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Local Finance Notice

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Distribution
Municipal Clerks
Municipal Chief Financial Officers

CY 2012 Municipal Levy Cap Referendum Procedures

This Local Finance Notice provides specific instruction and direction to municipalities operating on a calendar fiscal year considering holding a public referendum to exceed either

- the 2 percent municipal property tax levy cap pursuant to N.J.S.A. 40A:4-45.45 et seq. or,
- the 2.5 percent appropriation caps pursuant to N.J.S.A. 40A:4-45.3 et seq.

If municipal officials are considering a levy cap referendum, this Notice should be reviewed immediately by those involved in budget preparation and elections.

There are several key elements concerning Levy Cap referendums:

1) Municipalities with Type 2 boards of education will hold their referendum on April 17, regardless of when their school board elections are held. See Local Finance Notice 2012-3 for details about schools holding their election at the General Election in November, as permitted under P.L. 2011, c.202.

2) Municipalities that hold non-partisan elections in May and have an election for local officers this year and want to hold a levy cap referendum, will use that election date, May 8, and not the April school date, regardless of when their school election takes place. A non-partisan municipality without an election in a given year will hold a levy cap referendum on the regular April school election date.

3) The first deadline municipalities considering a levy cap referendum must meet is to publish a display advertisement announcing that a referendum **may** be held. The deadlines are **February 22 for April levy elections** and **March 13 for May levy elections**.

4) If a municipal cap levy referendum is held at the same time as an April Type 2 school district election, the polls shall be open from 7:00AM until 9:00PM, and the municipality shall pay 50% of the cost of the base cost of the referendum, the cost of poll workers, and related costs for the hours that exceed the hours set by the Board of Education for the school election.

5) Referendums for State fiscal year municipalities will be at the November General Election. Guidance on those referendums will be issued later this year.

The details of these elements are explained on the following pages.

B. Background and Authority

There are two laws that oversee the levy cap law referendum process: the 2010 levy cap law, P.L. 2010, c. 44, and the original 2007 law, P.L. 2007, c.62. To implement the levy cap referendum process, additional direction is required to address election logistic issues such as mail-in voting, voting machine availability, and the need to accommodate different election cycles.

Therefore, the Director of the Division of Elections, and Director of the Division of Local Government Services, in consultation with the Commissioner of Education are, through this Notice, exercising their authority to modify and supplement existing elections processes to accommodate municipal levy cap referendums to ensure local procedures are consistent with the intent of the levy cap law.

Accordingly:

1) **For municipalities with partisan elections the CY 2012 levy cap referendums will take place on Tuesday, April 17.**
2) **For municipalities with non-partisan elections actually taking place this year, they will hold their levy cap referendum on May 8. (However, if there is no such election scheduled this year, they will use the April 17 election date.)**

C. General Referendum Procedures

The election procedure for the cap referendum will vary, depending upon the municipality, as follows:

- **Municipalities with a Type II school district which holds their election in April** will have the levy cap referendum question on the same ballot (in a separate space) and same places as the school election. Regardless of the hours set by the board of education, if there is a municipal levy cap election, the polls **shall be open from 7:00 AM until 9:00 PM.** Matters concerning the cost of the added hours are covered in Section F below.
- General election procedures are used for municipalities **with a Type I school district** (which do not have annual school board elections) **or a Type II school district that had its school board elections moved to the November General Election** (pursuant to the provisions of P.L. 2011, c.202). The voting hours must mirror those of the general election, 6AM to 8PM; the municipality is fully responsible for all costs; and the polling places will be the ones that are used for a general election.
- **Municipalities with a population of less than 500** may choose to have a vote-by-mail election, as set forth in N.J.S.A. 19:62-1, et seq.

D. Key Factors in Conducting the Referendum

It is critical that the Municipal Clerk, who will be handling the logistics of the election for the municipality, coordinate with the county election officials (the County Clerk, County Board of Election; and in some counties, the County Superintendent of Elections) as follows:

- The County Clerk is responsible for, and has the sole discretion for, the design, layout and printing of the election ballots – including, the emergency, mail-in, machine, provisional, and sample ballots.
- The County Commissioner of Registration, which is either the County Board of Election or the County Superintendent of Elections, is responsible for preparing voting machines.
- In all counties, the County Board of Election appoints and trains the board workers, and selects the polling places.

The Municipal Clerk must also keep the Board of Education(s) Board Secretary apprised of municipal decisions concerning any referendum activity if a school election is taking place at the same time.

E. Publication of Notice of Availability of Mail-In Ballots

Pursuant to N.J.S.A. 19:63-17, a "Notice of Availability of Mail-In Ballots" for any upcoming election must be published, **as a display ad in the official newspaper**, at least 55 days before the election.

