

LEGISLATIVE HISTORY CHECKLIST
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Condominiums--reimbursement
of municipal fees)

NJSA: 40:67-23.2 to 40:67-23.8

LAWS OF: 1989 **CHAPTER:** 299

BILL NO: S2869

SPONSOR(S) Paterniti

DATE INTRODUCED: September 18, 1988

COMMITTEE: **ASSEMBLY:** ---

SENATE: County & Municipal Government;
Revision & Amendment of Laws

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by asterisks

DATE OF PASSAGE: **ASSEMBLY:** January 8, 1990

SENATE: December 18, 1989

DATE OF APPROVAL: January 12, 1990

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes 10-20-88 & 12-11-89

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

(over)

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New Jersey. Legislature. Assembly. Municipal Government
Committee.

Public meeting on A3582 (requires municipalities to reimburse
qualified private communities for costs of certain services not
provided to them), held March 8, 1989. New Brunswick, 1989.

1989
See newspaper clippings--attached:

"Assembly approves condo bill," 10-9-90 Home News.

"Bill mandating services for condos..." 1-9-90 Philadelphia Inquirer.

"Doubled payments scratched..." 1-13-90 Trenton Times.

"Senate panel OKs bill..." 12-12-89 Home News.

See also Lechner, Jeffrey, "Condo law 'raises Kean' for municipal home role,"
126 N.J.L.J. 243 (August 2, 1990).

KBG:pp

P.L.1989, CHAPTER 299, approved January 12, 1990
1988 Senate No. 2869 (Second Reprint)

1 AN ACT concerning certain municipal services for qualified
2 private communities and supplementing Title 40 of the Revised
3 Statutes.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. For the purposes of this act:

8 a. "Condominium" means the form of real property ownership
9 provided for under the "Condominium Act," P.L.1969, c.257
10 (C.46:8B-1 et seq.);

11 b. "Cooperative" means a housing corporation or association
12 wherein the holder of a share or membership interest in the
13 corporation or association is entitled to possess and occupy, for
14 dwelling purposes, a house, apartment, or other unit of housing
15 owned by the corporation or association, or to purchase a unit of
16 housing constructed or erected by the corporation or association;

17 c. "Fee simple community" means a private community which
18 consists of individually owned lots or units and provides for
19 common or shared elements or interests in real property;

20 d. "Horizontal property regime" means the form of real
21 property ownership provided for under the "Horizontal Property
22 Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

23 e. "Qualified private community" means a ¹residential¹
24 condominium, cooperative, fee simple community, or horizontal
25 property regime¹, the residents of which do not receive any tax
26 abatement or tax exemption related to its construction,¹
27 comprised of a community trust or other trust device,
28 condominium association, homeowners' association, or council of
29 coowners, wherein the cost of maintaining roads and streets and
30 providing essential services is paid for by a not-for-profit entity
31 consisting exclusively of unit owners within the community. No

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCR committee amendments adopted October 20, 1988.

² Senate SRF committee amendments adopted December 11, 1989.

1 apartment building or garden apartment complex owned by an
2 individual or entity that receives monthly rental payments from
3 tenants who occupy the premises shall be considered a qualified
4 private community.

5 2. ²[The] a. Except as otherwise provided in subsection b. of
6 this section, the² governing body of every municipality shall
7 ¹[enact and enforce appropriate ordinances to require the
8 municipality to]¹ ²reimburse a qualified private community for
9 the following services as provided in sections 4 and 5 of this act
10 or² provide the following services within a qualified private
11 community in the same fashion as the municipality provides these
12 services on public roads and streets:

13 ²[a. Maintenance, cleaning and repair of the roads and streets;

14 b.] ⁽¹⁾² Removal of snow, ice and other obstructions from the
15 roads and streets;

16 ²[c.] ⁽²⁾² Lighting of the roads and streets ², to the extent of
17 payment for the electricity required, but not including the
18 installation or maintenance of lamps, standards, wiring or other
19 equipment²;²and²

20 ²[d. Maintenance and repair of water lines, storm sewers and
21 sanitary sewers beneath the roads and streets; ¹and]¹

22 e. ¹Maintenance of detention and retention basins, provided
23 such structures are used primarily for the controlling of storm
24 water runoff and not for recreational use; and

25 <sup>[¹]⁽³⁾² Collection of leaves, recyclable materials and garbage
26 along the roads and streets.</sup>

27 ²b. Nothing in this act shall require a municipality to operate
28 any municipally owned or leased vehicles or other equipment, or
29 to provide any of the services enumerated in subsection a. of this
30 section, upon, along or in relation to any road or street in a
31 qualified private community which either (1) is not accepted for
32 dedication to public use or (2) does not meet all municipal
33 standards and specifications for such dedication, except for
34 width.²

35 ¹3. A qualified private community shall be required to pay the
36 cost of any insurance riders required by the municipality to
37 enable municipal vehicles to operate on private roads and streets
38 within the qualified private community.¹

39 ¹3. At the request of a qualified private community, in] ⁴.

1 2[In¹ a. As provided in section 5 of this act and in² lieu of
2 providing some or all of the services set forth in section 2 of this
3 act, 2[the] a² municipality 1[shall] 2[may¹] shall² enter into a
4 written agreement to annually reimburse the qualified private
5 community 2[for] in an amount not to exceed² the cost 2[to] that
6 would be incurred by² the municipality 2[of] in² providing those
7 services 2directly² 1[for which in lieu reimbursement is
8 requested]¹.

