

HIGHTSTOWN-EAST WINDSOR REGIONAL POLICE & MUNICIPAL COURT STUDY GROUP

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Executive Summary

Background

This is an executive summary of the Final Report for the Hightstown/East Windsor Regional Police and Court Study Group, an analysis of the feasibility of the Township of East Windsor providing court and or law enforcement services to the Borough of Hightstown, two contiguous municipalities in Mercer County, New Jersey. The report was prepared by the Patriot Consulting Group, Inc., which also conducted the investigation and analysis.

Status

Work on this project is complete and this report contains a detailed analysis of the feasibility of sharing court and law enforcement services in and between the studied communities and recommends that Hightstown contract with East Windsor to provide both services. The analysis and recommendations detail why such an arrangement is feasible and how the communities could potentially realize significant savings now and into the future.

Methods

This report was prepared following an in depth study of the issues relative to the possible sharing of police and court services. This analysis was executed utilizing a combination of interviews, site visits, and research, including reviewing documents, reports, run surveys, organization charts, codes, ordinances, resolutions, statutes, schedules, policies, procedures, guidelines, records and other items necessary or important to this assessment.

Patriot's investigation was guided by specific decision rules individually established by the participating municipalities.

Results

The investigation and analysis resulted in a pool of data that suggested that a shared approach to both law enforcement and court service delivery in the studied area could be feasible in certain alignments and that such an approach is feasible at this time. These recommendations are based upon the following three key considerations:

- ★ Clear Financial Benefits
- ★ Clear Operational Benefits
- ★ Good Government

Introduction

This is the final report of the Hightstown-East Windsor Regional Police and Municipal Court Study Group; a study of the feasibility of the Township of East Windsor providing Court and/or Law Enforcement Services to the Borough of Hightstown, two contiguous municipalities in eastern Mercer County, New Jersey.

This report reflects months of survey, investigation and analysis of the various component parts of law enforcement service delivery in the participating communities. The recommendations and observations contained herein are designed to advise municipal leaders on the feasibility of outsourcing Hightstown's municipal court and law enforcement services to East Windsor.

Survey Overview

Study Methodology In General

Throughout this study, Patriot has endeavored to conduct a fair, accurate and balanced evaluation of how the participating communities might share law enforcement services. Patriot made every effort to identify key stakeholders that could potentially be affected by the various

implementation options and involved them very early in the investigation phase of this study. Specifically sought and included in this investigation were meetings with chief law enforcement officers, union and association representatives, middle managers, rank and file employees, sworn and non-sworn employees, clerical and communications employees as well as elected officials, senior appointed officials and other decision makers.

Patriot consultants stressed that while we were under contract with municipal elected officials to conduct this survey, we would also be truthful and honest participants with everyone who extended the same courtesy to our staff. While each group of stakeholders advocated the presumed interests special to their particular group, each group was more or less open to discussion, debate and the general free exchange of ideas and information.

Each municipality provided Patriot with different decision rules to guide our recommendations. These rules were not predetermined or preordained outcomes, but were rather, guidelines that each community independently established to guarantee that their municipality was protected from being presented with recommendation options that were impossible to consider. A good example of a mutually shared decision rule of this type is the prohibition placed on the study to not present any option that would increase the cost of providing either service.

Characteristics

The Hightstown and East Windsor Police/Court Study Group is a committee of elected officials appointed by the governing body of each participant of two neighboring municipalities located in Mercer County, New Jersey. The study was divided into two sections addressing the Police Phase and the Court Phase.

The Township of East Windsor (pop. 26,686) has a land area of 15.6 square miles (40.5 km²) and is a growing, suburban community offering an ideal environment in which families, as well as businesses, can grow and prosper. The area boasts an excellent, highly rated public school system and first-rate recreational facilities including beautiful parks, lakes, picnic areas,

basketball courts, athletic fields, jogging paths and tennis courts. East Windsor, with its beautiful tree lined neighborhoods, is less than an hour away from the Jersey Shore, New York City and Philadelphia.

The Borough of Hightstown (pop. 5,300) has a land area of 1.2 square miles (3.2 km²) and is completely surrounded by the Township of East Windsor. The community of Hightstown is organized and flourishing because of its active residents and many small, local businesses. The citizens of Hightstown take pride in a community that is historic and beautiful. The Borough of Hightstown is the most central point in the State of New Jersey and is equidistant from New York City and Philadelphia.

The Patriot Consulting Group, Inc. (Patriot) is a professional public sector consulting firm specializing in municipal operations and incorporated as a professional corporation under the laws of the States of New Jersey. Patriot's corporate offices are located in Monmouth County, New Jersey.

In 2008, the participating communities retained the services of Patriot to act as a Shared Services Consultant to these municipalities for the purposes of conducting a police shared services feasibility study. It was later decided to add a second phase to include a court shared services feasibility study.

The participating municipalities received a SHARE Grant from the State of New Jersey Department of Community Affairs providing 100% of the funding needed to conduct Patriot's investigation of both phases.

Scope

Patriot's contract divided their efforts into two phases, Police and Court, hence recommendations are also divided into two sections.

Total Project Status

With the presentation of this report, Patriot's work on both phases is complete and is hereby presented to East Windsor and Hightstown.

Patriot recommends that each municipality consider the recommendations contained in this report and consider how and if implementation of any specific recommendation(s) are warranted. Clearly, the duly elected and appointed officials of any of the participating municipalities are the only qualified judges of whether a shared service makes sense financially, operationally, administratively or functionally. As such, the observations contained in this report are only recommendations. In general, municipalities who choose to act on any consultant's recommendations often adopt some hybrid of those recommendations.

Current Police Services

The culture and philosophy of the two police agencies studied are different both in terms of their own identity and the manner in which they deliver services. Both are departments providing an acceptable level of quality in their operations.

The departments and the individual officers and employees pride themselves on the quality and level of service they individually perceive they are providing to their residents and believe they make a difference in their communities.

Hightstown Observations

The Hightstown Police Department serves a population of 5,300 in 1.2 square miles, with a population density of 4,252 people per square mile. The New Jersey State Police Uniform Crime Report for 2007 states that Hightstown's Violent Crime Rate was 2.3 per thousand residents and the overall Crime Rate at 19.1 per thousand residents. The Median Income for Hightstown in 2007, as reported by City-Data was \$79,796.00, with the median value of a house at \$308,256.00.

The Hightstown Police Department is staffed by a total of 14 sworn officers. The Department has one chief, one lieutenant, three Sergeants, and nine officers (one of whom serves as the department's detective). Several officers hold college degrees. The Department provides a D.A.R.E. Program to the local school which is assigned to a Sergeant who performs this function in addition to his role as a Patrol Supervisor. The Chief has a support staff of one civilian Administrative Assistant. The Lieutenant and three Sergeants each serve as shift supervisors. There are two patrol officers on each of the four shifts.

All support functions are assigned to supervisors including Training, Fleet Management, Traffic Safety Management, Uniform Crime Reporting, and Property and Evidence. These duties are assigned concurrent with their operational responsibilities. The Department operates a Communication Center and employs four dispatchers. Hightstown Police provide Communications for the Cranbury Police Department through a Shared Services Agreement.

While the department professes to offer a full array of services, the bulk of the department's efforts and staffing are dedicated to patrol. In 2007, the Department reported issuing 4,870 Traffic Summonses, made 508 Criminal Arrests, and answered 15,507 Calls for Service.

East Windsor Observations

At the time of the assessment, the Chief of the East Windsor Police reported that his agency serves a daytime population of approximately 30,000 people. East Windsor Township is 15.6 square miles with a 2007 population of 26,686 and a population density of 1,593 people per square mile. The New Jersey State Police Uniform Crime Report for 2007 shows a Violent Crime Rate of 0.7 crimes per one thousand residents and an overall Crime Rate of 13.8 per thousand residents. The Median Income for the Township in 2007, as reported by City-Data was \$78,948.00, and the Median value of a house or condo of \$308,705.00.

The Department has an authorized strength of 50 officers, but currently employs 48. The East Windsor Police Department is a “full service” police agency, meaning it provides not only patrol functions, but Criminal Investigative, Traffic Enforcement and Investigative, Communications, Animal Control, Training, and other special operations services.

The Department is led by a Chief of Police with emphasis on quality service delivery, integrity, and college level education for police officers. In fact, 33 police officers serving the East Windsor Police Department have college degrees. Of those holding degrees, five have Associates Degrees, 11 have Bachelor Degrees, and 17 have Masters Degrees. The majority of the officers in the Department have additional training in Law Enforcement specialties, from Child Safety Seat Technician to Blood Splatter Analysis Training.

The Department is divided into four Divisions, each Commanded by a Lieutenant who reports to the Chief of Police. Eight Sergeants report to the Division Commanders. The Sergeants serve in first line supervisory roles in various departmental units. The Uniformed Services Division consists of four Patrol Platoons which are each staffed by one Sergeant, and seven officers. In 2007, the Department reported generating 16,718 Case Numbers for Calls for Service. The Communications Center answered 7,338 calls to 911 in 2007. In 2005, the last year for which data was provided, the Department’s Communication Center received 204,644 incoming phone calls. In 2007, the department issued 6,962 Traffic Summonses and made 3,175 Criminal Arrests.

Implementation Considerations

Shared Services In General

Shared Services takes many forms. There are informal handshakes or courtesy agreements between local units that allow borrowing equipment or supplies on an as needed or project basis. Some are formalized through a memorandum of agreement that serves as the basis for periodic sharing for recurring needs. Other efforts, such as cooperative purchasing and joint insurance funds, operate by creating special purpose systems or units that provide the shared

services. Still others are age-old systems of one community supporting a neighboring community in need. Such is the nature of sharing public safety resources in emergency situations.

In the State of New Jersey, virtually every type of formal sharing of services requires the legal endorsement of the participating governments' governing bodies, typically requiring the passage of a simple resolution or in some cases a full ordinance. For many decades, the legal basis for shared services was either the *Interlocal Services Act* or the *Consolidated Municipal Service Act*. In 2007, a new state statute was adopted to replace these pre-existing laws in an effort to ease the transition to, and encourage the adoption of, new shared services. The *Uniform Shared Services and Consolidation Act* (N.J.S.A. 40A:65-1, *et. seq.*) provides streamlined guidelines and important tools that may become vital to the long term success of any new shared service, in particular one involving law enforcement services.

The *Uniform Shared Services and Consolidation Act* addresses both areas of sharing in one act and provides for broad enabling authority for voluntary cooperation between any two or more local units: any municipality, county, school or fire district and Board of Education as well as allowing two or more municipalities and/or counties to provide for the execution of municipal/county services jointly, wherein each participating government provides delegates to a quasi-independent authority or "joint meeting" with the responsibility to oversee and administer the new joint service.

Local authorities may be partners under certain circumstances and any combination of two or more local units may contract with one another to share or jointly provide any service that they could provide for themselves.

Text of the relevant legislation may be found in the appendix of this report.

