

STATE AID

Or is it?

LET'S START WITH A
LITTLE HISTORY LESSON

Energy Tax History

1884

- Franchise Tax created for entities having line or mains located in, on, or over any street, highway or other public place.
 - Provided for a 2% assessment on gross receipts of telegraph, telephone, cable and express companies

1900

- The Voorhees Tax Act extended the Franchise Tax to all utilities except those subject to the Railroad and Canal Property Tax Act.
 - Provided that receipts were to be returned to municipalities

Energy Tax History (continued)

1917

- Franchise Tax rates were increased to 3%

1918

- Franchise Tax rates were increased to 4%

1919

- Franchise Tax rates were increased to 5%
- Gross Receipts Tax was imposed “**in lieu of local taxes** on certain properties of the following utilities – Street railways, traction, sewerage, water, gas and electric, heat and power corporations using or occupying public streets, highways, roads and other public places”

Energy Tax History (continued)

1940

- Unit values were applied to each class and type of utility owned tangible personal property “for the purpose of securing a fair and equitable apportionment” of Franchise and Gross Receipts Taxes among the various utilities.
- The Franchise Tax rate of 2% was applied to each utility’s gross receipts of \$50,000.00, or less, and 5% for gross receipts in excess of that amount.
- After subtracting its administrative expenses, the proceeds from each taxpaying utility was **distributed back to individual municipalities**, based on the value of the facilities and personal property each hosted, as a percentage of the statewide total.

Energy Tax History (continued)

1955

- In 1955, the maximum rate of Gross Receipts Taxes was capped at 7.5%

1956

- In 1956, a minimum of 5% was set.

1960

- In 1960, a firm rate of 7.5% was established.

Energy Tax History (continued)

1980

- In 1980, Chapters 10 and 11 “provided for State collection of the taxes” and redistribution back to the municipalities.
- These reforms capped the distribution to any municipality with a municipal purposes tax rate of \$0.10 or less in each of the three preceding years and capped the distribution to all municipalities at \$700.00, per capita.
- Chapter 12 established the Municipal Purposes Tax Assistance Fund (MPTAF), funded from the amounts NOT distributed, pursuant to the caps.

Energy Tax History (continued)

1997

- Governor Whitman then signed Chapter 167, P.L. 1997, The "Energy Tax Receipts Property Tax Relief Act;" replaces method of distributing certain funds guaranteed to municipalities from the State's taxation of energy and telecommunications.

Energy Tax History (continued)

1998

- Effective January 1, 1998, regulated natural gas and electric energy utilities and telecommunications utilities operating in New Jersey were freed from franchise and gross receipts taxes, which were repealed.
- The Energy Tax Receipts Program was allocated to ensure that municipalities would receive at least the same amount of money they received from the Gross Receipts and Franchise Tax in the past.

Energy Tax History (continued)

1998 (Continued)

- Revenue for the Energy Tax Receipts Property Tax Relief Fund will be raised by applying:
 - Sales and Use Tax to energy or utility services
 - Corporation Business Tax to electric and natural gas utilities that were subject to the Gross Receipts and Franchise Tax prior to January 1, 1998
 - Corporation Business Tax to telecommunications utilities that were subject to the Gross Receipts and Franchise Tax as of April 1, 1997
 - Gross Receipts and Franchise Tax to privately owned sewerage and water corporations as before

Energy Tax History (continued)

1999

- Chapter 168, P.L. 1999, provided that in each year subsequent to State FY 2002, ETR (and CMPTRA) distributions would annually increase at the rate of the **Implicit Price Deflator** – used to measure the impact of inflation on governmental spending.
- The formula used to distribute ETR from FY 1999 through FY 2002 to each municipality was previous year amount plus an increase proportional to the aggregate dollar value increase.