9 2b.2 The amount to be reimbursed to the qualified private
10 community shall be 1used by the qualified private community to
11 pay for the service which the municipality chooses not to provide,
12 and that amount shall be¹ 2[calculated as follows:

13 a. The reimbursement amount for the collection of leaves,
14 recyclable materials and garbage shall be based on the actual per
15 unit costs of the collection of leaves, recyclable materials and
16 garbage throughout the municipality, including the qualified
17 private community.

18 b. The reimbursement amount for the provision of municipal
19 services to repair, maintain and clean roads and streets; remove
20 snow, ice and other obstructions from roads and streets; 1[light
21 roads and streets; and maintain and repair water lines, storm
22 sewers and sanitary sewers beneath the roads and streets]¹ shall
23 be calculated with respect to the running length of the roads and
24 streets within the qualified private community, excluding areas
25 which are primarily used as parking areas or parking lots 1[within
26 the qualified private community]¹, and shall be based on the
27 actual cost incurred by the municipality in providing those
28 services on public streets.

29 1c. The reimbursement amount for the repair and maintenance
30 of water lines, storm and sanitary sewers, retention and detention
31 basins shall be based on the actual cost to repair or maintain the
32 actual water lines, sewers and basins needing service.¹] the
33 actual cost to the qualified private community of providing that
34 service, but not exceeding the amount which the municipality
35 would have expended on that service if it were provided directly
36 by the municipality to the qualified private community.

37 c. An agreement entered into pursuant to this section shall
38 provide for an accounting by the qualified private community of
39 the use of the money paid over to it by the municipality, and for

1 the refunding to the municipality of any payments in excess of
2 the amounts actually expended or contractually committed by the
3 qualified private community during the accounting period in order
4 to provide for the services covered by the agreement.²

5 25. Pursuant to a reimbursement agreement entered into in
6 lieu of providing some or all of the services set forth in section 2
7 of this bill, in each of the first four local budget years beginning
8 on and after the operative date of this act, the municipality shall
9 reimburse the qualified private community for a portion of the
10 cost of providing services in each local budget year in the
11 following manner:

12	<u>1991</u>	<u>20% of the total cost of</u>
13		<u>services in 1991</u>
14	<u>1992</u>	<u>40% of the total cost of</u>
15		<u>services in 1992</u>
16	<u>1993</u>	<u>60% of the total cost of</u>
17		<u>services in 1993</u>
18	<u>1994</u>	<u>80% of the total cost of</u>
19		<u>services in 1994</u>

20 The total cost of services in each local budget year shall be
21 determined pursuant to section 4 of this act. In local budget
22 year 1995 and for each local budget year thereafter, the
23 municipality shall either provide the services pursuant to section
24 2 of this act or enter into a written agreement to annually
25 reimburse the qualified private community in full pursuant to
26 section 4 of this act.²

27 ²[15.] 6.² A municipality shall be required to accept for
28 dedication for public use, by a qualified private community, any
29 road or street within the community that conforms to municipal
30 specifications for public roads and streets.

31 ²[6.] 7.² Nothing in this act shall prevent a municipality from
32 providing additional services, that primarily serve public
33 purposes, to the residents of a qualified private community. The
34 governing body of any municipality which prior to the
35 ²[effective] operative² date of this act has enacted an ordinance
36 providing all the services or reimbursement provided by this act
37 to a qualified private community may repeal the ordinance and
38 implement the provisions of this act. ²Nothing in this act shall
39 be construed as abrogating or superseding any agreement in

1 effect pursuant to such an ordinance prior to the operative date
2 of this act.²

3 ¹[4.] ²[7.1] 8.² This act shall take effect ²[six months after
4 enactment] immediately and shall remain inoperative until
5 January 1, 1991².

6

7

8

PROPERTY TAXES

9

Landlord - Tenant and Condominiums

10

11 Requires municipalities to reimburse certain qualified private
12 communities for costs of certain municipal services not provided
13 thereto or to provide those services.

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BILL NO. 52869
 Date of Intro. _____
 Ref. _____

NOTE TO SPONSOR: Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Hand-written changes will not appear in the printed bill.

AN ACT concerning certain municipal services for qualified private communities and supplementing Title 40 of the Revised Statutes.

PROPERTY TAXES
Landlord - Tenant and Condominiums

Requires municipality to reimburse qualified private community for costs of certain municipal services not provided.

PRIME Sponsor

CO-Sponsors

Thomas A. Berube
William Costin
Vern Wagner
William
John M. Gull
Stephen M. Thompson
Lee J. Gull
P. B.
John
John

Same as A-3582 88

SENATE, No. 2869

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1988

By Senators PATERNITI, COSTA, VAN WAGNER, FELDMAN,
ZIMMER, AMBROSIO, McMANIMON, LASKIN,
BROWN, CARDINALE and BASSANO

1 **AN ACT** concerning certain municipal services for qualified
private communities and supplementing Title 40 of the Revised
3 Statutes.