- **For the April 17 election, the deadline is Wednesday, February 22.**
- **For the May 8 non-partisan election that date is Tuesday, March 13.**

The municipal governing body must pass a resolution (simple majority) authorizing a "Notice of Availability of Mail-In Ballots" to meet this publication deadline. This process also must be followed if the municipality is considering applying for Transitional Aid (See Local Finance Notice 2011-39 for details). **Due to the statutory time constraints, if the governing body is considering, but has not made a final decision, it should publish this Notice to ensure it does not lose the opportunity to hold a levy cap referendum**.

The timing of this publication has the following implications:

- **Publication of the Notice does not bind the municipality to hold an election**, if the governing body has not yet formally resolved to hold such election prior to the publication. (see below in Section E)
- **The amount of the referendum does not need to be included in the Notice.**

The Municipal Clerk is to assure publication of the Notice (see copy of Notice, Appendix A); however, in some counties the County Clerk will coordinate the publication of the Notice for the affected governing bodies. Therefore, the Municipal Clerk should first contact the County Clerk on this matter. Such coordination could reduce the publication costs for the municipality. If adopted, a copy must be sent to the Director of the Division of Local Government Services and the Board Secretary of the Board(s) of Education.

F. Concerning The Referendum Question

If not already introduced, the municipal budget must be introduced no later than Friday, March 30 for the April vote, and April 20 for the nonpartisan May vote. The budget must reflect tax levy and provisions of a planned referendum. Publication of the introduced budget must take place no later than Thursday, April 5 (12 days prior to referendum) for the April vote, and April 26 for the May vote.

Proceeding with a Referendum:

If the governing body plans to proceed with a referendum, it must adopt an "authorizing" resolution approving the referendum question and amount no later than close of business on **Friday, March 30 (April votes) and April 20 (May vote).** A model Authorizing Referendum is part of this Notice as Appendix C. **All referendum questions and explanatory statements must be consistent with the model.**

The resolution for the referendum must be approved by a majority of the full membership of the governing body prior to introduction of the budget. **The resolution must be distributed as follows:**

- ☐ A certified copy of the resolution must be sent to the County Clerk by the close of business on **Friday, March 30 (April)** or **Friday, April 20 (May).**
- ☐ On the following business day, a certified copy of the authorizing resolution must be sent to the Division of Local Government Services and also to the Secretary of the local Board of Education(s), (if the municipality has a Type II school district).
- ☐ A copy should also be included with the budget package sent to the Division of Local Government Services as part of the introduced budget (filed within three days after introduction).

If the governing body made a final decision to hold a referendum before February 22 (April) or March 13 (May), the Authorizing Resolution may be adopted at the same time as the adoption of the resolution authorizing the publication of the Notice of Availability of Mail-In Ballots.

If the resolution is passed on March 30 (April) or April 20 (May), time is of the essence in terms of the printing of the ballot materials by the County Clerk. This is particularly important for voters who wish to vote by mail. The Authorizing Resolution must set forth the exact language of the referendum and the exact language of the explanatory statement to be printed on the ballot. To reduce the possibility of problems, it is strongly recommended that municipal officials review a draft resolution with their county election officials in advance of the governing body vote.

Cancelling a Referendum

If the municipality has published the Notice of Availability of Mail-In Ballot (as noted above, the deadline is February 22 for April and March 13 for May votes), but chooses to not go through with the referendum, the governing body must memorialize that decision by passing a resolution to that effect and publishing a legal notice that a levy cap referendum will not be held as previously announced. Such action should be taken to avoid any confusion on the part of voters and election officials.

A copy of the cancelling resolution must be provided to the County Clerk no later than close of business on **March 30 (April) or April 20 (May)**, and a copy sent to the Secretary of the Board of Education if a Type II school district vote is taking place, and the Division of Local Government Services by the next business day.

Wording of the Referendum Question and Explanatory Statement

N.J.S.A. 40A:4-45.46(b) requires that the public question (Appendix B) include the following elements:

- A declaration of the "amount by which the adjusted tax levy shall be increased by more than the otherwise allowable adjusted tax levy, and the percentage rate of increase which that amount represents over the allowable adjusted tax levy."
- An explanatory statement that "identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question" or a "clear and concise narrative explanation of the circumstances" for the levy increase that must be approved by the Director of the Division of Local Government Services. In this case "warranted" means those line items that are significant or primary in nature resulting in the need for a levy cap referendum.
- The model language in Appendix B and C reflects the statutory requirements.

In considering approval of a narrative explanatory statement, the Director of Local Government Services will only consider narratives that are factual, explicit and to the point concerning the reasons for the proposed increase, and written in a manner consistent with a description of increases.

Narratives that discuss actions (other than in general terms) the local governing body intends to take as a result of the referendum failing will not be approved. Such narratives are necessarily speculative, reflect an intention at a given point in time, and could change through the course of a levy cap election or upon consideration of alternatives.

Requests for a narrative explanatory statement must be received by the Director by close of business on March 21 (for the April election) or April 13 (for the May election). Requests must be submitted to the Director of the Division of Local Government Services **in each of two ways**: 1) in writing from the Mayor or presiding office of the governing body; and 2) by telephone call to the Division at 609-292-6110 to request a conference call with the Director to discuss the request.

