

40:67-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:67-1 (Street vacating ordinances--require municipality to notify public utilities)

LAWS OF: 1985 CHAPTER: 421

BILL NO: S2797

Sponsor(s): Cardinale and others

Date Introduced: March 7, 1985

Committee: Assembly: Transportation and Communications

Senate: Transportation and Communications

Amended during passage: No Senate Committee substitute for S2797 and A2108 enacted.

Date of Passage: Assembly: December 9, 1985

Senate: September 12, 1985

Date of Approval: January 13, 1986

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

1-13-86

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2797 and ASSEMBLY, No. 2108

STATE OF NEW JERSEY

ADOPTED JUNE 20, 1985

Sponsored by Senators CARDINALE, HURLEY, RAND, COWAN,
 McMANIMON and GAGLIANO

AN ACT concerning ordinances and amending R. S. 40:67-1.

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

1 1. R. S. 40:67-1 is amended to read as follows:

2 40:67-1. The governing body of every municipality may make,
 3 amend, repeal and enforce ordinances to:

4 a. Ascertain and establish the boundaries of all streets, highways,
 5 lanes, alleys and public places in the municipality, and prevent and
 6 remove all encroachments, obstructions and encumbrances in, over
 7 or upon the same or any part thereof;

8 b. Establish, change the grade of or vacate any public street,
 9 highway, lane or alley, or any part thereof, including the vacation
 10 of any portion of any public street, highway, lane or alley measured
 11 from a horizontal plane a specified distance above or below its
 12 surface and continuing upward or downward, as the case may be;
 13 vacate any street, highway, lane, alley, square, place or park, or
 14 any part thereof, dedicated to public use but not accepted by the
 15 municipality, whether or not the same, or any part, has been
 16 actually opened or improved; accept any street, highway, lane,
 17 alley, square, beach, park or other place, or any part thereof,
 18 dedicated to public use, and thereafter, improve and maintain the
 19 same. The word "vacate" shall be construed for all purposes of
 20 this article to include the release of all public rights, resulting from
 21 any dedication of lands not accepted by the municipality. *Any*
 22 *vacation ordinance adopted pursuant to this subsection shall ex-*
 23 *pressly reserve and except from vacation all rights and privileges*
 24 *then possessed by public utilities, as defined in R. S. 48:2-13, and*
 25 *by any cable television company, as defined in the "Cable Tele-*
 26 *vision Act," P. L. 1972, c. 186, (C. 48:5A-1 et seq.), to maintain,*
 27 *repair and replace their existing facilities in, adjacent to, over or*

Matter printed in italics thus is new matter.

28 *under the street, highway, lane, alley, square, place or park, or any*
29 *part thereof, to be vacated;*

30 c. Prescribe the time, manner in which and terms upon which
31 persons shall exercise any privilege granted to them in the use of
32 any street, highway, alley or public place, or in digging up the same
33 for laying down rails, pipes, conduits, or for any other purpose
34 whatever;

35 d. Prevent or regulate the erection and construction of any stoop,
36 step, platform, window, cellar door, area, descent into a cellar or
37 basement, bridge, sign, or any post, erection or projection in, over
38 or upon any street or highway, and for the removal of the same at
39 the expense of the owner or occupant of the premises where already
40 erected;

41 e. Cause the owners of real estate abutting on any street or high-
42 way to erect fences, walls or other safeguards for the protection of
43 persons from injury from unsafe places on said real estate adjacent
44 to or near such street or highway; and provide for the erection of
45 the same by the municipality at the expense of the owner or owners
46 of such real estate;

47 f. Regulate or prohibit the erection and maintenance of fences
48 or any other form of inclosures fronting on any municipal street,
49 highway, lane, alley or public place;

50 g. Prevent persons from depositing, throwing, spilling or dump-
51 ing dirt, ashes or other material upon any street or highway or
52 portion thereof, or causing or permitting the same to be done;

53 h. Regulate or prohibit the placing of banners or flags, in, over
54 or upon any street or avenue;

55 i. Cause the territory within the municipality to be accurately
56 surveyed and a map or maps to be prepared showing the location
57 and width of each street, highway, lane, alley and public place, and
58 a plan for the systematic opening of roads and streets in the future.
59 Such map or maps may be changed from time to time;

60 j. Provide for the adoption and changing of a system of number-
61 ing all buildings and lots of land in such municipality, and the
62 display upon each building of the number assigned to it, either at
63 the expense of the owner thereof or of the municipality;

64 k. Provide for the naming and changing the names of streets and
65 highways, and the erection thereon of signs, showing the names
66 thereof, and guide posts for travelers;

67 l. Regulate processions and parades through the streets and high-
68 ways of the municipality.

