The effect of New Jersey's cap law on the municipalities of Bergen County, New Jersey

Joseph A. Peccoralo Jr.
THE EFFECT OF NEW JERSEY'S CAP LAW
ON THE MUNICIPALITIES OF BERGEN COUNTY, NEW JERSEY

A Thesis submitted to the Faculty of the School of Administration Department of Public Administration in Partial Fulfillment of the Requirements of the Degree of Master of Public Administration

by

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Hackensack, New Jersey
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Approved by:
Chairperson
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by
Joseph A. Peccoralo Jr.
DEDICATION

To my wonderful father,
Joseph A. Peccoralo Sr.
Whose help, understanding, moral
and financial support, as well
as love, made this thesis project
and Master's Program possible.

Thanks Dad—
I Love You—
Joe Jr.
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Chapter 1
Introduction

In an attempt to stabilize municipal tax rates, the New Jersey State Legislature passed an expenditure limitation law in the early part of the summer of 1976. This law is commonly referred to as New Jersey's Cap Law. The Cap Law came into existence on August 18, 1976 and changed the course of municipal budgeting and administration throughout the state. For the first time in the history of the state, county and municipal spending were restricted. The law limited spending to only 5 percent over the previous year's final appropriations.

New Jersey's Cap Law is only one of a series of similar laws which have been passed all over the United States. The increasing incidence of budgetary deficits among state government and rising levels of state and local taxation have generated pressure for spending limitations within government. Currently there are over 20 states which have passed laws of enacted policies to limit governmental spending. Since the mid-1970's general literature on governmental spending limi-
tations suggests that voters support spending limitation measures, because they seek to ease the tax burden placed upon them. Many politicians therefore view laws which limit governmental spending as a way to combat the growing tax problem, thereby satisfying their voters.

With the increased use of spending limitations has come the unanswered question of what impact these measures might have upon governmental services, programs, budgetary practices, and future planning, as well as a host of other governmental functions. Although limitation to restrict municipal spending have been around for over fifty years, there is relatively little literature on the impact of these restrictions.

Literature on New Jersey's spending limitation measure, indicates that the law's primary goal of stabilizing local tax rates seems not to have been achieved. There is some evidence which suggests that the law does not stabilize tax rates, but rather may cause undue harm to municipal services, and functions. It must be pointed out that current literature on the Cap Law's effects is not conclusive, but it does suggest that the law may be doing more harm than good.

One reason why difficulties in implementing the Cap Law might have arisen is inflation in the years since its passage has been well in excess of the 5 percent Cap. Table 1 and Chart 1 illustrate the rate as computed by the BLS - consumer price index, (see appendix A). Note that the average inflation rate from the year in which the Cap Law was implemented in 1976
Table 1
Inflation Rate As Computed
From BLS Consumer Price Index
(Appendix A)

<table>
<thead>
<tr>
<th>Year</th>
<th>Inflation Rate</th>
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<tr>
<td>1970</td>
<td>4.2%</td>
</tr>
<tr>
<td>1971</td>
<td>3.3%</td>
</tr>
<tr>
<td>1972</td>
<td>6.2%</td>
</tr>
<tr>
<td>1973</td>
<td>11.0%</td>
</tr>
<tr>
<td>1974</td>
<td>9.1%</td>
</tr>
<tr>
<td>1975</td>
<td>5.8%</td>
</tr>
<tr>
<td>1976</td>
<td>6.5%</td>
</tr>
<tr>
<td>1977</td>
<td>7.6%</td>
</tr>
<tr>
<td>1978</td>
<td>11.5%</td>
</tr>
<tr>
<td>1979</td>
<td>13.5%</td>
</tr>
<tr>
<td>1980</td>
<td>10.2%</td>
</tr>
</tbody>
</table>

Average Inflation Rate
6 Years Prior To The 5% Cap
1970-1975 = 6.6%

5 Years After The 5% Cap
1976-1980 = 9.9%
CHART 1

Inflation Rate

5%
Cap Rate
4%

2%

14%
12%
10%
8%
6%

70 71 72 73 74 75 76 77 78 79 80

Cap Law Began
to 1980 has been 9.9 percent or 4.9 percent in excess of New Jersey's spending limitation. This high inflation rate coupled with the relatively low Cap rate might create several problems, including:

1. Cut backs in services.
2. Personnel reductions.
3. Changes in budgetary practices.
4. Difficulties in future planning.
5. Cut backs in necessary spending.

The purpose of this thesis project is to study New Jersey's Cap Law's impact upon the municipalities of Bergen County to examine the following: (1) if the law has stabilized local tax rates; (2) how the law has affected services, functions, and future planning; (3) whether the law has created managerial problems; and (4) possible revisions.

The study employed a standardized questionnaire which was pretested and then sent out by mail to municipal officials in all of Bergen County's 70 municipalities. The selected area of study was chosen for the following reasons: (1) the municipalities in Bergen County are fairly representative of the majority of the municipalities throughout the state in the areas of population, tax rates, and services provided; (2) there has been considerable information published about the county and its municipalities; and (3) the writer is familiar with many of the local officials throughout the county.

The study was limited to one county because of restricted
funds and limited time span. It was, however, felt that the study was justified because Bergen County and its municipalities are representative in many ways of other counties and municipalities in New Jersey. Findings from Bergen County may be replicated in other counties. It is hoped that this study will act as a pilot for more comprehensive studies.

The organization of the thesis is as follows:

The second chapter will provide a brief review of literature regarding governmental expenditure restrictions.

The third chapter will present a review of the research methodology employed in the study.

The fourth chapter will describe and discuss the New Jersey's Cap Law and its origin.

The fifth chapter will be concerned with the physical, economical, and governmental background of Bergen County and its municipalities.

The sixth chapter will contain the results of the survey of municipal officials.

The final chapter will summarize the findings of the study and make recommendations for possible revisions of the Cap Law.
Chapter 2

Review of the Research on Limitations on Governmental Spending

This chapter is concerned with the financial limitations which have been imposed upon the federal, state, county, and local levels of government. This chapter will present the various types of financial limitations employed and to discuss the extent and effects of their use. The chapter will conclude with a review of studies which have been made of the effects of New Jersey's financial limitation (the Gap Law) upon the state's municipalities.

Financial Limitations

Historically, systems of budget execution have been designed primarily to ensure that legislative appropriations are adhered to. Budget execution is traditionally conceived as almost wholly a matter of financial control, and its success is very often judged in terms of preventing deficiencies and effecting savings during the fiscal year. The financial limitations discussed here go beyond regular budgetary mechanisms,
marking a new trend in governmental budgetary practices.

**Federal Spending Limitations**

Spending limitations have long been considered a part of the budgetary process, especially at the federal level. The history of federal budgeting prior to the enactment of the Budget and Accounting Act of 1921 is very largely a history of congressional efforts to control expenditures by itemization of appropriations and by curbs of deficiencies. According to Lucius Wilmerding Jr., *The Spending Power*, the efforts of Congress to limit federal spending prior to the Budget and Accounting Act of 1921 were for the most part unsuccessful. Beginning with the Budget and Accounting Act of 1921, Congress began to make progress in restricting spending in the federal budget.

The movement by Congress to limit federal spending by constitutional means has become more intensive in recent years with several efforts of Congress to offset the huge federal deficit. Two Congressional proposals serve as examples of this trend.

One of these proposals was the Kemp-Roth Spending Limitation Proposal which sought statutory spending limitations tied to specified percentages of national income measures. The actual proposal required that all federal outlays were to be held to 21 percent of the Gross National Product for the fiscal year of 1980, 20 percent of the G.N.P. in the fiscal year of 1981, 19 percent of the G.N.P. in the fiscal year of
1982, and 18 percent of the G.N.P. in the fiscal year of 1983.\(^6\)

The other significant Congressional proposal was the National Tax Limitation Committee (Friedman) Proposal backed by Senator H. John Heinz III.\(^7\) The proposal sought to amend the Constitution to prohibit federal spending from rising at a rate greater than the growth of the Gross National Product.\(^8\)

Although no proposals for Constitutional amendments were passed, the support they generated mark a growing pressure for limiting government spending. Many states have actually enacted spending limitation on which affect not their own spending but also that of county and municipal governments.

**State Spending Limitations**

Spending limitations enacted by state legislatures to control the spending habits of state, county, and municipal governments are not a new concept. This form of budgetary restriction has been in existence for over fifty years. As early as 1923, the state of Arizona imposed a spending limitation on its cities and counties, which prevented them from making any general fund expenditures of more than 10 percent over the previous year's adopted budget, but the first widespread enactment of state spending limitation began in the 1970's.

The early years of the decade were marked by a major movement in the states to limit spending at the state, county, and municipal levels of government. This movement produced mixed results, with voters in California, Arizona, Michigan,
Montana, Utah, and Florida voting to defeat measures which would have limited state and local expenditures in those states. On the other hand, the states of New York and New Jersey seemed to have had no problems in enacting policies and laws which restricted spending for state agencies as well as for local and county governments.