Meeting Future Needs

Future growth of the towns was taken into consideration in offering these recommendations. Hightstown's population, road and housing growth is almost at peak capacity with little or no increase to be expected. The future increase or decrease of demands produced by Hightstown would not greatly affect the recommendations contained herein. East Windsor has the potential of increasing population and secondary roadways in the development of tracts of land within the township's borders. Major roadways are complete and expansion of the town and increased workload including the Hightstown volume can be handled with the proposed additional staffing and with predetermined escalators to be negotiated during implementation planning and discussions.

Recommendations

Overview - Court

Patriot Consulting Group recommends that the Municipal Court operations of both municipalities be merged as a Joint Court. This arrangement should be executed in the form of a formal long-term shared services agreement mutually developed and agreed upon by both communities.

This recommendation is based upon the following four considerations:

- ★ The ability of a Joint Court to provide court services to the two communities that are "as good or better than" those currently provided individually without injuring the level of service currently provided to either community;
- ★ The ability of a Joint Court to provide court services to both communities more economically than they can individually;
- ★ The ability of both communities to realize significant financial benefits from such an arrangement over the long-term.

- ★ The efficiency of the Joint Court would be maximized by physically co-existing with the police department associated therewith.

Discussion of Service Delivery Objectives

There is not a pressing need to change court operations in either town, however, it was believed that since court and police operations are interrelated, locating the court in East Windsor would be most beneficial. Upon intense study, a Joint Court appears to offer the best opportunities for service enhancements and improved financial efficiency for both communities.

Municipal Courts operate under remarkably strict guidelines and are overseen by the state court system through the county superior courts and the New Jersey State Administrative Office of the Courts (AOC) and there is little room for local interpretation or specialized expression of the court rules and regulations—creating a rather universal court state system with little variation from town to town. Thus, creating a Joint Court is easily done from an operational perspective. A Joint Court would require the existing individual municipal courts to be disbanded and reformed as a new joint operation, likely to be known as the “East Windsor Joint Municipal Court. The physical East Windsor court office could easily accommodate Hightstown’s court load on an ongoing basis with some due modifications in staffing and operations.

The geographical location of the two towns supports a merger into a joint court which falls within the parameters outlined in the “Joint Municipal Court Law” NJSA 2B:12-1(c). In this alignment Hightstown and East Windsor enter into a Shared Services Agreement by ordinance to jointly provide courtrooms, chambers, equipment, supplies and employees for their municipal courts and agree to appoint judges and administrators. Essentially, Hightstown’s court will be absorbed into East Windsor’s court using joint employees to run both operations simultaneously and seamlessly. In this ordinance and agreement, both towns would mutually agree to assign all personnel and operational decisions relating to the Joint Court to the

Township of East Windsor. In exchange for this service, Hightstown would give all of the revenue (and expenses) for their part of the Joint Court directly to East Windsor.

The establishment of a Joint Court could be done with minimal disruption of service to either community. The two mile difference in travel for Hightstown court attendees would be a minimal inconvenience due to the geographical proximity of the two communities.

Costs and Benefits of a Contract-For-Service-Delivery Model

Assuming that East Windsor will retain all of their current municipal court staff and professionals for the Joint Court, the volume of additional cases from Hightstown would require East Windsor to increase their current full time equivalent staff from five to seven employees. The East Windsor facility can easily accommodate these two additional FTEs. After the addition of this staff, the organizational chart for the Joint Court would include one judge, one court administrator, two deputy court administrators, one violations clerk and three clerk-typists, and the requisite legal professionals. When considering candidates for newly created East Windsor should offer interviews to any displaced Hightstown Court employees.

The court administrator would be the supervisor in charge of the joint court personnel. The two deputies would essentially oversee and be responsible for the case load with the other four clerks performing the day to day operations. As proposed, East Windsor would be completely responsible for the selection, appointment and administration of all court personnel, including the Judge, Prosecutor and Public Defender.

Since the court will be operated jointly and seamlessly, one computer and financial system will be required (the computers will be provided free of charge by the New Jersey Administrative Office of the Courts (AOC). New joint court summons books will also need to be printed to replace the two separate court books. The costs of this printing, as well as any additional

wiring, incidental furniture and non-capital equipment would potentially be paid for by SHARE implementation grants.¹

There are two key benefits of jointly operating these courts: increased efficiency and reduced costs. Efficiency would increase due to the improved span of control, sharing of identical functions, cross training and personnel coverage. Costs would be reduced due to the overall reduction in personnel and operating costs for both towns. These benefits are outlined in the Financial Analysis section.

This model would require both communities to “stand-down” their current court’s operations at a date to be determined when the Joint Court would simultaneously begin providing those services to both towns. The project team recommends that, when considering new hires for the newly created positions, that East Windsor offer interviews to any interested and displaced Hightstown court officer.

Perhaps most significantly, any shared court arrangement would require the review, input and authorization of the Administrative Office of the Courts and the local vicinage. If done proactively, this review and input should result in a stronger shared court operation and one that is in full compliance with state laws and regulations. This input should be sought at the outset of any implementation planning and discussions.

In determining a feasible payment-for-service arrangement, the project team endeavored to determine the total costs to East Windsor associated with providing the joint service before determining the potential savings available to Hightstown. This would help ensure that the most appropriate model would be judged for feasibility rather than trying to contrive a feasible model that achieved cost savings without warrant. The project team examined all known or anticipated costs and revenue streams before making recommendations as to cost and savings. As a result of that examination, it was determined that it was more beneficial to both parties to

¹ See an examination of recent actions by Governor Christopher Christie that could imperil this funding in later sections of this report.

eliminate the payment-for-service arrangement in lieu of the total outsourcing of the Hightstown court, expenses and revenues, to East Windsor in a joint arrangement.

Implementation Considerations

Other than the addition of the two new FTE employees, the existing court operations in East Windsor would largely become those of the Joint Court, however court date and times for both towns would likely be adjusted as the Municipal Court Judge and Administrator maximize the scheduling of officers, court officials and dates to ensure the most efficient operations of the joint court. Cases for both towns would be heard as scheduled rather than in separate town-specific sessions.

The East Windsor court also does not currently have any Certified Municipal Court Administrator (CMCA) on staff although the court administrator is “grandfathered” in her title and does continue to take continuing education courses. The deputy was seeking her CMCA at the time of the field investigation. It is unclear as to whether the AOC will recognize the East Windsor Court Administrator’s “Grandfathered” CMCA certificate in a joint court alignment.

Field Investigation Findings

All East Windsor court personnel are crossed trained to ensure complete service to the public at all times.

East Windsor court office is open daily from 8:30 a.m. to 4:30 p.m. with staff available to serve the public during those hours. Employee scheduling and breaks are arranged to ensure adequate coverage throughout the work day and year. The facility has a well lit, clean and neat appearance with a professional staff. The court office is large enough to accommodate the existing staff and two the two new employees.

The courtroom has a seating capacity of 138 persons. The three current sessions on Mondays, at 9:00 a.m., 2:30 p.m. and 6:30 p.m. would likely be adjusted to accommodate the needs of the Hightstown caseload. The capacity of the courtroom is more than adequate to accommodate the weekly court calendar of East Windsor and could accommodate additions to the court calendar from internal or external sources.

The current system of Court Security used would continue to be utilized by the joint court. Costs for this service are included in the financial analysis, as are the costs for interpreters which are hired as needed.

The court files are a major concern for any court. Most traffic matters must be kept for three (3) years with few exceptions for five (5) years and DWI cases for fifteen (15) years. Criminal matters must be kept for six (6) years with most reports and financial statements for seven (7) years. This creates the need for several filing cabinets. Filing space is at a premium and approaching a critical point. Use of a new innovative filing system would be a necessary implementation cost and one likely fundable through several available state grants.

Overview - Police

Patriot Consulting Group recommends that the Borough of Hightstown retain the Township of East Windsor for the delivery of all law enforcement services by the East Windsor Police Department to the Borough of Hightstown. This retention should be executed in the form of a formal long-term shared services agreement mutually developed and agreed upon by both communities.

This recommendation is based upon the following three considerations:

- ★ The ability of the East Windsor Police Department to provide law enforcement services to Hightstown that are “as good or better than” those currently provided to Hightstown without injuring the level of service currently provided to either community;

- ★ The ability of the Township of East Windsor to provide law enforcement services to Hightstown more economically than Hightstown is able to provide for themselves;
- ★ The ability of both communities to realize significant financial benefits from such an arrangement over the long-term.

Discussion of Service Delivery Objectives

First and foremost in the minds of the project team was to “do no harm” and to that end Patriot would not and does not make any recommendation that would unnecessarily and/or adversely impact the delivery of law enforcement services in any of the studied communities. As such, one of the components of determining the feasibility of contracting services is to identify areas of service delivery that either have the potential for improvement through outsourcing or that could be adversely impacted by outsourcing.

Costs and Benefits of a Contract-For-Service-Delivery Model

As opposed to a traditional shared or interlocal service, the project team recommends the adoption of a Contract-for-Service-Delivery model—one that would have East Windsor providing Law Enforcement Services to Hightstown. In keeping with the established decision rules, the recommended model had to produce significant savings to Hightstown, produce at least modest revenue for East Windsor and maintain or improve the level of service in both communities. The field investigation team determined that a minimum of four officers would be required to deliver a minimal service, but that seven officers would meet the established decision rule, dictating that service in Hightstown be maintained or improved. It is suggested that these seven officers consists of one sergeant and six patrol officers.

To that end, East Windsor would expand their current force to include the responsibilities of Hightstown. They would hire and/or promote a total of seven law enforcement officers to guarantee that law enforcement service levels are maintained or enhanced in both communities. East Windsor would also provide all specialized law enforcement functions in Hightstown (traffic safety, criminal investigations, youth services, etc.) as well as routine,

specific and general supervision and management of the officers detailed to Hightstown. East Windsor would also add four police vehicles to their fleet, again, to guarantee that law enforcement service levels are maintained or enhanced in both communities.

The intent and expectation of the proposed model is for the East Windsor Police Department to provide an identical level, method, system and quality of service in Hightstown as they do in East Windsor. This model will help guarantee that every officer on the EWPD will get to know the people, culture, geography and every other characteristic of Hightstown in a way that will guarantee that Hightstown's population will receive law enforcement service delivery that is indistinguishable from those received by their neighbors in East Windsor.

This model would require Hightstown to "stand-down" their current department's operations at a date to be determined when the East Windsor Police Department would simultaneously begin providing those services to Hightstown. The project team recommends that, when considering new hires or promotions for the newly created positions, that East Windsor offer interviews to any interested and displaced Hightstown officer. No changes to the East Windsor Police Organization Chart are evident.

In determining a feasible payment-for-service arrangement, the project team endeavored to determine the total costs to East Windsor associated with providing the service to Hightstown before determining the potential savings available to Hightstown. This would help ensure that the most appropriate model would be judged for feasibility rather than trying to contrive a feasible model that achieved cost savings without warrant. The project team examined all known or anticipated costs and revenue streams before making recommendations as to cost and savings.

