

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

P.L.2013, CHAPTER 166, *approved October 16, 2013*
Senate Committee Substitute (*Second Reprint*) for
Senate, No. 533

1 AN ACT concerning certain shared service agreements under the
2 “Uniform Shared Services and Consolidation Act^{2,2}” ²[and]²
3 designated as the “Common Sense Shared Services ²Pilot
4 Program² Act^{2,2}” ²[and]² amending various parts of the
5 statutory law ², and supplementing P.L.2007, c.63².
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. This act shall be known and may be cited as the “Common
11 Sense Shared Services ²Pilot Program² Act.”
12

13 2. Section 2 of P.L.2007, c.63 (C.40A:65-2) is amended to read
14 as follows:

15 2. The Legislature finds and declares:

16 a. Historically, many specialized statutes have been enacted to
17 permit shared services between local units for particular purposes.

18 b. Other laws, permitting a variety of shared services, including
19 interlocal services agreements, joint meetings, and consolidated and
20 regional services, exist but have not been very effective in
21 promoting the broad use of shared services as a technique to reduce
22 local expenses funded by property taxpayers.

23 c. It is appropriate for the Legislature to enact a new shared
24 services statute that can be used to effectuate agreements between
25 local units for any service or circumstance intended to reduce
26 property taxes through the reduction of local expenses.

27 d. It is contrary to public policy that the tenure rights of certain
28 local personnel should effectively prohibit shared services
29 agreements for the services provided by those local personnel,
30 thereby depriving property taxpayers of property tax relief.

31 ²e. In order to evaluate the efficiencies related to the sharing of
32 services of certain local personnel having tenure rights in office, it
33 is appropriate to create a pilot program in five counties of the State
34 which embody urban, suburban, and rural characteristics to study
35 the sharing of the services of these personnel between

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted June 25, 2012.

² Assembly floor amendments adopted June 27, 2013.

1 municipalities by allowing for the dismissal of such a tenured local
2 official, as necessary, in order to promote and effectuate the sharing
3 of a service.²

4 (cf: P.L.2007, c.63, s.2)

5
6 ²3. (New section) a. As used in this section:

7 “Local employee” means a tenured municipal clerk, assessor,
8 collector, chief financial officer, municipal treasurer, or principal
9 public works manager who is a municipal superintendent of public
10 works;

11 “Pilot county” means Camden, Morris, Ocean, Sussex, and
12 Warren counties; and

13 “Pilot municipality” means a municipality located in a pilot
14 county that enters into a shared services agreement with another
15 pilot municipality pursuant to the provisions of P.L.2007, c.63
16 (C.40A:65-1 et seq.) for the services of a local employee.

17 b. There is established a pilot program to evaluate the efficiency
18 and functionality of the sharing of services of certain local
19 personnel having tenure rights in office. In pilot municipalities,
20 tenure rights shall not prohibit the sharing of services for a
21 municipal clerk, a chief financial officer, an assessor, a tax
22 collector, a municipal treasurer, or a municipal superintendent of
23 public works. Under the pilot program, municipalities located in
24 pilot counties may enter into shared services agreements, pursuant
25 to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.), for the
26 services of tenured local employees, and provide for the dismissal
27 of any tenured local employees who are not selected to be service
28 providers under the shared services agreement.

29 In a shared service agreement between pilot municipalities for
30 the services of a municipal clerk, a chief financial officer, an
31 assessor, a tax collector, a municipal treasurer, or a municipal
32 superintendent of public works, the agent-party, as that term is
33 defined in subsection d. of section 7 of P.L.2007, c.63 (C.40A:65-
34 7), shall select for employment under the agreement one of the
35 employees of the pilot municipalities that are party to the agreement
36 who was employed in that same capacity by one of the pilot
37 municipalities prior to the approval of the agreement.

38 c. A tenured municipal clerk, chief financial officer, assessor,
39 tax collector, municipal superintendent of public works, or
40 municipal treasurer may be dismissed to effectuate the sharing of a
41 service entered into pursuant to the provisions of P.L.2007, c.63
42 (C.40A:65-1 et seq.), and such dismissal shall be deemed to be in
43 the interest of the economy or efficiency of the participants in the
44 shared service agreement. A tenured municipal clerk, chief
45 financial officer, assessor, tax collector, municipal superintendent
46 of public works, or municipal treasurer who has been dismissed to
47 effectuate a shared service agreement entered into pursuant to the

1 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.) shall be
2 reappointed to his or her former position, and shall regain his or her
3 tenured status, if the shared service agreement is cancelled, or
4 expires, within the two-year period immediately following the
5 dismissal of that person.²

6
7 ²**[3.] 4.**² Section 4 of P.L.2007, c.63 (C.40A:65-4) is amended
8 to read as follows:

9 4. a. (1) Any local unit may enter into an agreement with any
10 other local unit or units to provide or receive any service that each
11 local unit participating in the agreement is empowered to provide or
12 receive within its own jurisdiction, including services incidental to
13 the primary purposes of any of the participating local units
14 ²including services from licensed or certified professionals required
15 by statute to be appointed².

16 ²In the case of pilot municipalities, tenure rights shall not
17 prohibit the sharing of services for a municipal clerk, a chief
18 financial officer, an assessor, a tax collector, a municipal treasurer,
19 or a municipal superintendent of public works. The statutory
20 requirements that each municipality must appoint a municipal clerk,
21 a chief financial officer, an assessor, a tax collector, a municipal
22 treasurer, a municipal engineer, and a principal public works
23 manager shall, for those pilot municipalities, permit and include the
24 provision of the services of any of those municipal employees
25 through a shared service agreement pursuant to the provisions of
26 P.L.2007, c.63 (C.40A:65-1 et seq.). The shared service agreement
27 shall be subject to the provisions of subsection d. of this section and
28 of section 3 of P.L. , c. (C.) (pending before the Legislature
29 as this bill).

30 In a shared service agreement between pilot municipalities for
31 the services of a municipal clerk, a chief financial officer, an
32 assessor, a tax collector, a municipal treasurer, or a municipal
33 superintendent of public works, the agent-party, as that term is used
34 in subsection d. of section 7 of P.L.2007, c.63 (C.40A:65-7), shall
35 select for employment under the agreement one of the employees of
36 the pilot municipalities that are party to the agreement who was
37 employed in that same capacity prior to the approval of the
38 agreement.²

39 (2) Notwithstanding any law, rule or regulation to the contrary,
40 any agreement between local units for the provision of shared
41 services shall be entered into pursuant to sections 1 to 37 of
42 P.L.2007, c.63 (C.40A:65-1 et al.); provided, however, that
43 agreements regarding shared services that are otherwise regulated
44 by statute, rule, or regulation are specifically excluded from
45 sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

1 (3) The board is authorized to render a decision in the
2 determination of the statutory basis under which a specific shared
3 service is governed.

4 b. Any agreement entered into pursuant to this section shall be
5 filed, for informational purposes, with the Division of Local
6 Government Services in the Department of Community Affairs,
7 together with an estimate of the cost savings anticipated to be
8 achieved by the local units that are the parties to the agreement ²in
9 the case of an agreement between pilot municipalities², pursuant to
10 rules and regulations promulgated by the director.

11 c. ²**[A]** In the case of a pilot municipality, a² tenured municipal
12 clerk, chief financial officer, assessor, tax collector, municipal
13 superintendent of public works, or municipal treasurer may be
14 dismissed to effectuate the sharing of a service entered into
15 pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.)
16 and such dismissal shall be deemed to be in the interest of the
17 economy or efficiency of the participants in the shared service
18 agreement.

19 d. ²**[A]** In the case of a pilot municipality, a² tenured municipal
20 clerk, chief financial officer, assessor, tax collector, municipal
21 superintendent of public works, or municipal treasurer who has
22 been dismissed to effectuate a shared service agreement entered into
23 pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.)
24 shall be reappointed to his or her former position, and shall regain
25 his or her tenured status, if the shared service agreement is
26 cancelled, or expires, within the two-year period immediately
27 following the dismissal of that person.

28 (cf: P.L.2007, c.63, s.4)

29

30 ²**[14.]** 5.² Section 5 of P.L.2007, c.63 (C.40A:65-5) is amended
31 to read as follows:

32 5. a. A local unit authorized to enter into an agreement under
33 section 4 of P.L.2007, c.63 (C.40A:65-4) may do so by the adoption
34 of a resolution. ²**[No]** In the case of a shared service agreement
35 between pilot municipalities, no² agreement shall be adopted until
36 copies of the agreement shall be provided to all affected employees
37 of the local units that are party to the agreement at least two weeks
38 before adoption of the resolution, and a public hearing has been
39 held on the agreement, so that all persons having an interest in the
40 agreement shall have been given an opportunity to present
41 comments or objections concerning the content of the agreement, or
42 the effect of the agreement. During the public hearing, the local
43 unit shall provide an overview of the terms of the agreement and an
44 estimate of the cost savings anticipated to be achieved by the local
45 units that are the parties to the agreement. A resolution adopted
46 pursuant to this section or subsection b. of that section shall clearly

1 identify the agreement by reference and need not set forth the terms
2 of the agreement in full.

3 b. ²**[A]** In the case of a shared services agreement between pilot
4 municipalities, a² copy of the agreement shall be open to public
5 inspection at the offices of the local unit [immediately after
6 passage] at least two weeks prior to the adoption of a resolution to
7 become a party to the agreement.

8 c. The agreement shall take effect upon the adoption of
9 appropriate resolutions by all the parties thereto, and execution of
10 agreements authorized thereunder as set forth in the agreement.¹

11 (cf: P.L.2007, c.63, s.5)

12

13 ¹**[4.]** ²**[5.1]** ^{6.2} Section 7 of P.L.2007, c.63 (C.40A:65-7) is
14 amended to read as follows:

15 7. a. An agreement made pursuant to section 4 of P.L.2007,
16 c.63 (C.40A:65-4) shall specify:

17 (1) the specific services to be performed by one or more of the
18 parties as agent for any other party or parties;

19 (2) standards of the level, quality, and scope of performance,
20 with assignment and allocation of responsibility for meeting those
21 standards between or among the parties;

22 (3) the estimated cost of the services throughout the duration of
23 the agreement, with allocation of those costs to the parties, in dollar
24 amounts or by formula, including a time schedule for periodic
25 payment of installments for those allocations ¹, and ²in the case of a
26 shared service agreement between pilot municipalities,² an estimate
27 of the cost savings anticipated to be achieved by the local units that
28 are the parties to the agreement¹. The specification may provide for
29 the periodic modification of estimates or formulas contained therein
30 in the light of actual experience and in accordance with procedures
31 to be specified in the agreement;

32 (4) the duration of the agreement, which shall be 10 years,
33 unless otherwise agreed upon by the parties, but in no case shall the
34 duration of any agreement ²between pilot municipalities ² be less
35 than ²**[one year]** two years²; and

36 (5) the procedure for payments to be made under the contract.

37 b. In the case when all of the participating local units are
38 municipalities, the agreement may provide that it shall not take
39 effect until submitted to the voters of each municipality, and
40 approved by a majority of the voters of each municipality voting at
41 the referendum.

42 c. The agreement may provide for binding arbitration or for
43 binding fact-finding procedures to settle any disputes or questions
44 which may arise between the parties as to the interpretation of the
45 terms of the agreement or the satisfactory performance by any of

1 the parties of the services and other responsibilities required by the
2 agreement.

3 d. For the purposes of sections 4 through 13 of P.L.2007, c.63
4 (C.40A:65-4 through C.40A:65-13), any party performing a service
5 under a shared service agreement is the general agent of any other
6 party on whose behalf that service is performed pursuant to the
7 agreement, and that agent-party has full powers of performance and
8 maintenance of the service contracted for, and full powers to
9 undertake any ancillary operation reasonably necessary or
10 convenient to carry out its duties, obligations and responsibilities
11 under the agreement. These powers include all powers of
12 enforcement and administrative regulation which are, or may be,
13 exercised by the party on whose behalf the agent-party acts
14 pursuant to the agreement, except as the powers are limited by the
15 terms of the agreement itself, and except that no contracting party
16 shall be liable for any part or share of the cost of acquiring,
17 constructing, or maintaining any capital facility acquired or
18 constructed by an agent-party unless that part or share is provided
19 for in the agreement, or in an amendment thereto ratified by the
20 contracting parties in the manner provided in sections 1 to 37 of
21 P.L.2007, c.63 (C.40A:65-1 et al.) for entering into an agreement.

