

40:44-9

LEGISLATIVE HISTORY CHECKLIST

(Municipal ward law--method for fixing ward boundaries)

NJSA 40:44-9 et al.

LAWS 1981

CHAPTER 496

Bill No. S3157

Sponsor(s) Perskie

Date Introduced March 23, 1981

Committee: Assembly County Government

Senate County & Municipal Government

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Jan. 4, 1982

Senate June 18, 1981

Date of approval Jan. 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

Report, referred to in statements:

- 974.90 Reock, Ernest C.
- M966 Forms of municipal government in
- 1979 New Jersey... January, 1979.
- New Brunswick, 1979.

[see pp. vi & 57-60]

6/22/81

DEC

[OFFICIAL COPY REPRINT]  
**SENATE, No. 3157**

**STATE OF NEW JERSEY**

INTRODUCED MARCH 23, 1981

By Senators PERSKIE and MUSTO

Referred to Committee on County and Municipal Government

AN ACT providing a uniform method for the fixing and determination of municipal ward boundaries by ward commissioners and revising parts of the statutory law pertaining thereto.

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

1 1. (New section) This act shall be known and may be cited as  
2 the "Municipal Ward Law."

1 2. (New section) This act shall apply to and govern any municipi-  
2 pality having adopted a charter or form of government, or ordi-  
3 nance, providing that the municipality shall be divided into wards,  
4 or other similar representation districts, for the purpose of the  
5 election or appointment of any municipal officers. It shall constitute  
6 the exclusive method whereby the boundaries of wards, or other  
7 similar representation districts, in municipalities shall be fixed  
8 and determined, and to this end all acts or parts of acts, whether  
9 of a general or special character, which conflict or are incompatible  
10 with its provisions are superseded to the degree of the conflict or  
11 incompatibility. Nothing in this act shall be sufficient in itself to  
12 authorize any municipality to divide into wards or other similar  
13 representation districts, nor to increase or decrease the number  
14 of its wards or similar representation districts.

1 3. (New section) A municipality shall be divided by the ward  
2 commissioners, in the manner provided in this act, into so many  
3 wards as the charter or form of government, or ordinance, may  
4 provide. The members of the county board of elections of the  
5 county in which the municipality is located, together with the mu-  
6 nicipal clerk, shall constitute the ward commissioners.

1 4. (New section) Each ward commissioner shall be entitled to be  
2 reimbursed for necessary expenses incurred in the performance of  
3 his duties and to such compensation as the governing body may  
4 provide by 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.

5 The ward commissioners shall be entitled in the performance of  
6 their duties to the assistance of a surveyor or engineer, and, when  
7 they deem necessary, may employ a surveyor or engineer and such  
8 other assistants as shall be necessary to aid them in the discharge  
9 of their duties.

10 The governing body of the municipality shall provide, upon cer-  
11 tification of the ward commissioners, for payment of the expenses  
12 of the ward commissioners, their compensation as determined by  
13 ordinance, and the expenses for the services of the surveyor, engi-  
14 neer or other assistants as the ward commissioners shall have in-  
15 curred. No person employed under this section shall be compen-  
16 sated by receiving a percentage of the contract under which he  
17 renders services.

1 5. (New section) a. Within 5 days following any election at  
2 which the voters of the municipality shall have adopted a charter,  
3 or an amendment thereof, or a form of government requiring the  
4 division of the municipality into a number of wards, the ward com-  
5 missioners shall meet and, having first taken and subscribed, be-  
6 fore an officer authorized to administer oaths, an oath to faithfully  
7 and impartially perform their duties, shall proceed to divide the  
8 municipality into wards as required by the charter or form of  
9 government and this act.

10 b. Within 30 days following the final adoption pursuant to law  
11 by the municipal governing body of any ordinance which by its  
12 terms requires that the municipality be divided into wards, or that  
13 the existing wards of the municipality be increased or decreased,  
14 or that the existing ward boundaries of the municipality be ad-  
15 justed to allow for the annexation or deannexation of territory,  
16 the ward commissioners shall meet in the manner provided in sub-  
17 section a. of this section and proceed to divide the municipality  
18 into wards, or to make such \***adjustments**\* *adjustments* in  
19 ward boundaries, as shall be required to conform with the pro-  
20 visions of the ordinance and this act.

