

40A:9-25 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:9-25 et al. (County and municipal employees - discharge - amend procedure)

LAWS 1981 CHAPTER 75

Bill No. S1412

Sponsor(s) Caffero

Date Introduced July 28, 1980

Committee: Assembly County Government

Senate County and Municipal Government

Amended during passage Yes ~~XX~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Jan. 22, 1981

Senate Oct. 6, 1980

Date of approval March 23, 1981

Following statements are attached if available:

Sponsor statement Yes ~~XX~~

Committee Statement: Assembly Yes ~~XX~~

Senate Yes ~~XX~~

Fiscal Note ~~XX~~ No

Veto Message ~~XX~~ No

Message on signing Yes ~~XX~~

Following were printed:

Reports ~~XX~~ Yes No

Hearings ~~XX~~ Yes No

CHAPTER 72
APPROVED 3 23 81

[OFFICIAL COPY REPRINT]
SENATE, No. 1412

STATE OF NEW JERSEY

INTRODUCED JULY 28, 1980

By Senator CAFIERO

Referred to Committee on County and Municipal Government

AN ACT concerning certain county and municipal offices and amending sections 40A:9-25, 40A:9-152.1, 40A:9-161, *40A:14-19,* 40A:14-22, *40A:14-147* and 40A:14-150 of the New Jersey Statutes and section 3 of P. L. 1977, c. 39.

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

1 1. N. J. S. 40A:9-25 is amended to read as follows:

2 40A:9-25. In any county wherein Title 11 (Civil Service) of the
3 Revised Statutes is not operative and unless otherwise provided by
4 law, any officer or employee of such county who shall be removable
5 from his office or position only for cause, shall not be removed
6 from his office or position until after written charges of the cause
7 of complaint shall have been preferred against him, signed by the
8 person making such charges. The complaint shall be filed with the
9 **[board of chosen freeholders of such]** *governing body of the county*
10 and a copy thereof shall be served upon the officer or employee so
11 charged, with notice of a designated time and place for the hearing
12 thereon, *which shall be no sooner than 10 days nor later than 30*
13 *days from the service of the complaint.* At the hearing such officer
14 or employee may be represented by counsel.

15 The **[said board]** *governing body* and the person so charged
16 shall have the power to subpoena witnesses and documentary evi-
17 dence. The **[board]** *governing body* shall prescribe the rules and
18 regulations for the conduct of the hearing.

19 No officer or employee shall be removed from his office or position
20 for political reasons.

21 *The Superior Court shall have jurisdiction to review the deter-*
22 *mination of the governing body and shall hear the cause de novo on*
23 *the record below. Either party may supplement the record with*
24 *additional testimony subject to the rules of evidence. The court*
25 *may either affirm, reverse or modify the conviction.*

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

1 2. Section 3 of P. L. 1977, c. 39 (C. 40A:9-140.9) is amended to
2 read as follows:

3 3. The complaint shall be filed with the municipal clerk and a
4 certified copy thereof shall be served upon the person so charged,
5 with notice of a designated hearing date before the members of
6 the governing body, which shall be not less than 10 days *nor later*
7 *than 30 days* from the date of service of the complaint. The hearing
8 date shall be fixed by resolution of the governing body.

9 The person so charged by the governing body shall have the
10 right to be represented by counsel and the power to subpoena
11 witnesses and documentary evidence.

12 The [County Court of the county in which said municipality is
13 located] *Superior Court* shall have jurisdiction to review the de-
14 termination of the governing body which court shall hear the cause
15 *de novo on the record below* and affirm, modify or set aside such
16 determination.

17 *Either party may supplement the record with additional testi-*
18 *mony subject to the rules of evidence.*

1 3. N. J. S. 40A:9-152.1 is amended to read as follows:

2 40A:9-152.1. Any removal of a municipal treasurer having tenure
3 in office shall be upon a written complaint setting forth the charge
4 or charges against him.

5 The complaint shall be filed with the municipal clerk and a
6 certified copy thereof shall be served upon the person so charged,
7 with notice of a designated hearing date before the members of the
8 governing body, which shall be not less than 10 days *nor later than*
9 *30 days* from the date of service of the complaint. The said hearing
10 date shall be fixed by resolution of the governing body.

11 The person so charged and the governing body shall have the
12 right to be represented by counsel and the power to subpoena
13 witnesses and documentary evidence.

14 The [County Court of the county in which said municipality is
15 located] *Superior Court* shall have jurisdiction to review the deter-
16 mination of the governing body which court shall hear the cause
17 *de novo on the record below* and affirm, modify or set aside such
18 determination.