The written request must include the proposed language and an explanation of circumstances of why identifying the changes in appropriations or revenues is insufficient. To ensure timely and confirmed delivery, written requests should be faxed to 609-292-9073.

Calculation of Levy Cap Percentages for Ballot Questions

To eliminate any confusion of how to calculate the correct percentages set forth the in the ballot questions, Appendix D of this Notice is a sample calculation and should be used as a guide. Division of Local Government Services staff is available to review a resolution to ensure compliance. Contact information for this purpose is at the end of this Notice.

Use of Public Funds to Promote a Ballot Question (Electioneering)

The attention of municipal officials is called to long-established guidance concerning how government funds and resources can be used regarding informing the public about public referendum. It has long been held that a government agency "has the authority and responsibility to commit its resources in furtherance of a strictly informational function. However, the authority to inform must not be conducted in a manner to urge or advocate an affirmative vote."[1]

Thus while municipal resources (newsletters, mailings, website) can be used to inform the public about the referendum, that information must be strictly informational. Nothing, however, prohibits individual public officials from offering their personal opinions through other means (i.e., personal contacts, press interviews, letters to the editor, etc.).

Related Information

If a referendum on both the 1977 appropriation and 2010 levy caps is necessary, a single ballot question will be used to meet both requirements. The model Authorizing Resolution and ballot question contains optional language (*italics*) if an appropriation cap question is needed.

A levy cap referendum results in a permanent add-on to the cap. Municipalities that have a need for a one-time question should contact the Division of Local Government Services as soon as possible for appropriate referendum question language.

G. Conduct of the Election

1. Municipalities with Type II School Districts voting in April: As noted above, Type II school districts that did not move their elections to November, will be holding their annual election on April 17. Pursuant to N.J.S.A. 19:60-1 et seq. for an annual school election (unlike a general election) the board of education sets voting hours, with the minimum mandatory hours being from 5:00 PM to 9:00 PM.

If, however, a municipal levy cap referendum will be held on the same day, the voting hours will be 7:00 AM to 9:00 PM. Further, because of the imposition of the additional balloting, the municipality will be responsible for:

- Paying for 50 percent of the cost of holding the election during the hours originally set by the Board of Education; and,
- The full incremental cost of the election for the hours above and beyond the balloting if there were no municipal election.

The School Board determines board worker payment, with the hourly wage ranging between $5.77 and $14.29.

The number of election districts shall be those determined by the Board of Education, who can ask the County Board of Elections to consolidate election districts (which may reduce the number of polling places). The final decision on polling places, however, rests with the County Board of Elections. The municipality cannot ask for additional election districts.

To summarize, holding a municipal and school levy cap referendum at the same time requires that:

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[1] Formal Opinion of the New Jersey Attorney General, 21-1975

1. The municipal levy cap and school ballot questions must be conducted simultaneously with the polls open on all ballot questions from 7:00 AM to 9:00 PM.
2. The costs incurred for the hours (mainly board worker compensation) over those originally determined by the Board of Education must be paid by the municipality.
3. Other costs, including poll workers for the base hours, facility costs, general costs of the election such as ballot printing, voting machine transportation, and overtime for the county election offices will be split evenly between the municipality and school board.

Municipal, school, and county officials should work cooperatively and keep each other informed to resolve any local matters concerning the election in a timely fashion. The Division of Elections and the Division of Local Government Services can also assist in resolving disputes about payments or related issues.

2. Municipalities with Type I School Districts (and municipalities that had their school elections moved to November): If the governing body in one of these municipalities authorizes a levy cap referendum, the municipality will be solely responsible for all the costs of the election. The election will be conducted as a general election, in terms of voting hours (6 AM to 8 PM) and the polling places. The County Board of Election will be responsible for the appointment and supervision of the board workers. The salary for each of the board workers will be $200.00 for the election.

In terms of other costs, the municipality must pay for all printing costs incurred by the County Clerk, polling place rentals, voting machine transportation, and will have to pay a portion of the overtime costs incurred by county election officials.

3. Municipalities holding a non-partisan election: If a municipality is holding a non-partisan election this year, the levy cap referendum will be an additional ballot question on the municipal ballot. The election will continue to be run as a municipal election with all costs covered by the municipality.

4. Referendum Costs and Budgets: Referendum costs are exclusions from the cap, **only** if the referendum succeeds and the cost was built into the amount proposed for the referendum. **If the referendum fails, the cost must be absorbed in the budget within the levy cap.**

H. Referendum Outcome

Cap referendums need to be approved by a 50 percent plus one of the votes cast regarding the question. If the vote is less, the question fails. The Board of County Canvassers (consisting of the four members of the County Board of Elections) shall certify the results of referendum. The County Clerk, who acts as the Clerk of the Board of County Canvassers, will provide a copy of the certified results to the Director, Division of Local Government Services, not later than Monday, April 23 (April) or May 9 (May). If the referendum is defeated, the municipality must amend the budget to reflect the allowable levy.