21 c. Within 3 months following the \***completion**\* *promulgation*  
22 *by the Governor pursuant to law* of each Federal decennial census,  
23 the ward commissioners shall meet in the manner provided in sub-  
24 section a. of this section and proceed to make such adjustments  
25 in ward boundaries as shall be necessary to conform them to the  
26 requirements of this act.

1 6. (New section) The ward commissioners shall fix and deter-  
2 mine the ward boundaries so that each ward is formed of compact  
3 and contiguous territory. The \***wards so created** shall not differ  
4 in population, according to the most recent Federal decennial cen-

5 sus, by more than 10% of the population of the least populous ward  
6 created.] \* *population of the most populous ward so created shall*  
7 *not differ from the population of the least populous ward so cre-*  
8 *ated, by more than 10% of the mean population of the wards*  
9 *derived by dividing the total population of the municipality by the*  
10 *number of wards created. The most recent Federal decennial census*  
11 *shall be used as the population determinant\*.*

1 7. (New section) Within 30 days following their initial meeting  
2 pursuant to section 5 of this act, the ward commissioners shall file  
3 their report, certified by at least three of their signatures, setting  
4 forth and properly describing the ward boundaries fixed and de-  
5 termined. There shall be annexed to the report a map of the mu-  
6 nicipality with the ward boundaries clearly marked thereon.

7 The report so certified shall be filed in the office of the county  
8 clerk, and copies shall be filed with the Secretary of State and in  
9 the office of the municipal clerk.

1 8. (New section) Within 2 weeks immediately following the  
2 filing of the certified report by the ward commissioners, the mu-  
3 nicipal clerk shall cause to be published at least once in at least  
4 one newspaper generally circulating in the municipality a notice of  
5 the ward boundaries as fixed and determined in the report.

6 Upon completion of the publication, the former wards, if any,  
7 shall be superseded, and thereafter all officers elected or appointed  
8 in the municipality for or representing the wards thereof shall be  
9 elected from, or appointed for, the wards fixed and determined by  
10 the ward commissioners\*; *except that, in municipalities wherein*  
11 *municipal officers are elected at the general election held on the*  
12 *first Tuesday after the first Monday in November, if the publication*  
13 *shall be completed in a year in which municipal officers are elected*  
14 *during the period between the date 75 days before the primary*  
15 *election and the date of the general election, the wards so fixed*  
16 *and determined shall take effect on the day following the holding*  
17 *of that general election; and, in municipalities wherein municipal*  
18 *officers are elected at a regular municipal election held on the*  
19 *second Tuesday in May, if the publication shall be completed in*  
20 *a year in which municipal officers are elected during the period*  
21 *between the date 75 days before the regular municipal election and*  
22 *the date of the election, the wards so fixed and determined shall*  
23 *take effect on the day following the holding of that regular munici-*  
24 *pal election\*.*

1 9. (New section) Whenever the boundaries of existing wards  
2 are adjusted pursuant to subsection b. or c. of section 5 of this  
3 act, all officers elected therefor shall continue in office until their

4 respective terms of office shall expire and until their successors  
5 are elected and qualified from adjusted wards.

1 10. (New section) Nothing contained in this act shall invalidate  
2 any wards or ward boundaries existing in any municipality on the  
3 effective date of this act which were fixed and determined pursuant  
4 to any previous law, but the provisions of this act shall apply to and  
5 govern any municipality on and after the date on which any of the  
6 circumstances set forth in section 5 of this act shall occur therein.

