

40A: 9-165.1

LEGISLATIVE HISTORY CHECKLIST

(Municipal officials - Elected -  
Prescribe procedures for  
compensation)

MWSA 40A:9-165.1

LAWS OF 1979

CHAPTER 131

Bill No. S1095

Sponsor(s) Cafiero

Date Introduced April 24, 1978

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage according to Governor's recommendations Yes Amendments during passage denoted by asterisks XX

Date of Passage: Assembly June 22, 1978 Re-enacted June 28, 1979

Senate June 1, 1978 Re-enacted June 21, 1979

Date of approval July 6, 1979

Following statements are attached if available:

Sponsor statement	Yes	<del>XX</del>
Committee Statement: Assembly	Yes	<del>XX</del>
Senate	Yes	<del>XX</del>
Fiscal Note	<del>Yes</del>	No
Veto message	Yes	<del>XX</del>
Message on signing	Yes	<del>XX</del>

Following were printed:

Reports	<del>Yes</del>	No
Hearings	<del>Yes</del>	No



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SENATE, No. 1095

STATE OF NEW JERSEY

INTRODUCED APRIL 24, 1978

By Senator CAFIERO

Referred to Committee on County and Municipal Government

AN ACT concerning the compensation of certain elected public officials and revising parts of the statutory law.

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

1 1. Notwithstanding the provisions of any other law to the con-  
2 trary, the governing body of each municipality shall determine the  
3 salaries, wages or compensation of the members of the governing  
4 body and the mayor or other chief executive in accordance with  
5 the provisions of N. J. S. \***[40A:9-165]**\* \*\***[\*40A:9-10\*]**\*\*  
6 \*\***40A:9-165**\*\*. The time within which an ordinance determining  
7 said salaries, wages or compensation shall take effect, and the pro-  
8 cedure for protesting against the passage of any ordinance provid-  
9 ing for an increase in said salaries, wages or compensation shall be  
10 as provided in N. J. S. \***[40A:9-165]**\* \*\***[\*40A:9-10\*]**\*\*  
11 \*\***40A:9-165**\*\*.

1 2. All acts and parts of acts inconsistent with the provisions of  
2 this act are, to the extent of said inconsistency, superseded and  
3 the following are repealed:

- 4 P. L. 1971, c. 15 (C. 40:46-28.4);  
5 P. L. 1975, c. 292, s. 1 (C. 40:72-26);  
6 R. S. 40:81-2;  
7 P. L. 1962, c. 33, ss. 2, 3 (C. 40:81-2.1 and 40:81-2.2);  
8 P. L. 1958, c. 18, s. 2 (C. 40:87-60.1);  
9 P. L. 1953, c. 355 (C. 40:88-3.1 to 40:88-3.3);  
10 P. L. 1951, c. 43, s. 1 (C. 40:132-1.1);  
11 P. L. 1958, c. 17 (C. 40:132-1.2 and 40:132-1.3);  
12 P. L. 1977, c. 454 (C. 40:132-1.4);  
12 R. S. 40:146-14 through 40:146-16;  
13 P. L. 1946, c. 201 (C. 40:146-16.1);  
14 P. L. 1878, c. 96, s. 2 (R. S. 40:171-13);

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

15 P. L. 1878, c. 96, s. 3 (R. S. 40:171-14);

16 P. L. 1886, c. 253, s. 5 (R. S. 40:171-28);

17 P. L. 1949, c. 270 (C. 40:171-190.1);

18 P. L. 1960, c. 176 (C. 40:171-190.2 and 40:171-190.3);

19 P. L. 1955, c. 59 (C. 40:171-236 and 40:171-237).

1 3. Any ordinance heretofore adopted fixing the salaries, wages  
2 or compensation of the members of the governing body or the  
3 mayor or other chief executive of a municipality is hereby validated,  
4 ratified and confirmed.

1 4. This act shall take effect immediately.

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18 P. L. 1960, c. 176 (C. 40:171-190.2 and 40:171-190.3);

19 P. L. 1955, c. 59 (C. 40:171-236 and 40:171-237).

1 3. Any ordinance heretofore adopted fixing the salaries, wages  
2 or compensation of the members of the governing body or the  
3 mayor or other chief executive of a municipality is hereby validated,  
4 ratified and confirmed.

1 4. This act shall take effect immediately.

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#### STATEMENT

In June 1971, P. L. 1971, c. 200 was approved, adding chapter 9 to Title 40A of the New Jersey Statutes. This act was a revision of various statutory provisions relating to municipal officers and employees existing in Title 40 of the Revised Statutes.

N. J. S. 40A:9-165, a part of this revision, provides that a governing body of a municipality, by ordinance, shall fix and determine compensation to be paid to the governing body and mayor or other chief executive. Additionally, it fixes the time after which such an ordinance will take effect and prescribes the procedure for protesting the passage of such an ordinance. There also exists several statutory provisions throughout Title 40 which specifically provide limitations as to the amounts of compensation which may be paid to mayors and members of governing bodies in various municipalities, and which set forth referendum provisions at variance with N. J. S. 40A:9-165.