Budget Amendment if the Question is Defeated: The Attorney General has provided the Division with legal advice regarding budget amendments if the tax levy question is defeated by the voters. The advice provides that while the purpose of the Authorizing Resolution and Explanatory Statement is to fully inform the voters on the referendum, it is not intended to limit the discretion of the governing body in finally formulating its budget if the referendum is rejected. This provides the governing body with the flexibility to amend the budget to meet current needs if the referendum is rejected, provided that the governing body initially acted in good faith.

Finally, given the potential for defeat of the referendum, the municipality should plan in advance what actions it will take if the referendum is defeated and be prepared to take immediate action to adopt a budget within the 2% levy cap. This may include the preparation and filing of layoff plans or negotiating, as appropriate, with parties to collective negotiation agreements.

The final budget for municipalities conducting an April referendum must be adopted by Friday, May 20; for May referendums Friday June 1.

The model documents referenced in this Notice are also on the Division's web site. Questions on the process can be sent to the Division at dlgs@dca.state.nj.us or by calling 609-292-4806.

Appendix E of the Notice is a summary of the formal steps that must be taken and reported to the various agencies. It also includes a table summarizing the steps and dates for both April and May votes.

Documents sent to the Division of Local Government Services should be labeled as "Levy Cap Referendum" and sent in any of the following methods as appropriate to the timeliness of the document:

Mail or Overnight Delivery:
Levy Cap Referendum
Division of Local Government Services
101 South Broad Street
PO Box 803
Trenton, NJ 08625-0803

Fax: 609-984-7388
Email: dlgs@dca.state.nj.us

Approved:
Thomas H. Neff, Director, Division of Local Government Services
Robert Giles, Director, Division of Elections

APPENDIX A

FORM OF NOTICE OF AVAILABILITY OF MAIL-IN BALLOTS (N.J.S.A. 19:63-6)

19:63-6 Publication of notice. (pertinent parts)

6. a. The county clerk, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the municipal clerk, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish the following notice in substantially the following form:

(Only the text below the line is published. Text in italics is only used if there is an appropriation levy question on the ballot as well or difference between partisan or non-partisan election dates.)

NOTICE TO PERSONS WANTING MAIL-IN BALLOTS

If you are a qualified and registered voter of the State who wants to vote by mail in the *<name of municipality>* municipal levy *<and appropriation>* cap referendum election to be held on April 17, 2012 *(*May 8 *if a non-partisan vote>* complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a mail-in ballot be forwarded to you. The request must state your home address and the address to which the ballot should be sent. The request must be dated and signed with your signature.

If any person has assisted you to complete the mail-in ballot application, the name, address and signature of the assistor must be provided on the application, and you must sign and date the application for it to be valid and processed. No person shall serve as an authorized messenger for more than 10 qualified voters in an election. No person who is a candidate in the election for which the voter requests a mail-in ballot may provide any assistance in the completion of the ballot or may serve as an authorized messenger or bearer.

No mail-in ballot will be provided to any applicant who submits a request therefor by mail unless the request is received at least seven days before the election and contains the requested information. A voter may, however, request an application in person from the county clerk up to 3 p.m. of the day before the election.

Voters who want to vote only by mail in all future general elections in which they are eligible to vote, and who state that on their application shall, after their initial request and without further action on their part, be provided a mail-in ballot by the county clerk until the voter requests that the voter no longer be sent such a ballot. A voter's failure to vote in the fourth general election following the general election at which the voter last voted may result in the suspension of that voter's ability to receive a mail-in ballot for all future general elections unless a new application is completed and filed with the county clerk.

Voters also have the option of indicating on their mail-in ballot applications that they would prefer to receive mail-in ballots for each election that takes place during the remainder of this calendar year. Voters who exercise this option will be furnished with mail-in ballots for each election that takes place during the remainder of this calendar year, without further action on their part.

Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.

Dated..... .....
(signature and title of county clerk)

....
(address of county clerk) (telephone no. of county clerk)

APPENDIX B

Model Public Question for Increase in Levy Cap (N.J.S.A. 40A: 4-45.46) *and/or Appropriation Cap (N.J.S.A. 40A:4-45.16)*

Instructions:

1. Insert underscored items in parenthesis **only** if necessary to the circumstances;
2. *Items in italics* are only used if the referendum requires a municipal appropriation cap question.
3. Additional lines may be inserted in the Explanatory Statement tables.