Field Investigation Findings

Statistical analysis of Calls for Service in Hightstown over a period of years shows that there is an average of 10 Calls for Service per shift or 1.2 Calls for Service per hour in the Borough of

Hightstown. These figures do not include Motor Vehicle Stops. The International Association of Chiefs of Police (IACP) estimates that each Call for Service requires .75 hours of Officer committed time. 1.2 calls per hour requiring a commitment of .75 hours of Officer time would dedicate 90% of one officer's shift just to handling Calls for Service. These figures do not take into account the administrative functions required of an officer, such as court appearances and training.

As such, the proposed additional staffing is intended to provide a sufficient number of officers in both communities to ensure that they receive equal and indistinguishable service--24 hours a day, 365 days per year. Services other than patrol, such as Dispatch & Communications, Criminal Investigation, Drug Enforcement, etc., should be provided in Hightstown identically as they are in East Windsor.

There has been some indication that the regional high school could benefit from the services of a school resource officer (SRO). The school generates about 120 calls for service annually, the majority of which are non-emergency calls. The regional nature of the school suggests that a regional solution to the school resource officer question is appropriate. The project team does not believe that an SRO is required at this time, and as such, does not make a recommendation for one in this report. However, if the East Windsor police commanders come to believe that an SRO is necessary, the project team believes that the regional board of education should be expected to bear the financial burden of this dedicated position or that costs be otherwise proportionally allocated.

Implementation Considerations

Financial Analysis

Municipal Court Analysis

The new costs (beyond East Windsor's current costs) of a Joint Court are as follows:

• Employee Compensation/Benefits	\$173,200
• Intangible Operating Expenses	\$52,710
• General Operating Expenses	\$2,500
• <u>User Fees</u>	<u>\$57,103</u>
New Cost to Hightstown for joint court	\$285,513 ²

Given the nature of the amounts involved and the fact that East Windsor will be generating most of the case load to be driven to the Hightstown court, it seems appropriate to protect Hightstown from the unknown escalation of prices involved in such an arrangement. As such, the project team recommends that East Windsor assume all of the costs of operating the Hightstown court as well as all of the revenue generated there from. This will limit Hightstown’s exposure to potential fluctuations in the cost of operating their court that are outside of Hightstown’s ability to control. It will also allow Hightstown to readily and reliably eliminate this level of budgetary uncertainty from their financial planning processes.

Police Analysis

The additional costs to East Windsor to provide Hightstown’s law enforcement services are as follows:

• Employee Compensation/Benefits	\$1,037,616
• Vehicle Purchase/Expenses	\$73,000
• Intangible/Auxiliary Operating Expenses	\$347,000
• <u>General Operating Expenses</u>	<u>\$46,000</u>
• TOTAL COST TO EAST WINDSOR	\$1,503,616 ³

Given that East Windsor is providing a service to Hightstown and receiving no ancillary benefit for that service, it is appropriate that Hightstown pay East Windsor a user fee for said services.

² Implementation costs are not projected in these numbers. These costs are discussed on pages 28 and 29.

³ Implementation costs are not projected in these numbers. These costs are discussed on pages 28 and 29.

The project team has determined that an amount not to exceed 25% of costs is an appropriate user fee for such a complex service. The total cost of that fee would equal \$375,904 for the first year. The total cost to Hightstown for the East Windsor police services is \$1,879,520.

Currently, Hightstown spends about \$2,681,482 providing law enforcement and dispatch services. The arrangement recommended herein would save Hightstown \$801,962 in the first year alone.

Assessing Future Financial & Contractual Challenges

Clearly, a feasibility study such as this requires an analysis of a snapshot in time for operations, manpower, call demand, finances and the like—all variables that are constantly evolving. As such, the participants are urged to consider the state of these variables at the time of implementation rather than at the time of study. Qualified and trustworthy financial and legal advisors will naturally be needed to competently implement these recommendations and the financial implications thereof.

Agreement Term

Given the importance of these shared services, it will be critical that both participants are fully prepared and committed to an initial agreement term that is long enough to justify the changes recommended. As such, the participants are urged to consider an initial agreement of at least five years.

Price Escalators

It is appropriate that as the costs of these services change over time the participants will revisit the cost structures eventually adopted in the implementation documents. Once an initial agreement term has been determined, an annual price escalator should also be determined. This should be a mutually predetermined and fixed number so that both municipalities will be able to budget and forecast properly. The financial analysis (including the fee for services)

included herein is sufficient to guard against most, if not all, spikes in costs. As such, a price escalator linked to the Levy Cap, Appropriations Cap or Philadelphia Implicit Price Indicator would be most appropriate.

A detailed example of a possible escalator model may be found in the appendix.

Contract Management

The importance of these services dictates that both participants must agree to regular and ongoing contract management meetings that will allow issues of mutual concern to be aired and discussed systematically. An annual contract review with all participants should be scheduled and incorporated into the implementation documentation with additional quarterly meeting permitted at the demand of either participant.

Both municipalities should also agree in the implementation documents that Hightstown will designate one individual to consult with the Mayor of East Windsor on all matters relative to the contract. No other Hightstown official should make contact with East Windsor regarding policy, disputes, services or contract administration. Residents, obviously will be free and encouraged to report any and all emergency or law enforcement issues directly to the East Windsor Police Department.

Cancellation of Services

In the event a matter arises that is so momentous as to compel one or both of the participants to desire to cancel the implementation agreement before the end of the accepted term, there should be, incorporated into the implementation documentation, specific and non-negotiable terms that will dictate penalties and/or assurances that will protect the interests of all parties in general and the non-aggrieved party specifically. These penalties and assurance should include assurances of due process; time for identification and correction of performance or payment lapses; a means for adjudication; and financial penalties, if applicable. At the very least, neither

party should be permitted to act in such a way as to threaten the physical and financial health, safety, welfare or morals of the other party--without grave consequences.

The implementation documentation should identify the acceptable means for cancellation by either party as well as the process to be followed to achieve those means. Again, competent financial and legal counsel during implementation discussions will be highly advantageous in determining these levels. However, both parties should mutually acknowledge the dynamic nature of local government, particularly in these early days of a new gubernatorial administration, in allowing for external forces, such as new state mandates or legislation, to cancel the agreement as much as internal forces may do so.

Renewal

Assuming that the initial implementation plan survives until the end of the initial term, the parties may wish to renew the agreement under specific terms. These terms, or the rules for arriving at such terms, should be included in the initial implementation documents. It will be necessary for the agreement to also define the date any predetermined price escalator will be applied, the agreed upon "anniversary" or renewal date, and the date a final decision by both parties must be reached before automatic renewal or cancellation occurs.

In general, renewal of contract-for-service contracts typically fall into one of two categories: renewal as per the initial agreement or renewal with the right of refusal. If both parties agree to the terms of the existing agreement they need only renew the agreement containing the renewal terms therein. If one party wishes to renew at those terms but not the second party, the second party would exercise the right of refusal, thus cancelling the current agreement at the end of the term. A new, different agreement could then be negotiated or the parties could part ways to explore other partnerships or alternatives.

Other Considerations

Seniority

Pursuant to NJSA 40A:65-8, *et. seq.*, sworn law enforcement officers have specially legislated rights to seniority, tenure and pension protections when their employers elect to share or regionalize law enforcement services. The statute reads, in part:

Whenever two or more local units enter into an agreement, pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4), for the shared provision of law enforcement services within their respective jurisdictions, the agreement shall recognize and preserve the seniority, tenure, and pension rights of every full-time law enforcement officer who is employed by each of the participating local units and who is in good standing at the time the ordinance authorizing the agreement is adopted, and none of those law enforcement officers shall be terminated, except for cause; provided, however, this provision shall not be construed to prevent or prohibit a merged law enforcement entity from reducing force as provided by law for reasons of economy and efficiency.

The statute also provides specially legislated protections, rights and privileges just for Chief Law Enforcement Officers. Under the terms of NJSA 40A:65-8(b), municipalities participating in a shared law enforcement service must designate in the shared services agreement what person or body will serve as the “appropriate authority” for the police department and provides that when the agreement is adopted, a displaced Chief of Police may elect to:

- ◆ Accept a demotion of no more than one rank without any loss of seniority rights, impairment of tenure, or pension rights; or
- ◆ Retire from service.

The statute goes on to state:

A person who elects retirement shall not be demoted, but shall retain the rank of Chief of Police or other chief law enforcement officer and shall be given terminal leave for a period of one month for each five-year period of past service as a law enforcement officer with a participating local unit. During the terminal leave, the person shall continue to receive full compensation and shall be entitled to all

benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

It should be noted that the special legislative rights, protections and privileges extended to the Chiefs of Police do not extend to every other rank and person in the police departments.

It is the position of the project team that the recommendation contained herein is not a “shared service” in the traditional sense and is rather an outsourcing of otherwise discontinued services via contract. Certainly this has been the position of the participants on the joint committee. Patriot calls attention to these legislative points more as a caution that they may be cited as applying to the proposals herein rather than their actual application.

Hightstown will need the advice of competent labor counsel to guide their implementation actions as it relates to these possible challenges as well as compliance with collective bargaining agreements. The project team also recommends that Hightstown formally adopt via resolution any layoff plan to be implemented by the borough.

In previous administrations, representatives of the Department of Community Affairs had pledged to Patriot the desire of the department’s representatives to accommodate specific needs and to support local governments as they take the actions necessary to implement agreements such as these. The technical assistance, if available in the new Christopher Christie administration, of the Division of Local Government Services would be beneficial during implementation discussions.

Savings Potential through Executive, Legislative and Regulatory Action

Despite all of the “excitement” in the State of New Jersey regarding shared services, previous legislatures have done little to make the sharing of law enforcement services easy or, as some may argue, even possible. Although the Joint Legislative Committee on Government Consolidation and Shared Services heard testimony in 2006 that said, in part, that the two largest areas of potential savings from shared services were in the areas of education and

public safety, all of the provisions limiting municipalities' abilities to save money through shared police services were kept in the "new" *Uniform Shared Services and Consolidation Act*.

In particular, the terms and conditions of N.J.S.A. 40A:65-8 and 40A:65-17 (Preservation of seniority, tenure, pension rights for law enforcement officers) severely limits the ability of a local governing body from realizing savings by allowing an employee to determine for himself the manner in which he or she will be affected by a consolidation effort. This power, which is clearly a prerogative of management, has been stripped from management to protect the private and personal interests of a very small but politically influential special interest group—the members of the state chiefs of police association.

This statute allows effected chiefs of police to determine for themselves if they will accept demotion or retirement; fully protects their seniority, tenure and pension rights; guarantees them unique and expansive mandatory paid terminal leave; and guarantees them retroactive payment for any increases in compensation or benefits they would have received if they had remained on active duty. The statute does not indicate how long all such benefits and guarantees are required to be maintained.

Furthermore, these are benefits, assurances and guarantees that virtually no other local employee or group of employees receives. It is clearly special legislation passed for private benefit and it severely hampers the decisions and potential savings available to the municipalities. Without the financial incentives afforded through regionalization, the remaining benefits of regionalization would have to be singularly greater to justify regionalization alone.