22 e. Except as the terms of any agreement may explicitly or by
23 necessary implication provide, any party to an agreement entered
24 into pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4) may enter
25 into another agreement or agreements with any other eligible parties
26 for the performance of any service or services pursuant to sections 1
27 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.). The participation in one
28 agreement shall not bar participation with the same or other parties
29 in any other agreement.

30 f. Payment for services performed pursuant to an agreement
31 shall be made by and to the parties, and at such intervals, as shall be
32 provided in the agreement.

33 g. In the event of any dispute as to the amount to be paid, the
34 full amount to be paid as provided in subsection a. of this section
35 shall be paid; but if through subsequent negotiation, arbitration or
36 litigation the amount due shall be determined, agreed or adjudicated
37 to be less than was actually so paid, then the party having received
38 the payment shall forthwith repay the excess.

39 (cf: P.L.2007, c.63, s.7)

40

41 ¹[5.] ²[6.¹] ²7.² N.J.S.40A:9-133 is amended to read as follows:

42 40A:9-133. a. In every municipality there shall be a municipal
43 clerk appointed for a three-year term by the governing body of the
44 municipality. The requirement that every municipality shall have a
45 municipal clerk may be fulfilled by the sharing of a municipal clerk
46 with another municipality or municipalities under a shared service
47 agreement entered into pursuant to the provisions of P.L.2007, c.63

1 (C.40A:65-1 et seq.), and such shared service agreement shall be
2 subject to the provisions of section 4 of P.L.2007, c.63 (C.40A:65-
3 4) ²and, in the case of a shared service agreement between pilot
4 municipalities, section 3 of P.L. , c. (C.) (pending before the
5 Legislature as this bill)². Commencing January 1 following the
6 third anniversary of the effective date of P.L.1997, c.279 (C.40A:9-
7 133.9 et al.), no person shall be appointed or reappointed as a
8 municipal clerk unless that person holds a registered municipal
9 clerk certificate issued pursuant to section 3 or section 4 of
10 P.L.1985, c.174 (C.40A:9-133.3 or C.40A:9-133.4).

11 b. For the purposes of tenure, the term of a municipal clerk
12 shall be deemed to have begun as of the actual date upon which a
13 person serving as municipal clerk is appointed. In the event of a
14 vacancy in the office of municipal clerk, an appointment shall be
15 made for a new term and not for the unexpired term. A
16 reappointment of an incumbent municipal clerk made within 60
17 days following the expiration of the prior term shall not be
18 considered to be a new appointment and the effective date of the
19 reappointment shall date back to the date of expiration of the initial
20 term of appointment.

21 c. Within 90 days of the occurrence of a vacancy in the office
22 of municipal clerk by reason of the departure of a registered
23 municipal clerk, the governing body may appoint a person who does
24 not hold a registered municipal clerk certificate to serve as acting
25 municipal clerk for a period not to exceed one year and
26 commencing on the date of the vacancy. Any person so appointed
27 may, with the approval of the Director of the Division of Local
28 Government Services in the Department of Community Affairs, be
29 reappointed as acting municipal clerk for a maximum of two
30 subsequent one-year terms following the termination of the
31 temporary appointment. No local unit shall fill the position of
32 acting municipal clerk for more than three consecutive years. Time
33 served as acting municipal clerk may be credited toward the
34 experience authorized as a substitute for the college education
35 requirement pursuant to section 2 of P.L.1985, c.174 (C.40A:9-
36 133.2). Time served as acting municipal clerk may not be credited
37 as time served as municipal clerk for the purpose of acquiring
38 tenure pursuant to section 7 of P.L.1985, c.174 (C.40A:9-133.7).

39 d. (Deleted by amendment, P.L.1997,c.279).

40 e. The municipal clerk shall:

41 (1) act as secretary of the municipal corporation and custodian
42 of the municipal seal and of all minutes, books, deeds, bonds,
43 contracts, and archival records of the municipal corporation. The
44 governing body may, however, provide by ordinance that any other
45 specific officer shall have custody of any specific other class of
46 record;

1 (2) act as secretary to the governing body, prepare meeting
2 agendas at the discretion of the governing body, be present at all
3 meetings of the governing body, keep a journal of the proceedings
4 of every meeting, retain the original copies of all ordinances and
5 resolutions, and record the minutes of every meeting;

6 (3) serve as the chief administrative officer in all elections held
7 in the municipality, subject to the requirements of Title 19 of the
8 Revised Statutes;

9 (4) serve as chief registrar of voters in the municipality, subject
10 to the requirements of Title 19 of the Revised Statutes;

11 (5) serve as the administrative officer responsible for the
12 acceptance of applications for licenses and permits and the issuance
13 of licenses and permits, except where statute or municipal
14 ordinance has delegated that responsibility to some other municipal
15 officer;

16 (6) serve as coordinator and records manager responsible for
17 implementing local archives and records retention programs as
18 mandated pursuant to Title 47 of the Revised Statutes;

19 (7) perform such other duties as are now or hereafter imposed
20 by statute, regulation or by municipal ordinance or regulation.

21 f. If a governing body fails or refuses to comply with
22 subsection a., b. or c. of this section, the director may order the
23 governing body to comply by a date certain which shall afford the
24 governing body a reasonable time within which to comply.

25 (cf: P.L.1997, c.279, s.1)

26

27 ¹~~[6.]~~ ²~~[7.]~~ ¹ 8.² Section 7 of P.L.1985, c.174 (C.40A:9-133.7) is
28 amended to read as follows:

29 7. Notwithstanding the provisions of any other law to the
30 contrary, any person who:

31 a. Shall be reappointed municipal clerk subsequent to having
32 received a registered municipal clerk certificate pursuant to
33 P.L.1985, c.174 and having served as municipal clerk or performed
34 the duties of municipal clerk for not less than three consecutive
35 years immediately prior to such reappointment; or

36 b. Shall have acquired tenure; shall hold office during good
37 behavior and efficiency, and compliance with the continuing
38 education requirements set forth in section 8 of P.L.1997, c.279
39 (C.40A:9-133.10), notwithstanding that such reappointment was for
40 a fixed term of years; and shall not be removed therefrom for
41 political reasons but only for good cause shown and after a proper
42 hearing before the director or the director's designee. The removal
43 of a registered municipal clerk shall be only upon a written
44 complaint setting forth with specificity the charge or charges
45 against the clerk. The complaint shall be filed with the director and
46 a certified copy of the complaint shall be served upon the person so
47 charged, with notice of a designated hearing date before the director

1 or the director's designee, which shall be not less than 30 days nor
2 more than 60 days from the date of service of the complaint. Such
3 date may be extended by the Superior Court for good cause shown
4 upon the application of either party. The person so charged and the
5 complainant shall have the right to be represented by counsel and
6 the power to subpoena witnesses and documentary evidence
7 together with discovery proceedings. The provisions of this section
8 shall apply to every person actually in office as registered municipal
9 clerk, whether or not in the classified service under Title 11A of the
10 New Jersey Statutes (Civil Service).

11 For the purposes of this section, the definition of good cause for
12 removal of a municipal clerk may include the failure of the clerk to
13 meet the continuing education requirements set forth in section 8 of
14 P.L.1997, c.279 (C.40A:9-133.10).

15 c. ²[A] In the case of a shared service agreement between pilot
16 municipalities, a² tenured municipal clerk may be dismissed to
17 effectuate the sharing of a service entered into pursuant to the
18 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.) and such
19 dismissal shall be deemed to be in the interest of the economy or
20 efficiency of the participants in the shared service agreement. The
21 removal of a municipal clerk under this subsection shall not require
22 the ²pilot² municipality to fulfill the requirements of section 7 of
23 P.L.1985, c.174 (C.40A:9-133.7). Instead, the ²pilot² municipality
24 shall provide the clerk with a written copy of the shared service
25 agreement entered into by the municipality, and a letter stating that
26 the position of municipal clerk in the ²pilot²municipality is being
27 eliminated for reasons of economy or efficiency as the result of the
28 shared service agreement.

29 Any such shared service agreement shall be subject to the
30 provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) ²and of
31 section 3 of P.L. , c. (C.) (pending before the Legislature as
32 this bill)².

33 (cf: P.L.1997, c.279, s.5)

34

35 ¹[7.] ²[8.¹] ^{9.}² N.J.S.40A:9-134 is amended to read as follows:

36 40A:9-134. On or before December 31, 1985, any person
37 holding the office of municipal clerk in any municipality and
38 having held such office continuously for five years from the date of
39 his original appointment shall have tenure in such office and shall
40 not be removed therefrom except for good cause shown after a fair
41 and impartial hearing.

42 For the purposes of this section, the definition of good cause for
43 removal of a municipal clerk may include the failure of the clerk to
44 meet the continuing education requirements set forth in section 8 of
45 P.L.1997, c.279 (C.40A:9-133.10).

46 ²[A] In the case of a shared service agreement between pilot
47 municipalities, a² tenured municipal clerk may be dismissed to

1 effectuate the sharing of a service entered into pursuant to the
2 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.) and such
3 dismissal shall be deemed to be in the interest of the economy or
4 efficiency of the participants in the shared service agreement. The
5 removal of a municipal clerk under this subsection shall not require
6 the ²pilot² municipality to fulfill the requirements of section 7 of
7 P.L.1985, c.174 (C.40A:9-133.7). Instead, the ²pilot² municipality
8 shall provide the clerk with a written copy of the shared service
9 agreement entered into by the ²pilot² municipality, and a letter
10 stating that the position of municipal clerk in the municipality is
11 being eliminated for reasons of economy or efficiency as the result
12 of the shared service agreement.

13 Any such shared service agreement shall be subject to the
14 provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) ²and section
15 3 of P.L. , c. (C.) (pending before the Legislature as this bill)².
16 (cf: P.L.1997, c.279, s.6)

17

18 ¹[8.] ²[9.¹] ^{10.}² Section 2 of P.L.1977, c.39 (C.40A:9-140.8)

19 is amended to read as follows:

20 2. a. Notwithstanding the provisions of any other law to the
21 contrary, any person who has served as the chief financial officer of
22 a municipality for four consecutive years and who is reappointed as
23 that municipality's chief financial officer shall be granted tenure of
24 office upon filing with the clerk of the municipality and with the
25 Division of Local Government Services in the Department of
26 Community Affairs a notification evidencing his compliance with
27 this section.

28 b. Thereafter, the person shall continue to hold office during
29 good behavior and efficiency, and shall not be removed therefrom
30 except for just cause and then only after a public hearing upon a
31 written complaint setting forth the charge or charges against him
32 pursuant to section 3 of P.L.1977, c.39 (C.40A:9-140.9) or upon
33 expiration or revocation of certification by the director pursuant to
34 section 7 of P.L.1988, c.110 (C.40A:9-140.12).

35 c. ²[A] In the case of a shared service agreement between pilot
36 municipalities, a² tenured chief financial officer may be dismissed
37 to effectuate the sharing of a service entered into pursuant to the
38 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.) and such
39 dismissal shall be deemed to be in the interest of the economy or
40 efficiency of the participants in the shared service agreement. The
41 removal of a chief financial officer under this section shall not
42 require the ²pilot² municipality to fulfill the requirements of
43 subsection b. of this section. Instead, the ²pilot² municipality shall
44 provide the chief financial officer with a written copy of the shared
45 service agreement entered into by the ²pilot² municipality, and a
46 letter stating that the position of chief financial officer in the

1 municipality is being eliminated for reasons of economy or
2 efficiency as the result of the shared service agreement.

3 Any such shared service agreement shall be subject to the
4 provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) ²and section
5 3 of P.L. , c. (C.) (pending before the Legislature as this bill)².
6 (cf: P.L.1991, c.175, s.6)

7

8 ¹[9.] ²[10.1] ^{11.2} Section 5 of P.L.1988, c.110 (C. 40A:9-
9 140.10) is amended to read as follows:

10 5. Notwithstanding the provisions of any law to the contrary, in
11 every municipality there shall be a chief financial officer appointed
12 by the governing body of the municipality. The requirement that
13 every municipality shall have a chief financial officer may be
14 fulfilled by the sharing of a chief financial officer with another
15 municipality or municipalities under a shared service agreement
16 entered into pursuant to the provisions of P.L.2007, c.63
17 (C.40A:65-1 et seq.). Any such shared service agreement shall be
18 subject to the provisions of section 4 of P.L.2007, c.63 (C.40A:65-
19 4) ²and, with respect to pilot municipalities, section 3 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill)². The term
21 of office shall be four years, which shall run from January 1 in the
22 year in which the chief financial officer is appointed. The
23 compensation for the chief financial officer shall be separately set
24 forth in a municipal salary ordinance.

