annual debt statements for the preceding fiscal year (in accordance with subsection two, section 40:1-80 of the Revised Statutes) are located in each of two of such municipalities; and, in addition, either of the following exists:

(2) Fifty or more per centum of the average of assessed valuations of taxable real property (including improvements) of the county, as stated in the annual debt statements, for the preceding fiscal year (in accordance with subsection two, section 40:1-80 of the Revised Statutes) are located in such three or more municipalities, or

(3) Fifty or more per centum of the number of municipalities in the county are affected by the limitations of sections fifty-seven and fifty-eight of this act.

The director shall give notice, and the board shall give interested parties an opportunity to be heard and shall make its determinations as to the application of this section to counties at the same time and in the same manner as required by sections fifty-six and sixty-four of this act in the case of municipalities.

L.1947, c. 151, p. 666, s. 59.

### **52:27BB-60. Compliance with requirements of law**

The director may order the governing body or an officer of a municipality subject to this article to perform any duty prescribed by law whether or not a specific penalty or enforcement procedure is provided by such law. The orders may be enforced as authorized by law. Whenever any directive of the board or 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, such act.

The board may direct that any or all municipal officers and employees shall work under the supervision of the director to the extent that their duties and responsibilities relate to the fiscal affairs of the municipality. However, nothing herein shall infringe or supersede any supervisory powers which the Director of the Division of Taxation in the State Department of the Treasury may have.

L.1947, c. 151, p. 667, s. 60. Amended by L.1981, c. 211, s. 5, eff. July 20, 1981.

### **52:27BB-61. Liquidation of debt**

The board may, under this section, authorize or direct a municipality subject to this act to liquidate or refinance its current debt pursuant to a plan.

Liquidations under this section shall be in accordance with a plan of liquidation adopted by the board. A plan so adopted and approved shall be binding upon the municipality and annual appropriations as required by the plan shall be mandatory. A plan shall not be amended except with the prior written consent of the board.

Whenever a municipality is operating under an approved plan of liquidation, the supervision of the board shall continue for the duration of the liquidation plan, notwithstanding the operation of the termination provisions in section 91 (C. 52:27BB-91).

L.1947, c. 151, p. 667, s. 61. Amended by L.1981, c. 211, s. 6, eff. July 20, 1981.

### **52:27BB-62. Analysis of financial conditions**

The director may at any time, and shall if the governing body so requests, make a special analysis of the financial conditions of a municipality subject to this article. The analysis shall extend to all factors and circumstances contributing to the financial conditions of the municipality and shall if possible, recommend definite steps to be taken to correct such conditions.

L.1947, c. 151, p. 668, s. 62.

### **52:27BB-63. Consultation and assistance**

The director shall extend all possible consultation and assistance to municipalities subject to this article to assist in the improvement of local financial conditions.

L.1947, c. 151, p. 668, s. 63.

### **52:27BB-65. Municipalities under the Municipal Finance Commission**

If a municipality subject to this act is placed under the supervision of the Municipal Finance Commission in accordance with section 52:27-2 or section 52:27-3 of the Revised Statutes, the application of this article in such municipality shall thereupon be terminated.

L.1947, c. 151, p. 669, s. 65.

### **52:27BB-66. Additional powers of the board**

For the purpose of this article the board shall have, in addition to its other powers, authority to

(1) Promulgate rules and regulations for the interpretation and administration of this article.

(2) Require, and prescribe the form of, special reports to be made by a financial officer or governing body pertaining to the financial affairs of municipalities.

(3) Hold hearings.

L.1947, c. 151, p. 670, s. 66.

**52:27BB-66.1. Collective bargaining agreements; review and approval; arbitration awards; exclusion; appointment or dismissal of managers; authority of director**

The board may provide that all collective bargaining agreements entered into during the time the municipality is subject to the provisions of this act shall be subject to the review and approval of the director. However, in any instance where negotiations on a collective bargaining agreement have reached an impasse and the matter has been submitted to an arbitrator pursuant to law, any arbitration award shall be binding without the approval of the director. In any arbitration proceeding the director shall furnish the arbitrator with a statement of the financial condition and capacity of the municipality.

The board may authorize the municipality to appoint or dismiss unclassified persons in managerial positions necessary to the rehabilitation of the financial affairs of the municipality without regard to any procedural or other statutory requirements.