1 11. R. S. 40:131-1 is amended to read as follows:

2 40:131-1. **[The]** *Except as otherwise provided by referendum of*  
3 *the voters, the governing body of any town containing more than*  
4 *5,000 inhabitants may, by ordinance or resolution, [divide] require*  
5 *the division of the town into not less than three nor more than five*  
6 *wards. [Such ordinance or resolution shall define the boundaries*  
7 *of each ward.]*

1 12. Section 6 of P. L. 1897, c. 30 (R. S. 40:108-1(6)) is amended  
2 to read as follows:

3 40:108-1 (6). The governing body of any such city, in office, shall  
4 have power and authority to **[divide] require the division of such**  
5 **city [(not already divided into wards)] into two or more wards[,**  
6 **and, in making such division, such body shall have regard to equality**  
7 **in population]\*[;]\* \* \*,\* or to require an increase or decrease in the**  
8 **number of wards\*,\* such division shall be [made] required by**  
9 **ordinance [or resolution as soon after the passage of this act as**  
10 **is practicable].**

1 13. Section 6 of P. L. 1899, c. 52 (C. 40:109-3 (6)) is amended to  
2 read as follows:

3 40:109-3 (6). Wards; division of city; ordinance or resolution.  
4 6. The governing body of any such city, in office, shall have power  
5 and authority to **[divide] require the division of such city [(not**  
6 **already divided into wards)] into two or more wards, [and, in**  
7 **making such division, such body shall have regard to equality in**  
8 **population] or to require an increase or decrease in the number of**  
9 **wards; such division shall be [made] required by ordinance [or**  
10 **resolution as soon after the passage of this act as is practicable].**

1 14. Section 5 of P. L. 1948, c. 437 (C. 40:144-20) is amended to  
2 read as follows:

3 5. If such proposition shall be adopted and become effective, any  
4 and all proceedings theretofore had in respect to, the division of  
5 the township into wards, **[the appointment of commissioners to**  
6 **make the division into wards, the report of the commission,]** the  
7 selection of township committeemen and any other proceedings had  
8 or taken, pursuant to the prior adoption of the proposition as to the

9 division of the township into wards, shall be nullified and be of no  
10 effect, except as provided in the next section.

1 15. Section 5 of P. L. 1963, c. 149 (C. 40:103-5 (75)) is amended  
2 to read as follows:

3 5. Number and Term.

4 The city shall be governed by an elected mayor and a city council  
5 consisting of two elected councilmen from each ward, each of whom  
6 shall serve for a term of 4 years beginning at 12:00 o'clock noon  
7 January 1 next following his election.

8 *The governing body of the city shall require the division of the*  
9 *city into wards, and may require an increase or decrease in the*  
10 *number of wards. Any division, or increase or decrease, shall be re-*  
11 *quired by ordinance.*

1 16. Section 29 of P. L. 1977, c. 435 (C. 40:43-66.63) is amended  
2 to read as follows:

3 29. a. Following the adoption of the question of consolidation in  
4 each of the participating municipalities, the nomination and elec-  
5 tion of officers for the consolidated municipality shall be conducted  
6 in accordance with the plan or form of government adopted for the  
7 consolidated municipality, and the participating municipalities  
8 shall be deemed consolidated on the date on which such officers shall  
9 be authorized to take office under such plan or form of government;  
10 provided, however, that, if the commission shall have recom-  
11 mended submission to the Legislature of a special charter, the pro-  
12 vision for the election of new officers and the date of consolidation  
13 shall be at such time following the approval of such special charter  
14 by the Legislature as shall be set forth in such charter.

15 b. [Within 45 days after the adoption of the question of con-  
16 solidation, the commission shall draw the ward boundaries, if any,  
17 for the consolidated municipality in the manner prescribed by law  
18 for the plan or form of government adopted. If the plan of con-  
19 solidation has recommended the submission of a special charter to  
20 be submitted to the Legislature, the commission shall draw such  
21 ward boundaries, if any, in the manner prescribed in such special  
22 charter within 45 days after the ratification of such special charter.