25 If a governing body fails or refuses to comply with this section,
26 and has received an order from the director to do so, the members
27 of a governing body who willfully fail or refuse to comply shall
28 each be subject to a personal penalty of \$25 for each day after the
29 date fixed for final action that failure or refusal to comply
30 continues. The amount of the penalty may be recovered by the
31 director in the name of the State as a personal debt of the member
32 of the governing body, and shall be paid, upon receipt, into the
33 State Treasury.

34 ²[A] In the case of a pilot municipality, a² tenured chief
35 financial officer may be dismissed to effectuate the sharing of a
36 service entered into pursuant to the provisions of P.L.2007, c.63
37 (C.40A:65-1 et seq.) and such dismissal shall be deemed to be in
38 the interest of the economy or efficiency of the participants in the
39 shared service agreement. The removal of a chief financial officer
40 under this section shall not require the ²pilot² municipality to fulfill
41 the requirements of section 2 of P.L.1977, c.39 (C.40A:9-140.8).
42 Instead, the ²pilot² municipality shall provide the chief financial
43 officer with a written copy of the shared service agreement entered
44 into by the ²pilot² municipality, and a letter stating that the position
45 of chief financial officer in the ²pilot² municipality is being
46 eliminated for reasons of economy or efficiency as the result of the

1 shared service agreement.
2 (cf: P.L.1991, c.175, s.8)

3

4 ¹~~[10.]~~ ²~~[11.1]~~ 12.² N.J.S.40A:9-141 is amended to read as
5 follows:

6 40A:9-141. Notwithstanding any other law the governing body
7 or chief executive, as shall be appropriate to the form of
8 government of the municipality, by ordinance, shall provide for the
9 appointment of a municipal tax collector and the compensation of
10 the tax collector shall be fixed in the manner otherwise provided by
11 law. The requirement that every municipality shall have a
12 municipal tax collector may be fulfilled by the sharing of a
13 municipal tax collector with another municipality or municipalities
14 under a shared service agreement entered into pursuant to the
15 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.). Any such shared
16 service agreement shall be subject to the provisions of section 4 of
17 P.L.2007, c.63 (C.40A:65-4) ²and, with respect to pilot
18 municipalities, of section 3 of P.L. , c. (C. (pending before the
19 Legislature as this bill)². The governing body may, by resolution,
20 set appropriate hours of operation of the tax collector's office and
21 the work hours of the tax collector, commensurate with the
22 compensation paid to the tax collector, and all personnel assigned to
23 the tax collector's office. The office of municipal tax collector and
24 municipal treasurer, or municipal clerk may be held by the same
25 person.

26 (cf: P.L.2000, c.126, s.22)

27

28 ¹~~[11.]~~ ²~~[12.1]~~ 13.² Section 8 of P.L.1979, c.384 (C.40A:9-
29 145.8) is amended to read as follows:

30 8. Notwithstanding the provisions of any other law to the
31 contrary, any person who:

32 a. Shall be reappointed tax collector subsequent to having
33 received a tax collector certificate pursuant to section 3 or 4 of
34 P.L.1979, c.384, or holds a tax collector certificate issued pursuant
35 to N.J.S.40A:9-141, section 2 of P.L.1979, c.384 (C.40A:9-145.2),
36 and section 6 of P.L.1993, c.25 (C.40A:9-145.3a), and having
37 served as tax collector or performed the duties of tax collector for
38 not less than four consecutive years immediately prior to such
39 reappointment; or,

40 b. shall have acquired tenure; shall hold his office during good
41 behavior, efficiency, and compliance with requirements for
42 continuing education pursuant to sections 6 and 7 of P.L.1993, c.25
43 (C.40A:9-145.3a and C.40A:9-145.3b), notwithstanding that such
44 reappointment was for a fixed term of years; and he shall not be
45 removed therefrom for political reasons but only for good cause
46 shown and after a proper hearing before the director or his designee.

1 c. The removal of a municipal tax collector shall be only upon
2 a written complaint setting forth with specificity the charge or
3 charges against him. The complaint shall be filed with the
4 municipal clerk and the director and a certified copy thereof shall
5 be served upon the person so charged, with notice of a designated
6 hearing date before the director or his designee, which shall be not
7 less than 30 days nor more than 60 days from the date of service of
8 the complaint. Such date may be extended by the Superior Court
9 for good cause shown upon the application of either party. The
10 person so charged and the complainant shall have the right to be
11 represented by counsel and the power to subpoena witnesses and
12 documentary evidence together with discovery proceedings. The
13 provisions of this section shall apply to every person actually in
14 office as tax collector or performing the duties of tax collector
15 whether or not in the classified service under Title 11A, Civil
16 Service, of the New Jersey Statutes.

17 d. For the purposes of this section, the definition of good cause
18 for removal of a tax collector may include the failure of a tax
19 collector to meet the continuing education requirement set forth in
20 sections 6 and 7 of P.L.1993, c.25 (C.40A:9-145.3a and C.40A:9-
21 145.3b).

22 e. ²**[A]** In the case of a pilot municipality, a² tenured tax
23 collector may be dismissed to effectuate the sharing of a service
24 entered into pursuant to the provisions of P.L.2007, c.63
25 (C.40A:65-1 et seq.) and such dismissal shall be deemed to be in
26 the interest of the economy or efficiency of the participants in the
27 shared service agreement. The removal of a tax collector under this
28 subsection shall not require the ²pilot² municipality to fulfill the
29 requirements of section 8 of P.L.1979, c.384 (C.40A:9-145.8).
30 Instead, the ²pilot² municipality shall provide the tax collector with
31 a written copy of the shared service agreement entered into by the
32 ²pilot² municipality, and a letter stating that the position of tax
33 collector in the ²pilot² municipality is being eliminated for reasons
34 of economy or efficiency as the result of the shared service
35 agreement.

36 Any such shared service agreement shall be subject to the
37 provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) ²and of
38 section 3 of P.L. , c. (C.)(pending before the Legislature as this
39 bill)².

40 (cf: P.L.1993, c.25, s.5)

41

42 ¹**[12.]** ²**[13.1]** ^{14.2} N.J.S.40A:9-146 is amended to read as
43 follows:

44 40A:9-146. The governing body or chief executive, as shall be
45 appropriate to the form of government of the municipality shall
46 provide for the appointment of a tax assessor and such deputy tax
47 assessors as it may determine necessary. The requirement that

1 every municipality shall have a tax assessor and any such deputy
2 tax assessors as it deems necessary may be fulfilled by the sharing
3 of a tax assessor and any necessary deputy tax assessors with
4 another municipality or municipalities under a shared service
5 agreement entered into pursuant to the provisions of P.L.2007, c.63
6 (C.40A:65-1 et seq.). Any such shared service agreement shall be
7 subject to the provisions of section 4 of P.L.2007, c.63 (C.40A:65-
8 4) ²and, with respect to pilot municipalities, of section 3 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill)². The
10 appointing authority may, by resolution or order as appropriate, set
11 the total number of weekly hours of operation of the tax assessor's
12 office and the total number of weekly work hours of the tax
13 assessor, commensurate with the compensation paid to the tax
14 assessor. The appointing authority shall not set the specific work
15 hours of the tax assessor. The governing body, by ordinance, shall
16 determine the amount of compensation of such assessors.

17 (cf: P.L.2000, c.126, s.23)

18

19 ¹~~[13.]~~ ²~~[14.1]~~ ²15. ² Section 7 of P.L.1967, c.44 (C.54:1-35.31)
20 is amended to read as follows:

21 7. a. Notwithstanding the provisions of any other law to the
22 contrary, every person

23 (1) who, upon reappointment or re-election subsequent to
24 having received a tax assessor certificate and having served as tax
25 assessor or performed the duties of assessor for not less than four
26 consecutive years immediately prior to such reappointment or re-
27 election, or

28 (2) who, on or before June 30, 1969, shall have received a tax
29 assessor certificate while actually in office as assessor or
30 performing the duties of an assessor, and who, on or before June 30,
31 1969, shall have served as assessor or performed the duties of
32 assessor for not less than four consecutive years,

33 shall hold his position during good behavior and efficiency and
34 compliance with requirements for continuing education pursuant to
35 section 1 of P.L.1999, c.278 (C.54:1-35.25b), notwithstanding that
36 such reappointment or re-election was for a fixed term of years, and
37 he shall not be removed therefrom for political reasons but only for
38 good cause shown and after a proper hearing before the director or
39 his designee after due notice. A person who was formerly an
40 assessor, a secretary of a board of assessors or a member of a board
41 of assessors who shall have become by virtue of this amendatory
42 and supplementary act, P.L.1981, c.393, a deputy tax assessor or an
43 assessor, and who has not met the requirements of (1) or (2) above
44 shall not be removed during his term in office for political reasons,
45 but only for good cause shown and after a proper hearing before the
46 director or his designee after due notice. In municipalities
47 operating under forms of government where the assessor served at

1 the pleasure of the appointing authority for an unlimited term of
2 office, receipt of a tax assessor certificate and continuance in
3 service as assessor after completion of 4 consecutive years of
4 service shall be deemed the equivalent of reappointment. The
5 provisions of this section shall apply to every person actually in
6 office as assessor or performing the duties of an assessor whether in
7 the classified service under Title 11A, Civil Service, or in a
8 municipality which has not adopted Title 11A, Civil Service. For
9 the purpose of this section, "good cause" shall include the failure of
10 a tax assessor to meet the continuing education requirement
11 required by section 1 of P.L.1999, c.278 (C.54:1-35.25b), and such
12 failure shall render a tax assessor ineligible for service as a tax
13 assessor.

14 b. ²**[A]** In the case of a pilot municipality, a² tenured tax
15 assessor may be dismissed to effectuate the sharing of a service
16 entered into pursuant to the provisions of P.L.2007, c.63
17 (C.40A:65-1 et seq.) and such dismissal shall be deemed to be in
18 the interest of the economy or efficiency of the participants in the
19 shared service agreement. The removal of a tax assessor under this
20 subsection shall not require the ²pilot² municipality to fulfill the
21 requirements of subsection a. of this section. Instead, the ²pilot²
22 municipality shall provide the tax assessor with a written copy of
23 the shared service agreement entered into by the ²pilot²
24 municipality, and a letter stating that the position of tax assessor in
25 the ²pilot² municipality is being eliminated for reasons of economy
26 or efficiency as the result of the shared service agreement.
27 (cf: P.L.1999, c.278, s.2)

28
29 ¹**[14.]** ²**[15.]** N.J.S.40A:9-140 is amended to read as follows:
30 40A:9-140. In every municipality the governing body, by
31 ordinance, shall provide for the appointment of a municipal
32 engineer and fix his compensation in an annual salary or fixed fee
33 basis or at an hourly rate and based upon actual time and expenses
34 agreed on prior to the rendering of the services. The requirement
35 that every municipality shall have a municipal engineer may be
36 fulfilled by the sharing of a municipal engineer with another
37 municipality or municipalities under a shared service agreement
38 entered into pursuant to the provisions of P.L.2007, c.63
39 (C.40A:65-1 et seq.). Any such shared service agreement shall be
40 subject to the provisions of section 4 of P.L.2007, c.63 (C.40A:65-
41 4). No municipal engineer shall be compensated by receiving a
42 percentage of the contract for which he renders services. Unless
43 otherwise provided by law his term of office shall be 3 years.
44 (cf: P.L.1975, c.285, s.1)²

45
46 ¹**[15.]** ^{16.}¹ N.J.S.40A:9-152 is amended to read as follows:

1 40A:9-152. a. Whenever a person has or shall have held the
2 office of municipal treasurer for 10 consecutive years, the
3 governing body of the municipality may grant tenure in office to
4 such person. In the event the governing body fails to grant tenure in
5 office to a municipal treasurer who has held that office for 10
6 consecutive years, a petition may be filed for a referendum vote on
7 the question of whether the municipal treasurer shall continue to
8 hold office during good behavior and efficiency, and shall not be
9 removed therefrom except for just cause and then only after public
10 hearing upon a written complaint setting forth the charge or charges
11 against him. The petition shall be signed by at least 10% of the
12 registered voters of the municipality and filed with the municipal
13 clerk. Upon the filing of the petition the question shall be
14 submitted to the voters at the next general election which shall
15 occur not less than 60 days thereafter. The municipal clerk shall
16 cause the question to be placed upon the official ballot to be used at
17 the general election in the manner provided by law in substantially
18 the following form: "Shall the municipal treasurer continue to hold
19 office during good behavior and efficiency and not be removed
20 therefrom except for just cause and then only after public hearing
21 upon a written complaint setting forth the charge or charges against
22 him?"