By the late 1970's a variety of approaches to limit spending were used at various levels of government. In nearly half of the states (23) there were major fiscal limitation measures imposed on either the state or local governments. The spending limitation most often used was a restriction on budgetary growth tied to some percentage over the previous year's final appropriations. This particular method to limit spending was used in New Jersey to restrict county and municipal spending to 5 percent over their prior year's final appropriations.

James Danzinger and Peter Ring cite three main explanations for the growth of fiscal limitation measures at the state, county, and local levels of governments: (1) displeasure with governmental taxes; (2) concern about governmental growth and public spending; or (3) more general frustration with the political and economic environment.

Whether or not one agrees or disagrees with those explanation is less important than the fact that whatever the reason more states are resorting to the use of spending limitation to control governmental spending. These spending restrictions
impact upon the governments that must comply with the restrictions, but to date there has been very little data on what the effect have been. The only known information on this subject pertains to New Jersey's spending limitation, known as the Cap Law.

New Jersey's Spending Limitation

In the summer of 1976, the New Jersey State Legislature passed a law, known as New Jersey's Cap Law. The law's purpose was to stabilize local tax rates by imposing spending limitation on both county and local governmental spending. The law requires that county and municipal spending must be limited to a 5 percent increase of the previous year's final appropriations.

Studies on New Jersey's Cap Law

To date there have been few studies of the Cap Law's impact on New Jersey's municipalities. Only two published documents exist on this subject. One is a private survey report written by Eugene J. Schneider entitled, "Impact of the Cap: A Survey Report", and the other is a report by the Local Expenditure Limitation Technical Review Commission.

The Schneider report deals with the effect of the Cap Law on New Jersey's municipalities. Data for the article came from four sources: (1) Department of Community Affairs; (2) a survey conducted of municipal officials; (3) compulsory arbitration results; and (4) information provided by the New
The article concluded that:

1. The Cap Law had forced personnel reductions.
2. Resort to Referendum to circumvent the law had increased, but there had been a decrease in approval rates for the years of 1980 and 1981. (see Referendum option in Chapter 4)
3. In a survey of municipal officials, 17% expressed a desire to repeal the Cap Law.
4. Property taxes had risen for the years of 1980 and 1981 after remaining stable for the first three years after the introduction of the Cap Law.
5. Not all municipalities seemed to have been harmed by the Cap Law; in 1981 some 20% of the municipal officials who responded to the survey indicated that their municipalities had no problems caused by the Cap Law.

Although the article explained some of the possible effects of the law on the municipalities of New Jersey, it also left many questions unanswered, such as: (1) how extensive was the survey of the municipal officials?; (2) what type of survey was used?; (3) what were the goal of the study?; and (4) why were the results so inconclusive?

The second piece of published research on the effects of New Jersey's Cap Law on its municipalities was a report by the
Local Expenditure Limitation Technical Review Commission. This ten person commission was created on August 18, 1982 by a joint resolution of the New Jersey State Legislature, under the authority of the Local Budgetary Limitations Review Commission.¹⁷

The Commission's purpose was to make a technical assessment of whether the spending limitation formulas had accomplished their goals, whether they had done so equitably and whether the formulas were flexible enough to accommodate changes in economic trends and local needs.¹⁸ The Commission was also authorized to make recommendations for changes to make the formulas more equitable and responsive to changing needs and economic circumstances, avoiding if possible recommendations which would result in any liberalization or tightening of the limitation on a state wide basis.¹⁹

The Commission's recommendations were as follows:

1. Replace the current 5 percent fixed Cap rate with a flexible rate determined by the inflation rate. The index most appropriate for use is the implicit price deflator for state and local government purchases of goods and services. The annual Cap rate should be computed by a two year moving average of the rate of change in the index; the 5 percent rate should be retained as a floor or minimum Cap rate.

2. Permit carrying forward or "banking" of unused
Cap leeway - the difference between actual appropriation/tax levies and the tax maximum permitted by the Cap calculation - for a two year period.

3. Provide for adjustment of the Cap base to reflect transfers of financing responsibility in a function or service from one government unit to another. The adjustment would be upward when a function is assumed from, and downward when a function is shifted to another unit.

4. Provide a Cap exception to municipalities for the costs of holding a referenda to exceed the Cap.

5. Reenactment of the local Cap Law, as amended to include recommendations 1 to 4, should be for a three year period expiring on December 31, 1985, thereby, evaluation of the impact of the law.

In addition, the Commission's report presented facts concerning the Cap Law's effect on municipal spending, property taxes, and services, as well as the use of the referendum option by local officials. Finally, the Commission's report suggested that further research should be conducted to evaluate in more detail the Cap Law's effects on the municipalities of New Jersey. This thesis project endeavors to examine some of these recommendations.
Summary

Fiscal limitations to restrict governmental spending have been in existence for many years, but their use was somewhat limited until recent years. Since the early 1970's a movement has grown to restrict spending at all levels of government. By 1982, this movement had produced fiscal limitations in 23 states. The fiscal limitation method most commonly enacted was a budgetary spending restriction which prevented governments from spending in excess of some specified percentage over the prior year's final appropriations. Although many states have enacted similar measures, there is relatively very little information concerning the effect of spending upon those levels of government that they restrict.

New Jersey seems to be a pioneer state for two reasons: (1) it was one of the first states in the 1970's to enact a law to restrict spending at the county and municipal levels; and (2) it was one of the few states to have studied the law's effect on the counties and municipalities within the state. However, these studies are inconclusive, and further studies on the subject seemed warranted.

The intent of thesis project is to study New Jersey's Cap Law's effect on the municipalities of Bergen County in order to (1) evaluate the law's impact on local services; (2) evaluate the law's ability to stabilize local tax rates; (3) examine possible modifications of the law; (4) examine managerial options available to local officials; and (5) to
formulate some conclusions about the law's impact in hopes of answering many unanswered question.
Chapter 3
Research Methodology
of the Study

Objective

New Jersey's Cap Law was created to stabilize the local tax rate through a decrease in unnecessary spending of municipalities, but without creating any negative side-effects. The purpose of this thesis project is to examine and evaluate the Cap Law's effect on the municipalities of Bergen County, to examine: (1) whether or not the Cap Law actually does what it was intended to accomplish; (2) if the law fails to accomplish its objective, possible reasons for this failure; (3) whether there have been any significant side-effects; and (4) to examine possible revision of the law.

To determine if the Cap Law has been successful, the following questions were examined:

1. Has the Cap Law stabilized local tax rates?
2. Have the average tax payers of the municipalities within Bergen County realized any tax benefits due to the Cap Law?
3. Has the Cap Law prevented unnecessary spending at the local level?

4. Has the Cap Law created any negative side-effects to the county's municipalities, such as: the reduction of services (police, fire, and public works); reliance on bonding in place of a pay-as-you-go budget policy; or the loss of planning capacity?

Scope of Research

The study is based on a survey conducted of all 70 municipalities of Bergen County, New Jersey. The survey was administered in the form of a standardized questionnaire sent out by mail. The questionnaire used in the study may be found in Appendix B.

The strength and validity of any mail survey relies on an adequate response rate. The following steps were taken in order to insure a high response rate: (1) a standardized questionnaire was prepared and pretested on a small group of local officials from the municipality of Hackensack, New Jersey, with favorable results; (2) the standardized questionnaire was mailed to the chief financial officer in each of the 70 municipalities of Bergen County; (3) after waiting approximately 30 days after the initial mailing of the questionnaires, a second mailing of the same standardized questionnaire was sent to elected officials of those municipalities whose financial had failed to respond to the initial questionnaire;
and (4) approximately 15 days after the second mailing, follow-up post cards were sent to the elected officials and financial officers of those municipalities who still had questionnaires outstanding. These steps produced a response rate of 84 percent, with 59 of the 70 municipal officials responding to the questionnaire.

Goals of the Survey

The survey was designed to examine three specific areas of concern regarding the Cap Law.

The first of these dealt with the impact of the law on: local tax rates; services (police, fire, and public works); and budgetary practices; as well as future planning.

The second area examined the managerial problems of operating within the law. This included possible changes of budgetary practices by local officials as well as the use of the referendum option to exceed the Cap.

The third area of the survey elicited the opinions of those officials who must operate within the law, namely financial officers, administrators, and elected officials. The survey attempted to examine their views on questions relating to the following areas of concern:

1. Should a more flexible Cap be substituted?
2. Has the average tax payer realized any benefits due to the introduction of the Cap Law?
3. Should surplus funds be excluded from the Cap?
4. What services are most affected by the Cap Law?
5. Should a state agency be created to review requests to exceed the Cap?

Limitations

All studies must operate within certain limitations and this study is no exception. Limitations imposed upon the study were: restricted funds, limited time span, restricted response rate, the problem of external validity, question clarity, and data quality.

