

COMMUNITY AFFAIRS

40 N.J.R. 4656(a)
August 18, 2008

DIVISION OF LOCAL GOVERNMENT SERVICES

LOCAL FINANCE BOARD

Reporting Requirements for Long-Term Tax Exemption Projects

Proposed New Rule: N.J.A.C. 5:30-8.8

Authorized By: Local Finance Board, Susan Jacobucci, Chair

Authority: N.J.S.A. 40A:20-20 and 52:27BB-10.

Proposal Number: PRN 2008-263

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

Submit written comments by: October 17, 2008 to:

Marc L. Pfeiffer, Deputy Director

Division of Local Government Services

Department of Community Affairs

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Trenton, NJ 08625-0803

LOCAL FINANCE BOARD

by: _____
SUSAN JACOBUCCI, Chair

The agency proposal follows:

Summary

The proposed new rule would require that the annual financial statement submitted by municipalities to the Director of Local Government Services, pursuant to N.J.S.A. 40A:5-12, include a schedule of “Long-Term Tax Exemption Projects.” The schedule shall be subject to audit as part of the annual audit of the municipality. The Director may require the schedule to be prepared and submitted on a computerized spreadsheet or through other computerized form or structure as the Director may specify, as well as, or in lieu, of a printed form.

The schedule will require information on each long-term tax exemption project in effect in the municipality. The schedule shall include general information about the project, financial information about the project and payments in lieu of taxes calculations, amounts paid under the agreement, audit status, and any other information for a given project required by the Director of the Division of Local Government Services

In addition, the payment schedule of any project approved after the adoption of these rules shall be submitted to the Division of Local Government Services, pursuant to the filing requirements set forth at N.J.S.A. 40A:5-12.

The proposed new rule defines “project” as including any work or undertaking for which a tax exemption has been conveyed subject to a financial agreement between a municipality and an urban renewal entity, any housing project financed by the New Jersey Housing and Mortgage Finance Agency, on any work or undertaking involving the remediation of a “qualified real property” and the reuse of such properties for commercial, residential or other productive purposes, pursuant to the Environmental Opportunity Zone Act, and projects financed under the Redevelopment Area Bond Act or Revenue Allocation District Act.

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

Social Impact

The proposed new rule would establish uniform reporting requirements, thus allowing for more effective evaluation of the use of long-term tax exemptions and improve public access to information about long term-tax exemptions.

Economic Impact

The Board anticipates that more effective evaluation of long-term tax exemption programs would allow municipalities to better use tax exemptions as a tool for encouraging economic development.

Federal Standards Statement

No Federal standards analysis is required because the new rule is not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Board does not anticipate that any jobs will be created or lost as a result of the proposed new rule.

Agriculture Industry Impact

The Board does not anticipate that the proposed new rule would have an impact on the agricultural industry.

Regulatory Flexibility Statement

The proposed new rule, which would affect only municipalities that authorize long-term tax exemptions, sets forth the information concerning such projects that would be required to be filed with the Division of Local Government Services. The proposed new rule would not impose any reporting, recordkeeping or compliance requirement on "small businesses," as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., nor would it require them to obtain any professional services.

Smart Growth Impact

The Board does not expect that the proposed new rule would have any impact upon either achievement of "smart growth" or implementation of the State Plan.

Full text of the proposed new rule follows:

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

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

- (a) The annual financial statement required for municipalities by the Director pursuant to N.J.S.A. 40A:5-12 shall include a schedule of “Long-Term Tax Exemption Projects.” The schedule shall be subject to audit as part of the annual audit of the municipality performed pursuant to N.J.S.A. 40A:5-4. The Director may require the schedule to be prepared and submitted on a computerized spreadsheet or through other computerized form or structure as the Director may specify, as well as, or in lieu of a printed form.
- (b) For each long-term tax exemption project, the schedule shall include the following information:
1. The name of the project;
 2. The type of project;
 3. An indication of whether the project is located in an approved redevelopment area;
 4. An indication if the project is pursuant to an approved redevelopment plan;
 5. The taxable value of the project;
 6. The date of the financial agreement, date when the tax exemption commenced and the date when the exemption is scheduled to end;
 7. The statutory basis for the exemption
 8. The basis for the calculation of the payment in lieu of taxation calculation;
 9. For the fiscal year payment obligation represented by the Annual Financial Statement:
 - i. The full payment due under the agreement;
 - ii. The amount paid by the entity responsible for making the payment;
 - iii. The amounts, if any, paid to entities other than the municipality (that is, county, school district);
 - iv. For projects financed through Redevelopment Area Bonds or Revenue Allocation District bonds, the amount of payments pledged for debt service, any unpledged amount received by the municipality, amounts, if any, paid to entities other than the municipality, and any amount paid by the municipality from a debt reserve fund or remitted through a guarantee;
 - v. The net amount received by the municipality; and

- vi. If no payment was required, the payment was not made, or a reduced payment was made, an explanation of the circumstances;
 10. For such projects, indication if the required annual audit report was received from the urban renewal entity; and
 11. Any other such information as the Director may determine necessary for a given project
- (c) The payment schedule of any project approved after (the effective date of this new rule) adoption of these rules shall be submitted to the Division of Local Government Services, pursuant to the filing requirements set forth at N.J.S.A. 40A:5-12.
- (d) For the purpose of this section, the term “project” means:
1. Any work or undertaking, as defined in the Long Term-Tax Exemption Law at N.J.S.A. 40A:20-3e, for which a tax exemption has been conveyed subject to a financial agreement between a municipality and an urban renewal entity;
 2. A housing project financed by the New Jersey Housing and Mortgage Finance Agency, pursuant to N.J.S.A. 55:14K-37;
 3. Any work or undertaking involving the remediation of a “qualified real property” and the reuse of such properties for commercial, residential or other productive purposes, pursuant to the Environmental Opportunity Zone Act, N.J.S.A. 54:3-150 et seq.; or
 4. Any work or undertaking as defined in the Redevelopment Area Bond Financing Law at N.J.S.A. 40A:12A-64 , or Revenue Allocation District Financing Act at N.J.S.A. 52:27D-459 for which the municipality has entered into a financial agreement involving a payment in lieu of taxes or special assessment that is financed under those statutes.