23 Immediately to the left of the question there shall be printed the
24 words "Yes" and "No" , each with a square, in either of which the
25 voter may make a cross (x), or a plus sign (+) or check mark (X)
26 according to his choice. There shall also be printed the following:
27 "Place a cross (x), or a plus sign (+) or check mark (X) in one of
28 the above squares indicating your choice." Where voting machines
29 are used, voting thereon shall be equivalent to the foregoing.

30 The election shall be held in accordance with the general law
31 relating to public questions to be voted on in a single municipality
32 at elections as provided for by Title 19 (Elections) of the Revised
33 Statutes.

34 b. ²[A] In the case of a pilot municipality, a² tenured municipal
35 treasurer may be dismissed to effectuate the sharing of a service
36 entered into pursuant to the provisions of P.L.2007, c.63
37 (C.40A:65-1 et seq.) and such dismissal shall be deemed to be in
38 the interest of the economy or efficiency of the participants in the
39 shared service agreement. The removal of a municipal treasurer
40 under this subsection shall not require the ²pilot² municipality to
41 fulfill the requirements of N.J.S.40A:9-152.1. Instead, the ²pilot²
42 municipality shall provide the municipal treasurer with a written
43 copy of the shared service agreement entered into by the ²pilot²
44 municipality, and a letter stating that the position of municipal
45 treasurer in the ²pilot² municipality is being eliminated for reasons
46 of economy or efficiency as the result of the shared service
47 agreement. Any such shared service agreement shall be subject to

1 the provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) ²and
2 section 3 of P.L. , c. (C.) (pending before the Legislature
3 as this bill)².
4 (cf: N.J.S.40A:9-152)

5
6 ¹**[16.] 17.**¹ Section 7 of P.L.1991,c.258 (C.40A:9-154.6g) is
7 amended to read as follows:

8 7. a. Commencing January 1, 1997, the governing body or
9 chief executive officer of each municipality, as appropriate, shall
10 appoint a principal public works manager for that municipality.
11 The requirement that every municipality shall have a principal
12 public works manager may be fulfilled by the sharing of a principal
13 public works manager with another municipality or municipalities
14 under a shared service agreement entered into pursuant to the
15 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.).

16 b. No person shall be selected to perform the duties of a
17 principal public works manager unless he holds a public works
18 manager certificate issued pursuant to section 3 of P.L.1991, c.258
19 (C.40A:9-154.6c), which certificate has not been revoked or
20 suspended in accordance with the provisions of subsection b. of
21 section 6 of P.L.1991, c.258 (C.40A:9-154.6f).

22 c. When a vacancy occurs in a position in which the duties of
23 principal public works manager are performed, the governing body
24 or chief executive officer, as appropriate, may select, for a period
25 not to exceed one year and commencing on the date of the vacancy,
26 a person who does not hold a certified public works manager
27 certificate to perform on an interim basis, the duties of a principal
28 public works manager. Any person so selected may be selected as
29 principal public works manager for one additional year; provided,
30 however, that no person shall perform on an interim basis, the
31 duties of a temporary principal public works manager for more than
32 two years in any municipality, and also provided that, in a
33 municipality operating under the provisions of Title 11A, the Civil
34 Service Act, no person so selected on an interim basis shall be
35 required to perform out-of-title work.

36 d. Any municipality that conducts minimal or no public works
37 activity may apply to the director for an exemption from this
38 section. Such exemptions shall be valid for five years from the date
39 of issuance, at which time the municipality must reapply for an
40 exemption or select a person to perform the duties of a principal
41 public works manager. Upon receipt of an application for
42 exemption, the director shall have the public works advisory board
43 review the application and make a recommendation to the director
44 for approval or denial. If the director for good cause disagrees with
45 the recommendation, he shall advise the public works advisory
46 board of his decision and take any action he deems appropriate.

1 e. If a governing body or mayor fails or refuses to comply with
2 this section, and has received an order from the director to do so,
3 the members of a governing body or mayor who willfully fail or
4 refuse to comply shall each be subject to a personal penalty of \$25
5 for each day after the date fixed for final action that failure or
6 refusal to comply continues. The amount for the penalty may be
7 recovered by the director in the name of the State as a personal debt
8 of the member of the governing body or mayor, and shall be paid,
9 upon receipt, into the State Treasury.
10 (cf: P.L.1995, c.46, s.6)

11

12 ¹~~17.~~ 18.¹ Section 2 of P.L.1981, c.383 (C.40A:9-154.6) is
13 amended to read as follows:

14 2. a. A person holding office, position or employment as full-
15 time municipal superintendent of public works who has held the
16 office, position or employment continuously for 5 years or more
17 shall continue to hold the office, position or employment,
18 notwithstanding he is serving for a fixed term, during good behavior
19 and efficiency and shall not be removed therefrom for political or
20 other reasons except for good cause, upon written charges filed with
21 the municipal clerk and after a public, fair and impartial hearing;
22 except that the governing body of the municipality shall first pass
23 an ordinance authorizing the tenure of office herein provided. The
24 person may be retired when he shall have attained 70 years of age.

25 b. Municipalities may share the services of a municipal
26 superintendent of public works through a shared service agreement
27 pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.).

28 A tenured municipal superintendent of public works may be
29 dismissed ²by a pilot municipality² to effectuate the sharing of a
30 service for a municipal superintendent of public works entered into
31 pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.)
32 ²and section 3 of P.L. , c. (C.) (pending before the
33 Legislature as this bill),² and such dismissal shall be deemed to be
34 in the interest of the economy or efficiency of the participants in the
35 shared service agreement. The removal of a municipal
36 superintendent of public works under this subsection shall not
37 require the ²pilot² municipality to fulfill the requirements of
38 subsection a. of this section. Instead, the ²pilot² municipality shall
39 provide the municipal superintendent of public works with a written
40 copy of the shared service agreement entered into by the ²pilot²
41 municipality, and a letter stating that the position of municipal
42 superintendent of public works in the ²pilot² municipality is being
43 eliminated for reasons of economy or efficiency as the result of the
44 shared service agreement.

45 Any such shared service agreement shall be subject to the
46 provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) ²and, with

1 respect to pilot municipalities, section 3 of P.L. _____, c. _____ (C. _____)
2 (pending before the Legislature as this bill)².
3 (P.L.1981, c.383, s.2)

4

5 ¹~~[18.]~~ 19.¹ This act shall take effect immediately.

6

7

8

9

10 The “Common Sense Shared Services Pilot Program Act”;
11 concerns shared service agreements and joint contracts, in certain
12 municipalities, for certain tenured local employees under “Uniform
13 Shared Services and Consolidation Act.”

SENATE, No. 533

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator DONALD NORCROSS

District 5 (Camden and Gloucester)

SYNOPSIS

The “Common Sense Shared Services Act”; concerns shared service agreements and joint contracts for certain local personnel under “Uniform Shared Services and Consolidation Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



S533 NORCROSS

2

1 AN ACT concerning certain shared service agreements under the
2 “Uniform Shared Services and Consolidation Act” and
3 designated as the “Common Sense Shared Services Act” and
4 amending various parts of the statutory law.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. This act shall be known and may be cited as the “Common
10 Sense Shared Services Act.”

11

12 2. Section 2 of P.L.2007, c.63 (C.40A:65-2) is amended to read
13 as follows:

14 2. The Legislature finds and declares:

15 a. Historically, many specialized statutes have been enacted to
16 permit shared services between local units for particular purposes.

17 b. Other laws, permitting a variety of shared services, including
18 interlocal services agreements, joint meetings, and consolidated and
19 regional services, exist but have not been very effective in
20 promoting the broad use of shared services as a technique to reduce
21 local expenses funded by property taxpayers.

22 c. It is appropriate for the Legislature to enact a new shared
23 services statute that can be used to effectuate agreements between
24 local units for any service or circumstance intended to reduce
25 property taxes through the reduction of local expenses.

26 d. It is contrary to public policy that the tenure rights of certain
27 local personnel should effectively prohibit shared services
28 agreements for the services provided by those local personnel,
29 thereby depriving property taxpayers of property tax relief.

30 (cf: P.L.2007, c.63, s.2)

31

32 3. Section 4 of P.L.2007, c.63 (C.40A:65-4) is amended to read
33 as follows:

34 4. a. (1) Any local unit may enter into an agreement with any
35 other local unit or units to provide or receive any service that each
36 local unit participating in the agreement is empowered to provide or
37 receive within its own jurisdiction, including services incidental to
38 the primary purposes of any of the participating local units

39 Tenure rights shall not prohibit the sharing of services for a
40 municipal clerk, a chief financial officer, an assessor, or a tax
41 collector.

42 The statutory requirements that each municipality must appoint a
43 municipal clerk, a chief financial officer, an assessor, a tax
44 collector, a municipal engineer and a principal public works

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 underlined thus is new matter.

S533 NORCROSS

1 manager shall permit and include the provision of the services of
2 any of those municipal employees through a shared service
3 agreement pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1
4 et seq.).

5 (2) Notwithstanding any law, rule or regulation to the contrary,
6 any agreement between local units for the provision of shared
7 services shall be entered into pursuant to sections 1 to 37 of
8 P.L.2007, c.63 (C.40A:65-1 et al.); provided, however, that
9 agreements regarding shared services that are otherwise regulated
10 by statute, rule, or regulation are specifically excluded from
11 sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.).

12 (3) The board is authorized to render a decision in the
13 determination of the statutory basis under which a specific shared
14 service is governed.

15 b. Any agreement entered into pursuant to this section shall be
16 filed, for informational purposes, with the Division of Local
17 Government Services in the Department of Community Affairs,
18 pursuant to rules and regulations promulgated by the director.

19 c. In the case of a tenured municipal clerk, chief financial
20 officer, assessor, or tax collector, the dismissal of such a tenured
21 employee that is necessary to effectuate the sharing of a service
22 entered into pursuant to the provisions of P.L.2007, c.63
23 (C.40A:65-1 et seq.) shall be deemed to be a just cause, or good
24 cause, as appropriate, for the dismissal of that employee.

25 (cf: P.L.2007, c.63, s.4)

26

27 4. Section 8 of P.L.2007, c.63 (C.40A:65-8) is amended to read
28 as follows:

29 8. a. Whenever two or more local units enter into an agreement,
30 pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4), for the shared
31 provision of law enforcement services, or fire protection services by
32 a paid fire department, within their respective jurisdictions, the
33 agreement shall recognize and preserve the seniority, tenure, and
34 pension rights of every full-time law enforcement officer or
35 firefighter who is employed by each of the participating local units
36 and who is in good standing at the time the ordinance authorizing
37 the agreement is adopted, and none of those law enforcement
38 officers or firefighters shall be terminated, except for cause;
39 provided, however, this provision shall not be construed to prevent
40 or prohibit a merged law enforcement entity or fire department from
41 reducing force as provided by law for reasons of economy and
42 efficiency.

43 b. To provide for the efficient administration and operation of
44 the shared law enforcement services, or fire protection services,
45 within the participating local units, the agreement may provide for
46 the appointment of a chief of police or other chief law enforcement
47 officer, or fire chief. In that case, the agreement shall identify the

S533 NORCROSS

1 appropriate authority to whom the chief of police or other chief law
2 enforcement officer, or fire chief, reports and also shall provide that
3 any person who is serving as the chief of police or other chief law
4 enforcement officer, or fire chief, in one of the participating local
5 units at the time the contract is adopted may elect either:

6 (1) to accept a demotion of no more than one rank without any
7 loss of seniority rights, impairment of tenure, or pension rights; or

8 (2) to retire from service.

9 A person who elects retirement shall not be demoted, but shall
10 retain the rank of chief of police or other chief law enforcement
11 officer, or fire chief, and shall be given terminal leave for a period
12 of one month for each five-year period of past service as a law
13 enforcement officer, or firefighter, with a participating local unit.
14 During the terminal leave, the person shall continue to receive full
15 compensation and shall be entitled to all benefits, including any
16 increases in compensation or benefits, that he may have been
17 entitled to if he had remained on active duty.