Energy Tax History (continued)

2006

- The Sales Tax was 6%, but since July 15, 2006, it has been 7%.
- That is a 16.7% increase in revenue to the State of New Jersey, not 1%.
- Was supposed to be used for Property Tax Relief

Energy Tax History (continued)

2009

- In State FY 2010 (Calendar 2009), Governor Corzine proposed and the Legislature agreed to a formula change in combined ETR/CMPTRA cuts. The “**needs based**” **formula cuts** were taken from each municipalities FY 2009 distribution. A wealth calculation. “**The Robin Hood Principle**”
- “Total formula aid (CMPTRA and ETR) was reduced by \$32 million. The budget also accounts for this year’s mandatory **ETR inflation increase of 6.5 percent**, as it has for the past several years, by **transferring the 6.5 percent increase from CMPTRA to ETR.**”

Energy Tax History (continued)

2010

- The similar formula was used to administer FY 2011 (CY 2010) total **ETR/CMPTRA cuts of \$272 million**. Local Finance Notice 2010-08.
- “Similar to 2009, the calculation placed municipalities into nine groups based on low, medium, and high equalized tax rates and wealth.

Energy Tax History (continued)

2011-2017

- Level Funding

2018

- Level Funding (Maybe)

Energy Tax History (continued)

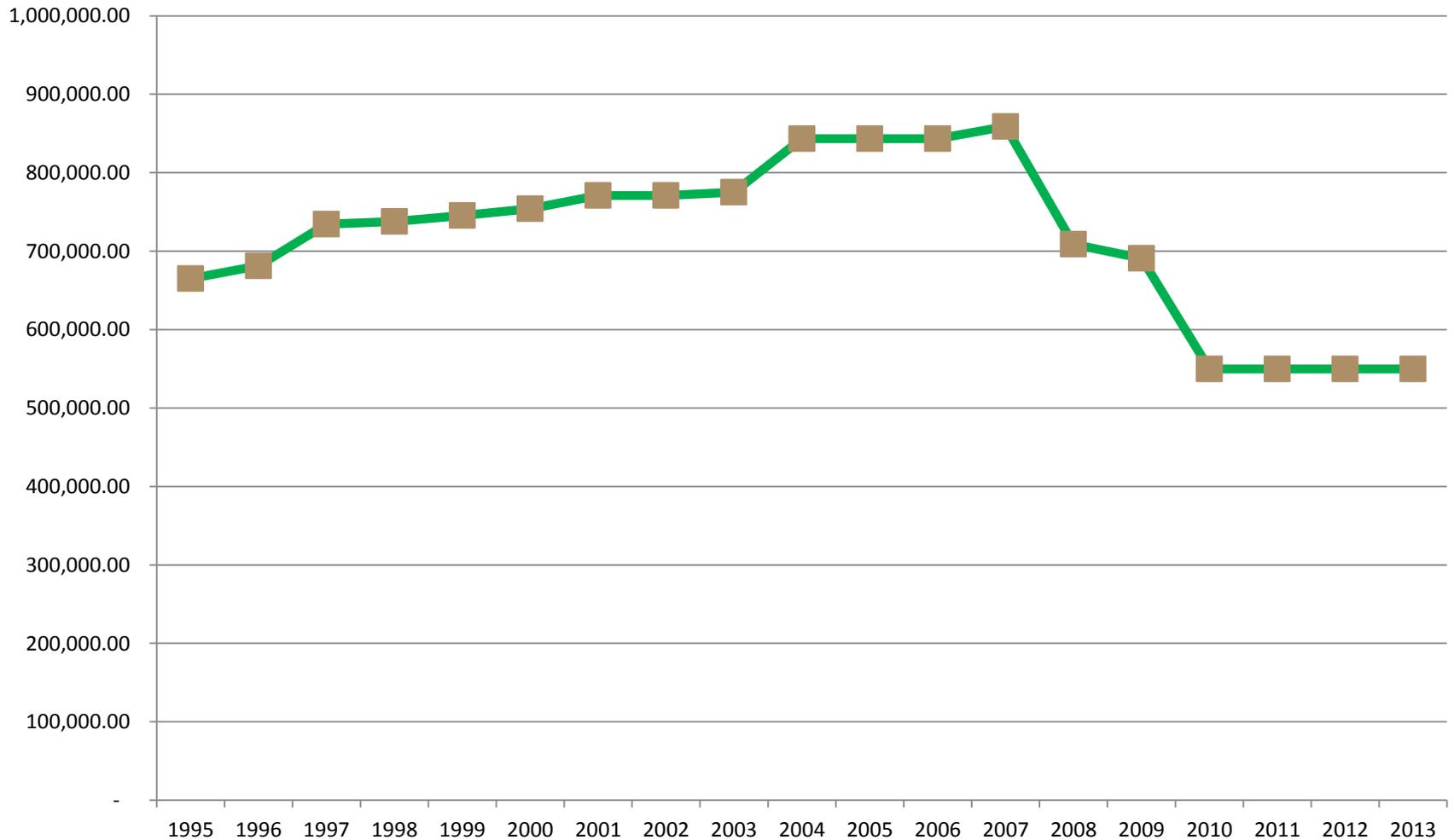
So how is it that the State of New Jersey can continue to take our local revenue sources when the legislation and history of these taxes is so clear?