1. Restricted Funds - Since New Jersey is made up of 583 municipalities, the cost of conducting a total survey was beyond the allotted funds for the study. For that reason, it was decided to restrict the study to the municipalities of one of New Jersey's counties. The county of Bergen was chosen for the following reasons: (1) the municipalities of Bergen County are fairly representative of the majority of the municipalities throughout the state in the areas of population, tax rates, and services provided (see Chapter 5); (2) there has been considerable information published about the county and its municipalities; and (3) the writer is familiar with many of the local officials throughout the county which would improve the chances of cooperation in responding to the questionnaire.

Lack of funds also restricted the study to local officials; if more funds had been available a random study of the county's tax payers would have been conducted in order to find out their perceptions of local services and tax rates after the implementation of the Cap Law.
Finally, lack of funds restricted the follow-up procedure used to increase the response rate. The study employed a mail follow-up procedure as opposed to the telephone follow-up which would have been preferred.

2. **Limited Time Span** - The time available to complete the study was limited to the months of January and February of 1983. Given more time, a more extensive follow-up procedure would have been employed to help achieve a higher response rate.

3. **Restricted Response Rate** - With any survey that does not receive a 100 percent response rate, there is the possible problem that the study may not be considered valid. If the response rate is too low the survey results may not accurately represent the area of study. For this particular study, the survey response rate was high: 84 percent of the municipal officials surveyed responded. The 84 percent response rate was equally distributive in all the municipalities within the county. (See tables 7 and 8 of Chapter 6).

4. **Problem of External Validity** - The study's major limitation is that of external validity. Since the study was conducted only for the municipalities of Bergen County, the results can only accurately reflect the Cap Law's impact on that particular county's municipalities.

Since Bergen County is New Jersey's most affluent county, it is believed that any problems that are found to be caused by the Cap Law to Bergen's municipalities, will also be found
to exist in the poorer counties throughout the state. Also, in an attempt to achieve some external validity, Bergen County's municipalities were found to be comparable to many municipalities throughout the state in such areas as: population, tax rates, forms of government, and services provided. Whereas a survey of all the municipalities within the state would have been preferable, the study of the municipalities of Bergen County would at least indicate any problems in implementing or complying with the law.

5. Question Clarity - The survey was administered to local officials and operated under certain assumptions. It was assumed that the term "unnecessary spending", was understood by the respondents to be: any spending which was not essential for the proper management and operations of a municipality's services and function. "Stabilized tax rates", were regarded as being the maintenance or reduction of local property taxes that have plagued many of the state's municipalities in the years prior to the implementation of the Cap Law in 1976.

6. Data Quality - This study is based on many subjective responses from local officials. Although precautions were taken to eliminate possible bias, this study, like many studies can not ensure that all possible bias are eliminated. It is assumed that the respondents answered the survey questions based upon empirical data.

Summary

This chapter was designed to operationalize the objectives
of the study and to explain the approach taken in order to realize them. The chapter explained the process of research as well as the precautions that were employed in order to gain unbiased and accurate data about the Cap Law's impact upon Bergen County's municipalities.

The major instrument of study was a survey based on responses to a questionnaire by local officials. The major weakness of this method is that it bases conclusions about the Cap Law's impact and effects from the opinions of local officials, rather than objective evidence or the opinions of other groups in the community. Nevertheless, the survey responses provided broad measures of impact and effectiveness as well as a general picture of areas of dissatisfaction.
Chapter 4
Origin and Description
of the Cap Law

This chapter analyzes the Cap Law's origin, objective, exceptions, referendum option, and the possible problems which they create.

Origin

The New Jersey Cap Law was passed and took effect in the summer of 1976. For some time the state Government had recognized a need to establish a fair and equitable tax system, due to the wide range of municipal taxes throughout the state. Out of this need came the passage of New Jersey's Tax Reform Program of 1976.21

The central feature of the Tax Reform Program was an income tax of 2 to 2.5% to be imposed on all the state's residents.22 The proceeds of the new income tax were earmarked by state constitutional amendment for state aid and local property tax relief.23

Along with the passage of the Tax Reform Program came the
passage of various companion laws. The companion legislation's purpose was to improve the state's general fiscal position and stabilize the local tax rates by imposing spending limitations on both the county and local levels of government. This companion legislation is more commonly referred to as New Jersey's Cap Law.

Two main reason were expressed by state legislators for supporting the Cap Law: (1) to assure voters that government costs would be stabilized; and (2) to ensure that income tax proceeds would not be used directly to finance larger state government operations. The local Caps were essential in order to ensure that the newly earmarked state aid would in fact result in property tax reductions.

The Cap Law

The statute of chapter 68, Public Laws 1976 (N.J.S.A. 40A: 4-45-1) is better known as the Cap Law and reads as follows:

"Beginning with the tax year 1977, municipalities, other than those having a municipal purpose tax level of $0.10 or less per $100.00 and counties shall be prohibited from increasing their final appropriations by more than 5 percent over the previous year except within the provisions set forth here under."

The following expenditures are exempted from the Cap Law:

A) Reserve for uncollected taxes.

B) Type I school district debt service.

C) Cash deficit from the preceding year.
D) Transfer to Board of Education for use of local school.

E) Emergency temporary appropriations made pursuant to N.J.S.A. 40A: 4-20 to meet an urgent situation or event which immediately endangers the health, safety, or property of residents of the municipality, and over which the governing body had no control and for which it could not plan.

F) Regular emergency appropriations up to 3% in aggregate of the previous year's operating appropriations with approval of the Director of Local Government services are "outside the Cap".

G) Special Emergency Authorizations adopted prior to March 3, 1981 not less than the required minimum amount of 1/5 or 1/3 of each Special Emergency Appropriation must be raised "within the Cap". After this date, Special Emergency Appropriations not less than the required minimum amount of 1/5 or 1/3 of each not exceeding in the aggregate 3% of the previous year's final current operating appropriations with the approval of the Director of Local Government Services may be raised "outside the Cap".

H) Deferred Charges to Future Taxation-Unfunded.

I) Deficits (all utilities - amount limited to cash deficit in utility, assessment, dog license fund, etc.)

J) Municipal Debt Service.

K) Capital Improvement Fund and line item capital expen-
ditures.

L) Programs funded wholly or in part by Federal and State Funds.

M) Amounts received or to be received from Federal, State and other fund in reimbursement for local expenditures.

N) Payments by any constituent municipality of the Hackensack Meadowlands District to the inter-municipal account.

O) Increase in public utility, fuel oil, gasoline or heating oil charges which exceed more than 10% the previous year's fund expenditures for such purposes.

P) The municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to this section the amount which the municipality expanded for that service of function during the last full budget year throughout which the service or function so transferred was funded from appropriations in the municipal budget.

Q) Sale of municipal assets.

R) Expenditures mandated after August 18, 1976 by State or Federal Law.

S) Amounts required to be paid pursuant to any contract with respect to use, services or provision of any project, facility or public improvement, for water, sewer, solidwaste, parking, senior citizen housing, or any similar purpose, or payments on account of debt service therefore, between a municipality and
any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this state.28

Although the Cap Law provides a wide range of exemptions to the law, it is generally believed by most local officials is that they must budget in accordance to the law that the list in conclusive. Many believe that all uncontrollable annual costs should also be exempt from the law. These nonexempt items are thought to be a contributing factor for the growing use of the referenda.

The Referendum Option

The New Jersey Legislature also passed public law N.J.S.A. 40A: 4-45.3A which provided municipalities an option to exceed the Cap. This law calls for a referendum, which is simply a local election in which the registered voters in a given municipality vote to either approve a proposed budget in excess of the 5 percent annual Cap or reject the proposed budget. The law reads as follows:

"The provisions of any other law to the contrary with standing, any referendum conducted by a municipality pursuant to sub-section i of section 3 of P.L. 1976, C.68 (C.40A: 4-45.3i), for the purpose of requesting approval for increasing the municipal budget by more than 5% over the previous year's final appropriations, shall be held on the last Tuesday in the month of Feb-
ruary of the year in which the proposed increase is to take effect. The municipal budget proposing such increase shall be introduced and approved in the manner otherwise provided in N.J.S.A. 40A: 4-5 at least 20 days prior to the date on which such referendum is to be held, and shall be published in the manner other preceded in N.J.S.A. 40A: 4-6 at least 12 days prior to said referendum date. 29

Any municipality that wishes to use the referendum option, must place on the ballot a question which asks, should the governing body of that municipality be authorized to exceed the 5 percent increase by a specified number of dollars? 30 The question requires either a yes or no answer.

A majority "no" vote means that the governing body must adopt the budget within the increase limits set forth by the law. 31

A majority "yes" vote will authorize the governing body the budget which was placed on the ballot and published. 32

The referendum option is significant, because it provides a relatively safe way for municipal officials to exceed the Cap, without causing future liabilities. The referendum is also thought to be of extra importance because it represents the will of the people.

