

40A:60-6

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:60-6 (Borough clerks-- remove residency requirements)

LAWS OF: 1988 CHAPTER: 185

BILL NO: A2527

SPONSOR(S): Randall

Date Introduced: February 18, 1988

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: No

Date of Passage: Assembly: June 23, 1988

Senate: December 19, 1988

Date of Approval: January 6, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

rdv

1 **AN ACT** concerning residency requirements for borough clerks
and amending N.J.S. 40A:60-6.

3

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

1. N.J.S. 40A:60-6 is amended to read as follows:

7 **40A:60-6. Powers of the Council**

9 **a. The council shall be the legislative body of the
municipality.**

11 **b. The council may, subject to general law and the provisions
of this act:**

13 **(1) pass, adopt, amend and repeal any ordinance or, where
permitted, any resolution for any purpose required for the
government of the municipality or for the accomplishment of
15 any public purpose for which the municipality is authorized to
act under general law;**

17 **(2) control and regulate the finances of the municipality
and raise money by borrowing or taxation;**

19 **(3) create such offices and positions as it may deem
necessary. The officers appointed thereto shall perform the
21 duties required by law and the ordinances of the council.
Other than the borough attorney, engineer, and building
23 inspector, these officers shall be residents of the borough and
shall serve at the pleasure of the council, except the clerk,
25 who also shall be exempted from the borough residency
requirement, the tax collector and tax assessor who shall
27 serve for terms as provided in chapter 9 of the Title 40A of
the New Jersey Statutes. The council may exempt officers
29 from the residency requirements but only pursuant to the
adoption of an ordinance to that effect;**

31 **(4) investigate any activity of the municipality;**

33 **(5) remove any officer of the municipality, other than
those officers excepted by law, for cause; and**

35 **(6) override a veto of the mayor by a two-thirds majority
of all the members of the council.**

**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.

1 c. The council shall have all the executive responsibilities of
the municipality not placed, by general law or this act, in the
3 office of the mayor.

5 d. The council, whenever it fails to confirm the nomination
by the mayor of any official to a subordinate office of the
7 borough within thirty days of being presented such nomination,
shall make the appointment to that office, provided that at least
9 three affirmative votes shall be required for such purpose, the
mayor to have no vote thereon except in the case of a tie.

(cf: N.J.S. 40A:60-6)

11 2. This act shall take effect immediately.

13

STATEMENT

15

17 This bill amends the law pertaining to the borough form of
government to remove the residency requirement for borough
19 clerks. The law presently requires residency, but permits a
borough council to remove the residency requirement by
21 ordinance. If the borough council does not pass such an
ordinance, then the clerk has only temporary status and cannot
obtain tenure under N.J.S. 40A:9-133.

23 Some boroughs have been unable to find residents willing to
accept an appointment as borough clerk for economic reasons or
25 due to a lack of certification. Since a certified or tenured
municipal clerk cannot be dismissed except for good cause
27 shown and after a proper hearing, there is an incentive for
borough councils to keep a nonresident as temporary clerk to
29 avoid the protective provisions of section 7 of P.L. 1985, c. 174
(C. 40A:9-133.7). Thus, a nonresident who performs the job of
31 borough clerk in a borough without a residency exemption
ordinance may be kept as a temporary clerk for many years
33 without ever having the opportunity to obtain tenure in office.

35

MUNICIPALITIES

37

Local Officers and Employees

39

Removes residency requirement for borough clerks.

ASSEMBLY, No. 2527

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 18, 1988

By Assemblywoman RANDALL

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and amending N.J.S. 40A:60-6.

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5 *State of New Jersey:*

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b. The council may, subject to general law and the provisions
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(1) pass, adopt, amend and repeal any ordinance or, where
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government of the municipality or for the accomplishment of
15 any public purpose for which the municipality is authorized to
act under general law;

(2) control and regulate the finances of the municipality
and raise money by borrowing or taxation;

(3) create such offices and positions as it may deem
19 necessary. The officers appointed thereto shall perform the
21 duties required by law and the ordinances of the council.
Other than the borough attorney, engineer, and building
23 inspector, these officers shall be residents of the borough and
shall serve at the pleasure of the council, except the clerk,
25 who also shall be exempted from the borough residency
requirement, the tax collector and tax assessor who shall
27 serve for terms as provided in chapter 9 of the Title 40A of
the New Jersey Statutes. The council may exempt officers
29 from the residency requirements but only pursuant to the
adoption of an ordinance to that effect;

(4) investigate any activity of the municipality;

(5) remove any officer of the municipality, other than
33 those officers excepted by law, for cause; and

(6) override a veto of the mayor by a two-thirds majority
35 of all the members of the council.