- Karcher v. Kean, 479 A. 2d 403 - NJ: Supreme Court 1984
- Based upon this State Supreme Court decision, the state found that it can supersede permanent statutes simply by including a provision, to that effect, in the Annual Appropriations Act.

What is State Aid?

- As we just learned, beginning in the 1980's, the State of New Jersey took control over the collection and distribution of the various energy taxes
- Rebranded the local municipal revenues and now call them "**State Aid**"
- The State is now reneging on the original intent of the 1997 law to provide property tax relief
- The State is using municipal revenues to balance their own budget while exacerbating the local property tax problem
- The State then blames local government for creating a property tax problem

Historic State Aid Graph (All Aid)



CMPTRA & ETR Amounts Restated

Year	Received	IPD	Statutory	Shortage
2001	\$ 746,174	Base Year		
2002	746,174	2.5%	\$ 764,828	\$ 18,654
2003	750,316	1.0%	772,477	22,160
2004	768,716	2.5%	791,789	23,073
2005	768,716	3.5%	819,501	50,785
2006	768,716	4.5%	856,379	87,663
2007	768,716	5.5%	903,480	134,764
2008	708,743	5.0%	948,654	239,911
2009	691,025	6.5%	1,010,316	319,291
2010	549,711	0.0%	1,010,316	460,605
2011	549,711	2.0%	1,030,522	480,811
2012	549,711	3.5%	1,066,591	516,880
2013	549,711	2.0%	1,087,922	538,211
2014	549,711	0.5%	1,093,362	543,651
2015	549,711	1.5%	1,109,762	560,051
2016	549,711	0.0%	1,109,762	560,051
2017	549,711	0.5%	1,115,311	565,600
2018	549,711	2.5%	1,143,194	593,483
Totals	\$ 11,664,695		\$ 17,380,340	\$ 5,715,644

CMPTRA & ETR Amounts Restated

Calculation of State Energy Tax Obligation



PROPERTY TAX DILEMMA REVEALED

Why do we have a Property Tax Dilemma?

- The State took our local energy taxes for their own use
- The State increased Sales Tax went from 6% to 7%
 - 16.7% increase (Not 1%) under the guise of providing Property Tax Relief. (Never Happened)
- The State took a risk by leveraging Pension Funds in a down market which we all know failed miserably
- The State told local government to take a pension holiday and not pay into the pension system for many years and is charging us 8.5% on those amounts
- The State now wants to blame local government for its years of mismanagement at the State level

Tax Impact in 2018 Alone!

Issue Area	Amount
PFRS Contribution Rates go from 8.0% to 27.35%	\$ 416,593
PERS Contribution Rates go from 3.65% to 13.37%	153,990
State Aid Shortage in 2018	593,483
Total Municipal Impact	\$ 1,164,066

Taxes would be 30% Lower without State mishaps

Questions