**Criticisms of the Cap Law**

The Cap Law's main objective was to stabilize local tax rates by limiting unnecessary spending at the local level with-
out causing any negative side-effects. Many criticisms of the law have developed since the law's adoption on August 16, 1976. Some of the more widely cited one are:

1. The law encourages the issuing of bonds for capital purposes rather than pay-as-you-go capital appropriation, because principal and interest on debts are excluded from the Cap, while capital appropriations are not.\(^{33}\)

2. Mandated costs might pose problems for municipalities. Mandated costs for local governments include utility costs, pension funds, as well as insurance premiums. The annual cost of these items may rise above the 5 percent annual Cap.

3. The arbitrariness of the 5 percent figure is of special concern since the inflation rate as computed from the Consumer Price Index was higher than 5 percent for each of five years prior to the implementation of the Cap Law in 1976.

4. The Cap Law seems to encourage a dependency on federal funds to provide for basic municipal services.\(^ {34}\)

5. A 1977 law, known as the Police and Fire Arbitration Act of Chapter 85, enabled New Jersey's public employees to enter into binding arbitration
with local governments. This could pose a problem since they are obligated by law to pay for any arbitration award, even if it is in excess of the annual 5 percent Cap.\textsuperscript{35}

Many of these criticisms are beginning to emerge as actual facts and problems for the municipalities of New Jersey.

Summary

New Jersey's Cap Law was created to stabilize the local tax rates and to improve the state's general fiscal position by limiting unnecessary spending at the county and local levels. The law hopes to accomplish its objective without harming local services or causing any negative side-effects for the municipalities. This project will attempt to examine the Cap Law's effects on the municipalities of Bergen County, New Jersey, in an attempt to determine if the law has actually achieved its objectives, without causing harm to the municipalities.
Overview of the County

Bergen County is located in the northeastern part of New Jersey. It is bordered by the Hudson River to the east, New York State's Rockland County to the north, Passaic and Essex Counties to the west, and Hudson County to its south. The county is considered a part of the greater New York metropolitan area. Bergen County is a county of diversity, for its municipalities vary a great deal.

Bergen County's population has grown from 78,441 in 1900 to 845,385 in 1980, (see table 2). The period of the most rapid growth was from 1900 - 1930, which was attributed to the building of the George Washington Bridge which connected Fort Lee to Upper Manhattan and allowed for the suburbanization of New York's work force into New Jersey. The 1970's marked a period in which Bergen County's population declined for the first time. Three reasons have been considered to be responsible for this decline. The first was the decline
Table 2
Population Growth
Bergen County
1900 - 1980

<table>
<thead>
<tr>
<th>Year</th>
<th>Population</th>
<th>Numerical Increase</th>
<th>Percentage Increase</th>
<th>Compound Annual Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>78,441</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1910</td>
<td>138,002</td>
<td>59,561</td>
<td>75.9</td>
<td>5.8</td>
</tr>
<tr>
<td>1920</td>
<td>210,703</td>
<td>72,701</td>
<td>52.7</td>
<td>4.3</td>
</tr>
<tr>
<td>1930</td>
<td>364,977</td>
<td>154,274</td>
<td>73.2</td>
<td>5.7</td>
</tr>
<tr>
<td>1940</td>
<td>409,646</td>
<td>44,669</td>
<td>12.2</td>
<td>1.2</td>
</tr>
<tr>
<td>1950</td>
<td>539,139</td>
<td>129,493</td>
<td>31.6</td>
<td>2.8</td>
</tr>
<tr>
<td>1960</td>
<td>780,255</td>
<td>241,116</td>
<td>44.7</td>
<td>3.8</td>
</tr>
<tr>
<td>1970</td>
<td>897,148</td>
<td>116,893</td>
<td>15.0</td>
<td>5.2</td>
</tr>
<tr>
<td>1980</td>
<td>845,385</td>
<td>-51,763</td>
<td>-5.8</td>
<td>-0.6</td>
</tr>
</tbody>
</table>

in the birth rate throughout the county; the second was that the inflation rate in the 1970's made buying a single family home in the county difficult; and the third was the dramatic increase in the cost of energy that made individual home ownership and commuting relatively expensive throughout the county. 36

Bergen County is considered the most affluent county in the state. It has the highest per capita income in the state, (see table 3). The County's Saddle River Borough was far and away the most affluent municipality in the state with a $16,010 per capita income in 1975. 37 In 1975, 55 of Bergen's 70 municipalities had a per capita income greater than the state per capita income. 38

Bergen County's labor force makes up 13.9 percent of the entire state's labor force. 39 The county generally follows the patterns of state unemployment, but tends to average about 1 to 1.5 percent less unemployment than the state as a whole, (see table 4 and chart 2).

County Government

In New Jersey the counties are creations of the state. In many respects the counties are also administrative arms and fiscal agents of the state. This is because the counties have responsibility for administering state mandated programs, over which they have no real power of control. According to law, counties have no inherent powers of their own, but can only carry out the responsibilities assigned to them by state law. 40 (see structure diagram 1)
Table 3
Per Capita Income of the Various Counties of New Jersey

<table>
<thead>
<tr>
<th>Rank</th>
<th>County</th>
<th>Per Capita Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bergen</td>
<td>$4,553</td>
</tr>
<tr>
<td>2</td>
<td>Union</td>
<td>4,198</td>
</tr>
<tr>
<td>3</td>
<td>Morris</td>
<td>4,134</td>
</tr>
<tr>
<td>4</td>
<td>Somerset</td>
<td>4,097</td>
</tr>
<tr>
<td>5</td>
<td>Essex</td>
<td>3,753</td>
</tr>
<tr>
<td>6</td>
<td>Monmouth</td>
<td>3,655</td>
</tr>
<tr>
<td>7</td>
<td>Mercer</td>
<td>3,631</td>
</tr>
<tr>
<td>8</td>
<td>Hunterdon</td>
<td>3,623</td>
</tr>
<tr>
<td>9</td>
<td>Passaic</td>
<td>3,555</td>
</tr>
<tr>
<td>10</td>
<td>Middlesex</td>
<td>3,524</td>
</tr>
<tr>
<td>11</td>
<td>Camden</td>
<td>3,347</td>
</tr>
<tr>
<td>12</td>
<td>Burlington</td>
<td>3,298</td>
</tr>
<tr>
<td>13</td>
<td>Sussex</td>
<td>3,297</td>
</tr>
<tr>
<td>14</td>
<td>Hudson</td>
<td>3,203</td>
</tr>
<tr>
<td>15</td>
<td>Warren</td>
<td>3,180</td>
</tr>
<tr>
<td>16</td>
<td>Cape May</td>
<td>3,157</td>
</tr>
<tr>
<td>17</td>
<td>Salem</td>
<td>3,102</td>
</tr>
<tr>
<td>18</td>
<td>Ocean</td>
<td>3,088</td>
</tr>
<tr>
<td>19</td>
<td>Atlantic</td>
<td>3,083</td>
</tr>
<tr>
<td>20</td>
<td>Gloucester</td>
<td>3,032</td>
</tr>
<tr>
<td>21</td>
<td>Cumberland</td>
<td>2,902</td>
</tr>
</tbody>
</table>

### Table 4

**Labor Force, Employment, Unemployment, Unemployment Rate**

*1970 - 1978*

#### New Jersey

<table>
<thead>
<tr>
<th>Year</th>
<th>Labor Force (000)</th>
<th>Employment (000)</th>
<th>Unemployment (000)</th>
<th>Unemployment Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>2,985.0</td>
<td>2,849.0</td>
<td>137.0</td>
<td>4.6</td>
</tr>
<tr>
<td>1971</td>
<td>3,002.0</td>
<td>2,831.0</td>
<td>171.0</td>
<td>5.7</td>
</tr>
<tr>
<td>1972</td>
<td>3,105.0</td>
<td>2,924.0</td>
<td>181.0</td>
<td>5.8</td>
</tr>
<tr>
<td>1973</td>
<td>3,176.0</td>
<td>2,998.0</td>
<td>179.0</td>
<td>5.6</td>
</tr>
<tr>
<td>1974</td>
<td>3,213.0</td>
<td>3,010.0</td>
<td>203.0</td>
<td>6.3</td>
</tr>
<tr>
<td>1975</td>
<td>3,250.0</td>
<td>2,917.0</td>
<td>333.0</td>
<td>10.2</td>
</tr>
<tr>
<td>1976</td>
<td>3,505.0</td>
<td>2,961.0</td>
<td>345.0</td>
<td>10.4</td>
</tr>
<tr>
<td>1977</td>
<td>3,367.0</td>
<td>3,061.0</td>
<td>316.0</td>
<td>9.4</td>
</tr>
<tr>
<td>1978</td>
<td>3,431.0</td>
<td>3,185.0</td>
<td>246.0</td>
<td>7.2</td>
</tr>
</tbody>
</table>

