

TOWNSHIP OF BYRAM
NEW JERSEY

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WEBSITE ADDRESS:
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TO: Township Council
FROM: Joseph W. Sabatini, Township Manager
DATE: January 14, 2014
RE: Cost of Living Cap Adjustment

Attached is Local Finance Notice (LFN 2013-23) titled 'Calendar Year 2014 Municipal and County Budget Cap Information'. This LFN addresses issues related to the 2014 Municipal Budget and the 1977 and 2010 cap laws.

Section 40A:4-45.2 of the Local Budget Law addresses the limitation on increases in appropriations. This section states that for local budget years beginning on or after July 1, 2004 municipalities shall be prohibited from increasing their final appropriations by more than 2.5% or the cost-of-living adjustment, whichever is less, over the previous year.

As referenced in the LFN, the COLA for CY 2014 budgets is at one-half percent (.5%) which determines that the automatic increase to the "1977" cap base is .5% which is less than the statutory maximum of 2.5%.

In accordance with Section 40A:4-45.14(b) of the Local Budget Law, in any year in which the cost-of-living adjustment is equal to or less than 2.5% a municipality may, by ordinance approved by majority vote of the full membership of the governing body, provide that in the local fiscal year in which the ordinance applies, the final appropriations of the municipality shall be increased by a percentage rate greater than the cost-of-living, but not to exceed 3.5% over the previous year's final appropriations. Also, the ordinance as presented by the Division of Local Government Services supports cap banking. Section 40A:4.45-15a indicates that it shall be permitted, after adoption of an ordinance by the governing body, to appropriate the difference between the amount of its actual final appropriations and the 3.5% percentage rate, as an exception to its final appropriations in either of the next two succeeding years.

Each year the Mayor and Council are called upon to establish municipal policy through the adoption of the Municipal Budget. While the Manager and staff prepare recommendations in the form of a draft document, the Council must ensure that the adopted budget adequately satisfies the needs of the community and serves the best

interests of the Township. Adoption of this ordinance in itself does not define the Council's policy for the 2014 municipal budget, but ensures responsible action has been taken for the current year and future budget cycles keeping local control of decisions without a dependency on the State of New Jersey in the event of unplanned events that may impact the appropriations cap. The Township's professionals recommend the adoption of this ordinance. Below are articles from the Township's Auditor.

The available Cap Bank for the 2014 Municipal Budget totals \$362,361.18 (2012: \$144,267.09 and 2013: \$218,094.09). The Cap bank of \$121,892.45 from 2011 drops and is not available for budget year 2014. The Cap calculation for the 2014 budget will be completed and included for budget introduction. Based on the preliminary budget plan for 2014, before exceptions, I expect to be over the .5% COLA. I expect that we can adopt the 2014 budget without passing the COLA ordinance, but if the ordinance is not adopted you will lose the opportunity to establish a cap bank that can be available for the next two budget cycles (2015 and 2016).

Articles that have been shared by Nisivoccia LLP:

To Bank, or not to Bank? That is the Question.

By David H. Evans, CPA, RMA, PSA, Partner

November 2013

The State recently announced that the expenditure CAP for 2014 will be .5% without the adoption of a COLA ordinance. That's right, that's not a typo. It's .5%. While we discussed the topic of the COLA ordinance about a year ago, it would seem appropriate to revisit this topic for further discussion.

When the expenditure CAP was 2%, not .5%, the reasons for adopting the COLA ordinance may have been viewed as less pressing than they are now. I'm sure that many felt that it was unnecessary to adopt the ordinance, as the operating expenditures of their municipality would be under the 2% limit. I'm not sure how many can say that the increase in their operating expenditures for 2014 will be .5%, or less. It's ironic that the best practices "toolbox" calls for collective bargaining agreements to have annual increase of only 2%, and yet for 2014 only 1/4 of that will be allowed.

This kind of circles us back around to the title of this article. If you had adopted the COLA ordinance for the 2013 budget, there is likelihood you have some CAP "banked" for 2014. If you did not, it would still be appropriate to consider adopting the ordinance for 2014. Not only could you bridge the gap between the .5% allowed, and what you actually need, you could then establish a CAP "bank" for 2015.