19 *Either party may supplement the record with additional testi-*
20 *mony subject to the rules of evidence.*

1 4. N. J. S. 40A:9-161 is amended to read as follows:

2 40A:9-161. In any municipality wherein Title 11 (Civil Service)
3 of the Revised Statutes is not operative and unless otherwise pro-
4 vided by law, no officer or employee of such municipality who has
5 tenure in office shall be removed from his office or position except

6 upon written charges, signed by the person making such charges.
7 The complaint shall be filed with the governing body of such municipi-
8 pality and a copy thereof shall be served upon the officer or em-
9 ployee so charged, with notice of a designated time and place for
10 the hearing thereon *which shall be not less than 10 days nor later*
11 *than 30 days from the service of the complaint.*

12 The officer or employee so charged and the governing body shall
13 have the right to be represented by counsel and the power to
14 subpoena witnesses and documentary evidence. The governing
15 body shall prescribe rules and regulations for the conduct of the
16 hearing.

17 No such officer or employee shall be removed from his office or
18 position for political reasons or except as otherwise provided by
19 law, because of a change in the form of government.

20 *The Superior Court shall have jurisdiction to review the deter-*
21 *mination of the governing body, which court shall hear the cause*
22 *de novo on the record below and affirm, modify or set aside the*
23 *determination.*

24 *Either party may supplement the record with additional testi-*
25 *mony subject to the rules of evidence.*

1 5. N. J. S. 40A:14-22 is amended to read as follows:

2 40A:14-22. Any member or officer of a paid or part-paid fire de-
3 partment or force in a municipality wherein Title 11 (Civil Service)
4 of the Revised Statutes is not in operation, who has been tried and
5 convicted upon any charge or charges may obtain a review thereof
6 by the [County Court of the county wherein such municipality is
7 located] *Superior Court*. Such review shall be obtained by serving
8 a written notice of an application therefor upon the officer or board
9 whose action is to be reviewed within 10 days after written notice
10 to the member or officer of the conviction. The officer or board shall
11 transmit to [said County Court] *the court* a copy of the record of
12 such conviction, and of the charge or charges for which the appli-
13 cant was tried. The [County Court] *court* shall hear the cause
14 *de novo on the record below* and may either affirm, reverse or
15 modify such conviction. If the applicant shall have been removed
16 from his office, employment or position the court may direct that
17 he be restored to such office, employment or position and to all his
18 rights pertaining thereto, and may make such other order or judg-
19 ment as said court shall deem proper.

20 *Either party may supplement the record with additional testi-*
21 *mony subject to the rules of evidence.*

1 6. N. J. S. 40A:14-150 is amended to read as follows:

2 40A:14-150. Any member or officer of a police department or
3 force in a municipality wherein Title 11 (Civil Service) of the Re-
4 vised Statutes is not in operation, who has been tried and convicted
5 upon any charge or charges, may obtain a review thereof by the
6 **County Court** of the county wherein such municipality is located
7 *Superior Court*. Such review shall be obtained by serving a written
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9 action is to be reviewed within 10 days after written notice to the
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14 *on the record below* and may either affirm, reverse or modify such
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16 employment or position the court may direct that he be restored to
17 such office, employment or position and to all his rights pertaining
18 thereto, and may make such other order or judgment as said court
19 shall deem proper.

20 *Either party may supplement the record with additional testi-*
21 *mony subject to the rules of evidence.*

1 *7. N. J. S. 40A:14-19 is amended to read as follows:

2 40A:14-19. Except as otherwise provided by law no permanent
3 member or officer of the paid or part-paid fire department or force
4 shall be removed from his office, employment or position for
5 political reasons or for any cause other than incapacity, misconduct,
6 or disobedience of rules and regulations established for the govern-
7 ment of the paid or part-paid fire department and force, nor shall
8 such member or officer be suspended, removed, fined or reduced in
9 rank from or in office, employment or position therein except for
10 just cause as hereinabove provided and then only upon a written
11 complaint, setting forth the charge or charges against such member
12 or officer. Said complaint shall be filed in the office of the body, officer
13 or officers having charge of the department or force wherein the
14 complaint is made and a copy thereof shall be served upon the
15 member or officer so charged, with notice of a hearing thereon
16 designating its time and place by the proper authorities, which
17 shall be not less than **[15]** 10 nor more than 30 days from the date
18 of service of the complaint. A failure to substantially comply with
19 said provisions as to the service of the complaint shall require a
20 dismissal of the complaint.

1 8. N. J. S. 40A:14-147 is amended to read as follows:

2 40A:14-147. Except as otherwise provided by law, no permanent
3 member or officer of the police department or force shall be removed
4 from his office, employment or position for political reasons or for
5 any cause other than incapacity, misconduct, or disobedience of
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18 with said provisions as to the service of the complaint shall require
19 a dismissal of the complaint.*

1 * [7.] * 9. * This act shall take effect immediately.

SENATE, No. 1412

STATE OF NEW JERSEY

INTRODUCED JULY 28, 1980

By Senator CAFIERO

Referred to Committee on County and Municipal Government

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8 person making such charges. The complaint shall be filed with the
9 **[board of chosen freeholders of such]** *governing body of the county*
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11 charged, with notice of a designated time and place for the hearing
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13 *days from the service of the complaint.* At the hearing such officer
14 or employee may be represented by counsel.