#### Bergen County

<table>
<thead>
<tr>
<th>Year</th>
<th>Labor Force (000)</th>
<th>Employment (000)</th>
<th>Unemployment (000)</th>
<th>Unemployment Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>396.8</td>
<td>382.5</td>
<td>14.3</td>
<td>3.6</td>
</tr>
<tr>
<td>1971</td>
<td>400.6</td>
<td>381.5</td>
<td>19.2</td>
<td>4.8</td>
</tr>
<tr>
<td>1972</td>
<td>416.8</td>
<td>397.0</td>
<td>19.8</td>
<td>4.8</td>
</tr>
<tr>
<td>1973</td>
<td>429.3</td>
<td>410.2</td>
<td>19.1</td>
<td>4.5</td>
</tr>
<tr>
<td>1974</td>
<td>436.7</td>
<td>415.0</td>
<td>21.6</td>
<td>5.0</td>
</tr>
<tr>
<td>1975</td>
<td>441.7</td>
<td>403.8</td>
<td>37.9</td>
<td>8.6</td>
</tr>
<tr>
<td>1976</td>
<td>458.0</td>
<td>417.1</td>
<td>40.9</td>
<td>8.9</td>
</tr>
<tr>
<td>1977</td>
<td>467.3</td>
<td>430.1</td>
<td>37.1</td>
<td>7.9</td>
</tr>
<tr>
<td>1978</td>
<td>478.2</td>
<td>448.7</td>
<td>29.5</td>
<td>6.2</td>
</tr>
</tbody>
</table>

Source: N.J. Department of Labor and Industry, Division of Planning and Research, Office of Labor Statistics.
Chart 2
Rate of Unemployment
Bergen County and New Jersey
1970 - 1978

Source: New Jersey Department of Labor and Industry, Division of Planning and Research, Office of Labor Statistics.
Structure Diagram 1
Government in Bergen County

Elects a Freeholder As:

Director of Board
1 - year Term

Presides at Meetings

Represents Board For Civic Ceremonial Occasions

Has Regular Vote

Board of Chosen Freeholders

Appoints Executive Administrator

Appoints/Removes All Personnel

Approves Salaries

Responsible For Administration of County Through Nine Committees, Each Chaired By One Freeholder

Prepares/Adopts Budget

Contracts With Municipalities

Appoints Counsel, Clerk To Board

Appoints To Various Agencies and Boards

Executive Administrator/ Director of Finance 1-year Term

Assists Freeholders in Their Administrative Duties

A) **Role of the County**

County government has little control over most of the services and functions that it performs and finances. It has been estimated that anywhere from 60 - 70 percent of Bergen County's budget is beyond the day-to-day and long range control of the Board of Chosen Freeholders. A large amount of the budget is spent on stated mandated functions, for example, welfare and judicial administration. All other budgetary dollars that are not under the direct control of the Freeholders are spent on county services performed by a great many autonomous and semi-autonomous agencies.

Because most county services are state mandated programs, the counties can not effectively formulate policies and develop programs in those areas which are already mandated by the state.

The county's main function is to raise the necessary funds in order to fund the mandated programs it delivers. The county raises its funds mainly through its property taxes of the 70 municipalities within the county.

B) **Composition of the Governing Body**

Bergen County government is based on nine elected officials who all have the title of Freeholder. The nine Freeholders are elected to a three year term, with three of them being elected each year in a county wide election, (see structure diagram 1).

The Board of Freeholders has traditionally been run as a commission form of government. Each Freeholder's major
function is to head one of the nine commissions of the county. This gives each Freeholder a dual role of being a departmental administrator as well as being a legislator.

The nine commissions in Bergen County are: Administration and Finance, Public Safety, Judicial Services and Constitutional Officers, Health and Welfare, Public Works and Sanitation, Institutions and Agencies, General Services, Parks and Recreation, and Intergovernmental Relations and Human Resources.

In addition to heading a commission, each of the nine Freeholders in Bergen County is assigned to serve on other committees. All committee assignments are made through appointment by the Freeholder Director.

The Freeholder Director is elected by his or her peers to serve a one year term. Other than the assignment of commission heads, the Freeholder Director has minimal formal powers. The director of the Board of Freeholders is considered as a first among equals. To ensure the power of the director does not become excessive, the majority party of Freeholders traditionally rotate the director position annually among themselves. The director has only one vote out of nine, and is not comparable to a mayor, governor, or chief elected officials of counties in other states.

C) Relations with the Municipalities

Essentially, the county government's chief concern is administering mandated programs of the state, but when local problems transcend municipal boundary lines, the county has
a responsibility to solve them. The county has thus become a vital link between the state and its municipalities in providing area wide services and solving area wide problems.\footnote{48}

The county also has power to enter into contracts with its municipalities, but those contracts must be voluntary and mutually acceptable by both the municipality and the county in accordance to the Optional Charter Law.\footnote{49}

Overview of Bergen County's Municipalities

Even though Bergen County is part of the New York metropolitan area, it is basically a county that is made up of small towns.\footnote{50} No one municipality is large. Teaneck, Hackensack, and Fort Lee are the three largest municipalities, with 1982 estimated populations of 39,000; 36,500; and 35,100 respectively.\footnote{51} (see table 5)

The average size of a municipality in Bergen County is 3.36 square miles.\footnote{52} The extremes in this area are a size of .54 sq. mi. for South Hackensack, while at the other extreme is Mahwah with a size of 25.70 sq. mi.. This makes for a wide range of population density throughout the County, (see map 1).

As for services, almost all the municipalities in Bergen have their own professional police forces. The two extremes are the municipalities of Teterboro with a police force of 4 and Paramus with a police force of 117.\footnote{53} Out of the 70 municipalities there are only six that have professional fire protection, while the remaining 64 municipalities have volun-
Table 5

Population Breakdown of the Sizes of the Municipalities in Bergen County 1978 - Pop.

<table>
<thead>
<tr>
<th>Population</th>
<th>Number of Municipalities</th>
<th>Percentage of the Total Municipalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 4,999</td>
<td>12</td>
<td>17%</td>
</tr>
<tr>
<td>5,000 - 9,999</td>
<td>22</td>
<td>31%</td>
</tr>
<tr>
<td>10,000 - 14,999</td>
<td>18</td>
<td>26%</td>
</tr>
<tr>
<td>15,000 - 19,000</td>
<td>6</td>
<td>9%</td>
</tr>
<tr>
<td>20,000 + Above</td>
<td>12</td>
<td>17%</td>
</tr>
</tbody>
</table>

Map 1
Bergen County
Population Density
of Municipalities

Source: Bergen County Fact Book
teer fire protection. The professional police and fire departments have been of particular concern to local administrators since 1977 when the New Jersey legislature passed the Police and Fire Arbitration Act of Chapter 85, which gave them the right to enter into binding arbitration agreements with their municipalities. This is of importance because frequently these arbitration awards are in excess of the 5 percent budgetary cap.

The average municipal property tax rate was $2.24 per $100 valuation for the year of 1979 after the county equalization ratio was calculated in with the general tax rate. There were 38 municipalities in excess of the county average and 42 were lower than the average, (see table 6).

Summary

This chapter has provided a general overview of Bergen County and its municipalities. This description has revealed the following points relevant to the impact of the Cap Law:

1) There is a wide range of wealth among the municipalities of Bergen County. It might therefore be expected that the Cap Law would have different effects in different municipalities.

2) Bergen County's governmental powers are limited, with its only real power coming from its taxing ability, which the Cap Law aims to stabilize.

3) Since much of municipal budgets expenditure is
Table 6
Municipal Property Tax Rates
Bergen County 1979

Average for the 70 Municipalities in the County of Bergen is $2.44 per $100 Valuation.

<table>
<thead>
<tr>
<th>Municipalities with the Highest Tax Rates in Bergen County:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Teaneck $3.98/per $100</td>
</tr>
<tr>
<td>2. Englewood $3.71</td>
</tr>
<tr>
<td>3. Ridgewood $3.45</td>
</tr>
<tr>
<td>4. Leonia $3.38</td>
</tr>
<tr>
<td>5. Demarest $3.36</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Municipalities with the Lowest Tax Rates in Bergen County:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ridgefield $0.57/per $100</td>
</tr>
<tr>
<td>2. Teterboro $0.58</td>
</tr>
<tr>
<td>3. Rockleigh $0.65</td>
</tr>
<tr>
<td>4. Carlstadt $1.20</td>
</tr>
<tr>
<td>5. Edgewater $1.26</td>
</tr>
</tbody>
</table>

mandated, it might be expected that the Cap Law would adversely effect nonmandated local expenditures.

4) There are considerable variations in municipal tax rates. The level of tax rates may be a significant factor in the ease of difficulty with which municipalities are able to realize the Cap Law's goal of tax stabilization.
Chapter 6
Responses to the Survey

This chapter deals with responses to the survey of municipal officials of Bergen County, New Jersey. Areas covered include survey response rate, Cap Law objectives, impact of the Cap Law upon Bergen County's municipalities, managerial problems, and possible revisions of the Cap Law.