23 Ward boundaries shall be so fixed and determined that each  
24 ward is formed of compact and contiguous territory. The wards so  
25 created shall not differ in population, according to the most recent  
26 Federal census, by more than 10% of the population of the least  
27 populous ward created.] *Ward boundaries for the consolidated*  
28 *municipality, if any shall be required by the charter or form of*  
29 *government adopted, shall be fixed and determined pursuant to the*  
30 *"Municipal Ward Law" (P. L. . . . ., c. . . . .; C. . . . .).*

31 c. Within 45 days after the adoption of the question of con-  
 32 solidation, the county board of elections shall establish the election  
 33 district boundaries for the consolidated municipality in the manner  
 34 prescribed in Article 2 of chapter 4 of Title 19 of the Revised  
 35 Statutes.

36 d. For the purpose of conducting the nomination and election  
 37 of officers for the consolidated municipality as provided in sub-  
 38 section a. of this section, the municipal clerks of the participating  
 39 municipalities shall organize themselves as a committee. Such  
 40 committee shall, as prescribed by law for the plan or form of  
 41 government adopted for the consolidated municipality: furnish  
 42 forms for, and receive, petitions of nomination for such officers;  
 43 conduct the certification of such petitions; prepare, cause to be  
 44 printed, and authenticate the ballot for the election of such officers;  
 45 cause any notices for such election to be published; and, receive  
 46 and canvass the returns of such election.

1 17. N. J. S. 40A:7-13 is amended to read as follows:

2 40A:7-13. Ordinance of annexing municipality; wards; limita-  
 3 tion on municipal boundaries. The governing body of the munici-  
 4 pality to which land is sought to be annexed may, in its discretion,  
 5 by ordinance adopted by a two-thirds vote annex the land specifi-  
 6 cally described in the petition to such municipality. If the munici-  
 7 pality is divided into wards, the [ordinance shall also designate the  
 8 ward or] *boundaries of the existing wards [of which said land*  
 9 *shall become a part, but in all cases the annexed lands shall become*  
 10 *part of the ward or wards to which it is contiguous] shall be*  
 11 *adjusted as necessary to together encompass the annexed land, pur-*  
 12 *suant to the "Municipal Ward Law" (P. L. . . . , c. . . . ; C. . . . ).*  
 13 The boundaries of such municipality shall not be extended so as to  
 14 include a portion of any county other than that in which such  
 15 municipality is located.

1 18. The following are repealed:

2 R. S. 40:44-1 through 40:44-8, inclusive;

3 R. S. 40:123-6;

4 R. S. 40:123-7;

5 R. S. 40:131-6;

6 R. S. 40:144-7 through 40:144-10, inclusive;

7 R. S. 40:144-15;

8 P. L. 1950, c. 210, sections 17-48 through 17-55, inclusive (C.  
 9 40:69A-197 through 40:69A-204);

10 P. L. 1971, c. 407 (C. 40:69A-199.1 and 40:69A-199.2).

1 19. This act shall take effect immediately.

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8 ward or] *boundaries of the existing wards* [of which said land  
9 shall become a part, but in all cases the annexed lands shall become  
10 part of the ward or wards to which it is contiguous] *shall be*  
11 *adjusted as necessary to together encompass the annexed land, pur-*  
12 *suant to the "Municipal Ward Law" (P. L. . . . , c. . . . ; C. . . . .).*  
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4 R. S. 40:123-7;

5 R. S. 40:131-6;

6 R. S. 40:144-7 through 40:144-10, inclusive;

7 R. S. 40:144-15;

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9 40:69A-197 through 40:69A-204);

10 P. L. 1971, c. 407 (C. 40:69A-199.1 and 40:69A-199.2).

1 19. This act shall take effect immediately.

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### Sponsor's STATEMENT

The bill revises or repeals various statutes in order to provide for a uniform method for fixing and determining municipal ward boundaries by ward commissioners. The bill would implement recommendation No. 6 of the County and Municipal Government Study (Musto) Commission in its report, *Forms of Municipal Government in New Jersey*, that existing ward laws be updated and consolidated into a single, uniform ward statute prior to the 1980 census.