The public question for a cap referendum shall reference only the amount that exceeds the adjusted levy *or appropriation* cap. The Public Question and Interpretative Statement to be placed on the ballot shall be as follows:

Public Question

"Shall the (name of governing body) of the (name of municipality) be authorized to increase its adjusted tax levy by $_____ more than the allowable adjusted tax levy, which is ___% more than the allowable adjusted tax levy as provided by N.J.S.A. 40A:4-45.44 et seq. *and shall it be authorized to increase to adopt the (insert year) Municipal Purposes Budget in excess of the increase limitation by (insert percent) or (insert dollar amount) as provided by N.J.S.A. 40A:4-45.3(i).*"

Explanatory Statement

The following identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question.

(Include below line items as appropriate or an alternative explanatory narrative approved by Director, Division of Local Government Services.)

Loss of Revenue Line Items	Amount of Loss

Increase in Appropriation Line Items	Amount of Increase

A "yes" vote will authorize the governing body of the municipality to adopt the budget that was introduced and published that provided for an increase in the tax levy over the allowable property tax levy cap, *and an increase in the allowable municipal purposes appropriations over the amount* authorized by State law at the rate of increase described in the ballot question.

A "no" vote means that the governing body must amend the budget through appropriation reductions or allowable non-property tax revenue increases in order to adopt the budget within the tax levy *and appropriation* increase limits set forth by law.

APPENDIX C
CY 2012 RESOLUTION AUTHORIZING A LEVY CAP REFERENDUM

Instructions:

1. Insert underscored items in parenthesis as necessary to the circumstances:. **Use Appendix D Column References (Col. Ref.) to calculate amounts as indicated below.**
2. *Items in italics are only used if the referendum requires a municipal appropriation cap question or non-partisan vote.*
3. Additional lines may be inserted in the Explanatory Statement tables.
4. This resolution is designed for Type II School Districts with April elections. If for a Type 1, non-partisan, or Type II with a November election, change time of polling hours to 6 AM to 8 PM.

RESOLUTION BY THE *(name of governing body)* OF THE *(name of municipality)* IN THE COUNTY OF *(name of county)* AND STATE OF NEW JERSEY AUTHORIZING A MUNICIPAL LEVY CAP REFERENDUM ON APRIL 17 *<May 8>*, 2012

WHEREAS, N.J.S.A. 40A:4-45.45 provides that in preparation of its budget, a municipality shall, subject to certain statutory exceptions, limit any increase in its allowable municipal tax levy to two percent (2%) over the previous year's tax levy; and,

WHEREAS, N.J.S.A. 40A:4-45.46, permits a municipality to increase its allowable tax levy by a percentage rate greater than otherwise authorized where said increase is approved by referendum; and,

***WHEREAS**, N.J.S.A. 40A:4-45.3(i) provides that in preparation of its budget a municipality may add to its allowable final appropriations any amount approved by referendum; and*

WHEREAS, the *(name of governing body)* of the *(name of municipality)*, in the County of *(name of county)* has called for a special referendum election pursuant to N.J.S.A. 40A:4-45.46 *and N.J.S.A. 40A:4-45.3a,* because it finds it advisable and necessary to increase its 2011 allowable tax levy *and allowable final appropriations* by more than otherwise authorized; and,

WHEREAS, the (name of governing body) of the (name of municipality) hereby determines that a (additional percent increase – **Col. Ref "C"**) increase in the allowable tax levy, which is (dollar increase over the permitted 2% amount – **Col Ref. "A"**) in excess of the increase in allowable tax levy, *and that an increase of (insert percent) or (insert dollar amount) over its otherwise allowable final appropriations shall be added,* will only become effective upon authorization by the voters by referendum; and,

WHEREAS, set forth below are those that have given rise to the need to seek an increase in the allowable tax levy *and final appropriations* from what would otherwise be provided under the limitations of state law:

Loss of Revenue Line Items	Amount of Loss

Increase in Appropriation Line Items	Amount of Increase

NOW, THEREFORE BE IT RESOLVED, that the question to be placed on the ballot shall be as follows:

Public Question

"Shall the (name of governing body) of the (name of municipality) be authorized to increase its adjusted tax levy by $_____ more than the allowable adjusted tax levy, which is ___% more than the allowable adjusted tax levy as provided by N.J.S.A. 40A:4-45.44 et seq. *and shall it be authorized to increase to adopt the (insert year) Municipal Purposes Budget in excess of the increase limitation by (insert percent) or (insert dollar amount) as provided by N.J.S.A. 40A:4-45.3(i).*"

Explanatory Statement

The following identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question.

(Include below line items as appropriate or an alternative explanatory narrative approved by Director, Division of Local Government Services.)

Loss of Revenue Line Items	Amount of Loss

Increase in Appropriation Line Items	Amount of Increase

A "yes" vote will authorize the governing body of the municipality to adopt the budget that was introduced and published that provided for an increase in the tax levy over the allowable property tax levy cap, *and an increase in the allowable municipal purposes appropriations over the amount* authorized by State law at the rate of increase described in the ballot question.

A "no" vote means that the governing body must amend the budget through appropriation reductions or allowable non-property tax revenue increases in order to adopt the budget within the tax levy *and appropriation* increase limits set forth by law.