Survey Response Rate

The results of this study are based upon the responses of 59 out of the 70 municipal officials of Bergen County, who were surveyed. Table 7 shows the response rate for the study broken down by population for each of the county's municipalities. Of the 59 municipal officials who took part in the study 21 or 35.6% were finance officers, (tax collectors and treasurers); 18 or 30.5% were administrators; 13 or 22.0% were mayors; 4 or 6.8% were municipal clerks; and 3 or 5.1% were council members.

Objectives of the Cap Law

The objectives of the Cap Law were to stabilize local
Table 7
Survey Response Rate
By Municipal Population

<table>
<thead>
<tr>
<th>Population Based on 1978 Bergen County Planning Board Estimates</th>
<th>Number of Municipalities</th>
<th>Number of Responses</th>
<th>Responses Rate (Percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 4,999</td>
<td>12</td>
<td>8</td>
<td>66.7%</td>
</tr>
<tr>
<td>5,000 - 9,999</td>
<td>22</td>
<td>19</td>
<td>86.4%</td>
</tr>
<tr>
<td>10,000 - 14,999</td>
<td>18</td>
<td>16</td>
<td>88.9%</td>
</tr>
<tr>
<td>15,000 - 19,999</td>
<td>6</td>
<td>4</td>
<td>66.7%</td>
</tr>
<tr>
<td>20,000 &amp; Above</td>
<td>12</td>
<td>12</td>
<td>100.0%</td>
</tr>
<tr>
<td>Totals</td>
<td>70</td>
<td>59</td>
<td>84.3%</td>
</tr>
</tbody>
</table>
tax rates and decrease unnecessary spending, which formed the first part of the survey questionnaire.

A) Tax Rates

The main reason for the Cap Law's creation was to stabilize municipal tax rates, by limiting spending at the local level. Of the survey respondents, 78 percent (46 out of 59) stated that the Cap Law did not stabilize tax rates in their municipalities, while only 17 percent (10 out of 59) of the county's municipal officials felt that the law did in fact help to stabilize their tax rates and 5 percent (3 out of 59) of respondents had no opinion on the matter. On this point, there seems to be no correlation with the municipalities' size. Of those who responded, 100 percent of the municipal officials of municipalities with populations under 5,000 and 92 percent of those municipal officials with populations over 20,000 expressed the opinion that the Cap Law did not help in stabilizing their municipalities' tax rate.

According to data provided by local officials in the survey, there seems to have been a slight to fair increase in property taxes for several of Bergen County's municipalities between 1980-1982. The average property tax increase seems to be in the neighborhood of a $0.40 range per $100 valuation.

In a related area, local officials were asked, whether they believed that the average tax payer in their municipality realized any benefits from the introduction of the Cap
Of the respondents, 66 percent (39 out of 59) believed that the Cap Law did not provide any benefits for tax payers in their municipalities, while only 27 percent (16 out of 59) perceived the law as being beneficial to their tax payers, and 7 percent (4 out of 59) had no opinion on the subject.

B) Unnecessary Spending

Unnecessary spending is generally considered by most local officials to be any spending which is not essential for the proper management and operations of a municipality's services and functions. Unnecessary spending is considered by the general public to be the proverbial "fat" or "waste" that is often associated with government. The Cap Law sought to eliminate this "fat" or unnecessary spending in the hope that this would stabilize the local tax rates.

Some 58 percent (34 out of 59) felt that the Cap Law did control unnecessary spending, while 44 percent (8 out of 59) felt the law did not control unnecessary spending, and 28 percent (17 out of 59) of respondents expressed no opinion on this matter. Many of the respondents commented that the law also restricted necessary spending. Some of the local officials remarked that the Cap Law's power to restrict spending was harmful to the true needs of the community. One local official even commented that the Cap Law was similar to "Big Brother", in George Orwell's novel 1984, because the law controlled and limited a town's basic authority.

From these results, one might cautiously conclude that
the Cap Law had not achieved its primary objective of stabilizing the local tax rates for the municipalities of Bergen County. Although the majority of respondents believed the Cap Law did limit unnecessary spending, it seemed to achieve this goal at the cost of also limiting necessary spending. This brings up the interesting question of whether the cure is more harmful than the problem, which will be examined in the next section.

Impact of the Cap Law

In this section the Cap Law's effect upon local services and planning will be examined. The results of this section will indicate whether the law is causing undue harm, such as a decrease in services to the municipalities of Bergen County.

A) Services

For the purpose of this study, services were defined as being the three major budgetary expenditures for local governments; police, fire, and public works.

According to the study, the Cap Law seems not to have caused a total reduction of services, (a loss of personnel, equipment and man hours in the three major services of police, fire, and public works) in 68 percent (40 out of 59) of the municipalities of Bergen County, although 32 percent (19 out of 59) of the municipal officials surveyed did blame the Cap Law for causing some service reductions in their municipalities. The survey indicated that the municipalities with populations over 20,000 were almost twice as likely to have service reduc-
tions attributed to the Cap Law, than municipalities with population under 5,000. Of the municipal officials of municipalities with populations over 20,000, 42 percent (5 out of 12) stated that the Cap Law caused service reductions in their municipalities, while for municipalities with populations under 5,000 only 25 percent (3 out of 12) of local officials felt that the law caused total service reductions.

Local officials were asked to rank the following four items in order in which they were most hurt by the introduction of the Cap Law in their municipality, (1) purchasing new equipment; (2) road repairs; (3) recreational programs; and (4) implementation of new programs. The officials were also asked to list any other items or services in their municipalities negatively affected by the Cap Law. Table 8 shows the items and services that were most harmed by the Cap Law according to the municipal officials in Bergen County. The table is based on the averages and number of responses of local officials who wished to have those items eliminated from the Cap.

Census data provided by local officials of Bergen County for the years of 1976, 1980, and 1982, revealed a noticeable reduction of personnel in public works departments over those years. This reduction of public works personnel seems to have occurred in approximately 20 percent of the county's municipalities. In other service departments (police and fire), personnel levels seem to have stayed fairly stable over the same
Table 8
Items and Services Most Negatively Affected By The Cap Law According To Bergen County's Municipal Officials

<table>
<thead>
<tr>
<th>Rank</th>
<th>Most Hurt To Least Hurt Based On Averages &amp; Responses</th>
<th>Items and Services</th>
<th>Number of Responses</th>
<th>Averages (Based On Responses Rank Votes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Road Repairs</td>
<td></td>
<td>47</td>
<td>2.00</td>
</tr>
<tr>
<td>2</td>
<td>Implementation of New Programs</td>
<td></td>
<td>46</td>
<td>2.33</td>
</tr>
<tr>
<td>3</td>
<td>Purchasing New Equipment</td>
<td></td>
<td>46</td>
<td>2.52</td>
</tr>
<tr>
<td>4</td>
<td>Recreational Programs</td>
<td></td>
<td>47</td>
<td>2.98</td>
</tr>
<tr>
<td>5</td>
<td>Library Services</td>
<td></td>
<td>7</td>
<td>*</td>
</tr>
<tr>
<td>6</td>
<td>Department of Public Works</td>
<td></td>
<td>4</td>
<td>*</td>
</tr>
<tr>
<td>7</td>
<td>Police Services</td>
<td></td>
<td>2</td>
<td>*</td>
</tr>
</tbody>
</table>

*No Averages Calculated - Rank Based On Number of Responses
It is interesting to note that when the county's municipal officials were asked if the Cap Law had helped to improve the quality of services provided by their municipality, only 7 percent (4 out of 59) of respondents felt that the law indeed helped to improve the quality of their local services, while an overwhelming 88 percent (52 out of 59) of the respondents stated the law did not help improve the quality of their services, and 5 percent (3 out of 59) were undecided on the issue. When asked a related question, whether the Cap Law had hurt the quality of services in their municipality, 56 percent (33 out of 59) of the local officials stated the law had an adverse effect on their municipal services, while 32 percent (19 out of 59) felt the law did not, and 12 percent (7 out of 59) were undecided.

From the responses to those two simple question, one might conclude that there is a general perception among the county's municipal officials that the Cap Law had done little to improve municipal service quality and the law had done more harm than good in this area.

B) Planning

Some 72 percent (42 out of 59) of the respondents stated that the Cap Law had adversely affected the budget planning in their municipalities, while only 28 percent (16 out of 59) of officials felt that the law did not have adverse affects in this area. A few respondents expressed the opinion that
the law restricted the time span of future planning: "planning for the long term has become impossible." The response seems to suggest that the Cap Law has inhibited municipal officials from accurately planning for the future, since they can not be guaranteed that the funds will be available with the Cap Law's spending limitation imposed on their surplus or carry over funds.

