

40:55B-5 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:55B-5 et al

(Municipal Industrial
Commissions-various
amendments)

LAWS OF: 1984

CHAPTER: 196

Bill No: S949

Sponsor(s): Russo

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: Yes Amendments denoted by asterisks
according to Governors' recommendations

Date of Passage: Assembly: June 28, 1984 Re-enacted 01-19-84

Senate: February 27, 1984 Re-enacted 10-18-84

Date of Approval: November 27, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

Report, referred to in statements:

974.90 New Jersey State Commission of Investigation
162 Report and recommendations... on
1983a Lakewood Industrial Commission. Trenton, 1983.

SECRETARY

196

11-27-84

84

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 949

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator RUSSO

AN ACT concerning municipal industrial commissions, amending R. S. 40:55B-5, R. S. 40:55B-6 and R. S. 40:55B-10 and supplementing chapter 55B of Title 40 of the Revised Statutes.

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

1 R. S. 40:55B-5 is amended to read as follows:

2 40:55B-5. The members of each commission shall be appointed
3 by the [mayor] * [governing body] * * * [* mayor, with the advice and
3A consent of the council*] * * * governing body * * * of the municipality
4 of its creation. Each member shall be, for the last five years preced-
5 ing his appointment, a citizen of the United States and a qualified
6 voter of the State of New Jersey. One member shall be appointed
7 for one year, one member for two years, one member for three years,
8 two members for four years and two members for five years. At the
9 expiration of each of the above terms, the new member or members
10 shall be appointed for a term of five years. Vacancies in the
11 membership of any commission, occurring for whatever cause, shall
12 be promptly filled by appointment by the [mayor] * [governing
13 body] * * * [* mayor with the advice and consent of the council*] * *
14 * * governing body * * * for the unexpired term thereof. Members shall
15 serve for their respective terms and until their successors are
16 appointed and qualify. No more than four members shall be from
16A the same political party.

17 Each member shall be chosen with a special view to his qualifi-
18 cations and fitness for service on the commission. He shall have

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted February 6, 1984.

**—Senate amendments adopted in accordance with Governor's recommendations September 20, 1984.

19 had experience in industry or commerce and shall be conversant
 20 with the industrial needs and facilities of his commission's munici-
 21 pality, and shall be of known devotion to public service.

22 *A member of the governing body of the municipality shall not be*
 23 *appointed as a member of the commission.*

24 There shall be appointed upon said commission, unless local
 25 conditions shall otherwise require, [at least] one [thoroughly
 26 competent] representative of [mill owners and operators of mill
 27 properties] *industry or commerce*; a representative of labor; a
 28 representative of the clearing house or banks of said municipality;
 29 a representative of the chamber of commerce; a representative of
 30 the service clubs of such municipality; a representative of the
 31 legal profession; and a representative of a recognized real estate
 32 dealer's association.

33 No member, officer or employee of any commission shall be
 34 interested directly or indirectly in any contracts for work or
 35 materials used by the commission, or in any sales, leases or agree-
 36 ments in connection with lands, buildings or other property owned
 37 or controlled by it, or in any fees or compensation of any kind paid
 38 to any broker, architect, engineer, merchant or other person doing
 39 business with the commission or in any other transaction of or with
 40 the commission, or the benefits or profits thereof.

41 Each member and officer of the commission shall, before as-
 42 suming office, take and subscribe an oath that he will faithfully and
 43 impartially discharge the duties of his office.

44 The members and officers of the commission shall serve without
 45 compensation, but each shall receive his actual disbursements for
 46 his expenses in performing his duties.

47 The members of the commission shall choose annually from
 48 among its members a chairman or president, and such other officers
 49 as it may deem necessary. The mayor of the municipality served
 50 by the commission, shall be ex officio a member thereof, *but he shall*
 51 *not have voting privileges.*

52 A majority of the members shall constitute a quorum of the
 53 board.

54 The members and officers may be required to furnish bonds to
 55 the commission, to secure the faithful discharge of their duties, in
 56 form, amount and with such surety as may from time to time be
 57 required by resolution of the governing body of the municipality
 58 served by the commission.

1 2. R. S. 40:55B-6 is amended to read as follows:

2 40:55B-6. In so far as may be practicable, the employees and
 3 assistants required by the commission shall be recruited from the

4 public officers and employees of the municipality served by the
 5 commission. The municipal counsel shall be the counsel to the
 6 commission; the municipal engineer shall be the engineer of the
 7 commission; and the several departments of the municipal govern-
 8 ment shall be available to the commission for the purposes of the
 9 commission's business. Municipal employees serving the commis-
 10 sion shall do so without compensation other than their regular
 11 compensation as employees of the municipality. The commission
 12 shall, from time to time, make known to the mayor of the munic-
 13 ipality served by it, its wants in the nature of services by employees
 14 of the municipality, and the mayor shall designate which of the
 15 municipality's employees, if any, shall render such services.