5 **BE IT ENACTED** by the Senate and General Assembly of the
State of New Jersey:

7 1. For the purposes of this act:

a. "Condominium" means the form of real property ownership
9 provided for under the "Condominium Act," P.L.1969, c.257
(C.46:8B-1 et seq.);

11 b. "Cooperative" means a housing corporation or association
wherein the holder of a share or membership interest in the
13 corporation or association is entitled to possess and occupy, for
dwelling purposes, a house, apartment, or other unit of housing
15 owned by the corporation or association, or to purchase a unit of
housing constructed or erected by the corporation or association;

17 c. "Fee simple community" means a private community which
consists of individually owned lots or units and provides for
19 common or shared elements or interests in real property;

d. "Horizontal property regime" means the form of real
21 property ownership provided for under the "Horizontal Property
Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

23 e. "Qualified private community" means a condominium,
cooperative, fee simple community, or horizontal property
25 regime comprised of a community trust or other trust device,
condominium association, homeowners' association, or council of
27 coowners, wherein the cost of maintaining roads and streets and
providing essential services is paid for by a not-for-profit entity
29 consisting exclusively of unit owners within the community. No
apartment building or garden apartment complex owned by an
31 individual or entity that receives monthly rental payments from
tenants who occupy the premises shall be considered a qualified
33 private community.

35 2. The governing body of every municipality shall enact and
enforce appropriate ordinances to require the municipality to

1 provide the following services within a qualified private
community in the same fashion as the municipality provides these
3 services on public roads and streets:

- 4 a. Maintenance, cleaning and repair of the roads and streets;
- 5 b. Removal of snow, ice and other obstructions from the roads
and streets;
- 7 c. Lighting of the roads and streets;
- d. Maintenance and repair of water lines, storm sewers and
9 sanitary sewers beneath the roads and streets; and
- e. Collection of leaves, recyclable materials and garbage along
11 the roads and streets.

3. At the request of a qualified private community, in lieu of
13 providing some or all of the services set forth in section 2 of this
act, the municipality shall enter into a written agreement to
15 annually reimburse the qualified private community for the cost
to the municipality of providing those services for which in lieu
17 reimbursement is requested. The amount to be reimbursed to the
qualified private community shall be calculated as follows:

19 a. The reimbursement amount for the collection of leaves,
recyclable materials and garbage shall be based on the actual per
21 unit costs of the collection of leaves, recyclable materials and
garbage throughout the municipality, including the qualified
23 private community.

b. The reimbursement amount for the provision of municipal
25 services to repair, maintain and clean roads and streets; remove
snow, ice and other obstructions from roads and streets; light
27 roads and streets; and maintain and repair water lines, storm
sewers and sanitary sewers beneath the roads and streets shall be
29 calculated with respect to the running length of the roads and
streets within the qualified private community, excluding areas
31 which are primarily used as parking areas or parking lots within
the qualified private community, and shall be based on the actual
33 cost incurred by the municipality in providing those services on
public streets.

35 4. This act shall take effect six months after enactment.

37 *SP-11-05* STATEMENT

39 This bill would require that a municipality enact ordinances to
provide the same services along the roads and streets of a

1 qualified private community as it provides to other residents
2 along its public roads and streets. At the request of a qualified
3 private community, the municipality would be required to
4 reimburse the qualified private community for some or all of the
5 municipal services that it chooses to provide for itself. A
6 qualified private community is a condominium, cooperative, fee
7 simple community, or horizontal property regime comprised of a
8 not-for-profit entity having only unit owners as members, such as
9 a homeowners' association, that is responsible for maintenance
10 of the common areas and providing other essential services.

11 Current law permits a municipality to provide certain services
12 on roads and streets which are not dedicated and accepted as
13 public highways. This bill makes it mandatory that a municipality
14 provide certain road and street services to qualified private
15 communities.³ However, at the option of a qualified private
16 community, the municipality is required to reimburse it for
17 municipal services which the community chooses to provide for
18 itself. The effect of this bill will be to help eliminate double
19 payment for some services which the residents of qualified
20 private communities now pay through property taxes and fees to
21 their association.

23

PROPERTY TAXES

25

Landlord - Tenant and Condominiums

27

Requires municipality to reimburse qualified private community
for costs of certain municipal services not provided.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 2869

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Senate County and Municipal Government Committee reports favorably and with committee amendments Senate Bill No. 2869.

Senate Bill No. 2869, as amended by the committee, would require a municipality to provide the same services along the roads and streets of a qualified private community as it provides to other residents along its public roads and streets. The municipality may reimburse the qualified private community for some or all of the municipal services that it does not provide to the residents of a qualified private community.

Those services specifically referred to in Senate Bill No. 2869 Sca are: the maintenance cleaning and repair of roads and streets; the removal of snow, ice and other obstructions from roads and streets; the lighting of roads and streets; the maintenance and repair of water lines, storm sewers and sanitary sewers beneath the roads and streets; the maintenance of detention and retention basis; and the collection of leaves, recyclable materials and garbage along roads and streets.

A qualified private community is defined in the bill as a residential condominium, cooperative, fee simple community, or horizontal property regime, the residents of which do not receive any tax abatement or tax exemption related to its construction, comprised of a not-for-profit entity having only unit owners as members, such as a homeowners' association, that is responsible for maintenance of the common areas and providing other essential services.

Under the provisions of section 1 of P.L.1975, c.243 (C.40:67-23.1), a municipality is permitted to provide certain services on roads and streets which are not dedicated and accepted as public highways. As a condition of providing or continuing to provide such services, however, a municipality may require the dedication of the roads or streets to be serviced.