Managerial Problems

There are only two options available to municipal officials who wish to exceed the 5 percent Cap: (1) referendum and (2) bonding. Neither of the two options is a pleasant one. One calls for a local election, which must be funded by the municipality seeking to exceed the Cap. The other forces a municipality to bond and create future liabilities.

The study found that the Cap Law has forced some 57 percent of Bergen County's municipalities to bond (in order to exceed the 5 percent spending limitation) as opposed to their previous pay-as-you-go budgetary practice. The remaining 43 percent of the county's municipalities have not had to bond to exceed the Cap.

The other option available to local officials who wish to exceed New Jersey's 5 percent spending limitation is the referendum. A referendum is a local election conducted by municipal officials at the municipality's cost, in which the officials place a budget with a specified dollar amount in-excess of the Cap on the ballot for the approval of the vo-
ters in the particular municipality.

According to the study, 33 percent of Bergen County's municipalities have held at least one referendum in the past six years. Table 9 shows the number of referenda held in Bergen County between 1977 and 1982. The table suggests that more municipal officials are finding it increasingly difficult to function within the 5 percent Cap.

Possible Revisions of the Cap Law

Despite all the criticism about the Cap Law's negative impact upon local governmental services and functions, the law's inability to stabilize tax rates, and its impact on future planning, only 40 percent (23 out of 58) of respondents would eliminate the Cap Law if given the chance, while 60 percent (35 out of 58) favored the law's continuation. In view of this response, it is necessary to explain why so many of the respondents favored the retention of a spending limitation law. The following are five questions which were asked of municipal officials in Bergen County and their responses. An examination of the responses might indicate possible reasons why so many officials favored the continuation of the Cap Law.

1. When asked: "Would you favor a flexible Cap based upon the Consumer Price Index as opposed to the current 5 percent Cap?", an overwhelming majority, some 76 percent (45 out of 59) favored the idea, while 20 percent (12 out of 59) of the respondents opposed the idea, and 4 percent or 2 re-
Table 9

Referenda Held in Bergen County - 1977 to 1982

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Referenda Held</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>1</td>
</tr>
<tr>
<td>1978</td>
<td>1</td>
</tr>
<tr>
<td>1979</td>
<td>0</td>
</tr>
<tr>
<td>1980</td>
<td>3</td>
</tr>
<tr>
<td>1981*</td>
<td>8</td>
</tr>
<tr>
<td>1982*</td>
<td>10</td>
</tr>
</tbody>
</table>

* 2 Municipalities held referenda in both 1981 and 1982

Source: Survey - Response of 59 out of 70 municipalities of Bergen County
spondents were undecided. A few respondents commented that the Cap should become flexible, but tied to one of the following: other inflation indicators, the cost of living allowance, and one respondent even suggested that the Cap should be tied in with local tax rates. It was apparent by the comments that the respondents felt that a flexible Cap tied to any indicator of economic conditions would be more appropriate than the current stable 5 percent Cap.

2. When asked: "What specific numerical Cap would you like to have, provided there had to be a Cap in New Jersey?", a wide range of answers were presented, with the extremes being 15 percent as a high and 5 percent as a low. From these responses, an average was calculated as being 7.45 percent and the medium was found to be 8 percent.

3. When asked: "Should a state agency be created to review the requests of local officials to exceed the 5 percent Cap instead of conducting a referendum?", 54 percent (32 out of 59) of respondents stated that they were opposed to the idea, while 42 percent (25 out of 59) favored the creation of such an agency, and 4 percent (2 out of 59) of respondents offered no response to the question. It is interesting to note that 9 percent of officials opposed to the creation of such an agency cited one of the following three reasons for rejection: (1) the agency would take too much power away from local officials and place it in the hands of independent state officials; (2) the new agency would cost too much to fund; and
(3) an agency review might take too much time to conduct, which might hurt the municipality seeking to exceed the Cap.

4. When asked: "Do you feel that a municipality's surplus fund (carry-over, budgetary surplus funds from previous years) should be excluded from the Cap?", some 68 percent (40 out of 59) of the respondents stated that the funds should be excluded from the Cap, while 28 percent (17 out of 59) stated the funds should not be excluded, and 4 percent (2 out of 59) respondents offered no opinion on the subject.

5. When asked: "If you were allowed to exclude the following items (utility costs, insurance premiums, arbitration awards, and state pension fund) from the control of the Cap, which items would you exclude first? (rank in order from first to last)", based on the averages of the ranking by local officials, the state pension fund is the item that the local officials would most want excluded from the Cap. Table 10 shows the further ranking of items.

From the results of this section of the survey one might conclude that the Cap Law seems to be popular with the majority of local officials of Bergen County, especially if the Cap could be adjusted to reflect changing economic conditions. The vast majority of officials would favor changing the current 5 percent Cap to a more flexible one. The survey indicated that the Cap was approximately 2 to 3 percent lower than the respondents in this survey would like; this point could be translated as inhibiting needed spending. For example, if
Table 10

Items Most Desired To Be Excluded From New Jersey's Cap Law According To Municipal Officials of Bergen County

<table>
<thead>
<tr>
<th>Rank Most Wanted Excluded To Least</th>
<th>Items</th>
<th>Number of Responses</th>
<th>Averages (Based on Rank Votes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>State Pension Fund</td>
<td>53</td>
<td>2.04</td>
</tr>
<tr>
<td>2</td>
<td>Insurance Premiums</td>
<td>54</td>
<td>2.26</td>
</tr>
<tr>
<td>3</td>
<td>Utility Costs</td>
<td>54</td>
<td>2.28</td>
</tr>
<tr>
<td>4</td>
<td>Arbitration Awards</td>
<td>53</td>
<td>3.15</td>
</tr>
</tbody>
</table>
a municipality's annual budget were 25 million dollars, the current 5 percent Cap would restrict spending by more than half a million dollars more than local officials would like.

The study also seems to suggest that there is a strong sentiment to exclude mandated expenditures from the 5 percent Cap or at least, to have the state somehow control their costs. This would enable the municipal officials to comply with the current 5 percent Cap more easily.

Summary

The results of the survey of the municipal officials of Bergen County may be summarized as follows:

Response Rate

A) The study is based upon the responses of 59 municipal officials, representing 59 or 84.3% of Bergen County's 70 municipalities.

B) The majority of the respondents, 88.1% (52 out of 59) were either finance officers, administrators or mayors.

Cap Law Objectives

A) It appears from the study that in Bergen County, the Cap Law did not achieve its primary objective of stabilizing local tax rates.

B) According to respondents, the Cap Law did achieve its secondary goal of prohibiting unnecessary spending, but it accomplished this goal at considerable cost.
Chapter 7
Summary of the Study and Recommendations

This study was undertaken for several reasons. The first and primary reason was to determine whether or not New Jersey's Cap Law achieved its objective, namely to stabilize local tax rates. The second aim of the study was to examine the law's effect upon the various municipal functions of the municipalities of Bergen County. The study also attempted to explore the opinions of the county's local officials on a variety of proposed changes in the Cap Law.

Survey results indicate that the Cap Law did not accomplish its major objective of stabilizing local tax rates in a majority of Bergen County's municipalities. In addition, respondents believed the law inhibited necessary spending, causing difficulties in the carrying out of municipal services and functions.

Although the law appeared to have had only a slight negative impact upon essential municipal services (police, fire, and public works), it was found to have had a significant
Impact of the Cap Law

A) According to survey responses the Cap Law did not appear to improve the quality of local services in Bergen County.

B) The Cap Law was perceived by local officials as being harmful to municipal services.

C) The Cap Law was believed to have hurt the local functions most by cutting purchases of new equipment and preventing road repairs.

D) According to responding local officials, the public works department was found to be the service department most negatively affected by the Cap Law among the municipalities in Bergen County.

E) There is some evidence that suggests that municipal planning was adversely affected by the Cap Law.

Managerial Problems

A) Several municipalities within Bergen County were found to have resorted to bonding to exceed the Cap.

B) There has been a rise in the use of municipal referenda, which suggests that more municipal officials are finding it difficult to budget adequately and still remain within the Cap.

Possible Revisions of the Cap Law

A) A majority of respondents favored the continuation of the Cap Law.

B) The vast majority of respondents supported the idea of
changing the current fixed 5 percent to a flexible Cap based upon the Consumer Price Index.

C) The majority of respondents favored the referendum option over the creation of a state agency to review needs to exceed the Cap.

D) The majority of the respondents expressed a desire to have surplus or carry over funds excluded from the Cap.

E) State pension funds, were chosen by the respondents as the item which they would most like to have excluded from the Cap.
Chapter 7
Summary of the Study
and Recommendations

This study was undertaken for several reasons. The first and primary reason was to determine whether or not New Jersey's Cap Law achieved its objective, namely to stabilize local tax rates. The second aim of the study was to examine the law's effect upon the various municipal functions of the municipalities of Bergen County. The study also attempted to explore the opinions of the county's local officials on a variety of proposed changes in the Cap Law.

