

40: 67- 23.1

LEGISLATIVE HISTORY CHECKLIST

(Street - dedication to municipality - allow refusal of service)

NJSA 40:67-23.1

LAWS 1982

CHAPTER 190

Bill No. A678

Sponsor(s) Flynn and Van Wagner

Date Introduced Feb. 8, 1982

Committee: Assembly Municipal Government

Senate County & Municipal Government

Amended during passage Yes No

Date of Passage: Assembly June 17, 1982

Senate Oct. 18, 1982

Date of approval Dec. 3, 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

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6/22/81

SEP 1983

ASSEMBLY, No. 678

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1982

By Assemblymen FLYNN and VAN WAGNER

Referred to Committee on Municipal Government

AN ACT to amend "An act concerning municipal services to certain streets which have not been designated as public highways, and the dedication thereof supplementing Title 40 of the Revised Statutes and repealing P. L. 1944, c. 35 and R. S. 40:150-1," approved October 27, 1975 (P. L. 1975, c. 243).

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

1 1. Section 1 of P. L. 1975, c. 243 (C. 40:67-23.1) is amended  
2 to read as follows:

3 1. The governing body of every municipality may make, amend,  
4 repeal and enforce ordinances to cause the governing body of the  
5 municipality to repair and maintain and provide for the removal  
6 of snow, ice and other obstructions from, and provide for the  
7 lighting of, any roads or streets upon which the travel is sufficient,  
8 in the opinion of said governing body, to warrant such expendi-  
9 tures, even though such roads or streets shall not have been taken  
10 over by said municipal governing body or dedicated and accepted  
11 as public highways. Roads or streets so serviced, which are not  
12 shown on the official map of the municipality, may, at the option  
13 of the governing body of said municipality, be suitably improved  
14 in accordance with any requirements established pursuant to [the  
15 "Official Map and Building Permit Act (1953)," P. L. 1953, c. 434  
16 (C. 40:55-1.30 et seq.), and dedicated to the municipality, within  
17 2 years from the effective date of any ordinance adopted pursuant  
18 to the provisions of this act] *article 5 of the "Municipal Land*  
19 *Use Law," P. L. 1975, c. 291, ss. 23-27 (C. 40:55D-32 to*  
20 *C. 40:55D-36) and the ordinance.*

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.

21 *If, as a condition of providing services for any road or street*  
22 *proposed to be serviced, the municipality notifies the owner that*  
23 *dedication thereof to the municipality is required, the owner*  
24 *may refuse to accept the services and benefits of the ordinance*  
25 *upon that condition by so notifying the municipality within 60*  
26 *days of receipt of the notice. With respect to any road or street*  
27 *for which services are provided, if the municipality notifies the*  
28 *owner that continuation of provision of the services is condi-*  
29 *tioned upon the dedication thereof to the municipality, the owner*  
30 *may refuse to accept continuance of the services and benefits of*  
31 *the ordinance upon that condition by so notifying the municipality*  
32 *within 60 days of receipt of the notice. Notices to be given pursuant*  
33 *to this act shall be in writing.*

1 2. This act shall take effect immediately.

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#### STATEMENT

Presently the law permits a municipality to service adult communities and other private roads at the community's option. Some adult communities have been fearful that if they accept such benefits they may later be required to dedicate the roads to the community without being permitted to refuse such benefits. The original intent of the law was that if a community wanted such benefits they might have to accept dedication of said streets. It was never intended by this law that if they did not want to accept such benefits that they could be forced to dedicate such streets. The purpose of this amendment is to clarify the original intent of P. L. 1975, c. 243 (C. 40:67-23.1).

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A678(1982)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 678

**STATE OF NEW JERSEY**

DATED: MAY 20, 1982

Assembly Bill No. 678 amends section 1 of P. L. 1975, c. 243 (C. 40:67-23.1) in order to permit the owner of a private road to refuse an offer by a municipality to repair, maintain, or service the road if, as a condition of such repair, maintenance, or service, the municipality requires that the road be dedicated to the municipality.

The bill provides that the owner of the road notify the municipality that he does not want the service within 60 days of the date on which he received notification of the municipality's offer.

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 678

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 16, 1982

Assembly Bill No. 678 amends section 1 of P. L. 1975, c. 243 (C. 40:67-23.1) in order to permit the owner of a private road to refuse an offer by a municipality to repair, maintain, or service the road if, as a condition of such repair, maintenance, or service, the municipality requires that the road be dedicated to the municipality.

The bill provides that the owner of the road notify the municipality that he does not want the service within 60 days of the date on which he received notification of the municipality's offer.

The Senate committee understands that the provisions of the bill would not apply in any instance where the dedication of the road to the municipality is required as a condition of approval of a site plan or subdivision under the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.).

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

FRIDAY, DECEMBER 3, 1982

Governor Thomas H. Kean today signed Assembly Bill 678; the bill allows adult communities and other owners of private roads to refuse a municipality's services if accepting the road service means that the road will be dedicated to the municipality.

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