Senate Bill No. 2869 Sca makes it mandatory that a municipality provide those services enumerated above to qualified private communities. The qualified private community, however, shall be required to pay the cost of any insurance riders required by the municipality to enable municipal vehicles to operate on private roads within the qualified private community.

The bill further provides that a municipality cannot refuse the dedication, for public use by a qualified private community, of any road or street within that community which conforms to municipal specifications for public roads and streets. The municipality is further empowered to provide additional services which serve public purposes to residents of a qualified private community.

In lieu of providing those municipal services which it is required to provide to a qualified private community under this bill, a municipality may choose instead not to provide those services and to reimburse a qualified private community for the cost of those services which it does not provide. The bill sets forth a method of calculating the amount of the reimbursement for those services which the municipality does not provide to the qualified private community.

As referred to the committee, Senate Bill No. 2869 would have required that a municipality enact ordinances to provide the same services along the roads and streets of a qualified private community as it provides to other residents along its public roads and streets. At the request of a qualified private community, however, the municipality would have been required to reimburse the qualified private community for some or all of the municipal services that it chose to provide for itself. Senate Bill No. 2869, as originally introduced, (1) did not refer specifically to residential condominiums, (2) did not include the eligibility exception for residents who receive tax abatements or exemptions, (3) did not require qualified private communities to pay the insurance coverage for public vehicles traveling on private roads within those communities, and (4) did not include the maintenance of detention and retention basins in the list of services which a municipality must provide to qualified private communities.

[FIRST REPRINT]
SENATE, No. 2869

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1988

By Senators PATERNITI, COSTA, VAN WAGNER, FELDMAN,
ZIMMER, AMBROSIO, McMANIMON, LASKIN,
BROWN, CARDINALE and BASSANO

1 AN ACT concerning certain municipal services for qualified
private communities and supplementing Title 40 of the Revised
3 Statutes.

5 BE IT ENACTED by the Senate and General Assembly of the
State of New Jersey:

7 1. For the purposes of this act:

a. "Condominium" means the form of real property ownership
9 provided for under the "Condominium Act," P.L.1969, c.257
(C.46:8B-1 et seq.);

11 b. "Cooperative" means a housing corporation or association
wherein the holder of a share or membership interest in the
13 corporation or association is entitled to possess and occupy, for
dwelling purposes, a house, apartment, or other unit of housing
15 owned by the corporation or association, or to purchase a unit of
housing constructed or erected by the corporation or association;

17 c. "Fee simple community" means a private community which
consists of individually owned lots or units and provides for
19 common or shared elements or interests in real property;

d. "Horizontal property regime" means the form of real
21 property ownership provided for under the "Horizontal Property
Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

23 e. "Qualified private community" means a ¹residential¹
condominium, cooperative, fee simple community, or horizontal
25 property regime¹, the residents of which do not receive any tax
abatement or tax exemption related to its construction,¹
27 comprised of a community trust or other trust device,
condominium association, homeowners' association, or council of
29 coowners, wherein the cost of maintaining roads and streets and
providing essential services is paid for by a not-for-profit entity
31 consisting exclusively of unit owners within the community. No

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Senate SCM committee amendments adopted October 20, 1988.

1 apartment building or garden apartment complex owned by an
individual or entity that receives monthly rental payments from
3 tenants who occupy the premises shall be considered a qualified
private community.

5 2. The governing body of every municipality shall ¹[enact and
enforce appropriate ordinances to require the municipality to]¹
7 provide the following services within a qualified private
community in the same fashion as the municipality provides these
9 services on public roads and streets:

a. Maintenance, cleaning and repair of the roads and streets;

11 b. Removal of snow, ice and other obstructions from the roads
and streets;

13 c. Lighting of the roads and streets;

d. Maintenance and repair of water lines, storm sewers and
15 sanitary sewers beneath the roads and streets; ¹[and]¹

17 e. ¹Maintenance of detention and retention basins, provided
such structures are used primarily for the controlling of storm
water runoff and not for recreational use; and

19 f. ¹Collection of leaves, recyclable materials and garbage
along the roads and streets.

21 3. A qualified private community shall be required to pay the
cost of any insurance riders required by the municipality to
23 enable municipal vehicles to operate on private roads and streets
within the qualified private community.¹

25 3. At the request of a qualified private community, in] 4.
In¹ lieu of providing some or all of the services set forth in
27 section 2 of this act, the municipality ¹[shall] may¹ enter into a
written agreement to annually reimburse the qualified private
29 community for the cost to the municipality of providing those
services ¹[for which in lieu reimbursement is requested]¹. The
31 amount to be reimbursed to the qualified private community shall
be ¹used by the qualified private community to pay for the
33 service which the municipality chooses not to provide, and that
amount shall be¹ calculated as follows:

35 a. The reimbursement amount for the collection of leaves,
recyclable materials and garbage shall be based on the actual per
37 unit costs of the collection of leaves, recyclable materials and
garbage throughout the municipality, including the qualified
39 private community.

1 b. The reimbursement amount for the provision of municipal
3 services to repair, maintain and clean roads and streets; remove
snow, ice and other obstructions from roads and streets; ¹[light
5 roads and streets; and maintain and repair water lines, storm
sewers and sanitary sewers beneath the roads and streets]¹ shall
7 be calculated with respect to the running length of the roads and
streets within the qualified private community, excluding areas
9 which are primarily used as parking areas or parking lots ¹[within
the qualified private community]¹, and shall be based on the
11 actual cost incurred by the municipality in providing those
services on public streets.