Survey results indicate that the Cap Law did not accomplish its major objective of stabilizing local tax rates in a majority of Bergen County's municipalities. In addition, respondents believed the law inhibited necessary spending, causing difficulties in the carrying out of municipal services and functions.

Although the law appeared to have had only a slight negative impact upon essential municipal services (police, fire, and public works), it was found to have had a significant
impact upon nonessential services. The Cap Law was found to most harm the following municipal functions: road repairs, implementation of new programs, purchasing new equipment, recreational programs, and library services. These areas have a low budget priority and their funding is based on monies left over after the essential areas are funded. The study suggests that the reasons these nonessential areas have been experiencing funding shortages are: (1) the fact that the Cap is a fixed 5 percent rate; (2) the inflation rate has been over 9 percent (on the average) for the four years after the Cap Law's implementation in 1976; and (3) surplus or carry over funds have been restricted in use by the Cap Law. These three factors have helped to cause a shortage of funds in many of Bergen County's municipalities, which translates into a deterioration of nonessential services.

The study also revealed a rise in the use of referenda by Bergen County's municipalities. The rise seems to suggest that more and more municipal officials are finding it difficult to fund all their services and programs adequately, and still stay within the 5 percent Cap. The study also indicated that many municipal officials have resorted to bonding to avoid the spending limitation, thereby causing future liabilities for their municipalities.

According to the survey responses, many local officials were in favor of retaining the Cap Law if it could be modified to reflect today's economic conditions. In the light
of this study, the following recommendations for possible revisions of New Jersey's Cap Law would seem desirable.

1. Replace the current 5 percent Cap with a flexible Cap rate based upon the consumer price index. This proposed change would allow municipal officials to budget adequately inspite of high inflationary periods.

2. Exclude uncontrollable mandated costs (insurance premiums, utility costs, pension funds, and arbitration awards), from the Cap Law. This change would give local officials more jurisdiction in budgeting for their municipalities.

3. Force the state by law to split equally the cost of conducting a referendum with any municipality seeking to conduct one. This change would encourage the use of the referendum, thereby discouraging the use of bonding to exceed the Cap.

4. Exclude surplus (carry over) funds from the Cap Law. This change would help municipal officials in planning for their municipalities, because it would free their existing funds from the spending restriction, thereby allowing its use at any time local officials see fit to spend.

These recommendations would retain the spirit of the Cap Law and would ease a number of problems that the law has cre-
ated. These changes would probably still allow the Cap Law to obtain its secondary goal of preventing unnecessary waste, without restricting necessary spending as the present Cap Law appears to have done. As for the main question of whether these changes will help the Cap Law to obtain its major objective, to stabilize local tax rates, that remains to be seen.
### APPENDIX A

#### TABLE 1

**BLS Consumer Price Index - Urban Wage Earners and Clerical Workers (CPI-W)**

All Items (1967=100) - 1963-1981

<table>
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<td>99.7</td>
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<td>101.3</td>
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</tbody>
</table>

*Figures Starting With Jan. 1978 Are Those Under Revised Index*
APPENDIX B

THE EFFECT OF NEW JERSEY'S CAP LAW ON MUNICIPALITIES - (A short questionnaire)

Prepared by - Joseph Peccoralo,
A Graduate Student at
California State University
San Bernardino, California
Serrano Village
6000 State College Parkway
San Bernardino, California

Please note that the Identification Data will only be used to distinguish between the various municipalities in terms of size and will not be used in any other way (This information will be kept confidential).

IDENTIFICATION DATA

1. What is the name of your municipality?

2. What is your name and official title?

Please circle the answer which best represents your feelings - (Section One)

<table>
<thead>
<tr>
<th>QUESTIONS</th>
<th>ANSWERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Has there been a total reduction of services in your municipality since the introduction of the Cap Law?</td>
<td>YES NO</td>
</tr>
<tr>
<td>2. Has the Cap Law forced your municipality to Bond-as apposed to a pay as you go policy?</td>
<td>YES NO</td>
</tr>
<tr>
<td>3. Did the Cap Law effect future planning in your municipality?</td>
<td>YES NO</td>
</tr>
<tr>
<td>4. Has your municipality ever used the referendum vote to exceed the 5% Cap? (If the answer is yes please write down those years in which you used the vote)</td>
<td>YES NO</td>
</tr>
</tbody>
</table>
5. Should a State Agency be created to review the requests of municipalities to exceed the 5% rather than having a referendum vote?  
   **YES**  **NO**

6. Would you favor a flexible Cap based on the Consumer price index as opposed to the current 5% ceiling?  
   **YES**  **NO**

7. Has the Cap Stabilized your municipality tax rate?  
   **YES**  **NO**

8. Do you feel that a municipality's surplus funds should be excluded from the control of the Cap Law?  
   **YES**  **NO**

9. Do you believe that the average tax payer in your municipalities realizes any benefits due to the introduction of the Cap Law?  
   **YES**  **NO**

10. Do you feel that the Cap Law should be eliminated?  
    **YES**  **NO**
APPENDIX B—Continued

(SECTION TWO)

For the following statements please circle the number which best reflects your opinions.

1. The 5% Cap is fine the way it is and should not be changed.

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>Mildly Agree</th>
<th>No Opinion</th>
<th>Mildly Disagree</th>
<th>Strongly Disagree</th>
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<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
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</tbody>
</table>

2. The Cap Law is a good law, but the percentage used should be adjusted in accordance with the economy, (Consumer price index - inflation rate.)

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>Mildly Agree</th>
<th>No Opinion</th>
<th>Mildly Disagree</th>
<th>Strongly Disagree</th>
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<td>3</td>
<td>4</td>
<td>5</td>
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</table>

3. The Cap Law does not do what it was designed to do, namely to stabilize the tax rate and stop unnecessary governmental spending at the local level.

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>Mildly Agree</th>
<th>No Opinion</th>
<th>Mildly Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
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<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

4. Overall I would have to say that the Cap Law has helped improve the quality of services provided by my municipality. (Services— Police, Fire & Public Works.)

<table>
<thead>
<tr>
<th>Strongly Agree</th>
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<th>Mildly Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
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<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

5. Overall I would have to say that the Cap Law has hurt the quality of services provided by my municipality. (Services— Police, Fire & Public Works.)

<table>
<thead>
<tr>
<th>Strongly Agree</th>
<th>Mildly Agree</th>
<th>No Opinion</th>
<th>Mildly Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
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<td>5</td>
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</tbody>
</table>
APPENDIX B—Continued
(SECTION THREE)
Please fill in the answers

1. If there has to be a Cap in New Jersey, I would like the percentage to be:

   %

2. If you were allowed to exclude the following items from being under the control of the Cap, which items would you want to have excluded first (Rate them—#1, being the first item you would want to exclude from the Cap and so on.)

   State Pension Fund
   Insurance Premiums
   Utility Costs
   Arbitration Awards

3. Please rate which services and areas were hurt most in your municipality by the introduction of the Cap Law. (Rate them with #1 being the first item most hurt and so on.)

   Purchasing New Equipment
   Road Repairs
   Recreational Programs
   Implementation of New Programs
   Other Services (Please Name)
Please provide the following information about your municipality.

<table>
<thead>
<tr>
<th>CENSUS</th>
<th>1976</th>
<th>1980</th>
<th>1982</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fire</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(if volunteer please state so)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Works</td>
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</tbody>
</table>

**MUNICIPALITY'S ESTIMATED POPULATION**

<table>
<thead>
<tr>
<th>1976</th>
<th>1980</th>
<th>1982</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

**TAX RATE**
Please present any ideas you may have regarding New Jersey's Cap Law. You are urged to write on any ideas you may have to improve or change the Cap Law.

Thank you once again for taking the time to complete this questionnaire. If you would like a copy of the results of this survey please provide your name and address on the back of this sheet and the results will be forwarded.
Footnotes


2. Ibid.

3. Ibid.

4. Ibid.


6. Ibid. p.36.

7. Ibid. p.37.

8. Ibid.


10. Ibid.

11. Ibid.


19. Ibid.
20. Ibid. p.v.


22. Ibid. p.2.

23. Ibid.

24. Ibid.

25. Ibid.

26. Ibid.

27. N.J.S.A. 40A: 4-45.2 (last amended P.L. 1981, c.64)


31. Ibid.

32. Ibid.


34. Ibid. p.11.


38. Ibid.


40. Charting Bergen's Future, Bergen County Study Commission, p.5.
50. Bergen County Fact Book, Bergen County Area Development Council, Bergen County Planning Board.

51. Provided by the treasurers of Teaneck, Hackensack, and Fort Lee.

52. Bergen County Fact Book.

53. Ibid.

54. Ibid.


56. Bergen County Fact Book.
Bibliography

Bergen County Yearbook 1982, published by the Bergen County Board of Chosen Freeholders, 1982.


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