16 To the extent that the commission shall deem it necessary to
 17 carry on its function, and to the extent that it shall consider the
 18 services of existing employees of the municipality insufficient for
 19 its purposes, it may employ such additional employees or services
 20 and at such compensation as may be approved by resolution of the
 21 governing body of the municipality. Its requirements in this direc-
 22 tion shall be submitted from time to time in writing to such
 23 governing body.

24 The civil service laws, rules and regulations of the state, appli-
 25 cable to the municipality served by the commission, shall govern
 26 the appointment of employees of the commission. Such laws, rules
 27 and regulations shall not be deemed to prevent the use of services
 28 of existing employees, without extra compensation therefor, nor
 29 shall the use of such services operate to enlarge the civil service
 30 rights or the status of the municipal employee rendering the same.

31 The commission shall have and maintain a suitable office, where
 32 its maps, plans, documents, records and accounts shall be kept,
 33 subject to public inspection [at such times and under such reason-
 34 able regulations as the commission shall determine] *during reason-*
 35 *able business hours of the commission.* If practicable, existing
 36 office facilities of the municipality served by the commission shall
 37 be used without charge by the municipality, and the office and
 38 similar equipment of the municipality shall, wherever possible, be
 39 used by and be made available for the use of the commission,
 40 without charge.

1 3. R. S. 40:55B-10 is amended to read as follows :

2 40:55B-10. No commission created under the authority of this
 3 chapter shall have any power of condemnation or eminent domain.

4 No commission created under the authority of this chapter shall
 5 have power to pledge the credit of the municipality by which it is
 6 created, or of any other municipality, or of the State of New Jersey,

7 or to create any debt against or in any manner act as the agent of
8 such municipality, or of the State of New Jersey.

9 Such commission shall have power and authority to make an
10 economic survey, analyzing the present and potential possibilities
11 of the municipality, with a view to ascertaining its industrial needs,
12 determining its resources for efficient manufacture and exploring its
13 probable sphere in the future development of the State and Nation.
14 In carrying out such a survey, the commission shall study the needs
15 of existing local industries so that means may be evolved to enable
16 them to compete more successfully with competitors in other states;
17 and more particularly how they might successfully round out and
18 enlarge the products manufactured within the municipality with a
19 view to diversifying local industry and stabilizing employment con-
20 ditions. The commission may make any investigation deemed neces-
21 sary to enable it effectually to carry out the provisions of this
22 chapter and for that purpose the commission may take and hear
23 proofs and testimony and compel the attendance of witnesses and
24 the production of books, papers, records and documents, including
25 public records, and its authorized agents may enter upon any lands
26 as in its judgment may be necessary for the purpose of making
27 surveys and examinations to accomplish any purpose authorized
28 by this chapter.

29 Each commission shall make an annual report to the *governing*
30 *body of the* municipality by which it has been created, setting forth
31 in detail its operations and transactions for the preceding 12
32 months, *and shall include therein its receipts and disbursements*
33 *during that period. A copy of the report shall be filed in the office*
34 *of the municipal clerk and be open to public inspection during the*
35 *regular business hours of the clerk's office.*

36 Nothing in this chapter provided and no authority given to or
37 exercised by any commission created under this chapter shall
38 impair or invalidate in any way any funded indebtedness of the
39 municipality by which it has been created, nor impair the provisions
40 of law regulating the payment into sinking funds of revenues
41 derived from municipal property, or dedicating the revenues de-
42 rived from any municipal property to a specific purpose.

43 The creation of a commission by a municipality shall not be
44 deemed to limit in any manner the municipality's right to deal with
45 its vacant lands, or to sell or lease the same, independently of such
46 commission, as heretofore, but the powers conferred upon such
47 municipality and commission by this chapter shall be in addition to
48 any rights or powers now possessed by such municipality with
49 reference to its vacant lands or other properties.