13 ¹c. The reimbursement amount for the repair and maintenance
of water lines, storm and sanitary sewers, retention and detention
15 basins shall be based on the actual cost to repair or maintain the
actual water lines, sewers and basins needing service.¹

17 ¹5. A municipality shall be required to accept for dedication
for public use, by a qualified private community, any road or
19 street within the community that conforms to municipal
specifications for public roads and streets.

21 6. Nothing in this act shall prevent a municipality from
providing additional services, that primarily serve public
23 purposes, to the residents of a qualified private community. The
governing body of any municipality which prior to the effective
25 date of this act has enacted an ordinance providing all the
services or reimbursement provided by this act to a qualified
27 private community may repeal the ordinance and implement the
provisions of this act.¹

29 ¹[4.] ¹7. ¹This act shall take effect six months after enactment.

31 PROPERTY TAXES

33 Landlord - Tenant and Condominiums

35 Permits municipalities to reimburse qualified private community
for costs of certain municipal services not provided.

LEGISLATIVE FISCAL ESTIMATE TO

[FIRST REPRINT]

SENATE, No. 2869

STATE OF NEW JERSEY

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DATED: April 18, 1989

Senate Bill No. 2869 (1R) of 1988 requires all municipalities to provide certain enumerated services along the roads and streets of its qualified private communities in the same fashion as each municipality provides these services on public roads and streets. The services enumerated in the bill are: the maintenance, cleaning and repair of roads and streets; the removal of snow, ice and other obstructions from roads and streets; the lighting of roads and streets; the maintenance and repair of water lines, storm sewers and sanitary sewers beneath the roads and streets; the maintenance of detention and retention basins; and the collection of leaves, recyclable materials and garbage along roads and streets.

A qualified private community is defined in the bill as a residential condominium, cooperative, fee simple community, or horizontal property regime, the residents of which do not receive any tax abatement or tax exemption related to its construction, comprised of a not-for-profit entity having only unit owners as members (such as a homeowners' association) that is responsible for the maintenance of the common areas and the provision of other essential services.

In lieu of providing some or all of these services, each municipality may enter into a written agreement to annually reimburse the qualified private community for the cost to the municipality of providing those services.

There is no State cost under the provisions of this bill.

The 1990 cost to all municipalities in the State to implement the provisions of this bill is estimated by the Office of Legislative Services to be \$62.6 million.

The cost estimates for this fiscal note are based on the current estimated operating costs to a representative municipality of providing the services enumerated in this bill to its private communities. The costs per household unit of providing each of the services enumerated in the bill are also based on information obtained from that representative municipality. The municipality is believed to be representative because eleven different private communities are located within the municipality. Represented among these private communities are a variety of building types,

types of ownership, sizes of household units, and overall community sizes. Further, the average cost of garbage disposal per household in this representative municipality matches the statewide average cost of garbage disposal. Garbage disposal costs represent an estimated 57% of the total estimated cost of \$339 per household to provide all of the services specified in this bill.

The steps involved in estimating the 1990 number of household units begin with a 1983 Division of Taxation tabulation of condominium units, and the Division's 1986 tabulation of cooperative units. These household unit counts were updated to 1988 by using a 13.9% random sample of the new condominium units and a total count of cooperative units built after the Division's tabulations, as reported in the 1988 Edition of the "Condo Guide of N.J.". That estimated 1988 combined condominium and cooperative unit count of 158,788 was increased by a weighted two-year growth rate of 33.47%, to arrive at an estimated 1990 unit count of 212,000. The 33.47% growth rate is based on a 16.7% annual average growth rate for condominium and cooperative units, which in turn is based on the estimated number of condominiums built between 1984 and 1988 and the number of cooperatives built between 1987 and 1988.

The estimate has two major per household municipal cost components -- the cost of garbage service and the cost of all other pertinent services. Senate Bill 2689 (1R) provides that only municipalities which provide household garbage collection and disposal, as a general municipal service, must provide this same service to households in private communities. An estimated 177,000 of the 212,000 condominium and cooperative housing units in this State (83.6%), are located in municipalities where municipal garbage service is provided. Providing garbage service to those 177,000 housing units, at the statewide average cost of \$264 per unit, yields an additional statewide municipal garbage service cost of \$46.7 million.

From data on the representative municipality, the estimated cost per household unit of providing the non-garbage services specified in S-2689 (1R) is estimated at \$75 per household unit. Multiplying the total of 212,000 such units times \$75 results in an additional statewide municipal service cost of \$15.9 million. Adding this cost to the \$46.7 million for garbage services brings the total estimated cost to \$62.6 million.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2869

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1989

The Senate Revenue, Finance and Appropriations Committee favorably reports Senate Bill No. 2869 [1R] with committee amendments.

Senate Bill No. 2869 [1R], as amended, would require a municipality, beginning January 1, 1995, to provide the same services along the roads and streets of a qualified private community as it provides to other residents along its public roads and streets or to reimburse the qualified private community for some or all of the municipal services that it does not provide to the residents of a qualified private community. This bill also provides that in local budget years 1991 through 1994, municipalities shall pay an increasing amount to qualified private communities for the costs of certain services. Then, in 1995 and thereafter, the municipality may either provide the services or pay for 100 percent of the costs.