1 2. This act shall take effect 120 days after enactment.

SENATE, No. 2797

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1985

By Senators CARDINALE and HURLEY

Referred to Committee on Transportation and Communications

AN ACT concerning ordinances and amending R. S. 40:67-1.

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3 amend, repeal and enforce ordinances to:

4 a. Ascertain and establish the boundaries of all streets, highways,
5 lanes, alleys and public places in the municipality, and prevent and
6 remove all encroachments, obstructions and encumbrances in, over
7 or upon the same or any part thereof;

8 b. Establish, change the grade of or vacate any public street,
9 highway, lane or alley, or any part thereof, including the vacation
10 of any portion of any public street, highway, lane or alley measured
11 from a horizontal plane a specified distance above or below its
12 surface and continuing upward or downward, as the case may be,
13 *provided that the governing body shall give 15 working days' writ-*
14 *ten notice prior to the introduction of any vacation ordinance to all*
15 *public utilities, as defined in R. S. 48:2-13, having facilities in, ad-*
16 *acent to, over or under any public street, highway, lane or alley or*
17 *any part thereof; vacate any street, highway, lane, alley, square,*
18 *place or park, or any part thereof, dedicated to public use but not*
19 *accepted by the municipality, whether or not the same, or any part,*
20 *has been actually opened or improved; accept any street, highway,*
21 *lane, alley, square, beach, park or other place, or any part thereof,*
22 *dedicated to public use, and thereafter, improve and maintain the*
23 *same. The word "vacate" shall be construed for all purposes of*

Matter printed in italics thus is new matter.

24 this article to include the release of all public rights, resulting from
25 any dedication of lands not accepted by the municipality;

26 c. Prescribe the time, manner in which and terms upon which
27 persons shall exercise any privilege granted to them in the use of
28 any street, highway, alley or public place, or in digging up the same
29 for laying down rails, pipes, conduits, or for any other purpose
30 whatever;

31 d. Prevent or regulate the erection and construction of any stoop,
32 step, platform, window, cellar door, area, descent into a cellar or
33 basement, bridge, sign, or any post, erection or projection in, over
34 or upon any street or highway, and for the removal of the same at
35 the expense of the owner or occupant of the premises where already
36 erected;

37 e. Cause the owners of real estate abutting on any street or high-
38 way to erect fences, walls or other safeguards for the protection of
39 persons from injury from unsafe places on said real estate adjacent
40 to or near such street or highway; and provide for the erection of
41 the same by the municipality at the expense of the owner or owners
42 of such real estate;

43 f. Regulate or prohibit the erection and maintenance of fences
44 or any other form of inclosures fronting on any municipal street,
45 highway, lane, alley or public place;

46 g. Prevent persons from depositing, throwing, spilling or dump-
47 ing dirt, ashes or other material upon any street or highway or
48 portion thereof, or causing or permitting the same to be done;

49 h. Regulate or prohibit the placing of banners or flags, in, over
50 or upon any street or avenue;

51 i. Cause the territory within the municipality to be accurately
52 surveyed and a map or maps to be prepared showing the location
53 and width of each street, highway, lane, alley and public place, and
54 a plan for the systematic opening of roads and streets in the future.
55 Such map or maps may be changed from time to time;

56 j. Provide for the adoption and changing of a system of number-
57 ing all buildings and lots of land in such municipality, and the
58 display upon each building of the number assigned to it, either at
59 the expense of the owner thereof or of the municipality;

60 k. Provide for the naming and changing the names of streets and
61 highways, and the erection thereon of signs, showing the names
62 thereof, and guide posts for travelers;

63 l. Regulate processions and parades through the streets and high-
64 ways of the municipality.

1 2. This act shall take effect 60 days after enactment.

STATEMENT

Municipal ordinances to vacate public streets are, on occasion, enacted with such swiftness as to preclude public utilities, which hold interests in the streets for their lines and mains, from making adequate arrangements for the preservation of those interests. This bill would require 15 working days' notice to public utilities prior to the introduction of any vacation ordinance.

