

40:41A-28; 40:41A-30; 40:41A-125

LEGISLATIVE HISTORY CHECKLIST

("Optional County charter law"--subject all boards, commissions and authorities to organizational power of charter)

NJSA 40:41A-28; 40:41A-30; 40:41A-125

LAWS 1981

CHAPTER 48

Bill No. S1429

Sponsor(s) Perskie, Musto and Rodgers

Date Introduced July 28, 1980

Committee: Assembly -----

Senate County and Municipal Government

Amended during passage Yes
according to Governor's recommendations
Date of Passage: Assembly Dec. 8, 1980
Senate Aug. 4, 1980
Date of approval Feb. 25, 1981

~~No~~ Amendments denoted by asterisks
Re-enacted 2-23-81
Re-enacted 2-19-81

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

Recent Superior Court decision (referred to in sponsors' statement):

Mathesius v. Mercer County Improvement Authority, 177 N.J. Super. 626 (1981)

6/22/81

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SENATE, No. 1429

STATE OF NEW JERSEY

INTRODUCED JULY 28, 1980

By Senators PERSKIE, MUSTO and RODGERS

Referred to Committee on County and Municipal Government

AN ACT to amend the "Optional County Charter Law," approved
September 19, 1972 (P. L. 1972, c. 154).

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

1 1. Section 28 of P. L. 1972, c. 154 (C. 40:41A-28) is amended
2 to read as follows:

3 28. Municipal powers. Nothing in this act shall be construed to
4 impair or diminish or infringe on the powers and duties of munici-
5 palities **[and other units of government]** under the general law of
6 this State. It is the intent of this act only to permit municipalities
7 **[and other units of government]** to employ services and facilities
8 of the county for more effective, efficient, and adequate provision
9 of services if and when **[such units]** *municipalities* may deem it
10 desirable to do so. Municipalities are and shall remain the broad
11 repository of local police power in terms of the right and power
12 to legislate for the general health, safety and welfare of their resi-
13 dents.

1 2. Section 30 of P. L. 1972, c. 154 (C. 40:41A-30) is amended
2 to read as follows:

3 30. General powers. The grant of powers under this act is
4 intended to be as broad as is consistent with the Constitution of
5 New Jersey and with general law relating to local government. The
6 grant of powers shall be construed as liberally as possible in regard
7 to the county's right to reorganize its own form of government,
8 to reorganize its structure and to alter or abolish its agencies,
9 subject to the general mandate of performing services, whether
10 they be performed by the agency previously established or by a
11 new agency or another department of county government. *All*
12 *county offices, boards, commissions and authorities authorized or*

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

13 *established by statute, other than those boards and offices which*
 14 *are subject to the provisions of subsection b. of section 125 of P. L.*
 15 *1972, c. 154 (C. 40:41A-125b.), and other than educational institu-*
 16 *tions authorized or established pursuant to Title 18A of the New*
 17 *Jersey Statutes, shall be considered to be county agencies for the*
 18 *purposes of this section.*

19 Based on the need to develop effective services to meet problems
 20 which cross municipal boundaries and which cannot be met effec-
 21 tively on an individual basis by the municipalities~~[,]~~ or the State,
 22 ~~[or other units of government,]~~ this act shall be construed as in-
 23 tending to give the county power to establish innovative programs
 24 and to perform such regional services as any ~~[unit that has the~~
 25 ~~legal right to perform such service for itself]~~ *municipality or the*
 26 *State* may determine, in its own best interest, to have the county
 27 perform on a contractual basis.

1 3. Section 125 of P. L. 1972, c. 154 (C. 40:41A-125) is amended
 2 to read as follows:

3 125. a. Adoption of the administrative code. Any time after 60
 4 days from the date of the organization of the first board of chosen
 5 freeholders elected under this act, the board of chosen freeholders
 6 shall adopt an administrative code organizing the administration
 7 of the county government, setting forth the duties and responsi-
 8 bilities and powers of all county officials and agencies, and the
 9 manner of performance needed. ~~*[[Nothing]~~ *Except as otherwise*
 10 *provided herein, nothing* in the administrative code shall change
 11 the duties or powers of county officers whose existence is mandated
 12 by the Constitution or shall diminish the duties, responsibilities
 13 or powers of any elected or appointed head of the executive branch
 14 or chief assistant thereto or chief or county administrator.]*