15 The **[said board]** *governing body* and the person so charged
16 shall have the power to subpoena witnesses and documentary evi-
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18 regulations for the conduct of the hearing.

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17 such office, employment or position and to all his rights pertaining
18 thereto, and may make such other order or judgment as said court
19 shall deem proper.

20 *Either party may supplement the record with additional testi-*
21 *mony subject to the rules of evidence.*

22 7. This act shall take effect immediately.

STATEMENT

This bill amends various sections of Title 40A with regard to county and municipal employees. The purpose is to provide more uniformity in the provisions concerning the discharge of employees in those counties or municipalities where Title 11, Civil Service, is not operative.

The bill requires an outside hearing date of 30 days by the governing body after service of the complaint or charges if not already provided in the law; provides that the Superior Court has jurisdiction to review the determination de novo on the record; and provides that either party may supplement the record with additional testimony subject to the rules of evidence.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1412

with Senate committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 1980

Senate Bill 1412 would make more uniform the statutory provisions concerning the discharge of employees in counties and municipalities not operating under Title 11 (Civil Service).

The bill would provide for a period of not less than 10 days nor more than 30 days after a complaint is served during which a hearing would be held on the complaint. The bill also provides that the Superior Court has jurisdiction to review the determination de novo on the record; and that either party may supplement the record with additional testimony subject to the rules of evidence.

The Senate committee amendments, proposed by the sponsor, conform the provisions of N. J. S. 40A:14-19 and 40A:14-147 to this uniform procedure.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 1412

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 22, 1980

Amend page 1, title, line 2, after "40A:9-161," insert "40A:14-19,"; after "40A:14-22," insert "40A:14-147".

Amend page 4, section 6, after line 21, insert new sections 7 and 8 as follows:

"7. N. J. S. 40A:14-19 is amended to read as follows:

40A:14-19. Except as otherwise provided by law no permanent member or officer of the paid or part-paid fire department or force shall be removed from his office, employment or position for political reasons or for any cause other than incapacity, misconduct, or disobedience of rules and regulations established for the government of the paid or part-paid fire department and force, nor shall such member or officer be suspended, removed, fined or reduced in rank from or in office, employment or position therein except for just cause as hereinabove provided and then only upon a written complaint, setting forth the charge or charges against such member or officer. Said complaint shall be filed in the office of the body, officer or officers having charge of the department or force wherein the complaint is made and a copy thereof shall be served upon the member or officer so charged, with notice of a hearing thereon designating its time and place by the proper authorities, which shall be not less than **[15]** 10 nor more than 30 days from the date of service of the complaint. A failure to substantially comply with said provisions as to the service of the complaint shall require a dismissal of the complaint.

8. N. J. S. 40A:14-147 is amended to read as follows:

40A:14-147. Except as otherwise provided by law, no permanent member or officer of the police department or force shall be removed from his office, employment or position for political reasons or for any cause other than incapacity, misconduct, or disobedience of rules and regulations established for the government of the police department and force, nor shall such member or officer be suspended, removed, fined or reduced in rank from or in office, employment, or position therein, except for just cause as hereinbefore provided and then only upon a written complaint setting forth the charge or charges against such member or officer. Said complaint shall be filed in the office of the body,

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

officer or officers having charge of the department or force wherein the complaint is made and a copy shall be served upon the member or officer so charged, with notice of a designated hearing thereon by the proper authorities, which shall be not less than ~~15~~ 10 nor more than 30 days from date of service of the complaint. A failure to comply with said provisions as to the service of the complaint shall require a dismissal of the complaint.”

Amend page 4, section 7, line 1, omit “7.”, insert “9.”.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

MARCH 23, 1981

PAT SWEENEY

Governor Brendan Byrne has signed the following bills into law:

S-1373, sponsored by Senator Eugene J. Bedell (D-Monmouth), which permits state-chartered savings and loan companies and banks to issue second mortgages.

The bill is a state legislative response to the federal deregulations of federally chartered institutions. The Federal Depository Institutions Deregulation and Monetary Control Act of 1960 permitted federally chartered savings and loans to issue second mortgages.

S-1032, sponsored by Senator S. Thomas Gagliano (R-Monmouth), which amends the Interlocal Services Aid Act to permit the disbursement of grants for the study of the feasibility of "pooling" of self insurance by municipalities.

S-1412, sponsored by Senator James S. Cafiero (R-Cumberland), which provides greater uniformity in the procedures governing the discharge of county and municipal employees not protected by Civil Service (Title II).

The procedure is now similar to that governing civil service municipal and county employees.

AJR-15, sponsored by Assemblyman Jimmy Zangari (D-Essex), which designates March 12 through 21 as "Poison Prevention Week" in New Jersey.

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