50 The governing body of such municipality creating a commission
 51 under this chapter may appropriate annually, during the life of its
 52 commission, such sums as may be reasonably necessary to conduct
 53 the normal operations of the commission, but no moneys so appro-
 54 priated shall be used by a commission for the construction of any
 55 building or to finance such construction. The commission shall
 56 annually present to the chief financial officer of the municipality its
 57 budget for operations for the ensuing year, reflecting therein all
 58 unexpended balances on hand from previous appropriations re-
 59 ceived from the municipality, at the same time and in the same
 60 manner and form as is required by several departments of the
 61 municipality's government, and the budget so submitted shall be
 62 acted upon as in the case of the budgets of such several municipal
 63 departments, and, being so acted upon, shall be made a part of the
 64 municipality's budget. *A copy of the proposed budget shall be filed*
 65 *in the commission's office and be open to public inspection during*
 66 *the regular business hours of the commission's office.* Each com-
 67 mission shall keep *and maintain at its office* complete and accurate
 68 records of its accounts, and separate accounts shall be kept for its
 69 normal functions *which shall be open to public inspection during*
 70 *the regular business hours of the commission's office.* No com-
 71 mission shall exceed its budget, and moneys received from the
 72 municipality by which it has been created shall be expended only
 73 for the purposes for which they have been appropriated.

1 4. (New section),****【**Before consummating any contract for the sale,
 2 lease, option to purchase or lease or other transfer of real property
 3 or any interest therein, the commission shall submit any contract
 4 for the sale, lease, option to purchase or lease or other transfer of
 5 real property or any interest therein to the governing body of the
 6 municipality for its approval or disapproval thereof. The govern-
 7 ing body of the municipality shall, by resolution, approve or
 8 disapprove of the sale, lease, option to purchase or lease or
 9 other transfer of real property or any interest therein.**】** **Notice**
 10 *of any contract for the sale, lease, option to purchase or lease or*
 11 *other transfer of real property or any interest therein proposed by*
 12 *the commission shall be submitted to the mayor of the municipality*
 13 *whereupon such proposed commission action shall be subject to the*
 14 *mayor's veto. The mayor shall exercise the veto power over this*
 15 *proposed action by a written veto to the commission. The mayor*
 16 *shall have 10 days, Saturdays, Sundays and holidays excepted, after*
 17 *receiving notice of the action to exercise the veto power. The*
 18 *mayor's veto power shall be exercised in accordance with the follow-*
 19 *ing guidelines: a. the action conforms to the master plan of the*

20 community; b. the action is environmentally compatible with the
 21 community; c. the action complies with the zoning of the industrial
 22 area; and d. the project complies with the policies and procedures
 23 established by the governing body in cooperation with the com-
 24 mission. If a mayoral veto is exercised during the specified time
 25 period, the action of the commission shall be considered null and
 26 void. If no veto is exercised during the specified time period, the
 27 action of the commission shall be considered valid. The mayor, upon
 28 receiving notice of the action, may in writing notify the commission
 29 of the approval of the action before the expiration of the 10-day
 30 period.**

1 5. (New section) The commission may, as to any real property
 2 sold or leased by it, impose restrictions or conditions as to the use
 3 of the real property or the construction, demolition, repair, altera-
 4 tion or reconstruction of buildings or structures and the time of
 5 their commencement and completion. All restrictions and condi-
 6 tions shall be related to a lawful purpose and shall not be incon-
 7 sistent with or impose a special or higher standard than any zoning
 8 or planning ordinance then in effect in the municipality or under
 9 the "State Uniform Construction Code Act," P. L. 1975, c. 217
 10 (C. 52:27D-119 et seq.). ****[**If the real property is not used in ac-
 11 cordance with the restrictions or conditions, title thereto shall
 12 revert to the commission by operation of law, and the term under
 13 any lease of the real property shall terminate.**]****

1 6. This act shall take effect immediately*, and appointments
 2 made after the effective date of this act shall be made as vacancies
 3 occur so as to restructure the membership of each municipal in-
 4 dustrial commission in compliance with the provisions of this
 5 amendatory act*.

STATEMENT

This bill has been drafted by the Division of Legal Services in furtherance of its duty to consider suggestions and recommendations from public officials for the improvement and modification of the general and permanent statute law of the State.

This bill reflects the recommendations for changes in the municipal industrial commission law suggested by the State of New Jersey Commission of Investigation as a result of its investigation into the affairs of the Lakewood Industrial Commission.

5949(1984)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 949

STATE OF NEW JERSEY

DATE: JUNE 18, 1984

Senate Bill No. 949 would make certain changes in the municipal industrial commission law, R. S. 40:55B-1 et seq. The changes are based on the recommendations of the State Commission of Investigation stemming from its investigation of the affairs of the Lakewood Industrial Commission.

