

40A:63-1 et al.

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:63-1 et al.

(Township & village laws--
revise)

LAWS OF: 1989

CHAPTER: 157

Bill No: A1449

Sponsor(s): Kline

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: -----

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: June 15, 1989

Senate: June 26, 1989

Date of Approval: August 11, 1989

Following statements are attached if available:

Sponsor statement: No

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: Yes

Hearings: No

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(over)

Report, referred to in statements:

974.90 New Jersey. County and Municipal Government Study Commission
M966 Functional fragmentation
1985f and the traditional forms of municipal government in New Jersey.
November, 1985. Trenton, 1985.

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman KLINE

2 AN ACT providing for the township and village forms of
government, repealing parts of the statutory law, amending
4 N.J.S.40A:9-136 and adding chapter 63 of Title 40A of the New
Jersey Statutes.

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

8 1. TITLE 40A
CHAPTER 63
10 TOWNSHIPS

12 40A:63-1 Incorporation
40A:63-2 Elected Officers
14 40A:63-3 Organization of Township Committee
40A:63-4 General Powers
16 40A:63-5 Powers of the Mayor
40A:63-6 Powers of the Committee
18 40A:63-7 Miscellaneous
40A:63-8 Villages
20 40A:63-9 Statutes Repealed

22 40A:63-1. Incorporation
a. The inhabitants of each of the several townships are hereby
24 continued as a body politic and corporate in law as heretofore
constituted and established and shall be known by the name of
26 "the township of, in the county of
....." (as the case may be), and the boundaries of the
28 several townships shall be and remain as heretofore established
by law.
30 b. No suit, proceeding or instrument shall abate or anywise be
affected by any changes in the corporate name of the township.

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 Assembly floor amendments adopted February 29, 1988.
2 Assembly floor amendments adopted May 15, 1989.

2 c. Each township, governed by the laws pertaining to the
township form of government, shall have full power to sue and be
sued and have corporate seal.

4 (Source: R.S.40:142-1 and New.)

40A:63-2. Elected Officers

6 a. (1) The elected officers of every township shall be the
members of the township committee, as hereinafter prescribed;

8 (2) All elected officers shall be residents of the township and
their terms of office shall begin on January 1 next succeeding
10 their election. No township officer shall hold over in his office
after the expiration of the term for which he was elected; and

12 (3) A plurality of votes shall be sufficient to elect any township
officer.

14 b. (1) The township committee shall consist of three or five
members elected at large and who shall hold office for a term of
16 three years;

(2) In each township:

18 (a) If the committee is to consist of three members, then the
terms shall be arranged, by lot if necessary, so that there will be
20 an election of one member of the committee every year; or

(b) If the committee is to consist of five members, then the
22 terms shall be arranged, by lot if necessary, so that no more than
two members of the committee will be elected in any one year,
24 and

(3) Notwithstanding the provisions of paragraph (1) of
26 subsection b. of this section, a township that has been divided
into wards prior to the effective date of this act shall continue to
28 be so divided into wards for as long as the referendum
establishing the wards remains in effect. The members of the
30 township committee and the member at large shall be elected as
hereinafter provided for.

32 c. The annual township election for members of the township
committee shall be held at the same time and places as for the
34 general election.

(Source: R.S.40:143-1, R.S.40:144-14, R.S.40:145-1,
36 R.S.40:145-2, R.S.40:146-1 and New.)

40A:63-3. Organization of the Township Committee

38 a. The township committee shall consist of three or five
members who shall hold office for a term of three years.

2 b. Notwithstanding the provisions set out in subsection a. of
 4 this section, a township, that has been divided into wards prior to
 6 the effective date of this act shall continue to elect the members
 8 of the township committee from wards as heretofore established
 10 by referendum of the voters of said township. Also, one member
 12 of the township committee shall be elected at large and, by
 virtue of such designation, shall be known as the mayor of such
 township. The township committee may, by ordinance, not less
 than 60 days before any general election, call for a referendum of
 the legal voters to decide whether or not to abolish the ward
 system of representation and return to election of the township
 committee at large.

14 c. The legal voters of any township may, elect to increase or
 decrease the membership of the township committee of the
 township either to three or five members.

16 The township committee shall order an election on the
 proposition, to be held at the next general election, whenever a
 18 petition is presented to the township clerk by the legal voters of
 the township in the number of at least fifteen per centum (15%)
 20 of the votes cast in the township at the last election in which
 members of the General Assembly were elected. The proposition
 22 shall not be submitted more than once in any three year period.

24 The notice, advertisement and conduct of the election shall be
 the same as for officers voted at any general election.