Additionally, every individual law enforcement officer's seniority, tenure and pension rights are also fully protected and guaranteed by the statute. No such officer is permitted to be terminated in a regionalization, except for cause and (almost as an afterthought) for "reasons of economy and efficiency." Again, these are benefits that non-law enforcement officer employees do not have. Instead of permitting municipalities to make business decisions based

on the merits of the decision the statute unduly, severely and artificially limits the municipalities to making business decisions based upon external, unrelated and unfunded mandates established by statute.

While not a part of the consolidation statutes, N.J.S.A. 40A:14-129 (Promotion of members and officers in certain municipalities) further hampers municipal regionalization efforts by requiring promotions from within the department. In creating a new department, municipal leaders should be free to exercise maximum latitude in identifying the best individuals to fill command and leadership positions for the new department. This statute has long confounded municipal leaders who, in an effort to improve and advance their often small police departments, are limited to choosing from among the limited number of ranking officers previously hired and promoted within the small department. This artificial limitation of potential candidates protects the private and personal benefits of a special interest group to the detriment of both good government and sound management practices.

Legislative action to ease or even eliminate these restrictions would greatly benefit any municipality hoping to reduce costs through shared police services. Any such action would likely be hard fought by police unions, such as the New Jersey State Policeman's Benevolent Association, the New Jersey Fraternal Order of Police and the New Jersey State Association of Chiefs of Police, among others.

Legislative funding for this endeavor is, however, a good potential source of revenue. Special legislative grants at the state and federal levels could be appropriated to offset any portion of this endeavor or to offset the potential savings lost due to special legislation barring municipal leaders from proactively acting to reduce costs in a meaningful way.

A Governor could direct his staff to aid the municipalities in many ways. Grant rules could be written to benefit communities such as these that are trying to make the "difficult decisions" Governor Corzine told municipal leaders he knew they would have to make to reduce costs and

cut taxes. Governor Christie has made similar statements. Personnel rules could be written to ease the transition from multiple departments to one regional department. The Governor could urge the legislature to change or drop the special protection provisions from NJSA 40A:65-8, *et seq* with the understanding that difficult decisions such as this require difficult action by the legislature. But perhaps most realistically, the Governor, in concert with the Legislature, could enact legislation that rewards municipalities for sharing law enforcement services by reinstating lost municipal aid, providing incentive funding upon the actual adoption of shared agreements, and generally make this an easier and most cost-effective process.

Funding Sources

SHARE Grant

Under the current rules of the Sharing Available Resources Efficiently (SHARE) Grant, administered by the New Jersey Department of Community Affairs, grant funding is available for the start-up, transition and implementation costs associated with new shared services initiatives. Funding amounts are determined by the total implementation cost of a project.⁴

According to the SHARE Program Highlights for 2007 (the most current publication):

- ★ Grants of up to \$200,000 for *implementation assistance* are available. No local match is required.
- ★ Supplemental Support: Requests for assistance above \$200,000 will be considered in cases where the nature and complexity of the project or the number of participants requires additional resources for implementation. The Program will be guided by the reasonableness of the proposed expenditures, availability of local resources, potential for savings, and need for State assistance. Additional documentation and justification is required to support such requests.
- ★ Capital Support: Grants for capital equipment purchases and facility improvements necessary to establish the shared service are limited to the lesser of \$40,000 or the five percent capital cash down payment required under the Local Bond Law.

Ineligible Activities:

⁴ Notwithstanding Executive Order No. 14, the 2007 SHARE rules are the rules being utilized for this grant program as of the date of this report.

- ★ Geographic Information Systems (GIS)
- ★ Shared service programs authorized under any statute other than the Interlocal Services Act, the Municipal Regionalization Act, and the Consolidated Municipal Services Act, including joint insurance programs and cooperative purchasing programs.
- ★ Salaries, wages, and ongoing operating costs are not generally eligible for SHARE assistance. Salaries may be eligible during a limited transition period when the service is being implemented, but once the service is operational, salaries and all other operating costs are local responsibilities.
- ★ Early Retirement Incentive (ERI) programs.

On 11 February 2010, Governor Christopher Christie issued Executive Order No. 14 which effectively eliminated future funding of additional NJ SHARE Grants. While the Division of Local Government Services is still accepting applications for implementation grants, any such application would likely be denied due to the effective lack of funding.

Possible Implementation Funding Needs

Among the start up costs that could potentially be funded through the NJ SHARE and other such grants:

- Uniforms
- Weapons
- Filing Systems
- Furniture
- Training
- Vehicles⁵

Conclusion

The potential exists for successful implementation of a contract-for-service arrangement for municipal court and law enforcement services in Hightstown and East Windsor. There are many implementation decisions to make and regulatory hurdles to surmount, but the fact that East

⁵ Grants for capital equipment purchases or facility improvements necessary to establish the shared service are limited to the lesser of \$40,000, or the five percent capital cash down payment required under the Local Bond Law. Any capital use must be as part of a shared service program and not limited to the purchase of equipment or use for a capital improvement.

Windsor could provide the services Hightstown requires in a manner that will simultaneously save Hightstown significant money, produce significant new revenue for East Windsor and maintain the level of overall service in both communities is reason enough for serious consideration of these recommendations. The decisions and hurdles to be anticipated in any implementation of this magnitude are serious, but with sober consideration and due process may be overcome, allowing the people of Hightstown and East Windsor to reap the benefits of good government and financial decision making.

Appendix 1 – Municipal Court Statutes

“Establishment of Municipal Courts”

N.J.S.A. 2B:12-1

a. Every municipality shall establish a municipal court. If a municipality fails to maintain a municipal court or does not enter into an agreement pursuant to subsection b. or c. of this section, the Assignment Judge of the vicinage shall order violations occurring within its boundaries heard in any other municipal court in the county until such time as the municipality establishes and maintains a municipal court. The municipality without a municipal court shall be responsible for all administrative costs specified in the order of the Assignment Judge pending the establishment of its municipal court.

b. Two or more municipalities, by ordinance, may enter into an agreement establishing a single joint municipal court and providing for its administration. A copy of the agreement shall be filed with the Administrative Director of the Courts. As used in this act, "municipal court" includes a joint municipal court.

c. Two or more municipalities, by ordinance or resolution, may agree to provide jointly for courtrooms, chambers, equipment, supplies and employees for their municipal courts and agree to appoint judges and administrators without establishing a joint municipal court. Where municipal courts share facilities in this manner, the identities of the individual courts shall continue to be expressed in the captions of orders and process.

d. An agreement pursuant to subsection b. or c. of this section may be terminated as provided in the agreement. If the agreement makes no provision for termination, it may be terminated by any party with reasonable notices and terms as determined by the Assignment Judge of the vicinage.

e. Any county of the first class with a population of over 825,000 and a population density of less

than 4,000 persons per square mile according to the latest federal decennial census, with a county police department and force established in accordance with N.J.S.40A:14-106 or a county park police system established in accordance with P.L.1960, c.135 (C.40:37-261 et seq.), may establish, by ordinance, a central municipal court, which shall be an inferior court of limited jurisdiction, to adjudicate cases filed by agents of the county health department, members of the county police department and force or county park police system, or other cases within its jurisdiction referred by the vicinage Assignment Judge pursuant to the Rules of Court, and provide for its administration. A copy of that ordinance shall be filed with the Administrative Director of the Courts. As used in this act, "municipal court" includes a central municipal court.

Appendix 2 – Shared Services & Consolidation Act

UNIFORM SHARED SERVICES AND CONSOLIDATION ACT CHAPTER 63, P.L. 2007

AN ACT to encourage the financial accountability of local units of government through empowering citizens, reducing waste and duplicative services, clearing legal hurdles to shared services and consolidation, and supplementing, amending, and repealing sections of statutory law.

WHEREAS, The problem of high property taxes paid by New Jersey's residents is not easily solved, but can be ameliorated through changes to the laws designed to encourage government efficiency through shared services, regionalization, and consolidation; and

WHEREAS, The problem of political resistance remains a potent barrier to consolidation, especially since initial additional short-term costs may mask the long-term benefits of consolidation; and

WHEREAS, The Legislature should attempt to facilitate, by an improved and streamlined process that is tailored to local needs, that avoids the current thicket of overlapping and antiquated laws inhibiting interlocal cooperation, and that deals with Civil Service issues rationally; and

WHEREAS, The State largely has employed a "carrot" approach to incentivizing consolidation and service sharing for over 30 years, and for real progress to occur in reducing the rate of property tax increase, the "stick" approach is appropriate; and

WHEREAS, Providing citizens with the tools to gauge the efficiency of their local governments will help promote accountability and cost savings; now, therefore,
BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

ARTICLE 1. SHARED SERVICES AND CONSOLIDATION

SUBARTICLE A. GENERAL PROVISIONS

40A:65-1 Short title.

Sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35) shall be known and may be referred to as the "Uniform Shared Services and Consolidation Act." 40A:65-2 Findings, declarations relative to shared services and consolidation.

The Legislature finds and declares:

- a. Historically, many specialized statutes have been enacted to permit shared services between local units for particular purposes.
- b. Other laws, permitting a variety of shared services, including interlocal services agreements, joint meetings, and consolidated and regional services, exist but have not been very effective in promoting the broad use of shared services as a technique to reduce local expenses funded by property taxpayers.
- c. It is appropriate for the Legislature to enact a new shared services statute that can be used to effectuate agreements between local units for any service or circumstance intended to reduce property taxes through the reduction of local expenses.

40A:65-3 Definitions relative to shared services and consolidation.

As used in sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35):

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

"Construct" and "construction" connote and include acts of construction, reconstruction, replacement, extension, improvement and betterment of lands, public improvements, works, facilities, services or undertakings.

"Contracting local units" means local units participating in a joint meeting.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Division" means the Division of Local Government Services in the Department of Community Affairs.

"Governing body" means the board, commission, council, or other body having the control of the finances of a local unit; and in those local units in which an executive officer is authorized by law to participate in such control through powers of recommendation, approval, or veto, the term includes that executive officer, to the extent of the officer's statutory participation.

"Joint contract" means an agreement between two or more local units to form a joint meeting.

"Joint meeting" means the joint operation of any public services, public improvements,

works, facilities, or other undertaking by contracting local units pursuant to a joint contract under section 14 of P.L.2007, c.63 (C.40A:65-14).

"Local unit" means a "contracting unit" pursuant to section 2 of P.L.1971, c.198 (C.40A:11-2), a "district" pursuant to N.J.S.18A:18A-2, a "county college" pursuant to N.J.S.18A:64A-1, a joint meeting, or any authority or special district that is subject to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

"Operate" and "operation" mean and include acquisition, construction, maintenance, management, and administration of any lands, public improvements, works, facilities, services, or undertakings.

"Person" means any person, association, corporation, nation, State, or any agency or subdivision thereof, or a county or municipality of the State.

"Service" means any of the powers, duties and functions exercised or performed by a local unit by or pursuant to law.