Those services specifically referred to in the bill are: the removal of snow, ice and other obstructions from roads and streets; the lighting of roads and streets excluding maintenance of fixtures and wiring and the collection of leaves, recyclable materials and garbage along roads and streets. A municipality, however, is not required to operate municipal vehicles or equipment or provide services upon roads that are not accepted for dedication to public use or that do not meet all municipal standards and specifications, except for width.

A qualified private community is defined in the bill as a residential condominium, cooperative, fee simple community, or horizontal property regime, the residents of which do not receive any tax abatement or tax exemption related to its construction, comprised of a not-for-profit entity having only unit owners as members, such as a homeowners' association, that is responsible for maintenance of the common areas and providing other essential services.

The bill provides that qualified private communities are required

to pay the cost of any insurance riders required by the municipality to enable municipal vehicles to operate on private roads within the qualified private community. The bill further provides that a municipality cannot refuse the dedication, for public use by a qualified private community, of any road or street within that community which conforms to municipal specifications for public roads and streets.

COMMITTEE AMENDMENTS:

The Committee amended the bill to phase in the provisions over a five year period. Specifically, in the first four local budget years beginning with 1991, a municipality would be required to pay the following portions of the cost of services to qualified private communities:

1991	20% of the cost of services
1992	40% of the cost of services
1993	60% of the cost of services
1994	80% of the cost of services

Finally, in local budget year 1995 and thereafter, a municipality would be required to either provide the services or pay 100 percent of the costs. The amendments also provide that the act shall remain inoperative until January 1, 1991.

In addition, the amendments delete certain services that a municipality had been required to provide, clarifies that a municipality is not required to operate municipal vehicles or provide services on roads not dedicated to public use or not meeting certain municipal standards, clarifies the amount a municipality may reimburse a qualified private community and requires a community receiving money to account for the use of certain moneys. These amendments are similar to the adopted Assembly Housing Committee amendments to Assembly Bill No. 4775 concerning the same provisions. This bill and Assembly Bill No. 4775 [1R] are not identical, however, because of different phase-in provisions.

FISCAL IMPACT:

This bill has a fiscal impact on the State. Based on the provisions of the bill prior to amendment, the Office of Legislative Services estimated that the 1990 cost to all municipalities in the State would be \$62,600,000. This cost would be reduced somewhat by the committee amendments which delete certain services from the requirement that they be provided or paid for by a municipality.

SENATE SRF COMMITTEE

AMENDMENTS

ADOPTED

DEC 11 1989

to

SENATE, No. 2969 IR

(Sponsored by Senators PATERNITI, COSTA, VAN WAGNER,
FELDMAN, ZIMMER, AMBROSIO, McMANIMON, LASKIN,
BROWN, CARDINALE and BASSANO)

REPLACE SECTION 2 TO READ:

2. ²[The] a. Except as otherwise provided in subsection b. of this section, the² governing body of every municipality shall ¹enact and enforce appropriate ordinances to require the municipality to¹ ²reimburse a qualified private community for the following services as provided in sections 4 and 5 of this act or² provide the following services within a qualified private community in the same fashion as the municipality provides these services on public roads and streets:

²[a. Maintenance, cleaning and repair of the roads and streets;

b.] ¹(1)² Removal of snow, ice and other obstructions from the roads and streets;

²[c.] ²(2)² Lighting of the roads and streets ², to the extent of payment for the electricity required, but not including the installation or maintenance of lamps, standards, wiring or other equipment²;² and²

²[d. Maintenance and repair of water lines, storm sewers and sanitary sewers beneath the roads and streets; ¹and¹

e. ¹Maintenance of detention and retention basins, provided such structures are used primarily for the controlling of storm water runoff and not for recreational use; and

¹[1] ³(3)² Collection of leaves, recyclable materials and garbage along the roads and streets.

²b. Nothing in this act shall require a municipality to operate any municipally owned or leased vehicles or other equipment, or to provide any of the services enumerated in subsection a. of this section, upon, along or in relation to any road or street in a qualified private community which either (1) is not accepted for dedication to public use or (2) does not meet all municipal standards and specifications for such dedication, except for width.²

REPLACE SECTION 4 TO READ:

¹3. At the request of a qualified private community, in¹ ~~4.~~
²[In¹] a. As provided in section 5 of this act and in² lieu of providing some or all of the services set forth in section 2 of this act, ²[the] a² municipality ¹[shall] ²[may¹] shall² enter into a written agreement to annually reimburse the qualified private community ²[for] in an amount not to exceed² the cost ²[to] that would be incurred by² the municipality ²[of] in² providing those services ²directly² ¹[for which in lieu reimbursement is requested]¹.

²b.² The amount to be reimbursed to the qualified private community shall be ¹used by the qualified private community to pay for the service which the municipality chooses not to provide, and that amount shall be¹ ²[calculated as follows:

a. The reimbursement amount for the collection of leaves, recyclable materials and garbage shall be based on the actual per unit costs of the collection of leaves, recyclable materials and garbage throughout the municipality, including the qualified private community.

b. The reimbursement amount for the provision of municipal services to repair, maintain and clean roads and streets: remove snow, ice and other obstructions from roads and streets: ¹[light roads and streets: and maintain and repair water lines, storm sewers and sanitary sewers beneath the roads and streets]¹ shall be calculated with respect to the running length of the roads and streets within the qualified private community, excluding areas which are primarily used as parking areas or parking lots ¹[within the qualified private community]¹, and shall be based on the actual cost incurred by the municipality in providing those services on public streets.