BE IT FURTHER RESOLVED, that said referendum be, and the same is scheduled for April 17, 2012, between the hours of 7:00 AM and 9:00 PM prevailing time, in the manner provided by statute.

BE IT FURTHER RESOLVED, that a public hearing on the budget will be held at the (insert location, date and time of public hearing), at which time and place objections to said budget may be presented by taxpayers or other interested parties.

BE IT FURTHER RESOLVED, that one certified copy of this Resolution, shall be transmitted to the County Clerk of (name of county) and to the Director of the Division of Local Government Services, within one business day after adoption, but no later than April 6, with the recorded vote included thereon.

(insert local resolution closing, certification, and seal text)

Appendix D

Calculation of Tax Levy Amounts for Referendum and Public Question

Col. Reference	CALCULATION SECTION	Amount
A	"Amount approved by referendum" (per Levy Cap Workbook, Summary Levy Cap Calculation page) to insert in Authorizing Resolution and Ballot Question.	
B	Maximum Allowable Amount to be Raised by Taxation.*	
C	Percentage Increase above the 2% Maximum Allowable Amount to be Raised by Taxation if Referendum is approved to insert in Resolution and Ballot Question (A/B)	

*Per the levy cap workbook, Summary Levy Cap Calculation page

Appendix E

Summary of Key Steps and Actions Regarding Levy Cap Referendums

(Dates in paren are for May, non-partisan votes)

1. Municipal Governing Body passes resolution authorizing publication of Notice of Availability of Mail-In Ballots:
   a. Due date: in time for display ad to be published by February 22 (March 13).
   b. Coordinate with County Clerk and County Election Officials.
   c. Send copy of adopted resolution to Division of Local Government Services and School Board Secretary.

2. Resolution setting the referendum question:
   a. Due date: Close of business on March 30 (April 20), or 3 days after adoption, whichever is sooner.
   b. Coordinate with County Clerk in advance if possible.
   c. By next business day, send copy of adopted resolution to Division of Local Government Services and School Board Secretary.
   d. Include copy with introduced budget package sent to Division of Local Government Services.

3. Optional: Request for Narrative Explanatory Statement:
   a. As soon as possible, prior to March 21 (April 13), discussion with county election officials.
   b. By March 21 (April 13), request in writing permission from Director of Local Government Services, and contact Director's office by phone.

4. Results of Election:
   a. Certified by Board of County Canvassers (Municipal Clerk) to municipality and Division of Local Government Services, due by April 23 (May 9).

Summary of Municipal Levy Referendum Deadlines

Referendum Event	Municipal Levy Cap Referendum on April School Election Date (Partisan)	Municipal Levy Cap Referendum on May Non-Partisan Election
1. Publication of Notice of Availability of Mail-In Ballots	February 22	March 13
2. Submit requests for approval of municipal referendum narrative to Division of Local Government Services	March 21	April 13
3. Latest date to introduce municipal budget	March 30	April 20
4. Last date of passage of resolution setting the referendum question (amount) and sending copy to: County Clerk, School Board Secretary (if school vote also taking place); Division of Local Government Services	March 30 March 30 April 2 April 4	April 20 April 20 April 23 April 25
5. Last date to cancel a planned referendum	March 30	April 20
6. Latest date to publish municipal budget	April 5	April 26
7. Election Date	April 17	May 8
8. Decision of Board of Canvassers	April 23	May 9

APPENDIX A

FORM OF NOTICE OF AVAILABILITY OF MAIL-IN BALLOTS (N.J.S.A. 19:63-6)

19:63-6 Publication of notice. (pertinent parts)

6. a. The county clerk, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the municipal clerk, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish the following notice in substantially the following form:

(Only the text below the line is published. Text in italics is only used if there is an appropriation levy question on the ballot as well or difference between partisan or non-partisan election dates.)

NOTICE TO PERSONS WANTING MAIL-IN BALLOTS

If you are a qualified and registered voter of the State who wants to vote by mail in the <*name of municipality*> municipal levy <*and appropriation*> cap referendum election to be held on April 17, 2012 *(*May 8 *if a non-partisan vote*> complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a mail-in ballot be forwarded to you. The request must state your home address and the address to which the ballot should be sent. The request must be dated and signed with your signature.

If any person has assisted you to complete the mail-in ballot application, the name, address and signature of the assistor must be provided on the application, and you must sign and date the application for it to be valid and processed. No person shall serve as an authorized messenger for more than 10 qualified voters in an election. No person who is a candidate in the election for which the voter requests a mail-in ballot may provide any assistance in the completion of the ballot or may serve as an authorized messenger or bearer.

No mail-in ballot will be provided to any applicant who submits a request therefor by mail unless the request is received at least seven days before the election and contains the requested information. A voter may, however, request an application in person from the county clerk up to 3 p.m. of the day before the election.