26 The proposition shall be submitted to the voters at the election
 in substantially the following form:

28 "Shall the membership of the township committee of
 (insert name of township) be
 (insert 'increased' or 'decreased') from
 30 (insert current number) to (insert
 proposed number) members?"

32 A canvass and return of the vote shall be made in the same
 manner as for officers voted for at any general election and a
 34 majority of all the votes cast in favor of the proposition shall be
 sufficient to make the change.

36 d. When the legal voters shall have voted to increase or
 decrease the membership of the township committee, as provided
 38 for in subsection c. of this section, the increase or decrease shall
 take effect for the next general election. At that election:

2 (1) If two additional committee members are to be elected,
then one shall be elected for a term of two years and one for a
term of three years; or

4 (2) If the membership of the township committee is to decrease
by two members, then the terms of all committee members
6 currently serving on the date of the election at which the
decrease was adopted, and all committee members elected at
8 that election, shall terminate on December 31 next following the
next general election. At the next general election, one
10 committee member shall be elected for a term of one year, one
for a term of two years and one for a term of three years.

12 e. The township committee shall hold an annual meeting on the
first day of January at 12 o'clock noon, or during the first seven
14 days of January in any year.

f. At their annual meeting, the committee shall have the
16 power and authority to elect one of their number as chairman of
the committee, who shall preside at all meetings of the township
18 committee and who shall be known as the mayor of the township.
The mayor shall have no additional authority by virtue of such
20 designation, except as otherwise provided by law or this act.

g. A majority of the committee shall constitute a quorum for
22 the transaction of business. A majority of all the members of the
committee shall be required to vote in the affirmative to pass
24 any ordinance.

h. The committee may, at its annual meeting, establish for
26 their members such subordinate committees as will assist them
for the ensuing year.

28 i. No officer, who has obtained tenure by any provision of any
section herein repealed by section 40A:63-9 of this act, shall be
30 affected in any way by the repeal.

(Source: R.S.40:146-3, R.S.40:146-13.1 and New.)

32 40A:63-4. General Powers

Every township, governed by the township form of government
34 pursuant to this act, shall, subject to the provisions of this act or
other general law, have full power to exercise all powers of local
36 government in such manner as its committee may determine.

(Source: New.)

38 40A:63-5. Powers of the Mayor

a. The mayor shall be the chairman of the township committee

2 and head of the municipal government. In those townships
divided into wards the mayor shall be the member of the township
committee elected at large.

4 b. The mayor shall have all those powers placed in the mayor
by general law.

6 c. The mayor shall preside at meetings of the committee and
shall have the right to debate and vote on all questions before the
8 committee.

(Source: New.)

10 40A:63-6. Powers of the Committee

a. The committee shall be the legislative body of the
12 municipality.

b. The committee may subject to general law and the
14 provisions of this act:

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

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

(3) create such offices and positions as they deem necessary.
The officers appointed thereto shall perform the duties required
22 by law and the ordinances of the committee. Other than the
township attorney, engineer, building, inspector, the clerk, tax
24 collector and tax assessor who shall serve for terms as provided
in Chapter 9 of Title 40A of the New Jersey Statutes, these
26 officers shall serve at the pleasure of the committee;

(4) investigate any activity of the municipality; and

(5) remove any officer of the municipality, other than those
30 officers excepted by law, for cause.

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

(Source: R.S.40:145-13 and New.)

36 40A:63-7. Miscellaneous

a. The township committee may, by ordinance, delegate all or
38 a portion of the executive responsibilities of the municipality to
all administrator, who shall be appointed pursuant to chapter 9 of

Title 40A of the New Jersey Statutes (40A:9-136).

2 b. The township committee may, by ordinance, adopt an
administrative code. The administrative code shall restate the
4 major provisions of the township's charter and the general law
supplementing the charter. The administrative code shall set
6 forth the manner in which the council shall perform its duties. If
the council organizes itself into standing committees or if the
8 council members serve as heads of departments with
administrative control over said departments, the administrative
10 code shall specify the powers and duties of such committees or
department heads and the manner in which they are appointed.
12 The administrative code shall set forth the titles of the principal
officers, how the officers are appointed, how they are organized
14 into departments, boards, commissions and other agencies; whom
they supervise; by whom they are supervised; what powers they
16 have and what procedure should be followed to carry on the
activities of the township government. The administrative code
18 shall not grant any power or authority, nor authorize any
procedure, unless such power, authority or procedure is
20 authorized implicitly by the wording of the statute or derived
reasonably by implication therefrom.

22 c. The assets and liabilities of any board, commission or
district created pursuant to the statutes repealed in section
24 40A:63-9 of this act shall be transferred to the municipality.

26 d. The township committee may create such advisory councils
to the municipality as they may choose, including councils for the
28 functions absorbed by them of any heretofore existing boards,
commissions or districts.