Rather than repeat everything that I said last year, please visit our web site and read "The Misunderstood COLA Ordinance" that was released in December of 2012. Everything that supports the adoption of the COLA ordinance in that article is still valid today, maybe more so.

As I am writing this, I am preparing to go down to Atlantic City for the League convention. If you see me at the Convention Center, by all means come up and say hello. I'll be easy to spot. I will probably be the only old guy there sporting a Harley hat. See you down the road.

Dave Evans specializes in annual and special audits for municipalities, counties, utility authorities, school districts, county colleges, libraries and federal and state grants. He can be reached at 973-328-1825 or devans@nisivoccia.com.

The Misunderstood COLA Ordinance

By David H. Evans, CPA, RMA, PSA

December 2012

Yes, I know it has been a while since you have heard from me, and no, contrary to what you've heard, I haven't died, retired, or moved into a condo in Florida. As with most of you, I get caught up in those day to day issues that must be addressed, and can't seem to find the time to put my thoughts down on paper.

The Local Finance Board recently released a notice (LFN 2012-23) indicating that the 2013 expenditure "CAP" will be 2% without the adoption of a COLA ordinance. Most of you know that we recommend that the municipality adopt a COLA ordinance every year, regardless of where your spending levels are expected to be. Many ask "Why do we need a COLA ordinance when our expenditures are increasing by less than 2%?" Good question.

Before we answer that question, some explanation is in order. The adoption of a COLA ordinance allows the town to increase its in-CAP appropriations by 3.5%, instead of the automatic 2%. More importantly, it also provides for "banking" of unused CAP for up to 2 years. This means that whatever CAP that is unused under a COLA ordinance in 2013 may be used in the 2014 and 2015 budgets. Why is this important, even if the town plans to always keep those in CAP expenditures at 2% or less? The answer is simple. It's "protection". Protection from what you ask? This particular CAP has been around for a long time (almost as long as me), and the rules seem to change just about every year. What was allowed outside the CAP in previous years may not be this year. This "banking" gives your town maximum flexibility in preparing your annual budget.

Each municipality faces 3 challenges with regard to the preparation to the municipal budget. They are as follows:

- 1) Be in compliance with the expenditure CAP
- 2) Be in compliance with the tax levy CAP
- 3) Striking a balance between the level of services to be provided and the amount to be raised by taxation.

Items #2 and #3 are difficult enough, without being concerned about #1. Generally speaking, the adoption of a COLA ordinance makes being in compliance with the expenditure CAP the easiest of the 3 to complete.

As I am writing this, I realize that 2012 is rapidly coming to a close. Not sure where the year went, but it sure went fast. We at Nisivoccia want to wish you and your families a happy and healthy holiday season. I'm sure that you will be hearing more from me in 2013.

David specializes in annual and special audits for municipalities, counties, utility authorities, school districts, county colleges, libraries and federal and state grants. He can be reached at 973-328-1825 or devans@nisivoccia.com.

LFN 2013-23

November 18, 2013

Local Finance Notice

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Lt. Governor

Richard E. Constable, III
Commissioner

Thomas H. Neff
Director

Contact Information

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Distribution

Municipal Clerk
Chief Financial Officer
Clerk to the Board of Chosen
Freeholders

Calendar Year 2014 Municipal and County Budget Cap Information

This Local Finance Notice addresses issues related to CY 2014 Municipal and County Budgets and the 1977 and 2010 cap laws. It includes information on the 1977 cap law Cost of Living Adjustment and the use of the COLA ordinance (resolution) and Group Health Insurance increase thresholds.

Cost of Living Cap Adjustment

An annual Cost-of-Living Adjustment that is authorized under the original 1977 budget cap law, currently reflected as N.J.S.A. 40A: 4-45.1a. Current law affecting municipal and county budgets requires compliance with both the "1977" cap law and the 2010 levy cap law.

Under the 1977 law, the Director of the Division of Local Government Services must promulgate the Cost of Living Adjustment (COLA, formerly called Index Rate). The COLA is based on the Implicit Price Deflator for State and Local Governments, calculated by the U.S. Department of Commerce, Bureau of Economic Analysis.