Voters who want to vote only by mail in all future general elections in which they are eligible to vote, and who state that on their application shall, after their initial request and without further action on their part, be provided a mail-in ballot by the county clerk until the voter requests that the voter no longer be sent such a ballot. A voter's failure to vote in the fourth general election following the general election at which the voter last voted may result in the suspension of that voter's ability to receive a mail-in ballot for all future general elections unless a new application is completed and filed with the county clerk.

Voters also have the option of indicating on their mail-in ballot applications that they would prefer to receive mail-in ballots for each election that takes place during the remainder of this calendar year. Voters who exercise this option will be furnished with mail-in ballots for each election that takes place during the remainder of this calendar year, without further action on their part.

Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.

Dated..... .....
(signature and title of county clerk)

....
(address of county clerk) (telephone no. of county clerk)

APPENDIX B

Model Public Question for Increase in Levy Cap (N.J.S.A. 40A: 4-45.46) *and/or Appropriation Cap (N.J.S.A. 40A:4-45.16)*

Instructions:

1. Insert underscored items in parenthesis **only** if necessary to the circumstances;
2. *Items in italics* are only used if the referendum requires a municipal appropriation cap question.
3. Additional lines may be inserted in the Explanatory Statement tables.

The public question for a cap referendum shall reference only the amount that exceeds the adjusted levy *or appropriation* cap. The Public Question and Interpretative Statement to be placed on the ballot shall be as follows:

Public Question

"Shall the (name of governing body) of the (name of municipality) be authorized to increase its adjusted tax levy by $_____ more than the allowable adjusted tax levy, which is ___% more than the allowable adjusted tax levy as provided by N.J.S.A. 40A:4-45.44 et seq. *and shall it be authorized to increase to adopt the (insert year) Municipal Purposes Budget in excess of the increase limitation by (insert percent) or (insert dollar amount) as provided by N.J.S.A. 40A:4-45.3(i).*"

Explanatory Statement

The following identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question.

(Include below line items as appropriate or an alternative explanatory narrative approved by Director, Division of Local Government Services.)

Loss of Revenue Line Items	Amount of Loss

Increase in Appropriation Line Items	Amount of Increase

A "yes" vote will authorize the governing body of the municipality to adopt the budget that was introduced and published that provided for an increase in the tax levy over the allowable property tax levy cap, *and an increase in the allowable municipal purposes appropriations over the amount* authorized by State law at the rate of increase described in the ballot question.

A "no" vote means that the governing body must amend the budget through appropriation reductions or allowable non-property tax revenue increases in order to adopt the budget within the tax levy *and appropriation* increase limits set forth by law.

APPENDIX C
CY 2012 RESOLUTION AUTHORIZING A LEVY CAP REFERENDUM

Instructions:

1. Insert underscored items in parenthesis as necessary to the circumstances;. **Use Appendix D Column References (Col. Ref.) to calculate amounts as indicated below.**
2. *Items in italics are only used if the referendum requires a municipal appropriation cap question or non-partisan vote.*
3. Additional lines may be inserted in the Explanatory Statement tables.
4. This resolution is designed for Type II School Districts with April elections. If for a Type 1, non-partisan, or Type II with a November election, change time of polling hours to 6 AM to 8 PM.

RESOLUTION BY THE *(name of governing body)* OF THE *(name of municipality)* IN THE COUNTY OF *(name of county)* AND STATE OF NEW JERSEY AUTHORIZING A MUNICIPAL LEVY CAP REFERENDUM ON APRIL 17 *<May 8>*, 2012

WHEREAS, N.J.S.A. 40A:4-45.45 provides that in preparation of its budget, a municipality shall, subject to certain statutory exceptions, limit any increase in its allowable municipal tax levy to two percent (2%) over the previous year's tax levy; and,

WHEREAS, N.J.S.A. 40A:4-45.46, permits a municipality to increase its allowable tax levy by a percentage rate greater than otherwise authorized where said increase is approved by referendum; and,

***WHEREAS**, N.J.S.A. 40A:4-45.3(i) provides that in preparation of its budget a municipality may add to its allowable final appropriations any amount approved by referendum; and*

WHEREAS, the *(name of governing body)* of the *(name of municipality)*, in the County of *(name of county)* has called for a special referendum election pursuant to N.J.S.A. 40A:4-45.46 *and N.J.S.A. 40A:4-45.3a,* because it finds it advisable and necessary to increase its 2011 allowable tax levy *and allowable final appropriations* by more than otherwise authorized; and,

WHEREAS, the (name of governing body) of the (name of municipality) hereby determines that a (additional percent increase – **Col. Ref "C"**) increase in the allowable tax levy, which is (dollar increase over the permitted 2% amount – **Col Ref. "A"**) in excess of the increase in allowable tax levy, *and that an increase of (insert percent) or (insert dollar amount) over its otherwise allowable final appropriations shall be added,* will only become effective upon authorization by the voters by referendum; and,