"Shared service" or "shared" means any service provided on a regional, joint, interlocal, shared, or similar basis between local units, the provisions of which are memorialized by agreement between the participating local units, but, for the purposes of this act, does not include any specific service or activity regulated by some other law, rule or regulation.

"Shared service agreement" or "agreement" means a contract authorized under section 4 of P.L.2007, c.63 (C.40A:65-4).

"Terminal leave benefit" means a single, lump sum payment, paid at termination, calculated using the regular base salary at the time of termination.

SUBARTICLE B. SHARED SERVICES

40A:65-4 Agreements for shared services.

a. (1) Any local unit may enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in the agreement is empowered to provide or receive within its own jurisdiction, including services incidental to the primary purposes of any of the participating local units.

(2) Notwithstanding any law, rule or regulation to the contrary, any agreement between local units for the provision of shared services shall be entered into pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.); provided, however, that agreements regarding shared services that are otherwise regulated by statute, rule, or regulation are specifically excluded from sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

(3) The board is authorized to render a decision in the determination of the statutory basis under which a specific shared service is governed.

b. Any agreement entered into pursuant to this section shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs, pursuant to rules and regulations promulgated by the director.

40A:65-5 Adoption of resolution to enter into agreement.

a. A local unit authorized to enter into an agreement under section 4 of P.L.2007, c.63 (C.40A:65-4) may do so by the adoption of a resolution. A resolution adopted pursuant to this section or subsection b. of that section shall clearly identify the agreement by reference and need not set forth the terms of the agreement in full.

b. A copy of the agreement shall be open to public inspection at the offices of the local unit immediately after passage of a resolution to become a party to the agreement.

c. The agreement shall take effect upon the adoption of appropriate resolutions by all the parties thereto, and execution of agreements authorized thereunder as set forth in the agreement

40A:65-6 Local units sharing services, designation of primary employer; rules, regulations.

a. In the case of an agreement for the provision of services by an officer or employee of a local unit who is required to comply with a State license or certification requirement as a condition of employment, the agreement shall provide for the payment of a salary to the officer or employee and shall designate one of the local units as the primary employer of the officer or employee for the purpose of that person's tenure rights. If the agreement fails to designate one of the local units as the primary employer, then the local unit having the largest population, shall be deemed the primary employer for the purposes of that person's tenure rights.

b. A State department or agency with oversight over specific activities that are the subject of a shared service agreement may promulgate whatever rules and regulations it deems necessary to ensure that the service continues to be provided in accordance with the requirements of that department or agency.

40A:65-7 Specific services delineated in agreement; conditions.

a. An agreement made pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4) shall specify:

(1) the specific services to be performed by one or more of the parties as agent for any other party or parties;

- (2) standards of the level, quality, and scope of performance, with assignment and allocation of responsibility for meeting those standards between or among the parties;
- (3) the estimated cost of the services throughout the duration of the agreement, with allocation of those costs to the parties, in dollar amounts or by formula, including a time schedule for periodic payment of installments for those allocations. The specification may provide for the periodic modification of estimates or formulas contained therein in the light of actual experience and in accordance with procedures to be specified in the agreement;
- (4) the duration of the agreement, which shall be 10 years, unless otherwise agreed upon by the parties; and
- (5) the procedure for payments to be made under the contract.

b. In the case when all of the participating local units are municipalities, the agreement may provide that it shall not take effect until submitted to the voters of each municipality, and approved by a majority of the voters of each municipality voting at the referendum.

c. The agreement may provide for binding arbitration or for binding fact-finding procedures to settle any disputes or questions which may arise between the parties as to the interpretation of the terms of the agreement or the satisfactory performance by any of the parties of the services and other responsibilities required by the agreement.

d. For the purposes of sections 4 through 13 of P.L.2007, c.63 (C.40A:65-4 through C.40A:65-13), any party performing a service under a shared service agreement is the general agent of any other party on whose behalf that service is performed pursuant to the agreement, and that agent-party has full powers of performance and maintenance of the service contracted for, and full powers to undertake any ancillary operation reasonably necessary or convenient to carry out its duties, obligations and responsibilities under the agreement. These powers include all powers of enforcement and administrative regulation which are, or may be, exercised by the party on whose behalf the agent-party acts pursuant to the agreement, except as the powers are limited by the terms of the agreement itself, and except that no contracting party shall be liable for any part or share of the cost of acquiring, constructing, or maintaining any capital facility acquired or constructed by an agent-party unless that part or share is provided for in the agreement, or in an amendment thereto ratified by the contracting parties in the manner provided in sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) for entering into an agreement.

e. Except as the terms of any agreement may explicitly or by necessary implication provide, any party to an agreement entered into pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4) may enter into another agreement or agreements with any other eligible parties

for the performance of any service or services pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.). The participation in one agreement shall not bar participation with the same or other parties in any other agreement.

f. Payment for services performed pursuant to an agreement shall be made by and to the parties, and at such intervals, as shall be provided in the agreement.

g. In the event of any dispute as to the amount to be paid, the full amount to be paid as provided in subsection a. of this section shall be paid; but if through subsequent negotiation, arbitration or litigation the amount due shall be determined, agreed or adjudicated to be less than was actually so paid, then the party having received the payment shall forthwith repay the excess.

40A:65-8 Preservation of seniority, tenure, pension rights for law enforcement officers.

a. Whenever two or more local units enter into an agreement, pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4), for the shared provision of law enforcement services within their respective jurisdictions, the agreement shall recognize and preserve the seniority, tenure, and pension rights of every full-time law enforcement officer who is employed by each of the participating local units and who is in good standing at the time the ordinance authorizing the agreement is adopted, and none of those law enforcement officers shall be terminated, except for cause; provided, however, this provision shall not be construed to prevent or prohibit a merged law enforcement entity from reducing force as provided by law for reasons of economy and efficiency.

b. To provide for the efficient administration and operation of the shared law enforcement services within the participating local units, the agreement may provide for the appointment of a chief of police or other chief law enforcement officer. In that case, the agreement shall identify the appropriate authority to whom the chief of police or other chief law enforcement officer reports and also shall provide that any person who is serving as the chief of police or other chief law enforcement officer in one of the participating local units at the time the contract is adopted may elect either:

(1) to accept a demotion of no more than one rank without any loss of seniority rights, impairment of tenure, or pension rights; or

(2) to retire from service.

A person who elects retirement shall not be demoted, but shall retain the rank of chief of police or other chief law enforcement officer and shall be given terminal leave for a period of one month for each five-year period of past service as a law enforcement officer with a participating local unit. During the terminal leave, the person shall continue to receive full

compensation and shall be entitled to all benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

c. Whenever the participating local units have adopted or are deemed to have adopted Title 11A, Civil Service, of the New Jersey Statutes with regard to the provision of law enforcement services, and the agreement provides for the appointment of a chief of police or other chief law enforcement officer, the position of chief of police or other chief law enforcement officer shall be in the career service.

40A:65-9 Awarding of public contracts.

If any local unit performs a service on behalf of one or more other local units that are parties to an agreement that utilizes a private contractor to perform all or most of that service, or all or most of a specific and separate segment of that service, then that local unit shall award the contract for the work to be performed by a private contractor under the agreement in accordance with the "Local Public Contracts Law," P.L. 1971, c. 198 C.40A:11-1 et seq.).

40A:65-10 Approval of award of contract.

In the event that any authority, board, commission, district, joint meeting, or other body created by one or more local units proposes to enter into a contract under sections 1 to 37 of P.L. 2007, c. 63 (C.40A:65-1 et al.), whereby that entity agrees to have performed on its behalf services, the cost of which shall equal one-half or more of the total costs of the services being performed by that entity immediately prior to the adoption of the proposed contract, then the contract shall require approval by resolution of the governing body of each local unit which created the entity or which has become a participant therein subsequent to its creation.

40A:65-11 Employment reconciliation plan included in agreement; conditions.

a. When a local unit contracts, through a shared service or joint meeting, to have another local unit or a joint meeting provide a service it is currently providing using public employees and one or more of the local units have adopted Title 11A, Civil Service, then the agreement shall include an employment reconciliation plan in accordance with this section that and, if one or more of the local units have adopted Title 11A, Civil Service, shall specifically set forth the intended jurisdiction of the Department of Personnel. An employment reconciliation plan shall be subject to the following provisions:

(1) a determination of those employees, if any, that shall be transferred to the providing local unit, retained by the recipient local unit, or terminated from employment for reasons of economy or efficiency, subject to the provisions of any existing collective bargaining agreements within the local units.

(2) any employee terminated for reasons of economy or efficiency by the local unit providing the service under the shared service agreement shall be given a terminal leave payment of not less than a period of one month for each five-year period of past service as an employee with the local unit, or other enhanced benefits that may be provided or negotiated. For the purposes of this paragraph, "terminal leave payment" means a single, lump sum payment, paid at termination, calculated using the regular base salary at the time of termination. Unless otherwise negotiated or provided by the employer, a terminal leave benefit shall not include extended payment, or payment for retroactive salary increases, bonuses, overtime, longevity, sick leave, accrued vacation or other time benefit, or any other benefit.

(3) the Department of Personnel shall place any employee that has permanent status pursuant to Title 11A, Civil Service, of the New Jersey Statutes that is terminated for reasons of economy or efficiency at any time by either local unit on a special reemployment list for any civil service employer within the county of the agreement or any political subdivision therein.

(4) when a proposed shared service agreement affects employees in local units subject to Title 11A, Civil Service, of the New Jersey Statutes, an employment reconciliation plan shall be filed with the Department of Personnel prior to the approval of the shared service agreement. The department shall review it for consistency with this section within 45 days of receipt and it shall be deemed approved, subject to approval of the shared service agreement by the end of that time, unless the department has responded with a denial or conditions that must be met in order for it to be approved.

(5) when an action is required of the Department of Personnel by this section, parties to a planned shared service agreement may consult with that department in advance of the action and the department shall provide such technical support as may be necessary to assist in the preparation of an employment reconciliation plan or any other action required of the department by this section.

b. If all the local units that are parties to the agreement are subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the Department of Personnel shall create an implementation plan for the agreement that will: (1) transfer employees with current status in current title unless reclassified, or (2) reclassify employees into job titles that best reflect the work to be performed. The Department of Personnel shall review whether any existing hiring or promotional lists should be merged, inactivated, or reannounced. Non-transferred employees shall be removed or suspended only for good cause

and after the opportunity for a hearing before the Merit System Board; provided, however, that they may be laid-off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

c. If the local unit that will provide the service pursuant to a shared service agreement is subject to Title 11A, Civil Service, of the New Jersey Statutes, but the local unit to receive the service is not subject to that Title, and the contracting local units desire that some or all employees of the recipient local unit are to be transferred to the providing local unit, the Department of Personnel shall vest only those employees who have been employed for one year or more in permanent status pursuant to N.J.S.11A:9-9 in appropriate titles, seniority, and tenure with the providing local unit based on the duties of the position. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

d. If the local unit that will provide the service is not subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, but the local unit that will receive the service is subject to that Title and the parties desire that some or all employees of the recipient local unit are to be transferred to the providing local unit, the transferred employees shall be granted tenure in office and shall only be removed or suspended for good cause and after a hearing; provided, however, that they may be laid-off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The transferred employees shall be subject to layoff procedures prior to the transfer to the new entity. Once transferred, they will be subject to any employment contracts and provisions that exist for the new entity. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

40A:65-12 Provision of technical advice by Public Employment Relations Commission. The Public Employment Relations Commission is specifically authorized to provide technical advice, pursuant to section 12 of P.L.1968, c.303 (C.34:13A-8.3), and mediation services to integrate separate labor agreements into single agreements for the shared service agreement. The commission may order binding arbitration, pursuant to P.L.1995, c.425 (C.34:13A-14a et al.), to integrate any labor agreement.