The provisions encompassed in the proposed new law are based upon the existing provisions of the Faulkner Act (Optional Municipal Charter Law) with certain additions which are necessary to make the law useful to other forms of government.

The proposed law would not affect the existence or number of wards into which municipalities are to be divided. It would not authorize any municipality to divide into wards nor to increase or decrease the number of its wards. Those matters are, and shall continue to be, governed by the statutes authorizing various forms of municipal government. The proposed law would, however, constitute the exclusive method under which municipal ward boundaries shall be fixed and determined.

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S3157 (1981)



ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 3157

STATE OF NEW JERSEY

DATED: JUNE 29, 1981

The purpose of Senate Bill No. 3157 is adequately explained by the Senate County and Municipal Government Committee Statement which is appended hereto.

Senate Bill No. 3157, the "Municipal Ward Law," provides for a uniform method for fixing and determining municipal ward boundaries by ward commissioners. The bill would implement recommendation No. 6 of the County and Municipal Government Study (Musto) Commission in its report, Forms of Municipal Government in New Jersey, that existing ward laws be updated and consolidated into a single, uniform ward statute prior to the 1980 census.

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The Senate committee amendments clarify the method of establishing the 10% overall deviation in population among the wards to be drawn under the act, as suggested by experts who have worked with municipal clerks in this regard. The amendments also clarify that municipal ward boundary changes shall not take effect in most instances in a municipal election year until after the municipal election, in order to prevent wards from being changed in the midst of a municipal election campaign. The boundary changes would be required to be completed more than 75 days before the primary election (in municipalities holding general elections) or the regular municipal election (in municipalities holding such elections) or the changes shall not take effect until after the general or regular municipal election.

SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE

STATEMENT TO

**SENATE, No. 3157**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 4, 1981

Senate Bill No. 3157, the "Municipal Ward Law," provides for a uniform method for fixing and determining municipal ward boundaries by ward commissioners. The bill would implement recommendation No. 6 of the County and Municipal Government Study (Musto) Commission in its report, Forms of Municipal Government in New Jersey, that existing ward laws be updated and consolidated into a single, uniform ward statute prior to the 1980 census.

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S-1673, sponsored by Senator John Caufield (D-Essex), establishing a Commodities and Services Council within the Department of Human Services to assure a state agency market for products produced by the blind and the handicapped.

S-3504, sponsored by Senator John Russo (D-Ocean), providing that a deputy clerk of the Appellate Division of the State judiciary be in the unclassified division of the civil service.

S-3157, sponsored by Senator Steven Perškie (D-Atlantic), providing for a uniform method of fixing municipal ward boundaries, as recommended by the County and Municipal Government Study (Musto) Commission.

The bill applies to all municipalities (52 in the State) which have wards, and boundaries would be fixed following adoption of certain government forms; following adoption of an ordinance requiring ward divisions; and following the promulgation by the Governor of the decennial federal census.

Ward boundaries will be narrowly drawn--with no more than a 10-percent population deviation between wards--by a commission consisting of members of the county board of elections. No changes in the boundaries can be made within 75 days of a primary or general election.

S-3351, sponsored by Senator Wayne Dumont Jr. (R-Sussex), appropriating \$600,000 for the initial costs of establishing county colleges in Sussex and Warren Counties. Under the bill, the new colleges, needed because of the increased student populations in these counties, will operate out of existing school buildings. The money will not be used for the construction of any new buildings or campuses.

S-1549, sponsored by Senator Joseph Merlino (D-Mercer) and known as the "Community Development Bond Act of 1982," would authorize the issuance of \$85 million in bonds for urban revitalization: \$45 million for a State program similar to the federal UDAG program, to be administered by the new Department of Commerce; \$30 million for capital construction projects in cities, to be administered by the Department of Community Affairs; and \$10 million for industrial parks, to be administered by the Economic

PEOCK, ERNEST C.

FORMS OF MUNICIPAL GOVERNMENT IN N.J.

- 2) It is recommended that amendments to the City Form and Town Form of government laws permit reduction of any governing body with nine or more members to nine, seven, or five members, through a petition and referendum process.