WHEREAS, set forth below are those that have given rise to the need to seek an increase in the allowable tax levy *and final appropriations* from what would otherwise be provided under the limitations of state law:

Loss of Revenue Line Items	Amount of Loss

Increase in Appropriation Line Items	Amount of Increase

NOW, THEREFORE BE IT RESOLVED, that the question to be placed on the ballot shall be as follows:

Public Question

"Shall the (name of governing body) of the (name of municipality) be authorized to increase its adjusted tax levy by $_____ more than the allowable adjusted tax levy, which is ___% more than the allowable adjusted tax levy as provided by N.J.S.A. 40A:4-45.44 et seq. *and shall it be authorized to increase to adopt the (insert year) Municipal Purposes Budget in excess of the increase limitation by (insert percent) or (insert dollar amount) as provided by N.J.S.A. 40A:4-45.3(i).*"

Explanatory Statement

The following identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question.

(Include below line items as appropriate or an alternative explanatory narrative approved by Director, Division of Local Government Services.)

Loss of Revenue Line Items	Amount of Loss

Increase in Appropriation Line Items	Amount of Increase

A "yes" vote will authorize the governing body of the municipality to adopt the budget that was introduced and published that provided for an increase in the tax levy over the allowable property tax levy cap, *and an increase in the allowable municipal purposes appropriations over the amount* authorized by State law at the rate of increase described in the ballot question.

A "no" vote means that the governing body must amend the budget through appropriation reductions or allowable non-property tax revenue increases in order to adopt the budget within the tax levy *and appropriation* increase limits set forth by law.

BE IT FURTHER RESOLVED, that said referendum be, and the same is scheduled for April 17, 2012, between the hours of 7:00 AM and 9:00 PM prevailing time, in the manner provided by statute.

BE IT FURTHER RESOLVED, that a public hearing on the budget will be held at the (insert location, date and time of public hearing), at which time and place objections to said budget may be presented by taxpayers or other interested parties.

BE IT FURTHER RESOLVED, that one certified copy of this Resolution, shall be transmitted to the County Clerk of (name of county) and to the Director of the Division of Local Government Services, within one business day after adoption, but no later than April 6, with the recorded vote included thereon.

(insert local resolution closing, certification, and seal text)

Appendix D

Calculation of Tax Levy Amounts for Referendum and Public Question

Col. Reference	CALCULATION SECTION	Amount
A	"Amount approved by referendum" (per Levy Cap Workbook, Summary Levy Cap Calculation page) to insert in Authorizing Resolution and Ballot Question.	
B	Maximum Allowable Amount to be Raised by Taxation.*	
C	Percentage Increase above the 2% Maximum Allowable Amount to be Raised by Taxation if Referendum is approved to insert in Resolution and Ballot Question (A/B)	

*Per the levy cap workbook, Summary Levy Cap Calculation page

Appendix E

Summary of Key Steps and Actions Regarding Levy Cap Referendums

(Dates in paren are for May, non-partisan votes)

1. Municipal Governing Body passes resolution authorizing publication of Notice of Availability of Mail-In Ballots:
   a. Due date: in time for display ad to be published by February 22 (March 13).
   b. Coordinate with County Clerk and County Election Officials.
   c. Send copy of adopted resolution to Division of Local Government Services and School Board Secretary.

2. Resolution setting the referendum question:
   a. Due date: Close of business on March 30 (April 20), or 3 days after adoption, whichever is sooner.
   b. Coordinate with County Clerk in advance if possible.
   c. By next business day, send copy of adopted resolution to Division of Local Government Services and School Board Secretary.
   d. Include copy with introduced budget package sent to Division of Local Government Services.

3. Optional: Request for Narrative Explanatory Statement:
   a. As soon as possible, prior to March 21 (April 13), discussion with county election officials.
   b. By March 21 (April 13), request in writing permission from Director of Local Government Services, and contact Director's office by phone.

4. Results of Election:
   a. Certified by Board of County Canvassers (Municipal Clerk) to municipality and Division of Local Government Services, due by April 23 (May 9).

Summary of Municipal Levy Referendum Deadlines

Referendum Event	Municipal Levy Cap Referendum on April School Election Date (Partisan)	Municipal Levy Cap Referendum on May Non-Partisan Election
1. Publication of Notice of Availability of Mail-In Ballots	February 22	March 13
2. Submit requests for approval of municipal referendum narrative to Division of Local Government Services	March 21	April 13
3. Latest date to introduce municipal budget	March 30	April 20
4. Last date of passage of resolution setting the referendum question (amount) and sending copy to: County Clerk, School Board Secretary (if school vote also taking place); Division of Local Government Services	March 30 March 30 April 2 April 4	April 20 April 20 April 23 April 25
5. Last date to cancel a planned referendum	March 30	April 20
6. Latest date to publish municipal budget	April 5	April 26
7. Election Date	April 17	May 8
8. Decision of Board of Canvassers	April 23	May 9