The board may authorize the director to fix the hours and terms and conditions of employment for all municipal employees, and to appoint and dismiss municipal employees, to the extent permitted under the provisions of Title 11 of the Revised Statutes and of any collective bargaining agreements in effect.

L.1981, c. 211, s. 20, eff. July 20, 1981.

**52:27BB-67. Additional powers of the director**

For the purposes of this article, the director shall have, in addition to his other powers, authority to issue and enforce orders as authorized by law for other orders issued by him.

L.1947, c. 151, p. 670, s. 67.

**52:27BB-68. Construction**

This article shall be construed liberally to give effect to its intent that unsound financial conditions in municipalities shall be forestalled and corrected.

L.1947, c. 151, p. 670, s. 68.

**52:27BB-73. Supervision of revenue administration**

If the board finds that tax assets are not being realized upon because of weak or inadequate revenue administration, it may have the director supervise and control the methods and procedures used for the assessment, collection, and enforcement of taxes upon real and personal property; and the administration of licenses and other miscellaneous revenues.

The board shall determine the specific changes in revenue administration that are necessary in the municipality. The measures determined by the board as necessary may be enforced by order of the board in the same manner as authorized for other orders of the board. But the concurrence of the Director of the Division of Taxation in the State Department of the Treasury shall be a condition precedent to the enforcement by the board of such orders as fall within the scope of the said director's supervisory powers.

L.1947, c. 151, p. 671, s. 73. Amended by L.1981, c. 211, s. 7, eff. July 20, 1981.

**52:27BB-74. Separation of assessment lists**

If the board finds that unsound fiscal conditions result in whole or in part from the continued treatment of taxes levied upon delinquent property as liquid tax assets, it may order that tax lists be prepared and used in accordance with sections seventy-five to seventy-eight, inclusive, of this act.

L.1947, c. 151, p. 672, s. 74.

**52:27BB-75. Preparation of assessment lists**

The board may require that two separate assessment lists, an active list and an inactive list, be prepared:

(1) The inactive list shall include all property on which taxes levied during the three years immediately preceding have not been paid in whole or in part.

(2) The active list shall include all other taxable property.

L.1947, c. 151, p. 672, s. 75.

**52:27BB-76. Inactive lists; preparation and effect**

(a) After the board orders the preparation of tax lists pursuant to its powers under sections seventy-four and seventy-five of this act, the collector shall for each year prepare and certify to the county board of taxation a list of all properties, real and personal, upon which no tax payments have been made during the three fiscal years immediately preceding, to be known as the "inactive list." In each municipality in which the collector is required by this section to prepare an inactive list, the assessor shall file his duplicate with the collector at least ten days before he is required to file his assessment list and duplicate with the county board of taxation. The collector shall indicate by a check mark in the left-hand margin of each page at the appropriate lines those properties which are on his inactive list. The collector shall attend before the county board of taxation upon two days' notice from the county board, but not less than ten days after the duplicate is delivered to him, and at such time he shall file with the board the assessor's duplicate, together with his complete inactive list and a true copy thereof, such list and copy to be verified by affidavit of the collector. The county board shall cause the inactive list and the copy thereof to be annexed to the appropriate tax list and duplicate, respectively.

(b) The county board of taxation shall deduct from the valuations upon the assessor's tax list and duplicate the aggregate valuations of properties appearing upon inactive lists prior to fixing and adjusting the amount of State, State school and county tax to be levied in each taxing district and prior to causing the tax rate to be entered as provided by law. The amount of tax at the rate so entered, however, shall also be extended on the tax duplicates against each assessment on the inactive lists, and shall be and remain payable and enforceable in accordance with the provisions of Title 54 of the Revised Statutes. The table of aggregates, as required by section 54:4-52 of the Revised Statutes, shall not include items appearing upon the inactive lists.

(c) Nothing in this section shall be construed to relieve an assessor of any duty or obligation otherwise imposed by law, except that an assessor shall not incur any penalty for failure to file his duplicate with the county board of taxation during such period and only so long as it is actually in the physical possession of the collector pursuant to this act.

L.1947, c. 151, p. 672, s. 76.

### **52:27BB-77 Apportionment of receipts from inactive properties.**

77. The local governing body shall cause to be paid to the county treasurer and to the secretary of the school board, or treasurer of school moneys, as appropriate, at such time and in such manner as the director may prescribe, amounts collected from properties on an inactive list, less reasonable costs of collection, in the proportion that the amounts levied for State, State school, county and school district purposes, respectively, during the fiscal year of such collections bore to the total levy for all purposes upon real and personal property within the municipality.