The major revisions which the bill would make are as follows:

- a. Require that no more than four of the seven members be of the same political party;
- b. Prohibit members of the governing body from serving on the commission;
- c. Clarify that the commission members were to be appointed by the mayor with the advice and consent of the council;
- d. Remove the requirement that one member represent mill owners and operators of mill properties;
- e. Require that commission documents and records, its annual report and its proposed budget be available for public inspection during reasonable business hours of the commission;
- f. Require approval by the municipal governing body, by resolution, of all commission contracts for the sale, lease, option to purchase or lease or other transfer of real property or any interest therein; and
- g. Clarify that the changes in the composition of the membership of a municipal industrial commission which this bill requires are to be achieved by the filling of vacancies as they occur.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 949

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 1984

Senate Bill No. 949 would make certain changes in the municipal industrial commission law, R. S. 40:55B-1 et seq. The changes are based on the recommendations of the State Commission of Investigation stemming from its investigation of the affairs of the Lakewood Industrial Commission.

The major revisions which the bill would make are as follows:

- a. Require that no more than four of the seven members be of the same political party;
- b. Prohibit members of the governing body from serving on the commission;
- c. Remove the requirement that one member represent mill owners and operators of mill properties;
- d. Require that commission documents and records, its annual report and its proposed budget be available for public inspection during reasonable business hours of the commission; and
- e. Require approval by the municipal governing body, by resolution, or all commission contracts for the sale, lease, option to purchase or lease or other transfer of real property or any interest therein.

The bill, as received by the committee, assigned the responsibility for appointing the commission members to the municipal governing body. The committee, at the sponsor's request, amended the bill to clarify that the commission members were to be appointed by the mayor with the advice and consent of the council.

The committee also amended the bill to clarify that the changes in the composition of the membership of a municipal industrial commission which this bill requires are to be achieved by the filling of vacancies as they occur.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 13, 1984

SENATE BILL NO. 949 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 949 (OCR), with my objections, for reconsideration.

I am in agreement with the purpose of this bill to make revisions in the law governing municipal industrial commissions.

I note, however, that in the original version of the bill members of an industrial commission were to be appointed by the municipal governing body, as were vacancies in commission membership. This was the recommendation of the State Commission of Investigation, whose recommendations formed the basis of this legislation.

The Senate County and Municipal Government Committee amended the bill so that industrial commission members would be appointed by the mayor with the advice and consent of the council of the municipality. Not all municipalities in this State operate under a mayor and council form of government, and therefore, such language would not be complete. I favor the recommendation of the State Commission of Investigation and the original version of the bill on this matter.

The bill requires a second review of a contract for the sale, lease, option to purchase or lease or other transfer of real property of an industrial commission by its municipal governing body. In place of this provision, I recommend granting the mayor a 10-day veto period of such action based upon specified guidelines. This will permit a review of what the industrial commission does without creating a climate in which private developers would be unwilling to enter into agreements for the purchase of property because of the fear that undue time would elapse before such agreements could be made final.

I am also deleting from the bill the requirement that real property not used in accordance with the restrictions or conditions placed on private developers by the municipal industrial commission revert to the commission by operation of law. I am advised that such a reversion in the statute would make it difficult for developers to borrow money from banks, and I note that the SCI report made no recommendation in this area.

Therefore, I herewith return Senate Bill No. 949 (OCR) and recommend that it be amended as follows:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

Page 1, Section 1, Lines 3 and 3a: Delete "mayor with the advice and consent of the council"; insert "governing body"

Page 1, Section 1, Line 13: Delete "mayor with the advice and consent of the council"; insert "governing body"

Page 5, Section 4, Lines 1-9: After "(New section)" delete these lines in entirety; insert as follows:

"Notice of any contract for the sale, lease, option to purchase or lease or other transfer of real property or any interest therein proposed by the commission shall be submitted to the mayor of the municipality whereupon such proposed commission action shall be subject to the mayor's veto. The mayor shall exercise the veto power over this proposed action by a written veto to the commission. The mayor shall have 10 days, Saturdays, Sundays and holidays excepted, after receiving notice of the action to exercise the veto power. The mayor's veto power shall be exercised in accordance with the following guidelines: a. the action conforms to the master plan of the community; b. the action is environmentally compatible with the community; c. the action complies with the zoning of the industrial area; and d. the project complies with the policies and procedures established by the governing body in cooperation with the commission. If a mayoral veto is exercised during the specified time period, the action of the commission shall be considered null and void. If no veto is exercised during the specified time period, the action of the commission shall be considered valid. The mayor, upon receiving notice of the action, may in writing notify the commission of the approval of the action before the expiration of the 10-day period."

Page 5, Section 5, Lines 10 through 13: Omit "If the real property is not used in" on line 10; omit lines 11 through 13

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

Chief Counsel