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(cf: N.J.S. 40A:60-6)

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 22 obtain tenure under N.J.S. 40A:9-133.

23 Some boroughs have been unable to find residents willing to
 24 accept an appointment as borough clerk for economic reasons or
 25 due to a lack of certification. Since a certified or tenured
 26 municipal clerk cannot be dismissed except for good cause
 27 shown and after a proper hearing, there is an incentive for
 28 borough councils to keep a nonresident as temporary clerk to
 29 avoid the protective provisions of section 7 of P.L. 1985, c. 174
 30 (C. 40A:9-133.7). Thus, a nonresident who performs the job of
 31 borough clerk in a borough without a residency exemption
 32 ordinance may be kept as a temporary clerk for many years
 33 without ever having the opportunity to obtain tenure in office.

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MUNICIPALITIES

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Local Officers and Employees

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Removes residency requirement for borough clerks.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2527

STATE OF NEW JERSEY

DATED: MAY 16, 1988

The Assembly Municipal Government Committee reports, without recommendation, Assembly Bill No. 2527.

This bill amends the law pertaining to the borough form of government to remove the residency requirement for borough clerks. The law presently requires residency, but permits a borough council to remove the residency requirement by ordinance. If the borough council does not pass such an ordinance, then the clerk has only temporary status and cannot obtain tenure under N.J.S. 40A:9-133.

Some boroughs have been unable to find residents willing to accept an appointment as borough clerk for economic reasons or due to a lack of certification. Since a certified or tenured municipal clerk cannot be dismissed except for good cause shown and after a proper hearing, there is an incentive for borough councils to keep a nonresident as temporary clerk to avoid the protective provisions of section 7 of P.L. 1985, c. 174 (C. 40A:9-133.7). Thus, a nonresident who performs the job of borough clerk in a borough without a residency exemption ordinance may be kept as a temporary clerk for many years without ever having the opportunity to obtain tenure in office.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2527

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Senate County and Municipal Government Committee reports favorably Assembly Bill No. 2527.

This bill amends the law pertaining to the borough form of government to remove the residency requirement for borough clerks. The law currently requires residency, but permits a borough council to remove the residency requirement by ordinance.

It is the committee's understanding that in some boroughs in which the residency requirement has not been waived, non-residents who are serving in the capacity of clerk are acting in that position and are precluded from being formally appointed to their positions because of their non-residency.

Moreover, since a certified or tenured municipal clerk cannot be dismissed except for good cause shown and after a proper hearing, there is an incentive for borough councils to maintain a nonresident as acting clerk to avoid the protective provisions of section 7 of P.L.1985, c.174 (C.40A:9-133.7). Thus, a nonresident who performs the job of borough clerk in a borough without a residency exemption ordinance may be kept as a temporary clerk for many years without ever having the opportunity to obtain tenure in office.

By removing the residency requirement for borough clerks, Assembly Bill 2527 eliminates the opportunity for boroughs to use the residency requirement in order to circumvent the tenuring of clerks.

A-2527



OFFICE OF THE GOVERNOR
NEWS RELEASE

Governor Thomas H. Kean
TRENTON, N.J. 08625
Release:

CN-001

Contact: JOHN SAMERJAN
609-292-8956 OR 609-292-6000 EXT. 207

FRI., 1/6/88

Governor Thomas H. Kean today signed the following legislation:

A2561/S-198, sponsored by Assemblyman Richard Kamin, R-Morris, Assemblyman William Schluster, R-Mercer and Senator Richard Zimmer, R-Hunterdon, permits certain employees of the Delaware River Joint Bridge Commission to continue membership in PERS.

Effective immediately.

S-2269/A-3083, sponsored by Senator Carmen Orechio, D-Essex and Assemblyman John Kelly, R-Essex, provides for a 180-day application period for certain persons seeking licensure as audiologists or speech language pathologists.

Effective immediately.

A-2527, sponsored by Assemblywoman Lisa Randall, R-Bergen, removes the optional residency requirement now contained in municipal law for borough clerks. Borough clerks would no longer have to reside in the municipality.

Effective immediately.

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