L.1947, c.151, s.77; amended 2010, c.39, s.35.

### **52:27BB-78. Rate of tax collections**

The rate of tax collections for whatever purpose used, shall be computed as the percentage that all tax collections were of amounts levied against both active and inactive lists.

L.1947, c. 151, p. 673, s. 78.

### **52:27BB-79. Notice of proceedings of county tax board**

The county board of taxation shall not revise, correct or equalize the assessed value of property in a municipality to which the provisions of sections sixty-nine to ninety-one, inclusive, of this act, apply, nor shall the county board hear or determine an appeal concerning an assessment in such a municipality, without first giving at least five days' notice in writing to the director so that the board or its representative may be heard as a party in interest in behalf of the State.

L.1947, c. 151, p. 674, s. 79.

### **52:27BB-80. Fiscal control officer**

The board may recommend to the local governing body that a fiscal control officer be appointed. If the board recommends the appointment of an officer, it 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 officer for that municipality. The governing body shall, thereupon, appoint as officer one of the persons so named.

The officer shall receive compensation for his services to be paid out of the funds of the municipality in an amount fixed by the governing body and approved by the board. He shall give bond for the faithful performance of his duties in an amount fixed by the governing body and approved by the board. An officer shall continue his employment until his services are terminated by the governing body, with the approval of the board.

L.1947, c. 151, p. 674, s. 80. Amended by L.1981, c. 211, s. 8, eff. July 20, 1981.

### **52:27BB-81. Fiscal control officer; powers and duties**

An officer shall have such of the powers and duties of the director in sections 57 and 58 and 82 to 87 inclusive, of this act, as are specifically assigned to him by the board. An officer shall exercise his powers and perform his duties under the general supervision of the director.

L.1947, c. 151, p. 674, s. 81. Amended by L.1981, c. 211, s. 9, eff. July 20, 1981.

**52:27BB-82. Administration of assets and liabilities**

If the board finds the unsound financial conditions in the municipality are due in whole or in part to failure to liquidate old liabilities, excluding those covered by section 61 (C. 52:27BB-61), it may authorize the director to liquidate any or all of the municipality's liabilities which are due and unpaid for more than 2 years and all of its unrealized assets which have been outstanding for 2 years, computed in the case of taxes and assessments from December 1 of the year of levy or assessment, other intangible property from the date of accrual, and tangible property from the date of acquisition of title. The several officers of the municipality shall thereafter, immediately upon request by the director, certify to him all assets and liabilities of the municipality which have been placed under his administration pursuant to this section and shall at the same time deliver to him all evidence and records of the existence and legality of such assets and liabilities as may be in their possession or control.

The director shall exercise in the name of the municipality, all powers pertaining to the enforcement of obligations that are vested by law in the municipality. But the director shall have a no power to accept less than the full amount in satisfaction of the obligations, nor to agree to the transfer of title of property to the municipality in lieu thereof without the prior approval of the governing body. The director shall forthwith pay all moneys coming into his hands to the treasurer.

L.1947, c. 151, p. 675, s. 82. Amended by L.1981, c. 211, s. 10, eff. July 20, 1981.

**52:27BB-83. Liquidation fund**

In a municipality not operating on a full cash basis, the treasurer shall place such moneys, paid to him pursuant to section 82 of this act, in a separate "liquidation fund." The director may apply the proceeds of the "liquidation fund" to the payment of obligations placed under his administration.

L.1947, c. 151, p. 675, s. 83. Amended by L.1981, c. 211, s. 11, eff. July 20, 1981.

**52:27BB-84. Study of cooperative agreements**

The director when so instructed by the board shall fully investigate and determine the possibilities of maintaining the services of the municipality at lower cost through the use of contractual agreements with other municipalities or with the county. He shall report his conclusions to the governing body and to the board. When so designated by the board, he shall act as the agent of the municipality in the negotiation of agreements with other jurisdictions.

L.1947, c. 151, p. 676, s. 84. Amended by L.1981, c. 211, s. 12, eff. July 20, 1981.

**52:27BB-85. Director may act as controller**

If the board finds that sound fiscal conditions will be promoted by the exercise of a control function in the municipality and that the function is not, or cannot be, maintained in a practical manner by regular local officers, the board may instruct the director to perform the control function.

L.1947, c. 151, p. 676, s. 85. Amended by L.1981, c. 211, s. 13, eff. July 20, 1981.