15 b. *The administrative code may require that the county board*
 16 *of taxation, county board of elections, jury commissioners of the*
 17 *county, **[county prosecutor,]** county clerk, surrogate and*
 18 *sheriff, be subject to such annual budgetary procedures and require-*
 19 *ments as may be specified therein. These procedures and require-*
 20 *ments may include, but shall not be limited to, the preparation and*
 21 *submission of an annual budget in accordance with the provisions*
 22 *of the administrative code, and the submission of such periodic*
 23 *budget reports as may be provided therein**[*; provided, however,*
 24 *that nothing herein shall be construed to require the county prose-*
 25 *cutor to provide any report with respect to a confidential fund sub-*
 26 *ject to audit by the Attorney General pursuant to the provisions of*
 27 *section 15 of P. L. 1970, c. 74 (C. 52:17B-111)***. The administra-*

28 *tive code may further provide that the county board of taxation,*
29 *county board of elections, jury commissioners of the county,*
30 ***[county prosecutor,]** county clerk, surrogate and sheriff, shall*
31 *be subject to such accounting controls, central purchasing practices,*
32 *personnel procedures and regulations, and central data processing*
33 *services as are specified in the code, or in administrative orders*
34 *adopted pursuant thereto**; provided, however, that nothing herein
34A *shall restrict or limit the authority of the county board of taxation,*
34B *county board of elections, jury commissioners of the county,*
34C ***[county prosecutor,]** county clerk, surrogate and sheriff as*
34D *the appointing authority of their respective offices*.*

35 **c. Nothing in the administrative code shall change the duties*
36 *or powers of county officers whose existence is mandated by the*
37 *Constitution or shall diminish the duties, responsibilities or powers*
38 *of any elected or appointed head of the executive branch or chief*
39 *assistant thereto or county administrator.**

1 4. This act shall take effect immediately.

STATEMENT

This bill would clarify the reorganization powers of charter counties granted under section 30 of the "Optional County Charter Law" (C. 40:41A-30). That section provides a charter county with broad reorganization powers which "shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structure and to alter or abolish its agencies, subject to the general mandate of performing services." This legislation would reaffirm and clarify that grant of power as it applies to various county offices, boards, commissions and authorities.

The bill provides that all county offices, boards, commissions and authorities shall be considered county agencies subject to the reorganizational powers of a charter county, except for educational institutions established under Title 18A of the New Jersey Statutes, and except for certain specified county boards and offices which are either constitutional in character or perform essentially State functions, for which an overriding State interest exists that these functions be performed uniformly. These are specified as the county board of taxation, the county board of elections, the jury commissioners of the county, the county prosecutor, the county clerk, the county surrogate and the county sheriff. The legislation authorizes the county administrative code to establish budgetary procedures for these boards and offices, and to subject such boards and offices to general accounting controls, central purchasing practices, personnel procedures and central data processing services as the county may establish in the code.

The bill would reverse the recent Superior Court decision with respect to the reorganization of the Mercer County Improvement Authority.

The bill would not affect the status of county colleges and vocational schools as determined in *Mercer County Community College vs. Sypek*, 160 N. J. Super 452 (App. Div. 1978).

51429 (1981)

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

February 9, 1981

SENATE BILL NO. 1429 (OCR)

To the Senate:

Pursuant to Article V, Section 1, Paragraph 14(b) of the Constitution, I am returning Senate Bill No. 1429 (2nd OCR) with my objections.

This bill clarifies the powers of county governing bodies organized under the Optional County Charter Law over county entities. It does so in two major ways. First, it provides that county officers, boards, commissions and authorities may be reorganized, altered or abolished by the county. Secondly, it permits the county administrative code to set forth accounting controls, central purchasing practices, personnel procedures and regulations, and central data processing services to govern the county board of taxation, county board of elections, county jury commissioners, county prosecutor, county clerk, surrogate and sheriff.

The county prosecutors object to being included in the amendment concerning the county administrative code. Such a provision could be construed as giving county officials some authority over the internal procedures of the Prosecutor's office. As a former prosecutor, I understand this concern. I am interested in preserving the integrity of the prosecutors' offices and maintaining the highest standards of law enforcement. In light of these concerns, I recommend that the portion of the bill dealing with the county administrative code be amended to delete reference to the county prosecutor.

Accordingly, I am returning Senate Bill No. 1429 (2nd OCR) with my recommendations for reconsideration and recommend that it be amended as follows:

Page 2, Section 3, Line 17: Delete "county prosecutor,"

Page 2, Section 3, Lines 23 to 23D: Delete "; provided, however, that nothing herein shall be construed to require the county prosecutor to provide any report with respect to a confidential fund subject to audit

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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by the Attorney General pursuant to the provisions of Section 15 of
P.L. 1970, c.74 (C.52:17B-111)."

Page 3, Section 3, Line 25: Delete "county prosecutor,"

Page 3, Section 3, Line 32: Delete "county prosecutor,"

Respectfully,

Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Timothy L. Carden

Cabinet Secretary