The various city form statutes would have to be amended to implement this objective. The referendum act for the incorporation of towns (1895) N.J.S.A. 40:123-1 et seq. provides for the division of the town into wards, N.J.S.A. 40:123-6, and that two councilman-at-large, designated as the mayor, N.J.S.A. 40:125-1. Initially, it would appear necessary to amend N.J.S.A. 40:125-1 to place a cap on the number of councilmen. A procedure for reduction in the size of the governing body could be provided as a supplement and amendment to the statutes.

- 3) It is recommended that an amendment to the Township Form of government laws be made to limit, prospectively, to three the number of wards in townships with over 7,000 in population. The township statutes, N.J.S.A. 40:142-1 et seq., authorize townships having a population of more than 7,000 to be divided into not less than three wards. N.J.S.A. 40:144-1. To cap the number of wards at three, this section would have to be amended. The amendment would not affect townships that currently have more than three wards.

- 4) It is recommended that the statute N.J.S.A. 40:123-1 permitting any town, village, borough, or township with over 4,000 population to form itself into a town, with a council elected entirely from wards, be repealed.

This repeal would be drafted so that it would not affect existing towns. Suitable language foreclosing the future use of N.J.S.A. 40:123-1 would be inserted in the section.

- 5) It is recommended that the Legislature consider carefully any petition for a special charter which includes a municipal governing body based entirely on ward elections.
- 6) It is recommended that the general law for re-drawing wards N.J.S.A. 40:44-1 et seq., and the Optional Municipal Charter Law provides for re-drawing wards, N.J.S.A. 40:69A-197 et seq. be updated and consolidated into a single, uniform ward statute prior to the 1980 census.
- 7) It is recommended that the City Form of government laws be amended to provide for a three-year or four-year term of office for the council member elected at large. Amendments to the city laws saved from repeal (N.J.S.A. 40:103-1 to 40:112-1 et seq.) as well as to N.J.S.A. 40:167-1 et seq. appear to be required to realize this objection.
- 8) It is recommended that the Town and Township Form (with wards) of government laws be amended to permit a change, through a petition and referendum process, to the election of three members of the governing body from each of two or three wards, for three-year staggered terms of office. Towns and townships currently using the two-year term would be permitted to retain this pattern or switch to the new patterns, but no other municipality would be permitted to adopt the two-year term in the future, except by special charter.

To implement this recommendation it appears that it would be necessary to amend the town law, N.J.S.A. 40:123-6 (requiring division of town into not less than three wards), N.J.S.A. 40:125-1 (providing for two councilmen from each ward and one councilman-at-

The use of wards for representative purposes can serve a legitimate public purpose, particularly when a municipality includes diverse groups of residents. A number of recent court decisions from other jurisdictions have indicated the desirability of wards or districts in assuring minority representation. Two restrictions on wards are reflected in the existing New Jersey statutes, although not being uniformly applied, and both appear to have some validity. First, wards generally are not authorized by the Legislature for very small communities, the assumptions being that the rationale in favor of wards becomes weaker in a small municipality, and that wards would fragment the community unnecessarily. The second restriction is that, where the representative role of individual governing body members is accompanied by a strong, institutionalized, executive role, as in the Commission Form, the use of wards is not appropriate. A commissioner of public safety, or of public works, if elected at all, probably should be elected by, and should represent, all of the voters of the municipality, not just those of a single ward.