40A:65-13 Construction of power to share services.

It is the intent of the Legislature to facilitate and promote shared service agreements, and therefore the grant of power under sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35) is intended to be as broad as is consistent with general law.

SUBARTICLE C. JOINT MEETINGS

40A:65-14 Joint contract for joint meeting for public services.

a. The governing bodies of any two or more local units may enter into a joint contract, for a period not to exceed 40 years, to provide for the formation of a joint meeting for the joint operation of any public services, public improvements, works, facilities, or undertakings which the local units are empowered to operate. The contract shall be entered into in accordance with the procedures set forth in subsection b. of section 16 of this bill.

b. A joint contract may provide for joint services for any services which any contracting local unit, on whose behalf those services are to be performed, is legally authorized to provide for itself. Those services include, but are not limited to, general government administration, health, police and fire protection, code enforcement, assessment and collection of taxes, financial administration, environmental protection, joint municipal courts, and youth, senior citizens and social welfare programs.

c. The joint contract shall set forth the public services, public improvements, works, facilities, or undertakings which the contracting local units desire to operate jointly, and shall provide in general terms the manner in which the public services, public improvements, works, facilities or undertakings shall be jointly operated, and the respective duties and responsibilities of the contracting local units.

d. No joint contract pursuant to this section shall authorize the operation of any property or service defined as a "public utility" by R.S.48:2-13, except as may otherwise be provided by law.

40A:65-15 Joint meeting deemed public body corporate and politic; powers.

a. A joint meeting is a public body corporate and politic constituting a political subdivision of the State for the exercise of public and essential governmental functions to provide for the public health and welfare.

b. A joint meeting has the following powers and authority, which may be exercised by its management committee to the extent provided for in the joint contract:

(1) to sue and be sued;

(2) to acquire and hold real and personal property by deed, gift, grant, lease, purchase,

condemnation or otherwise;

(3) to enter into any and all contracts or agreements and to execute any and all instruments;

(4) to do and perform any and all acts or things necessary, convenient or desirable for the purposes of the joint meeting or to carry out any powers expressly given in sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35);

(5) to sell real and personal property owned by the joint meeting at public sale;

(6) to operate all services, lands, public improvements, works, facilities or undertakings for the purposes and objects of the joint meeting;

(7) to enter into a contract or contracts providing for or relating to the use of its services,
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lands, public improvements, works, facilities or undertakings, or any part thereof, by local units who are not members of the joint meeting, and other persons, upon payment of charges therefor as fixed by the management committee;

(8) to receive whatever State or federal aid or grants that may be available for the purposes of the joint meeting and to make and perform any agreements and contracts that are necessary or convenient in connection with the application for, procurement, acceptance, or disposition of such State or federal aid or grants; and

(9) to acquire, maintain, use, and operate lands, public improvements, works, or facilities in any municipality in the State, except where the governing body of the municipality, by resolution adopted within 60 days after receipt of written notice of intention to so acquire, maintain, use, or operate, shall find that the same would adversely affect the governmental operations and functions and the exercise of the police powers of that municipality.

c. If the governing body of a municipality in which a joint meeting has applied for the location and erection of sewage treatment or solid waste disposal facilities refuses permission therefor, or fails to take final action upon the application within 60 days of its filing, the joint meeting may, at any time within 30 days following the date of such refusal or the date of expiration of the 60-day period, apply to the Department of Environmental Protection for relief. That department is authorized, after hearing the joint meeting and the interested municipality, to grant the application for the erection of the sewage treatment or disposal or solid waste treatment or disposal facilities, notwithstanding the refusal or failure to act of the municipal governing body, upon being satisfied that the topographical and other physical conditions existing in the local units comprising the joint meeting are such as to make the erection of such facilities within its boundaries impracticable as an improvement for

the benefit of the whole applying joint meeting.

40A:65-16 Provisions of joint contract.

a. The joint contract shall provide for the operation of the public services, public improvements, works, facilities, or undertakings of the joint meeting, for the apportionment of the costs and expenses of operation required therefor among the contracting local units, for the addition of other local units as members of the joint meeting, for the terms and conditions of continued participation and discontinuance of participation in the joint meeting by the contracting local units, and for such other terms and conditions as may be necessary or convenient for the purposes of the joint meeting. The apportionment of costs and expenses may be based upon assessed valuations, population, and such other factor or factors, or any combination thereof, as may be provided in the joint contract.

b. (1) Notwithstanding any law to the contrary concerning approval of contracts, the joint contract shall be subject to approval by resolution of the governing bodies of each of the local units prior to its execution by the official or officials who are authorized to execute a joint contract.

(2) The joint contract shall specify the name by which the joint meeting shall be known.

(3) The joint contract may be amended from time to time by agreement of the parties thereto, in the same manner as the original contract was authorized and approved.

(4) A copy of every resolution creating a joint meeting, and every amendment thereto, shall be forthwith filed with the director.

40A:65-17 Preservation of seniority, tenure, pension rights of law enforcement officers.

a. Whenever the governing bodies of two or more local units enter into a joint contract for the joint operation of law enforcement services within their respective jurisdictions, the contract shall recognize and preserve the seniority, tenure, and pension rights of every fulltime law enforcement officer who is employed by each of the contracting local units and who is in good standing at the time the ordinance or resolution, as the case may be, authorizing the contract is adopted, and none of those law enforcement officers shall be terminated, except for cause; provided, however, this provision shall not be construed to prevent or prohibit a merged law enforcement entity from reducing force as provided by law for reasons of economy and efficiency.

b. (1) To provide for the efficient administration and operation of the joint law enforcement services within the participating local units, the joint contract may provide for the appointment of a chief of police or other chief law enforcement officer. In that case, the joint contract shall identify the appropriate authority to whom the chief of police or other

chief law enforcement officer reports and also shall provide that any person who is serving as the chief of police or other chief law enforcement officer in one of the participating local units at the time the joint contract is adopted may elect either:

(a) to accept a demotion of no more than one rank without any loss of seniority rights, impairment of tenure, or pension rights; or

(b) to retire from service.

(2) Any person who elects retirement shall not be demoted but shall retain the rank of chief of police or other chief law enforcement officer and shall be given terminal leave for a period of one month for each five-year period of past service as a law enforcement officer with the participating local unit. During the terminal leave, the person shall continue to receive full compensation and shall be entitled to all benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

c. Whenever the participating local units have adopted or are deemed to have adopted Title 11A, Civil Service, of the New Jersey Statutes with regard to the provision of law enforcement services, and the contract provides for the appointment of a chief of police or other chief law enforcement officer, the position of chief law enforcement officer shall be in the career service.

40A:65-18 Applicability of terms of existing labor contracts.

a. When a joint meeting merges bargaining units that have current contracts negotiated in accordance with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the terms and conditions of the existing contracts shall apply to the rights of the members of the respective bargaining units until a new contract is negotiated, reduced to writing, and signed by the parties as provided pursuant to law and regulation promulgated thereunder.

b. The Public Employment Relations Commission is specifically authorized to provide technical advice, pursuant to section 12 of P.L.1968, c.303 (C.34:13A-8.3), and mediation services to integrate separate labor agreements into single agreements for the joint contract. The commission may order binding arbitration, pursuant to P.L.1995, c.425 (C.34:13A-14a et al.), to integrate any labor agreement.

40A:65-19 Employment reconciliation plan; provisions.

a. When a local unit agrees to participate in a joint meeting that will provide a service that the local unit is currently providing itself through public employees, the agreement shall include an employment reconciliation plan in accordance with this section. An employment reconciliation plan shall be subject to the following provisions:

(1) a determination of those employees, if any, that shall be transferred to the joint meeting, retained by the contracting local unit, or terminated from employment for reasons of economy or efficiency subject to the provisions of any collective bargaining agreements within the local units.

(2) any employee terminated for reasons of economy or efficiency by the contracting local unit providing the service or by the joint meeting shall be given a terminal leave payment of not less than a period of one month for each five-year period of past service as an employee with the local unit, or other enhanced benefits that may be provided or negotiated. Unless otherwise negotiated or provided by the employer, a terminal leave benefit shall not include extended payment, or payment for retroactive salary increases, bonuses, overtime, longevity, sick leave, accrued vacation or other time benefit, or any other benefit.

(3) the Department of Personnel shall place any employee that has permanent status pursuant to Title 11A, Civil Service, of the New Jersey Statutes that is terminated for reasons of economy or efficiency at any time by either local unit on a special reemployment list for any civil service employer within the county of the agreement or any political subdivision therein.

(4) when a proposed joint contract affects employees in local units that operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, an employment reconciliation plan shall be filed with the Department of Personnel prior to the approval of the joint meeting agreement. That department shall review the plan for consistency with this section within 45 days of receipt and it shall be deemed approved, subject to approval of the joint meeting agreement by the end of that time, unless that department has responded with a denial or conditions that must be met in order for it to be approved.

(5) when an action is required of the Department of Personnel by this section, parties to a proposed joint contract may consult with the department in advance of the action and the department shall provide such technical support as may be necessary to assist in the preparation of an employment reconciliation plan or any other action required of the department by this section.

b. If both the local unit and joint meeting operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the Department of Personnel shall create an implementation plan for employees to be hired by the joint meeting that will: (1) transfer employees with current status in current title unless reclassified or (2) reclassify employees, if necessary, into job titles that best reflect the work to be performed. The Department of Personnel shall review whether any existing hiring or promotional lists should be merged,

inactivated, or re-announced. Non-transferred employees shall be removed or suspended only for good cause and after the opportunity for a hearing before the Merit System Board; provided, however, that they may be laid-off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service and subject to the provisions of any existing collective bargaining agreements within the local units.

c. If the joint meeting operates under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, and a local unit receiving the service is not subject to that Title, and the parties desire that some or all employees of the local unit be transferred to the joint meeting, the Department of Personnel shall vest only those employees who have been employed one year or more in permanent status pursuant to N.J.S.40A:9-9 in appropriate titles, seniority, and tenure with the providing local unit based on the duties of the position. The final decision of which employees shall transfer to the new employer is vested solely with the joint meeting and subject to the agreements affecting the parties, provided that those agreements do not conflict with the provisions of any existing collective bargaining agreements within the local units.

d. (1) If the joint meeting does not operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, and the local unit receiving the service is subject to that Title, and the parties desire that some or all employees of the recipient local unit are to be transferred to the joint meeting, then the transferred employees shall be granted tenure in office and shall be removed or suspended only for good cause and after a hearing. The transferred employees shall be subject to layoff procedures prior to the transfer to the new entity. Once transferred, they will be subject to any employment contracts and provisions that exist for the new entity. The final decision of which employees shall transfer to the joint meeting is vested solely with the joint meeting and subject to the provisions of any existing collective bargaining agreements within the local units.