ASSEMBLY, No. 2108

STATE OF NEW JERSEY

INTRODUCED MAY 21, 1984

By Assemblymen MARKERT, MILLER, KLINE and MUZIANI

AN ACT concerning ordinances and amending R. S. 40:67-1.

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6 remove all encroachments, obstructions and encumbrances in, over
7 or upon the same or any part thereof;

8 b. Establish, change the grade of or vacate any public street,
9 highway, lane or alley, or any part thereof, including the vacation
10 of any portion of any public street, highway, lane or alley measured
11 from a horizontal plane a specified distance above or below its
12 surface and continuing upward or downward, as the case may be,
13 *provided that the governing body shall give 15 working days' writ-*
14 *ten notice prior to the introduction of any vacation ordinance to all*
15 *public utilities, as defined in R. S. 48:2-13, having facilities in, ad-*
16 *acent to, over or under any public street, highway, lane or alley or*
17 *any part thereof;* vacate any street, highway, lane, alley, square,
18 place or park, or any part thereof, dedicated to public use but not
19 accepted by the municipality, whether or not the same, or any part,
20 has been actually opened or improved; accept any street, highway,
21 lane, alley, square, beach, park or other place, or any part thereof,
22 dedicated to public use, and thereafter, improve and maintain the
23 same. The word "vacate" shall be construed for all purposes of

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24 this article to include the release of all public rights, resulting from
25 any dedication of lands not accepted by the municipality;

26 c. Prescribe the time, manner in which and terms upon which
27 persons shall exercise any privilege granted to them in the use of
28 any street, highway, alley or public place, or in digging up the same
29 for laying down rails, pipes, conduits, or for any other purpose
30 whatever;

31 d. Prevent or regulate the erection and construction of any stoop,
32 step, platform, window, cellar door, area, descent into a cellar or
33 basement, bridge, sign, or any post, erection or projection in, over
34 or upon any street or highway, and for the removal of the same at
35 the expense of the owner or occupant of the premises where already
36 erected;

37 e. Cause the owners of real estate abutting on any street or high-
38 way to erect fences, walls or other safeguards for the protection of
39 persons from injury from unsafe places on said real estate adjacent
40 to or near such street or highway; and provide for the erection of
41 the same by the municipality at the expense of the owner or owners
42 of such real estate;

43 f. Regulate or prohibit the erection and maintenance of fences
44 or any other form of inclosures fronting on any municipal street,
45 highway, lane, alley or public place;

46 g. Prevent persons from depositing, throwing, spilling or dump-
47 ing dirt, ashes or other material upon any street or highway or
48 portion thereof, or causing or permitting the same to be done;

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52 surveyed and a map or maps to be prepared showing the location
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55 Such map or maps may be changed from time to time;

56 j. Provide for the adoption and changing of a system of number-
57 ing all buildings and lots of land in such municipality, and the
58 display upon each building of the number assigned to it, either at
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64 ways of the municipality.

1 2. This act shall take effect 60 days after enactment.

STATEMENT

Municipal ordinances to vacate public streets are, on occasion, enacted with such swiftness as to preclude public utilities, which hold interests in the streets for their lines and mains, from making adequate arrangements for the preservation of those interests. This bill would require 15 working days' notice to public utilities prior to the introduction of any vacation ordinance.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2108

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1984

The bill would require the governing body of a municipality to provide 15 working days' written notice prior to the introduction of any vacation ordinance to all affected public utilities.

The committee reported this bill favorably.

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2797 and ASSEMBLY, No. 2108

STATE OF NEW JERSEY

DATED: JUNE 20, 1985

This substitute bill provides that any municipal ordinance vacating any street, highway, lane, alley, square, place or park, or any part thereof, shall expressly reserve and except from vacation all rights and privileges possessed at the time of passage of the ordinance by public utilities to maintain, repair and replace their existing utility facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park to be vacated. The purpose of the bill is to permit the public utilities to maintain their rights in these matters and to put a possible owner or developer of the property to be vacated on notice that these rights are preserved in the vacation ordinance. Cable television facilities are also included in the bill.

Senate Bill No. 2797 and Assembly Bill No. 2108 (which are identical) provide for 15 days' written notice to the public utilities prior to the introduction of any vacation ordinance. It was felt that such written notice was not feasible since municipal governing bodies may not always have 15 days' notice of ordinances to be introduced.