18 c. Whenever the participating local units have adopted or are
19 deemed to have adopted Title 11A, Civil Service, of the New Jersey
20 Statutes with regard to the provision of law enforcement services,
21 or fire protection services, and the agreement provides for the
22 appointment of a chief of police or other chief law enforcement
23 officer, or fire chief, the position of chief of police or other chief
24 law enforcement officer, or fire chief, shall be in the career service.
25 (cf: P.L.2007, c.63, s.8)

26

27 5. Section 17 of P.L.2007, c.63 (C.C.40A:65-17) is amended to
28 read as follows:

29 17. a. Whenever the governing bodies of two or more local
30 units enter into a joint contract for the joint operation of law
31 enforcement services, or fire protection services by a paid fire
32 department, within their respective jurisdictions, the contract shall
33 recognize and preserve the seniority, tenure, and pension rights of
34 every full-time law enforcement officer or firefighter who is
35 employed by each of the contracting local units and who is in good
36 standing at the time the ordinance or resolution, as the case may be,
37 authorizing the contract is adopted, and none of those law
38 enforcement officers, or firefighters, shall be terminated, except for
39 cause; provided, however, this provision shall not be construed to
40 prevent or prohibit a merged law enforcement entity, or fire
41 department, from reducing force as provided by law for reasons of
42 economy and efficiency.

43 b. (1) To provide for the efficient administration and operation
44 of the joint law enforcement services, or fire protection services,
45 within the participating local units, the joint contract may provide
46 for the appointment of a chief of police or other chief law
47 enforcement officer, or fire chief. In that case, the joint contract

S533 NORCROSS

1 shall identify the appropriate authority to whom the chief of police
2 or other chief law enforcement officer, or fire chief, reports and also
3 shall provide that any person who is serving as the chief of police or
4 other chief law enforcement officer, or fire chief, in one of the
5 participating local units at the time the joint contract is adopted may
6 elect either:

7 (a) to accept a demotion of no more than one rank without any
8 loss of seniority rights, impairment of tenure, or pension rights; or

9 (b) to retire from service.

10 (2) Any person who elects retirement shall not be demoted but
11 shall retain the rank of chief of police or other chief law
12 enforcement officer, or fire chief, and shall be given terminal leave
13 for a period of one month for each five-year period of past service
14 as a law enforcement officer, or fire fighter, with the participating
15 local unit. During the terminal leave, the person shall continue to
16 receive full compensation and shall be entitled to all benefits,
17 including any increases in compensation or benefits, that he may
18 have been entitled to if he had remained on active duty.

19 c. Whenever the participating local units have adopted or are
20 deemed to have adopted Title 11A, Civil Service, of the New Jersey
21 Statutes with regard to the provision of law enforcement services,
22 or fire protection services, and the contract provides for the
23 appointment of a chief of police or other chief law enforcement
24 officer, or fire chief, the position of chief law enforcement officer,
25 or fire chief, shall be in the career service.

26 (cf: P.L.2007, c.63, s.17)

27

28 6. N.J.S.40A:9-133 is amended to read as follows:

29 40A:9-133. a. In every municipality there shall be a municipal
30 clerk appointed for a three-year term by the governing body of the
31 municipality. The requirement that every municipality shall have a
32 municipal clerk may be fulfilled by the sharing of a municipal clerk
33 with another municipality or municipalities under a shared service
34 agreement or a joint contract for a joint meeting entered into
35 pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.).
36 Commencing January 1 following the third anniversary of the
37 effective date of P.L.1997, c.279 (C.40A:9-133.9 et al.), no person
38 shall be appointed or reappointed as a municipal clerk unless that
39 person holds a registered municipal clerk certificate issued pursuant
40 to section 3 or section 4 of P.L.1985, c.174 (C.40A:9-133.3 or
41 C.40A:9-133.4).

42 b. For the purposes of tenure, the term of a municipal clerk
43 shall be deemed to have begun as of the actual date upon which a
44 person serving as municipal clerk is appointed. In the event of a
45 vacancy in the office of municipal clerk, an appointment shall be
46 made for a new term and not for the unexpired term. A
47 reappointment of an incumbent municipal clerk made within 60

S533 NORCROSS

1 days following the expiration of the prior term shall not be
2 considered to be a new appointment and the effective date of the
3 reappointment shall date back to the date of expiration of the initial
4 term of appointment.

5 c. Within 90 days of the occurrence of a vacancy in the office
6 of municipal clerk by reason of the departure of a registered
7 municipal clerk, the governing body may appoint a person who does
8 not hold a registered municipal clerk certificate to serve as acting
9 municipal clerk for a period not to exceed one year and
10 commencing on the date of the vacancy. Any person so appointed
11 may, with the approval of the Director of the Division of Local
12 Government Services in the Department of Community Affairs, be
13 reappointed as acting municipal clerk for a maximum of two
14 subsequent one-year terms following the termination of the
15 temporary appointment. No local unit shall fill the position of
16 acting municipal clerk for more than three consecutive years. Time
17 served as acting municipal clerk may be credited toward the
18 experience authorized as a substitute for the college education
19 requirement pursuant to section 2 of P.L.1985, c.174 (C.40A:9-
20 133.2). Time served as acting municipal clerk may not be credited
21 as time served as municipal clerk for the purpose of acquiring
22 tenure pursuant to section 7 of P.L.1985, c.174 (C.40A:9-133.7).

23 d. (Deleted by amendment, P.L.1997,c.279).

24 e. The municipal clerk shall:

25 (1) act as secretary of the municipal corporation and custodian
26 of the municipal seal and of all minutes, books, deeds, bonds,
27 contracts, and archival records of the municipal corporation. The
28 governing body may, however, provide by ordinance that any other
29 specific officer shall have custody of any specific other class of
30 record;

31 (2) act as secretary to the governing body, prepare meeting
32 agendas at the discretion of the governing body, be present at all
33 meetings of the governing body, keep a journal of the proceedings
34 of every meeting, retain the original copies of all ordinances and
35 resolutions, and record the minutes of every meeting;

36 (3) serve as the chief administrative officer in all elections held
37 in the municipality, subject to the requirements of Title 19 of the
38 Revised Statutes;

39 (4) serve as chief registrar of voters in the municipality, subject
40 to the requirements of Title 19 of the Revised Statutes;

41 (5) serve as the administrative officer responsible for the
42 acceptance of applications for licenses and permits and the issuance
43 of licenses and permits, except where statute or municipal
44 ordinance has delegated that responsibility to some other municipal
45 officer;

S533 NORCROSS

1 (6) serve as coordinator and records manager responsible for
2 implementing local archives and records retention programs as
3 mandated pursuant to Title 47 of the Revised Statutes;

4 (7) perform such other duties as are now or hereafter imposed
5 by statute, regulation or by municipal ordinance or regulation.

6 f. If a governing body fails or refuses to comply with
7 subsection a., b. or c. of this section, the director may order the
8 governing body to comply by a date certain which shall afford the
9 governing body a reasonable time within which to comply.

10 (cf: P.L.1997, c.279, s.1)

11

12 7. Section 7 of P.L.1985, c.174 (C.40A:9-133.7) is amended to
13 read as follows:

14 7. Notwithstanding the provisions of any other law to the
15 contrary, any person who:

16 a. Shall be reappointed municipal clerk subsequent to having
17 received a registered municipal clerk certificate pursuant to
18 P.L.1985, c.174 and having served as municipal clerk or performed
19 the duties of municipal clerk for not less than three consecutive
20 years immediately prior to such reappointment; or

21 b. Shall have acquired tenure; shall hold office during good
22 behavior and efficiency, and compliance with the continuing
23 education requirements set forth in section 8 of P.L.1997, c.279
24 (C.40A:9-133.10), notwithstanding that such reappointment was for
25 a fixed term of years; and shall not be removed therefrom for
26 political reasons but only for good cause shown and after a proper
27 hearing before the director or the director's designee. The removal
28 of a registered municipal clerk shall be only upon a written
29 complaint setting forth with specificity the charge or charges
30 against the clerk. The complaint shall be filed with the director and
31 a certified copy of the complaint shall be served upon the person so
32 charged, with notice of a designated hearing date before the director
33 or the director's designee, which shall be not less than 30 days nor
34 more than 60 days from the date of service of the complaint. Such
35 date may be extended by the Superior Court for good cause shown
36 upon the application of either party. The person so charged and the
37 complainant shall have the right to be represented by counsel and
38 the power to subpoena witnesses and documentary evidence
39 together with discovery proceedings. The provisions of this section
40 shall apply to every person actually in office as registered municipal
41 clerk, whether or not in the classified service under Title 11A of the
42 New Jersey Statutes (Civil Service).

43 For the purposes of this section, the definition of good cause for
44 removal of a municipal clerk may include the failure of the clerk to
45 meet the continuing education requirements set forth in section 8 of
46 P.L.1997,c.279 (C.40A:9-133.10).

S533 NORCROSS

1 c. For the purposes of this section, the definition of good cause
2 for removal of a municipal clerk shall include the elimination of the
3 position of municipal clerk in the municipality as the result of the
4 municipality's entering into a shared service agreement or a joint
5 contract for a joint meeting for municipal clerk services with
6 another municipality or municipalities pursuant to the provisions of
7 P.L.2007, c.63 (C.40A:65-1 et seq.). The removal of a municipal
8 clerk under this subsection shall not require the municipality to
9 fulfill the requirements of subsection b. of this section. Instead, the
10 municipality shall provide the clerk with a written copy of the
11 shared service agreement or joint contract for a joint meeting
12 entered into by the municipality, and a letter stating that the
13 position of municipal clerk in the municipality is being eliminated
14 as the result of the shared service agreement or joint contract for a
15 joint meeting.

16 (cf: P.L.1997, c.279, s.5)

17

18 8. N.J.S.40A:9-134 is amended to read as follows:

19 40A:9-134. On or before December 31, 1985, any person
20 holding the office of municipal clerk in any municipality and
21 having held such office continuously for five years from the date of
22 his original appointment shall have tenure in such office and shall
23 not be removed therefrom except for good cause shown after a fair
24 and impartial hearing.

25 For the purposes of this section, the definition of good cause for
26 removal of a municipal clerk may include the failure of the clerk to
27 meet the continuing education requirements set forth in section 8 of
28 P.L.1997, c.279 (C.40A:9-133.10).

29 For the purposes of this section, the definition of good cause for
30 removal of a municipal clerk shall include the elimination of the
31 position of municipal clerk in the municipality as the result of the
32 municipality's entering into a shared service agreement or a joint
33 contract for a joint meeting for the provision of municipal clerk
34 services with another municipality or municipalities pursuant to the
35 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.). The removal of
36 a municipal clerk under this section shall not require the
37 municipality to fulfill the requirements of subsection b. of section 7
38 of P.L.1985, c.174 (C.40A:9-133.7). Instead, the municipality shall
39 provide the clerk with a written copy of the shared service
40 agreement or joint contract for a joint meeting entered into by the
41 municipality, and a letter stating that the position of municipal clerk
42 in the municipality is being eliminated as the result of the shared
43 service agreement or joint contract for a joint meeting.

44 (cf: P.L.1997, c.279, s.6)

45

46 9. Section 2 of P.L.1977, c.39 (C.40A:9-140.8) is amended to
47 read as follows:

S533 NORCROSS

1 2. a. Notwithstanding the provisions of any other law to the
2 contrary, any person who has served as the chief financial officer of
3 a municipality for four consecutive years and who is reappointed as
4 that municipality's chief financial officer shall be granted tenure of
5 office upon filing with the clerk of the municipality and with the
6 Division of Local Government Services in the Department of
7 Community Affairs a notification evidencing his compliance with
8 this section.

9 b. Thereafter, the person shall continue to hold office during
10 good behavior and efficiency, and shall not be removed therefrom
11 except for just cause and then only after a public hearing upon a
12 written complaint setting forth the charge or charges against him
13 pursuant to section 3 of P.L.1977, c.39 (C.40A:9-140.9) or upon
14 expiration or revocation of certification by the director pursuant to
15 section 7 of P.L.1988, c.110 (C.40A:9-140.12).

16 c. For the purposes of this section, the definition of just cause
17 for removal of a chief financial officer shall include the elimination
18 of the position of chief financial officer in the municipality as the
19 result of the municipality's entering into a shared service agreement
20 or a joint contract for a joint meeting for the provision of chief
21 financial officer services with another municipality or
22 municipalities pursuant to the provisions of P.L.2007, c.63
23 (C.40A:65-1 et seq.). The removal of a chief financial officer under
24 this subsection shall not require the municipality to fulfill the
25 requirements of section 3 of P.L.1977, c.39 (C.40A:9-140.9).
26 Instead, the municipality shall provide the chief financial officer
27 with a written copy of the shared service agreement or joint meeting
28 agreement entered into by the municipality, and a letter stating that
29 the position of chief financial officer in the municipality is being
30 eliminated as the result of the shared service agreement or joint
31 meeting agreement.