¹c. The reimbursement amount for the repair and maintenance of water lines, storm and sanitary sewers, retention and detention basins shall be based on the actual cost to repair or maintain the actual water lines, sewers and basins needing service.¹ the actual cost to the qualified private community of providing that service, but not exceeding the amount which the municipality would have expended on that service if it were provided directly by the municipality to the qualified private community.

c. An agreement entered into pursuant to this section shall provide for an accounting by the qualified private community of the use of the money paid over to it by the municipality, and for the refunding to the municipality of any payments in excess of the amounts actually expended or contractually committed by the qualified private community during the accounting period in order to provide for the services covered by the agreement.²

INSERT NEW SECTION 5 TO READ:

25. Pursuant to a reimbursement agreement entered into in lieu of providing some or all of the services set forth in section 2 of this bill, in each of the first four local budget years beginning on and after the operative date of this act, the municipality shall reimburse the qualified private community for a portion of the cost of providing services in each local budget year in the following manner:

<u>1991</u>	<u>20% of the total cost of services in 1991</u>
<u>1992</u>	<u>40% of the total cost of services in 1992</u>
<u>1993</u>	<u>60% of the total cost of services in 1993</u>
<u>1994</u>	<u>80% of the total cost of services in 1994</u>

The total cost of services in each local budget year shall be determined pursuant to section 4 of this act. In local budget year 1995 and for each local budget year thereafter, the municipality shall either provide the services pursuant to section 2 of this act or enter into a written agreement to annually reimburse the qualified private community in full pursuant to section 4 of this act.²

RENUMBER SECTION 5 AS SECTION 6

REPLACE SECTION 6 TO READ:

²[6.] ² Nothing in this act shall prevent a municipality from providing additional services, that primarily serve public purposes, to the residents of a qualified private community. The governing body of any municipality which prior to the ²[effective] operative² date of this act has enacted an ordinance providing all the services or reimbursement provided by this act to a qualified private community may repeal the ordinance and implement the provisions of this act. ²Nothing in this act shall be construed as abrogating or superseding any agreement in effect pursuant to such an ordinance prior to the operative date of this act.²

REPLACE SECTION 7 TO READ:

¹[4.] ²[².¹] ⁸.² This act shall take effect ²[six months after enactment] immediately and shall remain inoperative until January 1, 1991².

REPLACE SYNOPSIS TO READ:

Requires municipalities to reimburse certain qualified private communities for costs of certain municipal services not provided thereto or to provide those services.

[SECOND REPRINT]

SENATE, No. 2869

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1988

By Senators PATERNITI, COSTA, VAN WAGNER, FELDMAN,
ZIMMER, AMBROSIO, McMANIMON, LASKIN,
BROWN, CARDINALE, BASSANO, BUBBA and D'AMICO

1 AN ACT concerning certain municipal services for qualified
2 private communities and supplementing Title 40 of the Revised
3 Statutes.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. For the purposes of this act:

8 a. "Condominium" means the form of real property ownership
9 provided for under the "Condominium Act," P.L.1969, c.257
10 (C.46:8B-1 et seq.);

11 b. "Cooperative" means a housing corporation or association
12 wherein the holder of a share or membership interest in the
13 corporation or association is entitled to possess and occupy, for
14 dwelling purposes, a house, apartment, or other unit of housing
15 owned by the corporation or association, or to purchase a unit of
16 housing constructed or erected by the corporation or association;

17 c. "Fee simple community" means a private community which
18 consists of individually owned lots or units and provides for
19 common or shared elements or interests in real property;

20 d. "Horizontal property regime" means the form of real
21 property ownership provided for under the "Horizontal Property
22 Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

23 e. "Qualified private community" means a ¹residential¹
24 condominium, cooperative, fee simple community, or horizontal
25 property regime¹, the residents of which do not receive any tax
26 abatement or tax exemption related to its construction,¹
27 comprised of a community trust or other trust device,
28 condominium association, homeowners' association, or council of
29 coowners, wherein the cost of maintaining roads and streets and
30 providing essential services is paid for by a not-for-profit entity
31 consisting exclusively of unit owners within the community. No

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted October 20, 1988.

² Senate SRF committee amendments adopted December 11, 1989.

1 apartment building or garden apartment complex owned by an
2 individual or entity that receives monthly rental payments from
3 tenants who occupy the premises shall be considered a qualified
4 private community.

5 2. ²[The] a. Except as otherwise provided in subsection b. of
6 this section, the² governing body of every municipality shall
7 ¹[enact and enforce appropriate ordinances to require the
8 municipality to]¹ ²reimburse a qualified private community for
9 the following services as provided in sections 4 and 5 of this act
10 or² provide the following services within a qualified private
11 community in the same fashion as the municipality provides these
12 services on public roads and streets:

13 ²[a. Maintenance, cleaning and repair of the roads and streets;
14 b.] ¹(1)² Removal of snow, ice and other obstructions from the
15 roads and streets;

16 ²[c.] ²(2)² Lighting of the roads and streets ², to the extent of
17 payment for the electricity required, but not including the
18 installation or maintenance of lamps, standards, wiring or other
19 equipment^{2,2}and²

20 ²[d. Maintenance and repair of water lines, storm sewers and
21 sanitary sewers beneath the roads and streets; ¹[and]¹

22 e. ¹Maintenance of detention and retention basins, provided
23 such structures are used primarily for the controlling of storm
24 water runoff and not for recreational use; and

25 f.¹ (3)² Collection of leaves, recyclable materials and garbage
26 along the roads and streets.

