40:49-1

LEGISLATIVE FACT SHEET

on Municipal ordinance adoption

N.J.R.S. 40:49-1, 2, 6
40:56-4
40:67-1, 19

(1925 Amendment)

LAWS OF 1925
SENATE BILL 96
INTRODUCED Jan. 26, 1925
SPONSOR'S STATEMENT
ASSEMBLY COMMITTEE STATEMENT
SENATE COMMITTEE STATEMENT
FISCAL NOTE
AMENDED DURING PASSAGE
HEARING None discovered.
VETO

CHAPTER 155 March 20, 1925
ASSEMBLY BILL
BY MacKay

(YES)	NO
YES	(NO)
YES	(NO)
YES	(NO)
(YES)	NO

SPONSOR'S STATEMENT. to Senate, No. 96 (1925)

The decision of the Court of Appeals in the case of Haake vs. Norwood, decided in May, 1924, has raised a very serious question as to the validity of ordinances authorizing local improvements, and has in other respects confused the procedure relating to the adoption of municipal ordinances.

The Home Rule Act to which this is an amendment, has different provisions with respect to procedure for the passage of different ordinances, set forth in several of the articles.

It would seem to be preferable, that the method for passage of ordinances should be set forth in one place concisely and clearly, so that there can be no room for doubt as to the procedure to be followed.

JA/PC
11/7/75

Article X, of the Home Rule Act, chapter 152, P. L. 1917, purports to relate to "ordinances" and therefore, would seem to be the logical place to set forth the procedure to be followed with respect to all ordinances. The only exception to that in the above amendment, is with respect to sidewalk ordinances which are specially provided for by Article XXV, which requires not only publication and mailing, but also service upon resident owners in case the subsequent notice to lay the sidewalks is not to be served.

The above amendment does not materially change any of the provisions of the existing law. It permits the passage of general ordinances on two days' notice, the same as the present act, and permits the passage of improvement ordinances and ordinances relating to streets, or providing for assessments, after ten days' notice and a hearing. It, however, expressly provides that the ordinance shall be introduced and read the first time before the notice is given.

The second section of the above amendment repeals the present Section 9 of Article XX, which has been the cause of much trouble and litigation, and the substance of which is taken care of by the procedure set forth in the first section. It also introduces a provision which seems to be advisable, to the effect that if an improvement ordinance is rejected, it cannot be reconsidered, but that a new ordinance may be introduced, which of course, calls for a new notice and hearing.

The third section of the above amendment makes no change in the powers given in the section amended, it merely strikes out that part relating to the procedure which will be taken care of by the provisions of Section 1 of the above amendment.

The repealing clause saves the procedure set down in Article XXV with respect to sidewalk ordinances.

Section 12 of Article XX should be expressly repealed, as the subject matter is contained in Section 1 of the above amendment.

Section 13 of Article XX should also be repealed, as it may be held to be a condition precedent to the power of the governing body to pass the ordinance. It is unnecessary, as the provisions of Section 1 of the above amendment require publication and mailing, and the burden of proof thereof is naturally upon the municipality. The mere failure to have proof in the form of an affidavit in hand at a particular time; notwithstanding that proper notice has been given by publication and mailing; should not be permitted to invalidate the procedure.