**52:27BB-86. Procedure of control**

The board may prescribe the procedure to be followed in each municipality in which the director is authorized and directed to exercise the control function. The board shall prescribe a procedure that so far as possible will restrict expenditures and commitments for expenditures to actual cash available and will safeguard the payment of commitments and regular expenses.

L.1947, c. 151, p. 676, s. 86. Amended by L.1981, c. 211, s. 14, eff. July 20, 1981.

#### **52:27BB-87. Preparation of budgets**

The director shall fix a date for the municipal governing body to submit its proposed annual budget to the board. The board may approve the budget, modify it or instruct the director to prepare an alternative budget to be submitted to the board for its approval. Once a budget is approved by the board, it shall be deemed adopted.

Nothing in this act shall limit the power of the chief administrative officer of the municipality and the municipal governing body pursuant to law in consultation with the director to determine within funds available in its annual budget the purposes for which expenditures are to be made by the municipality and the amounts of those expenditures, subject to law and the general requirements imposed by the board on the financial affairs of the municipality.

The board may approve a budget which exceeds the spending limitations of P.L.1976, c. 68 (C. 40A:4-45.1 et seq.).

If the board finds that the appropriation of the amounts required for "deferred charges and statutory expenditures" other than debt service, cannot be made without a probable increase in the cash deficit, the board may authorize by written order an appropriation of less than the full amount required for "deferred charges and statutory expenditures" but not less than the greatest amount that the board finds possible without an anticipated increase in the cash deficit. If a liquidation fund has been created in the municipality, in accordance with section 83 of this act, the board may authorize the appropriation to be made to the liquidation fund in lieu of that for "deferred charges and statutory expenditures."

This section shall not be construed to authorize the appropriation of less than the full amount required for the payment of debt service, for a judgment, or for any other item for which the municipality is obligated by contract to appropriate a specific sum.

L.1947, c. 151, p. 676, s. 87. Amended by L.1981, c. 211, s. 15, eff. July 20, 1981.

#### **52:27BB-88. Fiscal control officer agent of board**

The fiscal control officer appointed pursuant to section 80 shall perform as the agent of the director such duties with respect to the fiscal affairs of the municipality as the director in the exercise of his powers, may require.

L.1947, c. 151, p. 677, s. 88. Amended by L.1981, c. 211, s. 16, eff. July 20, 1981.

#### **52:27BB-89. General duties of board**

The board shall exercise its powers, shall offer guidance and assistance, and shall in every other respect promote the rehabilitation of the financial affairs of the municipality.

L.1947, c. 151, p. 677, s. 89. Amended by L.1981, c. 211, s. 17, eff. July 20, 1981.

**52:27BB-90. Delegation of powers to director**

The powers and duties vested by this act in the board may be exercised by the director under the supervision of the board when so authorized by resolution of the board.

L.1947, c. 151, p. 677, s. 90. Amended by L.1981, c. 211, s. 18, eff. July 20, 1981.

**52:27BB-91. Termination of supervision**

State supervision of a municipality pursuant to this act shall cease if: (1) the resolution placing the municipality under State supervision has not been renewed in accordance with section 56, or (2) the conditions listed in section 55 of this act have ceased and the municipality has operated during the last fiscal year without incurring a cash deficit (as computed in the manner provided by N.J.S 40A:4-42).

When the director finds that none of the conditions listed in section 55 of this act have existed for the period of 1 year in a municipality subject to this article, and he finds that the municipality operated during the last fiscal year without incurring a cash deficit (as computed in the manner provided by N.J.S. 40A:4-42) he shall give notice to the local governing body that the question of the application of this article to that municipality will be placed before the board for its determination at a time and place which shall be stated in the notice.

The board, at the time and place stated in the notice, shall, after giving the local governing body and other interested parties an opportunity to be heard, determine whether any of the conditions listed in section 55 (C. 52:27BB-55) continues to exist in the municipality, and whether the municipality operated during the last fiscal year without incurring such cash deficit. If the board finds that such conditions have not existed for the period of 1 year, and that the municipality operated during said year without incurring such cash deficit, it shall, by resolution, determine that the provisions of this article will no longer be in effect in the municipality.

The director shall forthwith certify to the governing body that the provisions of this article no longer affect that municipality.

Notice shall be given by registered mail to the clerk of the municipality.

L.1947, c. 151, p. 678, s. 91. Amended by L.1981, c. 211, s. 19, eff. July 20, 1981.