N. J. S. 40A:9-165 is by its terms general in nature and should be the exclusive authority under which a municipality may fix, increase or decrease compensation of members of its governing body and mayor, and the exclusive procedure for the holding of a referendum on salary ordinances.

This bill makes it clear that every municipality shall use the authority for fixing the compensation of the members of its governing body and mayor and the referendum procedure which is provided in N. J. S. 40A:9-165. The bill repeals those statutory sections which govern the fixing of compensation in specific municipalities and generally supersedes those statutory provisions which are inconsistent with the provisions of the bill.

S1095(1979)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

**SENATE, No. 1095**

with Senate amendments

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**STATE OF NEW JERSEY**

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DATED: JUNE 12, 1978

In June 1971, P. L. 1971, c. 200 was approved, adding chapter 9 to Title 40A of the New Jersey Statutes. This act was a revision of various statutory provisions relating to municipal officers and employees existing in Title 40 of the Revised Statutes.

N. J. S. 40A:9-165, a part of this revision, provides that a governing body of a municipality, by ordinance, shall fix and determine compensation to be paid to the governing body and mayor or other chief executive. Additionally, it fixes the time after which such an ordinance will take effect and prescribes the procedure for protesting the passage of such an ordinance. There also exist several statutory provisions throughout Title 40 which specifically provide limitations as to the amounts of compensation which may be paid to mayors and members of governing bodies in various municipalities, and which set forth referendum provisions at variance with N. J. S. 40A:9-165.

N. J. S. 40A:9-165 is by its terms general in nature and should be the exclusive authority under which a municipality may fix, increase or decrease compensation of members of its governing body and mayor, and the exclusive procedure for the holding of a referendum on salary ordinances.

This bill makes it clear that every municipality shall use the authority for fixing the compensation of the members of its governing body and mayor and the referendum procedure which is provided in N. J. S. 40A:9-165. The bill repeals those statutory sections which govern the fixing of compensation in specific municipalities and generally supersedes those statutory provisions which are inconsistent with the provisions of the bill.

The bill was amended on the Senate floor to bring into conformity with Assembly Bill No. 362, the "Local Initiative and Referendum Law," reported favorably by this committee.

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
**SENATE, No. 1095**

—◆—  
**STATE OF NEW JERSEY**  
—◆—

DATED: MAY 4, 1978

The sponsor's statement adequately expresses the purposes and provisions of the bill.

The following statutes are repealed by the bill:

1. P. L. 1971, c. 15 (C. 40:46-28.4), relates to maximum salaries of governing body (\$4,500.00) and mayor (\$6,500.00) in second class cities located in fifth class counties (Atlantic City, Long Branch City, Asbury Park City);

2. Section 1 of P. L. 1975, c. 292 (C. 40:72-26), relates to the manner in which salaries of mayors and commissioners of municipalities operating under the commission form of government are fixed by the governing bodies and the manner in which such salaries are subject to referenda;

3. R. S. 40:81-2, provides for maximum and minimum amounts of compensation to be paid to municipal council members in municipalities operating under municipal manager form of government;

4. Sections 2 and 3 of P. L. 1962, c. 33 (C. 40:81-2.1 and 2.2), provide for a procedure for fixing the salary of mayors of cities having a population in excess of 50,000 operating under the municipal manager form of government (no cities fulfill specifications);

5. Section 2 of P. L. 1958, c. 18 (C. 40:87-60.1), provides for a referendum procedure on salaries of officers in boroughs;

6. P. L. 1953, c. 355 (C. 40:88-3.1 to 40:88-3.3), provides for maximum salaries to be paid to mayors and councilmen in boroughs located in second class counties (Middlesex, Union, Passaic, Camden, Morris, Burlington, Mercer) according to borough population, and provides for a referendum procedure;

7. Section 1 of P. L. 1951, c. 43 (C. 40:132-1.1), provides for a maximum salary (\$4,000.00) for governing body members in towns having a population in excess of 20,000, and provides for a referendum procedure (Bloomfield in Essex, Westfield in Union);

8. P. L. 1958, c. 17 (C.40:132-1.2 and 1.3), provides for a **maximum** salary for mayors (\$1,500.00) and councilmen (\$1,000.00) in towns having a population of 5,000 or less located in third class counties, and provides for a referendum procedure (Clinton Town in Hunterdon);

9. P. L. 1977, c. 454 (C. 40:132-1.4), provides an optional statute under which may be fixed a maximum salary for mayors (\$2,500.00) and governing body members (\$1,500.00) in towns having a population of between 11,500 and 40,000 located in first class counties (Harrison, Secaucus and Kearny in Hudson, and Belleville and Nutley in Essex);

10. R. S. 40:146-14 through 40:146-16, relate to maximum salaries of township committeemen, according to township population and provide for a referendum procedure;