27 ²b. Nothing in this act shall require a municipality to operate
28 any municipally owned or leased vehicles or other equipment, or
29 to provide any of the services enumerated in subsection a. of this
30 section, upon, along or in relation to any road or street in a
31 qualified private community which either (1) is not accepted for
32 dedication to public use or (2) does not meet all municipal
33 standards and specifications for such dedication, except for
34 width.²

35 ¹3. A qualified private community shall be required to pay the
36 cost of any insurance riders required by the municipality to
37 enable municipal vehicles to operate on private roads and streets
38 within the qualified private community.¹

39 ¹[3. At the request of a qualified private community, in] 4.

1 ²[In¹] a. As provided in section 5 of this act and in² lieu of
2 providing some or all of the services set forth in section 2 of this
3 act, ²[the] a² municipality ¹[shall] ²[may¹] shall² enter into a
4 written agreement to annually reimburse the qualified private
5 community ²[for] in an amount not to exceed² the cost ²[to] that
6 would be incurred by² the municipality ²[of] in² providing those
7 services ²directly² ¹[for which in lieu reimbursement is
8 requested]¹.

9 ²b.² The amount to be reimbursed to the qualified private
10 community shall be ¹used by the qualified private community to
11 pay for the service which the municipality chooses not to provide,
12 and that amount shall be¹ ²[calculated as follows:

13 a. The reimbursement amount for the collection of leaves,
14 recyclable materials and garbage shall be based on the actual per
15 unit costs of the collection of leaves, recyclable materials and
16 garbage throughout the municipality, including the qualified
17 private community.

18 b. The reimbursement amount for the provision of municipal
19 services to repair, maintain and clean roads and streets; remove
20 snow, ice and other obstructions from roads and streets; ¹[light
21 roads and streets; and maintain and repair water lines, storm
22 sewers and sanitary sewers beneath the roads and streets]¹ shall
23 be calculated with respect to the running length of the roads and
24 streets within the qualified private community, excluding areas
25 which are primarily used as parking areas or parking lots ¹[within
26 the qualified private community]¹, and shall be based on the
27 actual cost incurred by the municipality in providing those
28 services on public streets.

29 ¹c. The reimbursement amount for the repair and maintenance
30 of water lines, storm and sanitary sewers, retention and detention
31 basins shall be based on the actual cost to repair or maintain the
32 actual water lines, sewers and basins needing service.¹] the
33 actual cost to the qualified private community of providing that
34 service, but not exceeding the amount which the municipality
35 would have expended on that service if it were provided directly
36 by the municipality to the qualified private community.

37 c. An agreement entered into pursuant to this section shall
38 provide for an accounting by the qualified private community of
39 the use of the money paid over to it by the municipality, and for

1 the refunding to the municipality of any payments in excess of
2 the amounts actually expended or contractually committed by the
3 qualified private community during the accounting period in order
4 to provide for the services covered by the agreement.²

5 ²5. Pursuant to a reimbursement agreement entered into in
6 lieu of providing some or all of the services set forth in section 2
7 of this bill, in each of the first four local budget years beginning
8 on and after the operative date of this act, the municipality shall
9 reimburse the qualified private community for a portion of the
10 cost of providing services in each local budget year in the
11 following manner:

12	<u>1991</u>	<u>20% of the total cost of</u>
13		<u>services in 1991</u>
14	<u>1992</u>	<u>40% of the total cost of</u>
15		<u>services in 1992</u>
16	<u>1993</u>	<u>60% of the total cost of</u>
17		<u>services in 1993</u>
18	<u>1994</u>	<u>80% of the total cost of</u>
19		<u>services in 1994</u>

20 The total cost of services in each local budget year shall be
21 determined pursuant to section 4 of this act. In local budget
22 year 1995 and for each local budget year thereafter, the
23 municipality shall either provide the services pursuant to section
24 2 of this act or enter into a written agreement to annually
25 reimburse the qualified private community in full pursuant to
26 section 4 of this act.²

27 ²[15.] 6.² A municipality shall be required to accept for
28 dedication for public use, by a qualified private community, any
29 road or street within the community that conforms to municipal
30 specifications for public roads and streets.

31 ²[6.] 7.² Nothing in this act shall prevent a municipality from
32 providing additional services, that primarily serve public
33 purposes, to the residents of a qualified private community. The
34 governing body of any municipality which prior to the
35 ²[effective] operative² date of this act has enacted an ordinance
36 providing all the services or reimbursement provided by this act
37 to a qualified private community may repeal the ordinance and
38 implement the provisions of this act. ²Nothing in this act shall
39 be construed as abrogating or superseding any agreement in

1 effect pursuant to such an ordinance prior to the operative date
2 of this act.²

3 ¹[4.] ²[7.1] 8.² This act shall take effect ²[six months after
4 enactment] immediately and shall remain inoperative until
5 January 1, 1991².

6

7

8 PROPERTY TAXES

8

9

Landlord - Tenant and Condominiums

10

11 Requires municipalities to reimburse certain qualified private
12 communities for costs of certain municipal services not provided
13 thereto or to provide those services.