(Source: New.)

30 40A:63-8. Villages

32 a. Any village heretofore incorporated under, or which shall
have heretofore adopted the provisions of the act entitled "An
34 act for the formation and government of villages", approved the
23rd day of February, 1891, or which ¹[shall have heretofore been
separated from a township,]¹ shall hereafter be governed by the
36 provisions of this act¹; provided, however, that the provisions of
this act shall not affect the provisions of any special charter
38 granted to a village by the Legislature¹.

\ b. Every village, governed by the laws pertaining to the village

2 form of government, shall operate and transact all of its business
 3 according to the laws pertaining to the township form of
 4 government as prescribed in this act¹[.]¹ (N.J.S.40A:63-1 et seq.)
 5 and general law, except as provided for in this section
 6 (N.J.S.40A:63-8).

7 c. In this act and, where appropriate, in general law, whenever
 8 the term "township", "township committee" or "mayor" is used,
 9 read "village", "board of trustees" or "president of the board",
 10 respectively, for the village form of government.

11 d. The village board of trustees shall consist of five members
 12 who shall be elected at large and serve for a term of three years.
 13 Their terms shall be arranged, by lot if necessary, so that no
 14 more than two trustees shall be elected in any one year.

15 ²[e. A village, governed by this act, shall hold its elections for
 16 the elected officers of the village at the date set for the holding
 17 of the regular municipal elections. The annual meeting shall take
 18 place on the third Monday in May.]²

(Source: R.S.40:157-16, R.S.40:158-2 and New.)

40A:63-9. Statutes Repealed

20 The following acts are hereby repealed:

R.S.40:95-1 to R.S.40:95-6

22 R.S.40:96-1 to R.S.40:96-10

R.S.40:97-1 to R.S.40:97-8

24 P.L.1939, c.182, § 1 (C.40:97-9)

R.S.40:98-1 to R.S.98-3

26 R.S.40:99-1

R.S.40:99-3

28 R.S.40:100-1 to R.S.40:100-7

R.S.40:101-1 to R.S.40:101-18

30 R.S.40:102-1 to R.S.40:102-9

R.S.40:142-1 to R.S.40:142-2

32 R.S.40:143-1 to R.S.40:143-3

R.S.40:144-1

34 P.L.1981, c.427 (C.40:144-1.1)

R.S.40:144-2 to R.S.40:144-6

36 R.S.40:144-11 to R.S.40:144-14

P.L.1948, c.437 (C.40:144-16 to 40:144-26)

38 R.S.40:145-1 to R.S.40:145-4

R.S.40:145-6 to R.S.40:145-7

- R.S.40:145-9 to R.S.40:145-10
- 2 R.S.40:145-12 to R.S.40:145-13
P.L.1950, c.23 §§ 1-2 (C.40:145-13.1 to 40:145-13.2)
- 4 R.S.40:145-14 to R.S.40:145-18
R.S.40:145-29 to R.S.40:145-31
- 6 P.L.1948, c.309 (C.40:145-32)
P.L.1970, c.281 § 1 (C.40:145-33)
- 8 R.S.40:146-1 to R.S.40:146-3
R.S.40:146-13
- 10 P.L.1938, c.65, § 1(C.40:146-13.1)
R.S.40:146-21 to R.S.40:146-26
- 12 P.L.1939, c.167, §§ 1-3 (C.40:146-27 to 40:146-29)
R.S.40:147-1 to R.S.40:147-2
- 14 R.S.40:148-1 to R.S.40:148-3
R.S.40:148-5 to R.S.40:148-10
- 16 R.S.40:149-1
P.L.1966, c.288, §§ 1-2 (C.40:149-3.2 to 40:149-3.3)
- 18 R.S.40:150-2 to R.S.40:150-5
R.S.40:152-1 to R.S.40:152-4
- 20 R.S.40:153-1 to R.S.40:153-35
P.L.1947, c.49, §§ 1-8 (C.40:153-36 to 40:153-43)
- 22 R.S.40:155-1 to R.S.40:155-11
R.S.40:157-16
- 24 R.S.40:158-1 to R.S.40:158-2
R.S.40:158-4 to R.S.40:158-7
- 26 R.S.40:159-1 to R.S.40:159-2
¹[R.S.40:160-2 to R.S.40:160-3]¹
- 28 R.S.40:161-1 to R.S.40:161-6
P.L.1946, c.76, §§ 1-2 (C.40:162A-1 to 40:162A-2)
- 30 R.S.40:163-1
N.J.S.40A:9-153.1 to N.J.S.40A:9-153.2
- 32 N.J.S.40A:14-101 to N.J.S.40A:14-103
N.J.S.40A:18-1 to N.J.S.40A:18-64
- 34 ¹[L.1882, c.121]¹
L.1892, c.175
- 36 ¹[L.1904, c.153]¹
L.1930, c.96
- 38 L.1935, c.135
2. N.J.S.40A:9-136 is amended to read as follows:

2 40A:9-136. The governing body of any municipality, by
3 ordinance, may create the office of municipal administrator [to
4 administer the business affairs of the municipality, to have such
5 powers and perform such duties other than those required by law
6 to be exercised by the governing body itself or by another officer,
7 board or body,] and delegate to him all or a portion of the
8 executive responsibilities of the municipality. He shall receive
9 such compensation as the ordinance creating such office shall
10 provide and as [may] from time to time may otherwise be
11 directed by the governing body by ordinance. Such ordinance may
12 provide that a person appointed to the office of municipal
13 administrator need not be a resident of the municipality.

14 The position of joint administrator may be established where
15 two or more municipalities find it appropriate to do so.

(cf: P.L.1971, c.200, s.9-136)

16 3. This act shall take effect January 1, ²[1989] 1990².

18

MUNICIPALITIES

20

Local Officers and Employees

22 Revises the laws concerning townships and villages.

Introduced pending technical review by the legislative counsel
10

- 1 2. N.J.S. 40A:9-136 is amended to read as follows:
 3 40A:9-136. The governing body of any municipality, by
 5 ordinance, may create the office of municipal administrator (to
 7 administer the business affairs of the municipality, to have such
 9 powers and perform such duties other than those required by law
 11 to be exercised by the governing body itself or by another
 13 officer, board or body,) and delegate to him all or a portion of
 15 the executive responsibilities of the municipality. He shall
 17 receive such compensation as the ordinance creating such office
 19 shall provide and as [may] from time to time may otherwise be
 21 directed by the governing body by ordinance. Such ordinance
 23 may provide that a person appointed to the office of municipal
 25 administrator need not be a resident of the municipality.
 27 The position of joint administrator may be established where
 29 two or more municipalities find it appropriate to do so.
 31 3. This act shall take effect January 1, 1989.

STATEMENT

19 This bill revises the laws pertaining to the township and
 21 village forms of government. It repeals all laws presently
 23 enacted, concerning the organization of the township and village
 25 forms of government, and rewrites them in a clear and
 27 simplified form. The aim of the bill is to provide a law
 29 describing the township and village forms of government which
 31 is readily understandable by both citizens and municipal officials
 33 alike.

35 The bill aims to provide for township and village officials
 37 clear guidelines as to the operation of their municipal
 39 government and, at the same time, to reduce the ambiguity or
 41 conflict with more recent general law inherent in the present
 43 township and village laws, while retaining for their citizens the
 45 positive characteristics of these forms of government.

47 Also, this bill amends the municipal administrator law to
 49 allow a greater flexibility in delegating administrative
 51 responsibilities to a municipal administrator and to resolve the
 53 unclear nature of the administrator's power to act in behalf of
 55 the municipality. The bill repeals over 300 sections of law.

1 **This bill broadens the general powers of the township**
2 **governing body. A further amendment specifies certain items to**
3 **be included in the administrative code.**

5 **MUNICIPALITIES**
6 **Local Officers and Employees**

7 **Revises the laws concerning townships and villages.**

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1449

STATE OF NEW JERSEY

DATED: FEBRUARY 1, 1988

The Assembly Municipal Government Committee favorably reports Assembly Bill No. 1449.

Assembly Bill 1449 is a revision of the laws pertaining to the township and village forms of government. It repeals all the laws presently enacted concerning the organization of the township and village forms of government and rewrites them more simply. The aim of the bill is to provide a law describing the township and village forms of government which is readily understandable by both citizens and municipal officials alike.

This bill is a result of the recommendations of a report made to the Legislature and Governor by the County and Municipal Government Study Commission on the traditional forms of municipal government in New Jersey. A major finding of the report was that these municipal laws contain much which is now outdated, redundant and even in conflict with more modern general municipal law. Accordingly, the bill aims to reduce the ambiguity or conflict with more recent general law inherent in the present township and village laws while retaining for their citizens the positive characteristics of these forms of government.

The township committee is to consist of three or five members elected at-large for staggered three-year terms. This form is currently used in 161 of the 162 townships using the township form of government. It is believed that one township, Winslow Township, uses a ward system. The only municipality which is governed under the village form of government law is Loch Arbour. That form of government provides for five trustees elected at-large for staggered three-year terms.

Also, A1449 amends the municipal administrator law to allow for greater flexibility in delegating executive responsibilities to a municipal administrator. The bill repeals over 300 sections of law.

This bill was pre-filed for introduction in the 1988 session pending technical review. Technical review has been completed and all technical corrections have been made.