

40:68A-38

LEGISLATIVE HISTORY CHECKLIST

(Municipal Port Authority--establishes conditions for dissolution)

NJSA 40:68A-38

LAWS 1982 CHAPTER 179

Bill No. A1400

Sponsor(s) Jackman and others

Date Introduced May 17, 1982

Committee: Assembly Municipal Government
Senate County and Municipal Government

Amended during passage Yes ~~No~~ Amendments denoted by asterisk
according to Governor's recommendations:

Date of Passage: Assembly July 1, 1982 Re-enacted 9-30-82
Senate July 22, 1982 Re-enacted 11-8-82

Date of approval Nov. 12, 1982

Following statements are attached if available:

Sponsor statement	Yes	No
Committee Statement: Assembly	Yes	No
Senate	Yes	No
Fiscal Note	Yes	No
Veto Message	Yes	No
Message on signing	Yes	No
Following were printed:		
Reports	Yes	No
Hearings	Yes	No

6/22/81

ASSEMBLY, No. 1400

STATE OF NEW JERSEY

INTRODUCED MAY 17, 1982

By Assemblymen JACKMAN, T. GALLO, COWAN, JANISZEWSKI
and PATERO

AN ACT to amend the "municipal port authorities law," approved
February 15, 1961 (P. L. 1960, c. 192).

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

1 1. Section 10 of P. L. 1960, c. 192 (C. 40:68A-38) is amended
2 to read as follows:

3 10. The governing body of any municipality which has created
4 a municipal port authority pursuant to this act may, by ordinance,
5 dissolve such municipal port authority on the condition that (1)
6 **[either the members of such authority have not been appointed**
7 **or such authority by resolution has consented to its dissolution]**
8 *if such authority has any debts other than bonds outstanding, the*
9 *municipality shall appropriate the moneys required to enable all*
10 *such debts to be discharged in full, and (2) either such authority*
11 *has no [debts or obligations] bonds outstanding or all holders of*
12 *bonds of the municipal port authority have consented to the ordi-*
13 *nance. A copy of the ordinance for the dissolution of a municipal*
14 *port authority pursuant to this section duly certified by the appro-*
15 *priate officer of the municipality which has adopted such ordinance*
16 *shall be filed in the office of the Secretary of State. Upon proof of*
17 *such filing of a certified copy of the ordinance for the dissolution*
18 *of a municipal port authority as aforesaid and upon proof either*
19 *that such municipal port authority had no [debts or obligations]*
20 *bonds outstanding at the time of the adoption of such ordinance,*
21 *or that all [creditors or other obligees] holders of bonds of such*

**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.

22 municipal port authority have consented to such ordinance, the
23 municipal port authority therein referred to shall be conclusively
24 deemed to have been lawfully and properly dissolved and the
25 property of such municipal port authority shall be vested in the
26 municipality adopting such ordinance. A copy of any such certified
27 ordinance, duly certified by or on behalf of the Secretary of State,
28 shall be admissible in evidence in any such action, or proceeding,
29 and shall be conclusive evidence of due and proper filing thereof
30 as aforesaid.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this amendatory bill is to revise the conditions under which a municipality may dissolve a municipal port authority.

Under current law, the governing body of a municipality, may, by ordinance, dissolve a municipal port authority when (1) either no members have been appointed to the authority or the authority, by resolution, consents to dissolution, and (2) the authority has no outstanding debts or obligations.

Under the provisions of this bill, the governing body of a municipality would be permitted to dissolve a municipal port authority whenever the following conditions are met: (1) that the municipality appropriate sufficient moneys to discharge any existing debts, other than outstanding bonds, of the authority, and (2) that either the authority has no outstanding bonds or that all the bondholders consent to the dissolution.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1400

STATE OF NEW JERSEY

DATED: JUNE 17, 1982

Assembly Bill No 1400 amends section 10 of P. L. 1960, c. 192 (C. 40:68A-38) to revise the conditions under which a municipality may dissolve a municipal port authority.

Under the provisions of this bill, the governing body of a municipality would be permitted to dissolve a municipal port authority whenever the following conditions are met: (1) that the municipality appropriate sufficient moneys to discharge any existing debts of the authority, other than those related to outstanding bonds, and (2) that either the authority has no outstanding bonds or, if the authority has outstanding bonds, that all the bondholders consent to the dissolution.

To bring the language of the section into conformity with these new conditions for dissolution, the bill also amends the law to eliminate the references to "debts and obligations" and "creditors or other obligees" and replaces those phrases with "bonds" and "holder of bonds."

The committee, at the sponsor's request, amended the bill to require that a copy of an ordinance for the dissolution of a municipal port authority be transmitted to the Director of the Division of Local Government Services. The committee also amended the bill to correct a printing error.

[OFFICIAL COPY REPRINT]
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and PATERO

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2 of New Jersey:

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2 to read as follows:

3 10. The governing body of any municipality which has created
4 a municipal port authority pursuant to this act may, by ordinance,
5 dissolve such municipal port authority on the condition that (1)
6 [either the members of such authority have not been appointed
7 or such authority by resolution has consented to its dissolution]
8 if such authority has any debts other than bonds outstanding, the
9 municipality shall appropriate the moneys required to enable all
10 such debts to be discharged in full, and (2) either such authority
11 has no [debts or obligations] bonds outstanding or all holders of
12 bonds of the municipal port authority have consented to the ordi-
13 nance. A copy of the ordinance for the dissolution of a municipal
14 port authority pursuant to this section duly certified by the appro-
15 priate officer of the municipality which has adopted such ordinance
16 shall be filed in the office of the Secretary of State *and shall be
16a transmitted to the Director of the Division of Local Government
17 Services*. Upon proof of such filing of a certified copy of the ordi-
18 nance for the dissolution of a municipal port authority as aforesaid
19 and upon proof either that such municipal port authority had no
20 [debts or obligations] bonds outstanding at the time of the adop-

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

*—Assembly committee amendments adopted June 17, 1982.