The COLA for CY 2014 budgets is calculated at **one-half percent (.5%)**. Pursuant to N.J.S.A. 40A:4-45.2, "municipalities and counties shall be prohibited from increasing their final appropriations by more than 2.5%..." unless action is taken by the governing body to increase their final appropriations subject to the cap to the statutorily permitted three and a half percent (3.5%). In the case of counties, the increase applies to the property tax levy, not final appropriations.

In other words, the automatic increase to the "1977" cap base is .5%, which is less than the statutory maximum of 2.5%. The governing body may pass a COLA ordinance, increasing the cap base to 3.5%.

A model ordinance is included with this Notice and will be available for download as a Word document on the Division's web site.

A municipality may by ordinance, or a county by resolution, increase the COLA percentage up to 3.5% [N.J.S.A. 40A:4-45.14(b)] or bank (for up to two years) the difference between its final appropriation subject to the cap and 3.5%. Cap banking is not automatic. A single ordinance or resolution can be used to accomplish both activities: increasing appropriations and banking any unappropriated balance. Cap bank balances from 2012 and 2013 are available for use in 2014.

Using the Allowable Percentage Increase

If a governing body wants to increase its allowable percentage increase in its budget to 3.5%, the following steps must be taken:

1. After January 1st, and prior to introduction and approval of the budget, an ordinance (resolution for counties) must be introduced that details the following:
 - a. The new rate (increase percent) to be adopted; and,
 - b. The additional amount of appropriations to be added by the increase.
2. The ordinance (resolution) must be approved by a majority of the full membership of the governing body, published, and a public hearing held at least 10 days after the publication date. A certified copy of the introduced action must be filed with the Director of the Division of Local Government Services within 5 days of its introduction.
3. The governing body may take a final vote on the action any time after the public hearing and prior to adoption of the budget. Depending on the form of government, the chief executive may veto the action in accordance with local procedures.
4. The ordinance (resolution) takes effect immediately upon passage, and a certified copy of the adopted action must be filed with the Director within 5 days.
5. Cap increase referendums are not permitted if this option is chosen.

Group Health Insurance and Pension Cap Exclusions: The 1977 cap law includes a cap exception for Group Health Insurance (N.J.S.A. 40A:4-45.3e). This exception is limited to the amount appropriated that is over 4% of the previous year's expenditures, but not exceeding the State Health Benefits percentage increase. The State Health Benefits percentage increase for CY 2014 calculations is **6.6%**, so the 1977 cap exception for Group Health Insurance for CY 2014 will be the increase over 4% up to the **6.6%** increase. The amount of the cap exception is calculated in the 2014 levy cap workbook under the group health insurance tab labeled "1977 cap exclusion". Each year the exclusion is calculated and that amount represents the exception.

Similarly, there is a Group Health Insurance exclusion in the 2010 levy cap, except the exclusion is for increases over 2%. Thus, for the 2010 levy cap calculation, the Group Health Insurance exclusion is based on the same 6.6% increase, allowing increases over 2%, up to the maximum of 6.6% as cap exclusions. The levy cap workbook calculates the exclusion.

As was the case starting in 2012, pension appropriation increases are no longer a 1977 cap law exception. Therefore, the entire pension obligation will be appropriated on sheet 19 under Statutory Expenditures. The 2014 pension obligation amounts have been issued and are on the Division of Pension and Benefits website.

If you have any questions regarding this information, please [e-mail](#) or call the Bureau of Financial Regulation and Assistance at (609) 292-4806.

Approved: Thomas H. Neff, Director

CALENDAR YEAR 2014
MODEL ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION
LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to .5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the (*insert the name of the governing body*) of the (*insert the name of the municipality*) in the County of (*insert the name of the county*) finds it advisable and necessary to increase its CY 2014 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the (*insert the name of the governing body*) hereby determines that a (*insert the rate of increase*) % increase in the budget for said year, amounting to \$ (*insert the dollar amount increase*) in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the (*insert the name of the governing body*) hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the (*insert the name of the governing body*) of the (*insert the name of the municipality*), in the County of (*insert the name of the County*), a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2014 budget year, the final appropriations of the (*insert the name of the municipality*) shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by (*insert the rate increase*) %, amounting to \$ (*insert the dollar amount increase*), and that the CY 2014 municipal budget for the (*insert the name of the municipality*) be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.