(2) A joint meeting established after the effective date of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) that affects both employees in local units subject to Title 11A, Civil Service, of the New Jersey Statutes and employees in local units not subject to that Title, shall determine whether the employees of the joint meeting shall be subject to the Title. If the joint meeting determines that the employees shall not be subject to Title 11A, Civil Service, of the New Jersey Statutes, then the employees from the local units in which the Title is in effect shall have the same rights as employees transferred pursuant to paragraph (1) of this

subsection.

40A:65-20 Constitution, appointment of management committee.

a. The joint contract shall provide for the constitution and appointment of a management committee to consist of at least three members, of which one shall be appointed by the governing body of each of the local units executing the joint contract. The members shall be residents of the appointing local unit, except that a member who is the chief financial officer, business administrator, municipal administrator, or municipal manager of the local unit making the appointment need not be a resident of the appointing local unit. The appointees may or may not be members of the appointing governing body. Each member of the management committee shall hold office for the term of one year and until the member's successor has been appointed and qualified. In the event that there is an even number of local units that are parties to the joint contract, the management committee shall consist of one member appointed by each of the governing bodies and one member selected by the two other appointed members.

b. The management committee shall elect annually from among its members a chair to preside over its meetings. The management committee may appoint such other officers and employees, including counsel, who need not be members of the management committee or members of the governing bodies or employees or residents of the local units, as it may deem necessary. The employees appointed by the management committee shall hold office for such term not exceeding four years as may be provided by the joint contract. The management committee shall adopt rules and regulations to provide for the conduct of its meetings and the duties and powers of the chairman and such other officers and employees as may be appointed. All actions of the management committee shall be by vote of the majority of the entire membership of the committee, except for those matters for which the contract requires a greater number, and shall be binding on all local units who have executed the joint contract. The management committee shall exercise all of the powers of the joint meeting subject to the provisions of the joint contract.

The joint contract may provide for the delegation of the administration of any or all of the services, lands, public improvements, works, facilities or undertakings of the joint meeting to the governing body of any one of the several contracting local units, in which event such governing body shall have and exercise all of the powers and authority of the management committee with respect to such delegated functions.

40A:65-21 Apportionment of operating costs by management committee.

The cost of acquiring, constructing, and operating any public improvements, works,

facilities, services, or undertakings, or any part thereof, as determined by the management committee, shall be apportioned among the participating local units as provided by the joint contract. Each local unit shall have power to raise and appropriate the funds necessary therefor in the same manner and to the same extent as the local unit would have if it were acquiring and constructing the same for itself, including the power to authorize and issue bonds or other obligations pursuant to the "Local Bond Law," N.J.S.40A:2-1 et seq. The management committee shall certify to the participating local units the cost of the acquisition or construction, as well as the apportioned shares thereof, within 15 days after its action thereon.

40A:65-22 Certification of costs and expenses by management committee.

The management committee, not later than November 1 of each year, shall certify to the participating local units the total costs and expenses of operation, other than acquisition and construction costs, of the services, public improvements, works, facilities, or undertakings for the ensuing year, in accordance with the terms and provisions of the joint contract, together with an apportionment of the costs and expenses of operation among the participating local units in accordance with the method of apportionment provided in the joint contract. It shall be the duty of each participating local unit to include its apportioned share of such costs and expenses of operation in its annual budget, and to pay over to the management committee its apportioned share as provided in the joint contract. Operations under the budget and related matters shall be subject to and in accordance with rules of the Local Finance Board or the Commissioner of Education, as appropriate. The Local Finance Board shall be responsible for the determination of the appropriate rule-making authority with regard to each joint contract. For the first year of operation under the joint contract, a participating local unit may adopt a supplemental or emergency appropriation for the purpose of paying its apportioned share of the costs and expenses of operation, if provision therefore has not been made in the annual budget.

40A:65-23 Termination of joint contract.

The joint contract shall be terminated upon the adoption of a resolution to that effect by the governing bodies of two-thirds of the local units then participating; except that if only two local units are then participating, adoption of a resolution by both units shall be required to terminate the contract. The termination shall not be made effective earlier than the end of the fiscal year next succeeding the fiscal year in which the last of the required number of local units adopts its termination resolution

40A:65-24 Existing joint meeting, public school jointure unaffected.

Any joint meeting or public school jointure formed under a previous law is continued and shall be governed under the provisions of sections 1 through 35 of P.L.2007, c.63 (C. 40A:65-1 through C.40A:65-35).

SUBARTICLE D. LOCAL OPTION MUNICIPAL CONSOLIDATION

40A:65-25 Findings, declarations relative to municipal consolidation.

a. The Legislature finds and declares that in order to encourage municipalities to increase efficiency through municipal consolidation for the purpose of reducing expenses borne by their property taxpayers, more flexible options need to be available to the elected municipal officials and voters than are available through the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).

b. (1) In lieu of the procedures set forth in the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), the governing bodies from two or more contiguous municipalities may apply to the board for either:

(a) approval of a plan to consolidate their municipalities; or

(b) creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section.

(2) A representative committee of registered voters from two or more contiguous municipalities may petition the board for the creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section. The petition, to be sufficient, shall be signed by the registered and qualified voters of the municipalities in a number at least equal to 10% of the total votes cast in those municipalities at the last preceding general election at which members of the General Assembly were elected.

(3) The board shall provide application forms and technical assistance to any governing bodies or voters desiring to apply to the board for approval of a consolidation plan or the creation of a Municipal Consolidation Study Commission.

(4) A consolidation commission established pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) may apply to the Local Finance Board for approval to use the provisions of section 25 through 29 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29).

c. An application to create a Municipal Consolidation Study Commission shall propose a process to study the feasibility of consolidating the participating municipalities into a single new municipality or merging one into the other. The application shall include provisions for:

- (1) the means of selection and qualifications of study commissioners;
- (2) the timeframe for the study, which shall be no more than three years, along with key events and deadlines, including time for review of the report by State agencies, which review shall be no less than three months;
- (3) whether a preliminary report shall be issued in addition to the final report;
- (4) whether the development of a consolidation implementation plan will be a part of the study;
- (5) the means for any proposed consolidation plan to be approved; either by voter referendum, by the governing bodies, or both; and
- (6) if proposed by a representative group of voters, justification of that group's standing to serve as the community advocate for the consolidation proposal.

d. (1) An application to the board for consideration of a consolidation plan or to create a Municipal Consolidation Study Commission shall be subject to a public hearing within each municipality to be studied, and a joint public hearing in a place that is easily accessible to the residents of both or all of the municipalities.

(2) The public hearings shall be facilitated by the board and conducted in accordance with the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

(3) After approval of a plan by the board, it may be amended upon petition to the board by the applicant. Based on the nature of the amendment, the board may decide to hold a public hearing in any of the municipalities affected by the plan, or at a regular meeting, or both.

e. Every Municipal Consolidation Study Commission shall include a representative of the Department of Community Affairs as a non-voting representative on the commission. The representative shall not be a resident of a municipality participating in the study. The department shall prepare an objective fiscal study of the fiscal aspects of a consolidation and shall provide it to the commission in a timely manner.

f. If the consolidation would include the consolidation of boards of education, a person appointed by the Commissioner of Education shall serve as a non-voting member of that Municipal Consolidation Study Commission. The representative of the Commissioner of Education shall not be a resident of a community participating in the study. The county superintendent of schools shall conduct a study on the impact of consolidation on the educational system and its finances. The report shall be provided to the commission in a timely manner.

g. There shall be no more than one of either a consolidation plan study, a Municipal

Consolidation Study Commission, or a joint municipal consolidation created under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active in a single municipality at the same time. In the event that more than one application is filed with the board or is being considered by the governing bodies while another action affecting the same municipality or municipalities is under consideration, the board shall consider the applications and shall join any proposed creation of a joint municipal consolidation together and approve only one action as the board deems to be in the public interest. Prior to approving a single action, the board shall hold a public hearing permitting all parties to present testimony on the merits of their action in relation to the other proposals. Once an action is approved by the board, another action from the same combination of municipalities shall not be approved for at least five years.

h. In considering its decisions under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), the Local Finance Board and any other State agency shall take into account local conditions, the reasonableness of proposed decisions, and the facilitation of the consolidation process in making decisions concerning consolidation.

40A:65-26 Required information included in Municipal Consolidation Study Commission Reports.

a. A consolidation plan or report of a Municipal Consolidation Study Commission shall include the provisions of sections 16 and 24 of P.L.1977, c.435 (C.40:43-66.50 and 40:43-66.58), insofar as they are consistent with the provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.). In addition, a consolidation plan shall address the following implementation issues:

- (1) a timetable for implementing the consolidation plan;
- (2) duplicate positions, including those held by tenured, certified officers, listing those positions proposed to be abolished for reasons of economy, efficiency or other good cause and listing those positions proposed to be merged; and
- (3) applicability of the provisions of Title 11A, Civil Service, of the New Jersey Statutes, if Title 11A has been adopted by one or more consolidating municipalities.

b. The following policies may be considered and implemented under an application for approval of a consolidation plan, and may be included as part of a study under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), or as part of a study conducted by a Municipal Consolidation Study Commission pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.):

- (1) creation of a consolidation implementation plan to establish a timetable of significant

events and goals to be achieved as part of a consolidation study;

(2) a phase-in of a consolidation over a fixed period of time. Such a plan shall be subject to review and approval of the Local Finance Board prior to it being approved by the governing bodies or subject to voter referendum;

(3) variations from existing State law or State department rules that may not have anticipated a phase-in or consolidation of services. When variations are proposed, they shall be submitted to the board which shall refer it to the agency with oversight responsibility.

After due consideration, the referee agency is empowered to waive such law or rules if a waiver is found reasonable to further the process of consolidation. Where no such agency exists, the Commissioner of Community Affairs shall act on behalf of the State. These requests shall be acted on within 45 days of their receipt by an agency, and they shall be deemed approved, subject to approval of a consolidation proposal by the municipalities, by the end of that time unless the agency has responded with a denial, conditions that must be met in order for it to be approved, or an alternative approach to resolving the matter;

(4) the use of advisory planning districts, comprised of residents living in the former territories of each former municipality, to provide advice to the planning board and the zoning board of adjustment on applications and master plan changes affecting those areas. A consolidation study plan shall specify the types and nature of the development and zoning applications that the advisory planning districts shall review and the official boards shall be required to respond, at a public meeting, to each suggestion made by an advisory planning district;

(5) the establishment of service districts comprised of the boundaries of any or all of the former municipalities which may be used to allocate resources and used for official geographic references in the new municipality;

(6) the continued use of boundary lines of any or all of the former municipalities to continue local ordinances that existed prior to consolidation that the governing body deems necessary and appropriate. The need for any such differentiation shall be reviewed by the governing body at least every five years and shall only be continued upon the affirmative vote of the full membership of the governing body, and if such continuance fails, the governing body shall then adopt uniform policies for the entire area; and

(7) the apportionment of existing debt between the taxpayers of the consolidating municipalities, including whether existing debt should be apportioned in the same manner as debt within special taxing districts so that the taxpayers of each consolidating municipality will continue to be responsible for their own pre-consolidation debts.

c. When one of the municipalities is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the question of whether the new municipality shall be subject to the provisions of that Title shall be the subject of a public referendum before all of the voters of the consolidating municipalities. Upon the approval by a majority of those voting, regardless of their municipality of residence, the new municipality shall be subject to the provisions of that Title.