**52:27BB-95.1. Reimbursement of state by municipality for reasonable value of services**

Subject to the inclusion in the annual State appropriations act of an amount of anticipated revenues from that source, the State shall be reimbursed by the municipality for the reasonable value of services which it provided to the municipality pursuant to this act.

L.1981, c. 211, s. 21, eff. July 20, 1981.

**52:27BB-96. Application of act**

This act shall not be deemed to affect any provision of chapter one hundred twelve of the laws of one thousand nine hundred and forty-four, nor any matter or proceeding pending before the director or the board at the time this act takes effect. This act shall not be deemed to require any reorganization of the board or of any



advisory committee, nor the reappointment or redesignation of any officer or employee of the division. Each officer and employee of the division shall retain any and all rights and privileges pertinent to his status in the service of the State and, especially, with respect to the civil service and any pension or retirement law applicable to him.

L.1947, c. 151, p. 680, s. 96.

**52:27BB-97. Repeal of sections of the Revised Statutes**

Sections 52:24-11, 52:24-19 and 52:24-19.1 of the Revised Statutes are repealed.

L.1947, c. 151, p. 680, s. 97.

**52:27BB-98. Repeal of acts; proviso**

The following parts of acts, acts, and acts amendatory thereof or supplemental thereto are repealed:

Sections one to sixteen, inclusive, and sections eighteen to thirty-four, inclusive, of "An act creating a State Department of Local Government, prescribing its powers and duties, and transferring to it certain powers and duties vested in the State Auditor," approved May ninth, one thousand nine hundred and thirty-eight (P.L.1938, c. 158); "An act concerning fiscal administration in local governments of the State, and repealing sections 52:24-12 to 52:24-18, inclusive, and 52:24-20 to 52:24-27, inclusive, of the Revised Statutes," approved May ninth, one thousand nine hundred and thirty-eight (P.L.1938, c. 159); "An act concerning the supervision, by the State Department of Local Government, over certain municipalities in the State," approved May fifth, one thousand nine hundred and thirty-eight (P.L.1938, c. 127); "An act relating to the limitation of school debt and appropriations in school districts within municipalities subject to the provisions of an act entitled "An act concerning the supervision, by the State Department of Local Government, over certain municipalities in the State," approved May fifth, one thousand nine hundred and thirty-eight; and supplementing sections 18:6-50, 18:6-51, 18:6-53, 18:6-61, 18:6-62, 18:7-78, 18:7-79, 18:7-82, 18:7-83, 18:7-85, 18:7-86 and 54:4-45 of the Revised Statutes," approved July eighteenth, one thousand nine hundred and thirty-nine (P.L.1939, c. 265); "An act to amend the title of an act entitled "An act concerning the supervision, by the State Department of Local Government, over certain municipalities in the State," approved May fifth, one thousand nine hundred and thirty-eight, constituting chapter one hundred twenty-seven of the laws of one thousand nine hundred and thirty-eight; and to amend and supplement said act," approved October twenty-fifth, one thousand nine hundred and thirty-nine (P.L.1939, c. 364); "A supplement to an act entitled "An act concerning the supervision, by the State Department of Local Government, over certain political subdivisions in the State," approved May fifth, one thousand nine hundred and thirty-eight (P.L.1938, c. 127), as said title was amended by pamphlet laws of one thousand nine hundred and thirty-nine, chapter three hundred sixty-four," approved April twenty-eighth, one thousand nine hundred and forty-one (P.L.1941, c. 75); and "An act to amend an act entitled "An act concerning the supervision by the State Department of Local Government, over certain political subdivisions in the State," approved May fifth, one thousand nine hundred and thirty-eight (P.L.1938, c. 127), as heretofore amended and supplemented by chapter three hundred sixty-four of the laws of one thousand nine hundred and thirty-nine," approved April thirtieth, one thousand nine hundred and forty-one (P.L.1941, c. 95); provided, however, that this section shall not be deemed to revive any act which was repealed by any of said enumerated acts.

L.1947, c. 151, p. 680, s. 98.

**52:27BB-99. Severability clause**

The provisions of this act shall be construed as severable and if any part is held unconstitutional, or for any other reason invalid, the remaining parts shall not be affected thereby.

L.1947, c. 151, p. 682, s. 99.

**52:27BB-100. Effective date of act**

This act shall take effect July first, one thousand nine hundred and forty-seven. L.1947, c. 151, p. 682, s. 100.