Election of the entire governing body from wards, a variation found in only 13 places, received a very poor evaluation by municipal officials. It is authorized under some of the City and Town government laws, in townships over 7,000 in population, and in two special charters. Specific comments by respondents pointed out the difficulty of getting ward council members to take a broad view of the problems of the entire community. The temptation to recommend elimination of this method of representation is tempered by a knowledge of cases in other parts of the country where at-large elections and even combinations of at-large and ward elections have been challenged as devices for diluting or obliterating the voting strength of minorities. The issues remain to be resolved finally, and the only structural recommendations made at this time are intended to foreclose the extension of this form of representation without adequate legislative deliberation:

**It is recommended that the statute (N.J.S.A. 40:123-1) permitting any town, village, borough, or township with over 4,000 population to form itself into a town, with a council elected entirely from wards, be repealed. The repealer would have prospective application and not affect any municipalities presently organized in this manner.**

**It is recommended that the Legislature consider carefully any petition for a special charter which includes a municipal governing body based entirely on ward elections.**

In terms of procedure, consideration may be given to further changes. Wards should be re-examined and, if necessary, their boundaries re-drawn to attain equality of representation when new population data become available. Numerous statutes apply at the present time, with two - - the OMCL and a general ward revision law - - covering most municipalities. The general statute antedates judicial action of the 1960's and 1970's on legislative apportionment, and is relatively vague in terms of standards. The two laws set up different procedures, to be carried out by different agencies (See Table III-5). The process would be simplified and probably facilitated if a single statute applied to all New Jersey municipalities using wards for representative purposes. **It is recommended that the general law for re-drawing wards (N.J.S.A. 40:44-1 et seq.) and the Optional Municipal Charter Law provisions for re-drawing wards (N.J.S.A. 40:69A-197 et seq.) be up-dated and consolidated into a single, uniform ward statute prior to the 1980 Census.**

#### **Governing Body Term of Office**

The term for which governing body members are elected varies from two years in a few places under the City and Town Forms, the Townships using wards, and one special charter; to three years

Table III-5 Statutory Provisions for Drawing Municipal Ward Boundaries.

	General Ward Law 40:44-1 et seq.	Optional Municipal Charter Law 40:69A-197 et seq.
Applies To:	Any municipality (but this law, in itself, does not authorize a municipality to elect any officers from wards).	All municipalities adopting an OMCL charter which requires wards.
When done:	<p>(a) Law may be used initially at any time. 40:44-1.</p> <p>(b) Boundaries may be readjusted and number changed whenever population of one ward exceeds population of any two other wards, but not more than once every 5 years. 40:44-5.</p> <p>(c) Court cases indicate need for readjustment after every census if ward population differ significantly.</p>	<p>(a) Done initially when municipality adopts OMCL charter. 40:69A-197.</p> <p>(b) Boundaries must be readjusted within 3 months after every Federal decennial census. 40:69A-203.</p> <p>(c) Number of wards may be changed only by changing charter.</p>
Who initiates action:	Municipal governing body sets number of wards and initiates action by ordinance. 40:44-1.	Board of ward commissioners initiates action; number of wards set by charter provision. 40:69A-199,203.
Who draws ward boundaries?	Commission of 4 residents and legal voters appointed by mayor or other chief executive, or if there is no such officer, by governing body. No more than two members from same political party. If mayor or governing body fails to make appointments, Superior Court assignment judge may do so. 40:44-2.	Board of ward commissioners consisting of 4 members of county board of elections, plus the municipal clerk. 40:69A-198.
Compensation for ward commission:	Commissioners entitled to necessary expenses, and compensation may be set by governing body. 40:44-6.	Commissioners entitled to necessary expenses, and compensation up to \$500 may be set by governing body. 40:69A-199.2.
Technical assistance:	Commission may hire surveyor and other personnel, with compensation set by governing body. 40:44-6.	Commission may hire surveyor and other personnel, with compensation set by governing body. 40:69A-199.1, 199.2.

Table III-5 (Continued).

	General Ward Law	Optional Municipal Charter Law
Standards for wards:	(a) Formed of contiguous territory. (b) "...shall have regard to equality of population". 40:44-3.	(a) Formed of contiguous territory. (b) Formed of compact territory. (c) Shall not differ in population by more than 10% from population of least populous ward. 40:69A-200.
Time for completion:	60 days. 40:44-3.	30 days. 40:69A-201, 203.
Majority for decision:	Majority of commissioners; if unable to agree, mayor or other chief executive may break tie. 40:44-6.	Majority of commissioners. 40:69A-201.
Report:	Map, description of boundaries, and statement of population of each ward to be filed with Municipal clerk. 40:44-3.	Map and description of boundaries to be filed with: municipal clerk county clerk Secretary of State. Municipal clerk must publish notice of boundaries in at least one newspaper circulating in the municipality within 2 weeks of filing. 40:69A-201, 202.
Effective date of wards:	10 days after filing of report. 40:44-4.  If new ward boundaries necessitate new election districts, such districts also are drawn by ward commissioners. 40:44-8.	Upon publication of notice of ward boundaries by municipal clerk. 40:69A-202.