40A:65-27 Creation of task force to facilitate consolidation.

a. Once a consolidation has been approved by the affected municipal governing bodies or voters, the division shall create a task force of State departments, offices and agencies, as it deems appropriate, and representatives of affected negotiations units, to facilitate the consolidation and provide technical assistance.

b. When a consolidation plan provides that the consolidated municipality will be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes the Department of Personnel is specifically authorized to create a consolidation implementation plan to vest noncivil service employees, based on the education and experience of the individuals, in appropriate titles and tenure.

c. Whenever a referendum question to decide if a consolidated municipality shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes fails, the employees of a municipality already subject to that Title shall be given non-civil service titles in the new entity and previously held tenure shall be vacated.

d. The Public Employment Relations Commission is authorized to provide technical advice, pursuant to section 12 of P.L.1968, c.303 (C.34:13A-8.3), to assist a new municipality and existing labor unions to integrate separate labor agreements into consolidated agreements and to adjust the structure of collective negotiations units, as the commission determines appropriate for the consolidated municipality.

40A:65-28 Equalization of property assessments for apportionment of taxes.

a. If a revaluation of property for the consolidated municipality is not implemented for the first local budget year of the consolidated municipality, then the assessments on the properties owned by the taxpayers of the former municipalities shall be equalized for the apportionment of taxes for the consolidated municipality, in the same manner as assessments are equalized for the apportionment of county taxes.

b. The owners of any residential property or residential tenants of any municipality consolidated under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), who experience a municipal or

school district purposes real property tax increase in the first tax year following the municipal consolidation shall be entitled to annual property tax relief until such time as they sell or transfer their home or no longer reside as tenants in the rental unit they occupied just prior to the municipal consolidation. In the case of the owner of residential property, the property tax relief shall be reflected as a credit on the property tax bill equal to the difference between the municipal and school district purposes real property tax payable by the taxpayer for the tax year, subject to any adjustment as determined necessary by the Director of the Division of Local Government Services in the Department of Community Affairs to reflect operating budgets for a normal pre-consolidated fiscal year, and the municipal and school district purposes real property tax billed to that taxpayer for the tax year during which the consolidation is effectuated, as may be adjusted by the Director of the Division of Local Government Services in the Department of Community Affairs to reflect normal postconsolidation operating budgets for the municipalities and school districts. In the case of a residential tenant, the tax credit applied to an apartment property shall be distributed to eligible tenants pursuant to the provisions of the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2 et seq.) and this section. The total of all such relief in the municipality shall be paid by the State to the municipality on a schedule determined by the Local Finance Board. For the purpose of this subsection, a "normal" budget year shall be one that, in the determination of the director, does not reflect expenses made in anticipation of, or in implementation of, a municipal consolidation.

40A:65-29 Construction of law on consolidation appeals.

The provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) shall be liberally construed to effectuate the intention of sections 25 through 28 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-28). The board is empowered to act to provide guidance, interpretation, and to resolve disputes regarding these sections or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.). Decisions of the board may be appealed directly to the Appellate Division of the Superior Court.

SUBARTICLE E. SHARING AVAILABLE RESOURCES EFFICIENTLY PROGRAM

40A:65-30 "Sharing Available Resources Efficiently" (SHARE) program established.

a. A local unit that plans to study the feasibility of a shared service agreement, joint meeting contract, or municipal consolidation may apply to the director for grants or loans to fund the study, including consultant costs, and to fund one-time start-up costs of a shared

service agreement or joint meeting contract or municipal consolidation. The director, in consultation with the Commissioner of Education, shall establish a program to be known as the "Sharing Available Resources Efficiently" program, or "SHARE," to accomplish this purpose, and, in consultation with the commissioner, shall promulgate rules and regulations necessary to effectuate the purposes of the program.

b. The director, in consultation with the commissioner, shall provide guidelines and procedures for the submission of SHARE grant and loan applications.

c. Applications for shared service study funds:

(1) May require such local match of funds, as is determined by the director for the studies if the director finds that the local unit is financially capable of providing such matching funds.

(2) Shall not require a local match of funds for consolidation studies under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).

(3) Grants for implementation of shared services may include financial assistance for terminal leave benefits, but not for early retirement incentives related to pension contributions.

d. Applications for one-time start-up costs shall provide that:

(1) Local units may apply for financial assistance for the one-time start-up costs necessary to implement shared services. Costs that may be financed through the issuance of debt or capital lease agreements shall be excluded from this program.

(2) The director may set limits on aid awards and negotiate the various provisions, costs, payment provisions, and amounts of grants or loans to ensure that the shared service is cost effective and in the public interest. Financial assistance for costs associated with terminal leave benefits shall be limited to the lesser of the officer or employee's regular base rate of compensation that is paid for the terminal leave benefit pursuant to an applicable employment contract, local practice, local ordinance, or State law.

e. The director may provide technical support programs to assist local units in applying for grants or aid for studying shared services.

40A:65-31 "Sharing Available Resources Efficiently" account.

There is created a "Sharing Available Resources Efficiently" account within the Property Tax Relief Fund as a non-lapsing revolving account which shall receive moneys as may be credited to it from the Property Tax Relief Fund, the repayments of loans made from the account, and any other funds as may be appropriated to the account from time to time. Moneys in the account shall be appropriated for the purposes of sections 1 to 37 of P.L.2007,

c.63 (C.40A:65-1 et al.).

SUBARTICLE F. VOTER PARTICIPATION TO IDENTIFY SHARED SERVICES
AND OTHER COST-SAVING OPPORTUNITIES

40A:65-32 Adoption of resolution authorizing certain referenda for citizen's commission.

The governing body of a municipality may adopt, at any regular meeting, a resolution requesting the clerk of the county to print upon the official ballots to be used at the next ensuing regular or general election, as appropriate, a certain proposition to authorize the creation of a citizen's commission, consisting of members of the governing body, appropriate municipal officials such as the municipal purchasing agent, and at least an equal number of residents of the municipality, and to identify and implement shared service, joint meeting, or consolidation opportunities for the municipality. The proposition shall be formulated and expressed in the resolution in concise form and filed with the clerk of the county not later than 74 days previous to the election. If approved by a majority of those voting at the election, the proposition shall be binding and shall constitute the authority for the governing body to appoint members to the citizen's commission and provide resources as it deems necessary.

SUBARTICLE G. MISCELLANEOUS

40A:65-33 Existing agreements, contracts continued.

Any shared service agreement, joint contract for a joint meeting, or agreement to regionalize or consolidate services in existence at the time of enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) are continued pursuant to the law in effect at the time that the agreement or contract was executed; provided, however, that any renewals shall be in accordance with the provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

40A:65-34 PERC rules, regulations, fee schedule, grievances, appeals.

a. Any shared service or joint meeting agreement or municipal consolidation shall be deemed in furtherance of the public good and presumed valid, subject to a rebuttable presumption of good faith on the part of the governing bodies entering into the agreement.

b. With regard to any responsibilities assigned to the Public Employment Relations Commission pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.):

(1) The commission may promulgate rules or regulations to effectuate the purposes of

sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

(2) The commission may establish a fee schedule to cover the costs of effectuating its services; provided, however, that the fees so assessed shall not exceed the commission's actual cost of effectuating those provisions.

(3) Within 14 days of receiving a decision, a party aggrieved by a decision of a mediator or arbitrator assigned by the commission may file notice of an appeal of an award to the commission. In deciding an appeal, the commission, pursuant to rule and regulation and upon petition, may afford the parties the opportunity to present oral arguments. The commission may affirm, modify, correct or vacate the award or may, at its discretion, remand the award to the same arbitrator or to another arbitrator, selected by lot, for reconsideration. An aggrieved party may appeal a decision of the commission to the Appellate Division of the Superior Court.

SUBARTICLE H. REPEALER

This subarticle repeals the Interlocal Services Act (NJS 40:8A-1 et seq.), the Consolidated Municipal Services Act (NJS 40:48-1 et seq.) and several other statutes. Please refer to the New Jersey Statutes for the full text of this section.

The remaining sections of Chapter 63 modify statutes dealing with local budgets and the powers and duties of County Superintendents of Schools. Please refer to the New Jersey Statutes for the full text of those sections.

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SPECIAL NOTE

INTERLOCAL CONTRACTS FOR CONSTRUCTION CODE ENFORCEMENT

N.J.A.C. 5:23-4.6 Interlocal enforcing agencies - establishment

a. Parties: Any two or more municipalities may, by ordinance, join together to administer and enforce the regulations and any sub code under the regulations. Any municipalities party to an agreement establishing one enforcing agency consisting of all sub codes may further provide for the establishment of a joint board of appeals.

b. Agreement: Except as the section may add or substitute requirements, the procedures for the execution of any agreement pursuant to this section, shall be governed by the Interlocal Services Act (N.J.S.A. 40:8A-1 et seq.).

(1) Upon final adoption of an ordinance pursuant to the Interlocal Services Act , a

copy of such ordinance, the contract, and any other pertinent information shall be forwarded to the department.

(2) The term of any contract entered into pursuant to this section shall be four years.

(3) The contract shall stipulate that the term of office of any construction or sub code official shall, except for good cause, be four years.

(4) Such contract shall provide a mechanism for administration and enforcement within each of the contracting municipalities by one or more of the contracting municipalities, on an interim or emergency basis, should such agreement be invalidated by a court of competent jurisdiction or prove otherwise unenforceable.

(5) The contract shall additionally stipulate the information contained in N.J.A.C. 5:23-4.7(b) and 4.8(a)

Appendix 3 – Price Escalator Data

Many of the components of the formula can be unpredictable while others or reasonably stable. The unpredictable items such as employee benefits are accounted for in future intangible expenses. The price escalator should be set up with a minimum and maximum. The minimum being the appropriations cap set by the state and the maximum using a consumer price index such as the one formulated by the Bureau of Labor Statistics. Using that guide over the last 10 years would have resulted as follows:

1999	173.5	
2000	179.4	+5.9%
2001	184.4	+5.0%
2002	189.6	+5.2%
2003	193.5	+3.9%
2004	200.2	+6.7%
2005	207.5	+7.3%
2006	215.0	+7.5%
2007	220.5	+5.5%
2008	224.3	+3.8%
2009	224.5	+0.2%