32 (cf: P.L.1991, c.175, s.6)

33

34 10. Section 5 of P.L.1988, c.110 (C. 40A:9-140.10) is amended
35 to read as follows:

36 5. Notwithstanding the provisions of any law to the contrary, in
37 every municipality there shall be a chief financial officer appointed
38 by the governing body of the municipality. The requirement that
39 every municipality shall have a chief financial officer may be
40 fulfilled by the sharing of a chief financial officer with another
41 municipality or municipalities under a shared service agreement or
42 a joint contract for a joint meeting agreement entered into pursuant
43 to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.). The term
44 of office shall be four years, which shall run from January 1 in the
45 year in which the chief financial officer is appointed. The
46 compensation for the chief financial officer shall be separately set
47 forth in a municipal salary ordinance.

S533 NORCROSS

1 If a governing body fails or refuses to comply with this section,
2 and has received an order from the director to do so, the members
3 of a governing body who willfully fail or refuse to comply shall
4 each be subject to a personal penalty of \$25 for each day after the
5 date fixed for final action that failure or refusal to comply
6 continues. The amount of the penalty may be recovered by the
7 director in the name of the State as a personal debt of the member
8 of the governing body, and shall be paid, upon receipt, into the
9 State Treasury.

10 For the purposes of this section, the definition of just cause for
11 removal of a chief financial officer shall include the elimination of
12 the position of chief financial officer in the municipality as the
13 result of the municipality's entering into a shared service agreement
14 or a joint contract for a joint meeting for the provision of chief
15 financial officer services with another municipality or
16 municipalities pursuant to the provisions of P.L.2007, c.63
17 (C.40A:65-1 et seq.). The removal of a chief financial officer under
18 this section shall not require the municipality to fulfill the
19 requirements of subsection a. of section 3 of P.L.1977, c.39
20 (C.40A:9-140.9). Instead, the municipality shall provide the chief
21 financial officer with a written copy of the shared service agreement
22 or joint meeting agreement entered into by the municipality, and a
23 letter stating that the position of chief financial officer in the
24 municipality is being eliminated as the result of the shared service
25 agreement or joint meeting agreement.
26 (cf: P.L.1991, c.175, s.8)

27
28 11. N.J.S.40A:9-141 is amended to read as follows:
29 40A:9-141. Notwithstanding any other law the governing body
30 or chief executive, as shall be appropriate to the form of
31 government of the municipality, by ordinance, shall provide for the
32 appointment of a municipal tax collector and the compensation of
33 the tax collector shall be fixed in the manner otherwise provided by
34 law. The requirement that every municipality shall have a
35 municipal tax collector may be fulfilled by the sharing of a
36 municipal tax collector with another municipality or municipalities
37 under a shared service agreement or a joint contract for a joint
38 meeting entered into pursuant to the provisions of P.L.2007, c.63
39 (C.40A:65-1 et seq.). The governing body may, by resolution, set
40 appropriate hours of operation of the tax collector's office and the
41 work hours of the tax collector, commensurate with the
42 compensation paid to the tax collector, and all personnel assigned to
43 the tax collector's office. The office of municipal tax collector and
44 municipal treasurer, or municipal clerk may be held by the same
45 person.
46 (cf: P.L.2000, c.126, s.22)

S533 NORCROSS

1 12. Section 8 of P.L.1979, c.384 (C.40A:9-145.8) is amended to
2 read as follows:

3 8. Notwithstanding the provisions of any other law to the
4 contrary, any person who:

5 a. Shall be reappointed tax collector subsequent to having
6 received a tax collector certificate pursuant to section 3 or 4 of
7 P.L.1979, c.384, or holds a tax collector certificate issued pursuant
8 to N.J.S.40A:9-141, section 2 of P.L.1979, c.384 (C.40A:9-145.2),
9 and section 6 of P.L.1993, c.25 (C.40A:9-145.3a), and having
10 served as tax collector or performed the duties of tax collector for
11 not less than four consecutive years immediately prior to such
12 reappointment; or,

13 b. shall have acquired tenure; shall hold his office during good
14 behavior, efficiency, and compliance with requirements for
15 continuing education pursuant to sections 6 and 7 of P.L.1993, c.25
16 (C.40A:9-145.3a and C.40A:9-145.3b), notwithstanding that such
17 reappointment was for a fixed term of years; and he shall not be
18 removed therefrom for political reasons but only for good cause
19 shown and after a proper hearing before the director or his designee.

20 c. The removal of a municipal tax collector shall be only upon
21 a written complaint setting forth with specificity the charge or
22 charges against him. The complaint shall be filed with the
23 municipal clerk and the director and a certified copy thereof shall
24 be served upon the person so charged, with notice of a designated
25 hearing date before the director or his designee, which shall be not
26 less than 30 days nor more than 60 days from the date of service of
27 the complaint. Such date may be extended by the Superior Court
28 for good cause shown upon the application of either party. The
29 person so charged and the complainant shall have the right to be
30 represented by counsel and the power to subpoena witnesses and
31 documentary evidence together with discovery proceedings. The
32 provisions of this section shall apply to every person actually in
33 office as tax collector or performing the duties of tax collector
34 whether or not in the classified service under Title 11A, Civil
35 Service, of the New Jersey Statutes.

36 d. For the purposes of this section, the definition of good cause
37 for removal of a tax collector may include the failure of a tax
38 collector to meet the continuing education requirement set forth in
39 sections 6 and 7 of P.L.1993, c.25 (C.40A:9-145.3a and C.40A:9-
40 145.3b).

41 e. For the purposes of this section, the definition of good cause
42 for removal of a tax collector shall include the elimination of the
43 position of tax collector in the municipality as the result of the
44 municipality's entering into a shared service agreement or a joint
45 contract for a joint meeting for the provision of tax collector
46 services with another municipality or municipalities pursuant to the
47 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.). The removal of

1 a tax collector under this section shall not require the municipality
2 to fulfill the requirements of section 8 of P.L.1979, c.384 (C.40A:9-
3 145.8). Instead, the municipality shall provide the tax collector
4 with a written copy of the shared service agreement or joint contract
5 for a joint meeting entered into by the municipality, and a letter
6 stating that the position of tax collector in the municipality is being
7 eliminated as the result of the shared service agreement or joint
8 contract for a joint meeting.
9 (cf: P.L.1993, c.25, s.5)

10

11 13. N.J.S.40A:9-146 is amended to read as follows:

12 40A:9-146. The governing body or chief executive, as shall be
13 appropriate to the form of government of the municipality shall
14 provide for the appointment of a tax assessor and such deputy tax
15 assessors as it may determine necessary. The requirement that
16 every municipality shall have a tax assessor and any such deputy
17 tax assessors as it deems necessary may be fulfilled by the sharing
18 of a tax assessor and any necessary deputy tax assessors with
19 another municipality or municipalities under a shared service
20 agreement or joint contract for a joint meeting entered into pursuant
21 to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.). The
22 appointing authority may, by resolution or order as appropriate, set
23 the total number of weekly hours of operation of the tax assessor's
24 office and the total number of weekly work hours of the tax
25 assessor, commensurate with the compensation paid to the tax
26 assessor. The appointing authority shall not set the specific work
27 hours of the tax assessor. The governing body, by ordinance, shall
28 determine the amount of compensation of such assessors.
29 (cf: P.L.2000, c.126, s.23)

30

31 14. Section 7 of P.L.1967, c.44 (C.54:1-35.31) is amended to
32 read as follows:

33 7. a. Notwithstanding the provisions of any other law to the
34 contrary, every person

35 (1) who, upon reappointment or re-election subsequent to
36 having received a tax assessor certificate and having served as tax
37 assessor or performed the duties of assessor for not less than four
38 consecutive years immediately prior to such reappointment or re-
39 election, or

40 (2) who, on or before June 30, 1969, shall have received a tax
41 assessor certificate while actually in office as assessor or
42 performing the duties of an assessor, and who, on or before June 30,
43 1969, shall have served as assessor or performed the duties of
44 assessor for not less than four consecutive years,

45 shall hold his position during good behavior and efficiency and
46 compliance with requirements for continuing education pursuant to
47 section 1 of P.L.1999, c.278 (C.54:1-35.25b), notwithstanding that

S533 NORCROSS

1 such reappointment or re-election was for a fixed term of years, and
2 he shall not be removed therefrom for political reasons but only for
3 good cause shown and after a proper hearing before the director or
4 his designee after due notice. A person who was formerly an
5 assessor, a secretary of a board of assessors or a member of a board
6 of assessors who shall have become by virtue of this amendatory
7 and supplementary act, P.L.1981, c.393, a deputy tax assessor or an
8 assessor, and who has not met the requirements of (1) or (2) above
9 shall not be removed during his term in office for political reasons,
10 but only for good cause shown and after a proper hearing before the
11 director or his designee after due notice. In municipalities
12 operating under forms of government where the assessor served at
13 the pleasure of the appointing authority for an unlimited term of
14 office, receipt of a tax assessor certificate and continuance in
15 service as assessor after completion of 4 consecutive years of
16 service shall be deemed the equivalent of reappointment. The
17 provisions of this section shall apply to every person actually in
18 office as assessor or performing the duties of an assessor whether in
19 the classified service under Title 11A, Civil Service, or in a
20 municipality which has not adopted Title 11A, Civil Service. For
21 the purpose of this section, "good cause" shall include the failure of
22 a tax assessor to meet the continuing education requirement
23 required by section 1 of P.L.1999, c.278 (C.54:1-35.25b), and such
24 failure shall render a tax assessor ineligible for service as a tax
25 assessor.

26 b. For the purposes of this section, the definition of good cause
27 for removal of a tax assessor shall include the elimination of the
28 position of tax assessor in the municipality as the result of the
29 municipality's entering into a shared service agreement or a joint
30 contract for a joint meeting for the provision of tax assessor
31 services with another municipality or municipalities pursuant to the
32 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.). The removal of
33 a tax collector under subsection a. of this section shall not require
34 the municipality to fulfill the requirements of that section. Instead,
35 the municipality shall provide the tax assessor with a written copy
36 of the shared service agreement or joint contract for a joint meeting
37 entered into by the municipality, and a letter stating that the
38 position of tax assessor in the municipality is being eliminated as
39 the result of the shared service agreement or joint contract for a
40 joint meeting.

41 (cf: P.L.1999, c.278, s.2)

42

43 15. N.J.S.40A:9-140 is amended to read as follows:

44 40A:9-140. In every municipality the governing body, by
45 ordinance, shall provide for the appointment of a municipal
46 engineer and fix his compensation in an annual salary or fixed fee
47 basis or at an hourly rate and based upon actual time and expenses

S533 NORCROSS

1 agreed on prior to the rendering of the services. The requirement
2 that every municipality shall have a municipal engineer may be
3 fulfilled by the sharing of a municipal engineer with another
4 municipality or municipalities under a shared service agreement or
5 joint contract for a joint meeting entered into pursuant to the
6 provisions of P.L.2007, c.63 (C.40A:65-1 et seq.). No municipal
7 engineer shall be compensated by receiving a percentage of the
8 contract for which he renders services. Unless otherwise provided
9 by law his term of office shall be 3 years.

10 (cf: P.L.1975, c.285, s.1)

11

12 16. N.J.S.40A:9-152 is amended to read as follows:

13 40A:9-152. Whenever a person has or shall have held the office
14 of municipal treasurer for 10 consecutive years, the governing body
15 of the municipality may grant tenure in office to such person. In the
16 event the governing body fails to grant tenure in office to a
17 municipal treasurer who has held that office for 10 consecutive
18 years, a petition may be filed for a referendum vote on the question
19 of whether the municipal treasurer shall continue to hold office
20 during good behavior and efficiency, and shall not be removed
21 therefrom except for just cause and then only after public hearing
22 upon a written complaint setting forth the charge or charges against
23 him. The petition shall be signed by at least 10% of the registered
24 voters of the municipality and filed with the municipal clerk. Upon
25 the filing of the petition the question shall be submitted to the
26 voters at the next general election which shall occur not less than
27 60 days thereafter. The municipal clerk shall cause the question to
28 be placed upon the official ballot to be used at the general election
29 in the manner provided by law in substantially the following form:
30 "Shall the municipal treasurer continue to hold office during good
31 behavior and efficiency and not be removed therefrom except for
32 just cause and then only after public hearing upon a written
33 complaint setting forth the charge or charges against him?"

34 Immediately to the left of the question there shall be printed the
35 words "Yes" and "No" , each with a square, in either of which the
36 voter may make a cross (x), or a plus sign (+) or check mark (X)
37 according to his choice. There shall also be printed the following:
38 "Place a cross (x), or a plus sign (+) or check mark (X) in one of
39 the above squares indicating your choice." Where voting machines
40 are used, voting thereon shall be equivalent to the foregoing.