21. tion of such ordinance, or that all [creditors or other obligees]
22 *holders of bonds* of such municipal port authority have consented
23 to such ordinance, the municipal port authority therein referred to
24 shall be conclusively deemed to have been lawfully and * [prop-
25 erty] * *properly* dissolved and the property of such municipal
26 port authority shall be vested in the municipality adopting such
27 ordinance. A copy of any such certified ordinance, duly certified
28 by or on behalf of the Secretary of State, shall be admissible in
29 evidence in any such action, or proceeding, and shall be conclusive
30 evidence of due and proper filing thereof as aforesaid.

1 2. This act shall take effect immediately.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 20, 1982

ASSEMBLY BILL NO. 1400 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 1400 (OCR) with my objections for reconsideration.

Assembly Bill No. 1400 amends the law governing the dissolution of municipal port authorities. The bill authorizes a municipal governing body to dissolve its municipal port authority provided that: 1) the municipality discharges all outstanding debts of the authority other than outstanding bonds, and 2) either the authority has no outstanding bonds or the bondholders have consented to the dissolution. These amendments represent a significant departure from existing law. The current statute permits a municipal port authority to be dissolved only where either its members have not been appointed or they consent to the dissolution and the authority has no debts or obligations outstanding. This bill permits a municipal governing body to dissolve the authority without the authority's consent and permits dissolution despite outstanding debts (subject to the provisions noted above).

Amendments in the bill also require that a copy of the ordinance for dissolution be transmitted to the Director of the Division of Local Government Services.

The bill raises a fundamental policy question of whether the governing body of a municipality should be able to unilaterally dissolve its municipal port authority. Since the municipality has the power to create a port authority, logically the municipality should also have the power to dissolve its port authority, even if the authority does not consent. The electorate and the governing body should not be saddled with an independent authority that was created by and for them, and yet may no longer reflect their policies and interests. However, due to their long term planning functions we also want to protect municipal port authorities from the vagaries of short term political pressures. For this reason, I believe that a two-thirds vote rather than a mere majority vote should be required to pass a resolution dissolving a municipal port authority.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Accordingly, I herewith return Assembly Bill No. 1400 (OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, line 4: After "ordinance" insert "adopted by the recorded affirmative votes of at least two-thirds of the full membership of the governing body"

Respectfully,

/s/ Thomas H. Kean
GOVERNOR

[seal]

/s/ W. Cary Edwards
Chief Counsel to the Governor

[SECOND OFFICIAL COPY REPRINT]

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2 of New Jersey:

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2 to read as follows:

3 10. The governing body of any municipality which has created
4 a municipal port authority pursuant to this act may, by ordinance
5 ***adopted by the recorded affirmative votes of at least two-thirds*
6 *of the full membership of the governing body***, dissolve such
7 municipal port authority on the condition that (1) [either the
8 members of such authority have not been appointed or such au-
9 thority by resolution has consented to its dissolution] *if such*
10 *authority has any debts other than bonds outstanding, the munic-*
11 *ipality shall appropriate the moneys required to enable all such*
12 *debts to be discharged in full, and (2) either such authority has*
13 *no [debts or obligations] bonds outstanding or all holders of*
13A *bonds of the municipal port authority have consented to the ordi-*
13B *nance.* A copy of the ordinance for the dissolution of a municipal
14 port authority pursuant to this section duly certified by the appro-
15 priate officer of the municipality which has adopted such ordinance
16 shall be filed in the office of the Secretary of State **and shall be*
16A *transmitted to the Director of the Division of Local Government*
17 *Services**. Upon proof of such filing of a certified copy of the ordi-
18 nance for the dissolution of a municipal port authority as aforesaid

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*—Assembly committee amendments adopted June 17, 1982.

**—Assembly amendment adopted in accordance with Governor's recom-
mendations September 20, 1982.

19 and upon proof either that such municipal port authority had no
20 **[debts or obligations]** *bonds* outstanding at the time of the adop-
21 tion of such ordinance, or that all **[creditors or other obligees]**
22 *holders of bonds* of such municipal port authority have consented
23 to such ordinance, the municipal port authority therein referred to
24 shall be conclusively deemed to have been lawfully and ***[prop-**
25 **erty]*** **properly** dissolved and the property of such municipal
26 port authority shall be vested in the municipality adopting such
27 ordinance. A copy of any such certified ordinance, duly certified
28 by or on behalf of the Secretary of State, shall be admissible in
29 evidence in any such action, or proceeding, and shall be conclusive
30 evidence of due and proper filing thereof as aforesaid.

1 2. This act shall take effect immediately.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

MONDAY, NOVEMBER 15, 1982

Governor Thomas H. Kean has signed the following bills:

A-1518, sponsored by Assemblyman Karl Weidel, R-Mercer, which increase some hunting and fishing license fees, and permits the creation of an "All Round Sportsmen License" which would allow the purchaser to participate in freshwater fishing, including trout, firearm hunting and bow-and-arrow hunting. Revenue from increased license fees will go to fund Division of Fish, Game and Wildlife programs.

A-664, sponsored by Assemblywoman Barbara F. Kalik, D-Burlington, known as the "Food Bank Good Samaritan Act." This bill provides immunity from liability to any donor or gatherer of prepared or perishable food who gives it to a non-profit organization. The bill also requires that all food banks be licensed by the Department of Health.

A-1400, sponsored by Assemblyman Christopher J. Jackman, D-Hudson, which permits municipalities to dissolve municipal port authorities without the consent of port authority members.

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