11. P. L. 1946, c. 201 (C. 40:146-16.1), provides for a **maximum** (\$3,000.00) and **minimum** (\$500.00) to be paid to township committeemen in townships located in sixth class counties (Lower, Middle, Upper and Dennis in Cape May);

12. Sections 2 and 3 of P. L. 1878, c. 96 (R. S. 40:171-13 and 40:171-14), relate to compensation for mayors and councilmen in cities having a population of 50,000 or more operating under city form of government;

13. Section 5 of P. L. 1886, c. 253 (R. S. 40:171-28), relates to the power of the governing body of cities operating under the city form of government to fix the salary of the mayor, and to appoint certain officers (no cities appear to be operating under the statute);

14. P. L. 1949, c. 270 (C. 40:171-190.1), relates to the maximum salary to be paid to the mayor and governing body members of third class cities located in fourth class counties (no cities fulfill these specifications);

15. P. L. 1960, c. 176 (C. 40:171-190.2 and 40:171-190.3), provides for a maximum salary to be paid to the mayor (\$1,000.00) and to the councilmen (\$700.00) in third class cities operating under city form of government located in first and second class counties, and provides for a referendum procedure (no cities fulfill these specifications); and,

16. P. L. 1955, c. 59 (C. 40:171-236 and 40:171-237), provides for a maximum salary for the mayor (\$4,500.00) and governing body members \$1,500.00) in cities bordering on the Atlantic ocean having a population of between 7,000 and 15,000 (Somers Point City, Northfield City and Pleasantville City in Atlantic).

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

June 11, 1979

SENATE BILL NO. 1095 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I return Senate Bill No. 1095 (OCR), with my objections, for reconsideration.

This bill would repeal various statutory provisions which govern the setting of compensation to mayors and governing bodies of certain types of municipalities. In place of those statutes, the bill would substitute a general statute, N.J.S. 40A:9-10, which provides that:

Except as otherwise provided by law, the board of chosen freeholders of the county or the governing body of the municipality shall fix the amount of salary, wages or other compensation to be paid to county and municipal officers and employees unless they are to serve without compensation.

As originally introduced, the bill would have made N.J.S. 40A:9-165 rather than N.J.S. 40A:9-10 the generally governing statute.

N.J.S. 40A:9-165 is a general statute which provides that a municipal governing body shall fix by ordinance the compensation to be paid to the governing body and mayor or other chief executive, fixes the time after which such ordinance will take effect, and prescribes the procedure for protesting the passage of such ordinance. The sponsor's statement indicates that when N.J.S. 40A:9-165 was enacted, several statutes at variance with this law were never repealed. This bill as originally introduced would have accomplished that.

I am informed that the Senate committee substituted N.J.S. 40A:9-10 for N.J.S. 40A:9-165, anticipating the prompt passage of other pending legislation which would have repealed this latter section of the law and would have put in place generally applicable provisions with regard to referenda. However, this legislation has not yet passed the Legislature. Consequently, the bill in its present form provides that "...the procedure for protesting against the passage of any ordinance providing for an increase in said salaries, wages or compensation shall be as provided in N.J.S. 40A:9-10." However, this section contains no such procedures. It appears that the bill should be amended to return it to its original form.



STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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Accordingly, I respectfully recommend the following changes in Senate Bill  
No. 1095 (OCR):

Page 1, Section 1, line 5: Delete "40A:9-10", insert "40A:9-165"

Page 1, Section 1, line 10: Delete "40A:9-10", insert "40A:9-165"

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Robert E. Mulcahy, III

CHIEF OF STAFF, SECRETARY

S-777, sponsored by Senator Joseph Hirkala (D-Passaic), which exempts any person from liability or damages resulting from his actions as a member of a professional utilization review, advisory, evaluatory or peer review committee.

These committees, which are mandated by federal law for most hospital services, seek to determine whether treatment given to patients has been appropriate and necessary.

The bill would furnish protection to the volunteers who participate in peer review deliberations and ensure that health care professionals and consumers will be able to continue to sit on peer review committees and take action when and where necessary without fear of suits.

For the immunity provided in this bill to apply, the action or recommendation of the committee member would have to be within the scope of his function on the committee and made without notice and in the reasonable belief that such action or recommendation was warranted on the basis of the facts disclosed.

S-1095, sponsored by Senator Joseph Cafiero (R-Cape May), which repeals several statutory provisions governing the setting of compensation for mayors and governing bodies in certain types of municipalities, and provides that except as otherwise provided by law, the Board of Chosen Freeholders of the county or the governing body of the municipality will fix the amount of salary, wages or other compensation to be paid to county and municipal officers or employees unless they are to serve without compensation.

S-3265, sponsored by Senator Matthew Feldman (D-Bergen), which extends from June 30, 1979 to September 30, 1979 the reporting date for the Commission on Individual Liberty and Personal Privacy.

The Commission is studying the system of information management and data processing in the private sector utilized by organizations engaging in data processing.

This Commission must review the system of collection and use of information and identify any practices threatening personal privacy.