41 The election shall be held in accordance with the general law
42 relating to public questions to be voted on in a single municipality
43 at elections as provided for by Title 19 (Elections) of the Revised
44 Statutes.

45 For the purposes of this section, the definition of good cause for
46 removal of a tenured municipal treasurer shall include the
47 elimination of the position of municipal treasurer in the

1 municipality as the result of the municipality's entering into a
2 shared service agreement or a joint contract for a joint meeting for
3 the provision of municipal treasurer services with another
4 municipality or municipalities pursuant to the provisions of
5 P.L.2007, c.63 (C.40A:65-1 et seq.). The removal of a tenured
6 municipal treasurer under this section shall not require the
7 municipality to fulfill the requirements of N.J.S.40A:9-152.1.
8 Instead, the municipality shall provide the municipal treasurer with
9 a written copy of the shared service agreement or joint contract for
10 a joint meeting entered into by the municipality, and a letter stating
11 that the position of municipal treasurer in the municipality is being
12 eliminated as the result of the shared service agreement or joint
13 contract for a joint meeting.
14 (cf: N.J.S.40A:9-152)

15
16 17. Section 7 of P.L.1991,c.258 (C.40A:9-154.6g) is amended to
17 read as follows:

18 7. a. Commencing January 1, 1997, the governing body or
19 chief executive officer of each municipality, as appropriate, shall
20 appoint a principal public works manager for that municipality.
21 The requirement that every municipality shall have a principal
22 public works manager may be fulfilled by the sharing of a principal
23 public works manager with another municipality or municipalities
24 under a shared service agreement or joint contract for a joint
25 meeting entered into pursuant to the provisions of P.L.2007, c.63
26 (C.40A:65-1 et seq.).

27 b. No person shall be selected to perform the duties of a
28 principal public works manager unless he holds a public works
29 manager certificate issued pursuant to section 3 of P.L.1991, c.258
30 (C.40A:9-154.6c), which certificate has not been revoked or
31 suspended in accordance with the provisions of subsection b. of
32 section 6 of P.L.1991, c.258 (C.40A:9-154.6f).

33 c. When a vacancy occurs in a position in which the duties of
34 principal public works manager are performed, the governing body
35 or chief executive officer, as appropriate, may select, for a period
36 not to exceed one year and commencing on the date of the vacancy,
37 a person who does not hold a certified public works manager
38 certificate to perform on an interim basis, the duties of a principal
39 public works manager. Any person so selected may be selected as
40 principal public works manager for one additional year; provided,
41 however, that no person shall perform on an interim basis, the
42 duties of a temporary principal public works manager for more than
43 two years in any municipality, and also provided that, in a
44 municipality operating under the provisions of Title 11A, the Civil
45 Service Act, no person so selected on an interim basis shall be
46 required to perform out-of-title work.

S533 NORCROSS

1 d. Any municipality that conducts minimal or no public works
2 activity may apply to the director for an exemption from this
3 section. Such exemptions shall be valid for five years from the date
4 of issuance, at which time the municipality must reapply for an
5 exemption or select a person to perform the duties of a principal
6 public works manager. Upon receipt of an application for
7 exemption, the director shall have the public works advisory board
8 review the application and make a recommendation to the director
9 for approval or denial. If the director for good cause disagrees with
10 the recommendation, he shall advise the public works advisory
11 board of his decision and take any action he deems appropriate.

12 e. If a governing body or mayor fails or refuses to comply with
13 this section, and has received an order from the director to do so,
14 the members of a governing body or mayor who willfully fail or
15 refuse to comply shall each be subject to a personal penalty of \$25
16 for each day after the date fixed for final action that failure or
17 refusal to comply continues. The amount for the penalty may be
18 recovered by the director in the name of the State as a personal debt
19 of the member of the governing body or mayor, and shall be paid,
20 upon receipt, into the State Treasury.
21 (cf: P.L.1995, c.46, s.6)

22

23 18. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill, the "Common Sense Shared Services Act," revises
29 current law to ensure that certain, statutorily-required municipal
30 officials who earn tenure in their positions do not stand in the way
31 of a shared service agreement, or joint contract for a joint meeting,
32 for the provision of local services, to help control property taxes.

33 The bill would require that notwithstanding the statutory
34 requirements that every municipality appoint a municipal clerk,
35 chief financial officer, assessor, tax collector, public works
36 manager, and municipal engineer, those requirements may be
37 fulfilled by the sharing of those personnel with another municipality
38 or municipalities under a shared service agreement or joint contract
39 for a joint meeting entered into pursuant to the provisions of the
40 "Uniform Shared Services and Consolidation Act," P.L.2007, c.63
41 (C.40A:65-1 et seq.).

42 The bill also provides that, notwithstanding the tenure in office
43 that can be earned by a municipal clerk, chief financial officer,
44 assessor, tax collector, public works manager, and municipal
45 treasurer (a municipal engineer is not able to earn tenure under
46 current law), these personnel may be removed from office to
47 effectuate a shared service agreement or a joint contract for a joint

S533 NORCROSS

1 meeting for the services of their positions. The bill requires that the
2 definition of good cause, or just cause, as the case may be, for
3 removal of one of these tenured local officials, shall include the
4 elimination of the position in the municipality as the result of the
5 municipality's entering into a shared service agreement or a joint
6 contract for a joint meeting for the provision of municipal treasurer
7 services with another municipality or municipalities pursuant to the
8 provisions of the "Uniform Shared Services and Consolidation
9 Act." The bill further requires that the removal of a tenured local
10 official shall not require a municipality to fulfill the requirements of
11 current law regarding the removal of a tenured official; instead, a
12 municipality simply must provide the tenured local official with a
13 written copy of the shared service agreement or joint contract for a
14 joint meeting entered into by the municipality, together with a letter
15 stating that the tenured official's position in the municipality is
16 being eliminated as the result of the shared service agreement or
17 joint contract for a joint meeting.

18 Finally, the bill authorizes municipalities to enter into shared
19 service agreements or joint contracts for joint meetings for fire
20 protection purposes (the fire departments must be paid fire
21 departments, not volunteer or part-paid departments), and allows for
22 the recognition and preservation of the seniority, pension rights and
23 tenure of every full-time firefighter involved in the shared service
24 or joint meeting.

25 The purpose of this bill is to remove any impediment to the
26 sharing of the services of the afore-mentioned tenured local
27 officials, and to authorize the sharing of firefighter personnel, either
28 by a shared service agreement or by a joint contract for a joint
29 meeting, in order to ensure that local property taxpayers can be
30 provided with more efficient, and less-costly, local government
31 services.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 533**

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 2012

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate, No. 533.

This bill, the “Common Sense Shared Services Act,” revises current law to ensure that certain, statutorily-required municipal officials who earn tenure in their positions do not stand in the way of a shared service agreement for the provision of local services, to help control property taxes.

The bill would require that notwithstanding the statutory requirements that every municipality appoint a municipal clerk, chief financial officer, assessor, tax collector, principal public works manager, and municipal engineer, those requirements may be fulfilled by the sharing of those personnel with another municipality or municipalities under a shared service agreement entered into pursuant to the provisions of the “Uniform Shared Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et seq.).

The bill also provides that, notwithstanding the tenure in office that can be earned by a municipal clerk, chief financial officer, assessor, tax collector, superintendent of public works, and municipal treasurer, these personnel may be removed from office to effectuate a shared service agreement for the services of their positions. The bill requires that such a tenured local official may be dismissed to effectuate the sharing of a service entered into pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.) and such dismissal shall be deemed to be in the interest of the economy or efficiency of the participants in the shared service agreement. The removal of such a tenured local official would not require a municipality to fulfill any statutory requirements concerning the removal of such a tenured official. Instead, the municipality shall provide the tenured local official with a written copy of the shared service agreement entered into by the municipality, and a letter stating that the position of the tenured local official in the municipality is being eliminated for reasons of economy or efficiency as the result of the shared service agreement.

Under the bill, the duration of any shared service agreement under which a tenured municipal clerk, chief financial officer, assessor, tax

collector, municipal treasurer, or superintendent of public works has been dismissed in order to effectuate a shared service agreement under P.L.2007, c.63 (C.40A:65-1 et seq.) cannot be less than one year. The bill also provides that such a tenured official must be reappointed to his or her former position, and shall regain his or her tenured status, if the shared service agreement is cancelled, or expires, within the two-year period immediately following the dismissal of that person.

The purpose of this bill is to remove any impediment to the sharing of the services of the afore-mentioned local officials in order to ensure that local property taxpayers can be provided with more efficient, and less-costly, local government services.

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 533

with Senate Floor Amendments
(Proposed by Senator NORCROSS)

ADOPTED: JUNE 25, 2012

These proposed floor amendments would revise provisions of the "Uniform Shared Services and Consolidation Act," sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35) to require that:

- an estimate of the cost savings anticipated to be achieved by the local units that are the parties to a shared services agreement must be filed with the copy of the agreement required to be sent to the Division of Local Government Services for its information when a shared services agreement is entered into under the "Uniform Shared Services and Consolidation Act."
- in a shared service agreement for the services of a municipal clerk, a chief financial officer, an assessor, a tax collector, a municipal treasurer, or a municipal superintendent of public works, the agent-party (defined in the law as a party that performs a service under a shared service agreement) must select for employment under the agreement one of the employees of the local units that are party to the agreement who was employed in that same capacity prior to the approval of the agreement;
- at least two weeks before the adoption of the resolution authorizing a shared services agreement, a local governing body must provide a copy of the agreement to all affected employees of the local units that are party to the agreement, and a copy of the agreement must be open to public inspection at the offices of the local unit; and
- a public hearing must be held on the agreement, so that all persons having an interest in the agreement have an opportunity to present comments or objections concerning the content of the agreement, or the effect of the agreement. The amendments requires that during the public hearing, the local unit must provide an overview of the terms of the agreement and an estimate of the cost savings anticipated to be achieved by the local units that are the parties to the agreement.

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 533
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: AUGUST 3, 2012

SUMMARY

Synopsis: The “Common Sense Shared Services Act”; concerns shared service agreements for certain local service personnel under “Uniform Shared Services and Consolidation Act.”

Type of Impact: Indeterminate impact on municipal expenditures.

Agencies Affected: Municipalities

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost	Indeterminate Impact – See comments below		

- The Office of Legislative Services (OLS) has determined that the enactment of the First Reprint to the Senate Committee Substitute for Senate Bill No. 533 would have an indeterminate impact on municipal finances.
- The implementation of a shared services agreement or joint meeting could, over the long-term, result in a reduction in costs incurred by those entities to provide for functions currently executed by tenured local officials affected by this legislation.
- The bill may reduce certain financial and procedural obstacles to the voluntary implementation of these types of service delivery initiatives by exempting municipalities from current statutory requirements regarding the removal of tenured local officials.
- Municipalities that enter into shared services agreements and joint meetings may incur significant up-front costs in the form of terminal leave payments and compensation for unused leave.

BILL DESCRIPTION

The First Reprint to the Senate Committee Substitute for Senate Bill No. 533 of 2012, the “Common Sense Shared Services Act,” revises current law to ensure that certain statutorily-required municipal officials who earn tenure in their positions do not stand in the way of a shared service agreement for the provision of local services, intended to help control property taxes. This bill requires that notwithstanding the statutory requirements that every municipality appoint a municipal clerk, chief financial officer, assessor, tax collector, principal public works manager, and municipal engineer, those requirements may be fulfilled by the sharing of those personnel with another municipality or municipalities under a shared service agreement entered into pursuant to the provisions of the “Uniform Shared Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et seq.).

This legislation also provides, that notwithstanding the tenure in office that can be earned by a municipal clerk, chief financial officer, assessor, tax collector, superintendent of public works, and municipal treasurer, those personnel may be removed from office to effectuate a shared services agreement for the services of their positions. The bill requires that such a tenured official may be dismissed to effectuate the sharing of a service pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.) and such dismissal shall be deemed to be in the interest of the economy or efficiency of the participants in the shared service agreement. The removal of such a tenured local official would not require a municipality to fulfill any statutory requirements concerning the removal of such a tenured official under other circumstances. Instead, the municipality would provide the tenured local official with a written copy of the shared service agreement entered into by the municipality, and a letter stating that the position of the tenured local official in the municipality is being eliminated for reasons of economy or efficiency as the result of the shared service agreement.