Other ward statutes:

- 40:43-26.....Wards in annexations.
- 40:87-2.....Wards in Boroughs over 10,000 population.
- 40:107-1.....Wards in Cities over 12,000 population.
- 40:108-1.....Wards in Cities under 12,000 population.
- 40:110-1.....Wards in Cities between 6,000 and 10,000 population.
- 40:113-1.....Wards in municipalities governed by improvement commissions in Townships of more than 7,000 population.
- 40:123-6.....Wards in newly-created Towns.
- 40:131-1.....Wards in Towns over 5,000 population.
- 40:144-1.....Wards in Townships over 7,000 population.
- 40:169-10.....Wards in Cities between 5,000 and 6,000 population by the last State census, having 2 precincts, and 9 councilmen.

in some cities and towns, in the Borough, Township and Village Forms, and in the Small Municipality plans of the OMCL; to four years in a few cities and in the Commission Form and the Mayor-Council and Council-Manager options of the OMCL (See Table III-6). Governing body members in places using the Municipal Manager Form of Government (1923) may have either three-or four - year terms, depending upon the prior form of government and the language of the referendum held to change the form of government, although no municipality is currently using the three-year option.

Three-year terms gain the highest degree of approval from most kinds of respondents to the municipal official survey, although four-year terms are not far behind (See Table III-7). In fact, the CAAO'S and clerk-CAAO's are so strong in their support for the longer term that, when their responses are grouped with those of other respondents, they swing the balance slightly in favor of a four-year term of office. Much clearer is the inclination of those officials having experience with two-year terms against such a short period of governing body service.

In the three cities which currently have some members of the city council elected for two-year terms, it is the at-large council member who is affected, while the members elected from wards serve for three years (Englewood, North Wildwood, Summit). There seems to be no logical reason for this combination; in view of the criticism of two-year terms, some change should be considered. **It is recommended that the City Form of government laws be amended to provide for at least a three-year term of office for the council member elected at large.**

Seven towns elect all of their governing body members from wards for two-year staggered terms, thus having an annual election in every ward. The same pattern holds for two townships which use wards for election of the township committee. These places should have an opportunity to eliminate the unpopular two-year term of office without changing the essential nature of the electoral pattern for governing body members. **It is recommended that the Town, Township (with wards) Form of government laws be amended to permit a change, through a petition and referendum process providing for the election of three members of the governing body from each of two or three wards, for three-year staggered terms of office. Towns and townships currently using the two-year term would be permitted to retain that pattern or switch to the new pattern, but no other municipality would be permitted to adopt the two-year term in the future, except by special charter.**

#### **Arrangement of Governing Body Terms of Office**

Most New Jersey municipalities have forms of government in which the terms of office of the municipal governing body are staggered, so that the full membership does not stand for election at the same time. The use of concurrent terms, where all members are elected at the same time and serve for the same period, is largely a product of the optional laws of the 20th century, and is found today only in municipalities using the Commission Form, the Municipal Manager Form, and certain of the Mayor-Council, Council-Manager, and Small Municipality plans under the OMCL (See Table III-8).

Attitudes of municipal officials run strongly in favor of the use of staggered terms of office, as shown in Table III-9. While respondents from places using concurrent terms are not opposed to that system, the highest level of approval — — from the mayors in the survey — — is only 76.9%. This may be compared with more than 95% approval of staggered terms among every class of respondent from the municipalities electing only a portion of their governing body in any single election.