As amended, the bill requires that an estimate of the cost savings anticipated to be achieved by the local units that are parties to the shared services agreement must be filed with the copy of the agreement required to be sent to the Division of Local Government Services. All employees of the local units that are affected by the agreement must be provided with a copy of the agreement at least two weeks before the adoption of a resolution authorizing the shared service. A copy of the agreement must also be available for public inspection at the offices of the local unit. A public hearing must be held on the agreement, prior to its adoption, and the local unit must provide an overview of its terms and an estimate of the anticipated cost savings at that time.

Under the bill, the duration of any shared service agreement under which a tenured municipal clerk, chief financial officer, assessor, tax collector, municipal treasurer, or superintendent of public works has been dismissed in order to effectuate a shared services agreement under P.L.2007, c.63 (C.40A:65-1 et seq.) cannot be less than one year. The service provider must select for employment under the agreement an employee of one of the local units party to the agreement who was employed in the same capacity prior to its approval. The bill also provides that such a tenured official must be reappointed to his or her former position, and shall regain his or her tenured status, if the shared service agreement is cancelled or expires, within the two-year period immediately following the dismissal of that person.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS has determined that the enactment of the First Reprint to the Senate Committee Substitute for Senate Bill No. 533 would have an indeterminate impact on local expenditures. The consolidation of two or more offices currently held by a tenured municipal official, or the implementation of a joint meeting or shared services agreement to provide for the functions and services currently executed by those officials, could result in a reduction in costs incurred by those entities. The OLS cannot determine the total amount of savings that would result from the implementation of the bill because that amount would be affected by the details of each consolidation, joint meeting, and shared service agreement. Local units that enter into a joint meeting or shared service agreement may experience reductions in costs associated with equipment, maintenance, and personnel. There are a number of factors that affect the amount of cost savings that would result from consolidation and the sharing of services, such as the size of the entities to be consolidated and type of service to be shared. To the extent the bill exempts municipalities that enter into an agreement for the sharing of services provided by tenured local officials from any statutory requirements concerning the removal of that official, the bill may reduce certain financial and procedural obstacles to the voluntary implementation of these types of service delivery initiatives.

Any municipality that consolidates or enters into a shared services agreement or joint meeting may incur significant up-front costs that would be greater than any savings in the initial period following its implementation. For example, a municipality is required to issue terminal leave payments to employees terminated for reasons of economy or efficiency. Current law requires the local unit that is providing the service under a joint meeting or shared services agreement to provide each employee who is terminated for reasons of economy or efficiency with a payment of one month of their regular base salary at the time of termination for each five-year period of past service with the local unit. Also, a tenured local official removed in order to effectuate a shared services agreement must also be paid compensation for any unused leave, such as sick time and vacation time, in accordance with any contractual provisions, municipal ordinances, and State laws in effect at the time their employment is terminated.

Section: Local Government

*Analyst: Scott Brodsky
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE SENATE, No. 533

STATE OF NEW JERSEY

DATED: JUNE 20, 2013

The Assembly Budget Committee reports favorably Senate Bill No. 533(SCS/1R).

The bill is entitled the “Common Sense Shared Services Act.” The bill modifies current law to ensure that certain statutorily-required tenure-earning municipal officials do not impede the use of shared service agreements for local services as a means of controlling property taxes.

The bill directs that at least two weeks before the adoption of a resolution authorizing a shared services agreement, a local governing body must provide a copy of the agreement to all affected employees of the local units that are party to the agreement, and a copy of the agreement must be open to public inspection at the offices of the local unit. The bill further directs that a public hearing must be held on the agreement, so that all persons having an interest in the agreement have an opportunity to present comments or objections concerning the content of the agreement, or the effect of the agreement. The bill requires that during the public hearing, the local unit must provide an overview of the terms of the agreement and an estimate of the cost savings anticipated to be achieved by the local units entering the agreement.

The bill requires that notwithstanding the statutory requirements that every municipality appoint a municipal clerk, chief financial officer, assessor, tax collector, principal public works manager, and municipal engineer, those requirements may be fulfilled by the sharing of those personnel with another municipality under a shared service agreement entered into pursuant to the provisions of the “Uniform Shared Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et seq.).

The bill also provides that, notwithstanding the tenure in office that can be earned by a municipal clerk, chief financial officer, assessor, tax collector, superintendent of public works, and municipal treasurer, these personnel may be removed from office to effectuate a shared

service agreement for the services of their positions. The bill requires that such a tenured local official may be dismissed to effectuate the sharing of a service entered into pursuant to the “Uniform Shared Services and Consolidation Act” and such dismissal shall be deemed to be in the interest of the economy or efficiency of the participants in the shared service agreement. The removal of such a tenured local official would not require a municipality to fulfill any statutory requirements concerning the removal of such a tenured official. Instead, the municipality shall provide the tenured local official with a written copy of the shared service agreement entered into by the municipality, and a letter stating that the position of the tenured local official in the municipality is being eliminated for reasons of economy or efficiency as the result of the shared service agreement.

Under the bill, the duration of any shared service agreement under which a tenured municipal clerk, chief financial officer, assessor, tax collector, municipal treasurer, or superintendent of public works has been dismissed in order to effectuate a shared service agreement under the “Uniform Shared Services and Consolidation Act” cannot be less than one year. The bill also provides that such a tenured official must be reappointed to his or her former position, and shall regain his or her tenured status, if the shared service agreement is cancelled, or expires, within the two-year period immediately following the dismissal of that person.

The bill specifies that in a shared service agreement for the services of a municipal clerk, a chief financial officer, an assessor, a tax collector, a municipal treasurer, or a municipal superintendent of public works, the agent-party must select for employment under the agreement one of the employees of the local units entering the agreement who was employed in that same capacity prior to the approval of the agreement.

The bill also requires an estimate of the cost savings, anticipated to be achieved by the local units that are entering the shared services agreement, to be filed with a copy of the agreement with the Division of Local Government Services.

As reported by the committee, Senate Bill No. 533(SCS/1R) is identical to Assembly Bill No. 1401 as substituted and reported by the committee.

FISCAL IMPACT:

The bill is likely to have an indeterminate impact on municipal finances. The implementation of a shared services agreement or joint meeting could, over the long-term, result in a reduction in costs incurred by those entities to provide for functions currently executed by tenured local officials affected by this legislation. Local units that enter into a joint meeting or shared service agreement may experience reductions in costs associated with equipment, maintenance, and personnel. There are a number of factors that affect that amount of

cost savings that would result from consolidation and the sharing of services, such as the size of the entities to be consolidated and the type of service to be shared. The bill may also reduce certain financial procedural obstacles to the voluntary implementation of these types of service delivery initiatives by exempting municipalities from current statutory requirements regarding the removal of tenured local officials. Finally, municipalities that enter into shared services agreements and joint meetings may incur significant up-front costs in the form of terminal leave payments and compensation for unused leave.

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 533

with Assembly Floor Amendments
(Proposed by Assemblyman WILSON)

ADOPTED: JUNE 27, 2013

These floor amendments convert the bill into a pilot program to take place in Camden, Morris, Ocean, Sussex and Warren counties.

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 533
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JULY 17, 2013

SUMMARY

- Synopsis:** The “Common Sense Shared Services Pilot Program Act”; concerns shared service agreements and joint contracts, in certain municipalities, for certain tenured local employees under “Uniform Shared Services and Consolidation Act.”
- Type of Impact:** Indeterminate impact on municipal expenditures incurred by pilot municipalities in pilot counties.
- Agencies Affected:** Pilot municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost	Indeterminate Impact – See comments below		

- The Office of Legislative Services has determined that the enactment of the Second Reprint to the Senate Committee Substitute for Senate Bill No. 533 would have an indeterminate impact on the finances of pilot municipalities.
- The implementation of a shared services agreement or joint meeting could, over the long-term, result in a reduction in costs incurred by pilot municipalities to provide for functions currently executed by tenured officials affected by this legislation.
- The bill may reduce certain financial and procedural obstacles to the voluntary implementation of these types of service delivery initiatives by exempting municipalities from current statutory requirements regarding the removal of tenured local officials.
- Municipalities that enter into shared services agreements and joint meetings may incur significant up-front costs in the form of terminal leave payments and compensation for unused leave.

BILL DESCRIPTION

The Second Reprint to the Senate Committee Substitute for Senate Bill No. 533 of 2012, the “Common Sense Shared Services Pilot Program Act,” revises current law to establish a pilot program that allows municipalities in five “pilot counties” (Camden, Morris, Ocean, Sussex, and Warren) to enter into agreements that allow for the sharing of services provided by certain statutorily-required municipal officials (municipal clerk, chief financial officers, assessors, tax collector, principal public works manager, and superintendent of public works). The sharing of these personnel would be accomplished under a shared services agreement entered into pursuant to the provisions of the “Uniform Shared Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et seq.). The amended committee substitute defines a “pilot municipality” as a municipality located in a pilot county that enters into a shared services agreement pursuant to the “Uniform Shared Services and Consolidation Act,” for the services of a local employee.

This legislation also provides, that notwithstanding the tenure in office that can be earned by a municipal clerk, chief financial officer, assessor, tax collector, superintendent of public works, and municipal treasurer in a pilot municipality, those personnel may be removed from office to effectuate a shared services agreement for the services of their positions. The amended committee substitute requires that a tenured official may be dismissed to effectuate the sharing of a service pursuant to the provisions of the “Uniform Shared Services and Consolidation Act,” and such dismissal shall be deemed to be in the interest of the economy or efficiency of the participants in the shared services agreement. The removal of the tenured official would not require a pilot municipality to fulfill any statutory requirements concerning the removal of that tenured official under other circumstances. Instead, the pilot municipality would provide the tenured official with a written copy of the shared services agreement and a letter stating that the position of the tenured official in the pilot municipality is being eliminated for reasons of economy or efficiency as the result of the shared services agreement.

As amended, the committee substitute requires that an estimate of the cost savings anticipated to be achieved by the local units that are parties to the shared services agreement must be filed with the Division of Local Government Services in the Department of Community Affairs. All employees of pilot municipalities affected by the agreement must be provided with a copy of the agreement at least two weeks before the adoption of a resolution authorizing the shared service. A copy of the agreement must also be available for public inspection at the office of the pilot municipality. A public hearing must be held on the agreement, and the pilot municipality must provide an overview of its terms and an estimate of the anticipated savings at that time.

Under the amended committee substitute, the duration of any shared services agreement under which a tenured municipal clerk, chief financial officer, assessor, tax collector, principal public works manager, and superintendent of public works has been dismissed in order to effectuate a shared services agreement under the “Uniform Shared Services and Consolidation Act,” cannot be less than two years. The service provider must select, for employment under the agreement, an employee of one of the pilot municipalities party to the agreement who was employed in the same capacity prior to the approval of the agreement. The amended committee substitute also provides that such a tenured official must be reappointed to his or her former position, and shall remain in his or her tenured status, if the shared services agreement is cancelled or expires within the two-year period immediately following the dismissal of that person.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services has determined that the enactment of the Second Reprint to the Senate Committee Substitute for Senate Bill No. 533 would have an indeterminate impact on expenditures incurred by pilot municipalities. The consolidation of two or more offices currently held by a tenured municipal official, or the implementation of a joint meeting or shared services agreement to provide for the functions and services currently executed by those officials, could result in a reduction in costs incurred by those entities. The OLS cannot determine the total amount of savings that would result from the implementation of the amended committee substitute because that amount would be affected by the details of each consolidation, joint meeting, and shared services agreement. Pilot municipalities that enter into a joint meeting or shared services agreement may experience reductions in costs associated with equipment, maintenance, and personnel. There are a number of factors that affect the amount of cost savings that would result from consolidation and the sharing of services, such as the size of the entities to be consolidated and type of service to be shared. To the extent the amended committee substitute exempts pilot municipalities that enter into an agreement for the sharing of services provided by tenured local officials from any statutory requirements concerning the removal of that official, the amended committee substitute may reduce certain financial and procedural obstacles to the voluntary implementation of these types of service delivery initiatives.

Any pilot municipality that consolidates or enters into a shared services agreement or joint meeting may incur significant up-front costs that would be greater than any savings in the initial period following its implementation. For example, all municipalities are required to issue terminal leave payments to employees terminated for reasons of economy or efficiency. Current law requires the local unit that is providing the service under a joint meeting or shared services agreement to provide each employee who is terminated for reasons of economy or efficiency with a payment of one month of their regular base salary at the time of termination for each five-year period of past service with the local unit. Also, a tenured local official removed in order to effectuate a shared services agreement must also be paid compensation for any unused leave, such as sick time and vacation time, in accordance with any contractual provisions, municipal ordinances, and State laws in effect at the time their employment is terminated.

Section: Local Government

Analyst: Scott A. Brodsky
Senior Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).