

40A:9-1.3 to 40A:9-1.10

LEGISLATIVE HISTORY CHECKLIST

(Permits local units to require nonresidents to become bona fide residents within one year of their appointment)

HJSA 40A:9-1.3 to 40A:9-1.10; Repeals 11:22-7

LAWS OF 1978 CHAPTER 63

Bill No. A110

Sponsor(s) Contillo, Visotcky, Burns

Date Introduced Pre-filed

Committee: Assembly County Government

Senate County and Municipal Government

Amended during passage Yes

~~xi~~ Amendments during passage denoted by asterisks. Assembly Committee substitute (OCR) enacted.

Date of Passage: Assembly May 11, 1978

Senate June 8, 1978

Date of approval June 30, 1978

Following statements are attached if available:

Sponsor statement Yes ~~xxx~~ On original & ACS

Committee Statement: Assembly Yes ~~xxx~~

Senate Yes ~~xxx~~

Fiscal Note ~~xxx~~ No

Veto message ~~xxx~~ No

Message on signing ~~xxx~~ No

Following were printed:

Reports ~~xxx~~ No

Hearings ~~xxx~~ No

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Assembly

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[OFFICIAL COPY REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 110

STATE OF NEW JERSEY

ADOPTED MAY 4, 1978

By Assemblymen CONTILLO, COSTELLO, GIRGENTI, HARD-
WICK and SMITH

AN ACT concerning residency requirements for municipal and
county employees, supplementing Title 40A of the New Jersey
Statutes and repealing R. S. 11:22-7 and N. J. S. 40A:9-1.

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

1 1. Unless otherwise provided by law, the governing body of any
2 ***[county or municipality (hereinafter referred to as a "local**
3 **unit"]*** **local unit** may by resolution or ordinance, **as appro-*
4 *priate,** require **, subject to the provisions of this act,** all officers
5 and employees employed by the local unit after the effective date
6 of this act to be bona fide residents therein. A bona fide resident
7 for the purpose of this act is a person having a permanent domicile
8 within the local unit and one which has not been adopted with the
9 intention of again taking up or claiming a previous residence
10 acquired outside of the local ***[units]*** **unit's** boundaries. **Any*
11 *local unit wherein the provisions of Title 11 (Civil Service) of the*
12 *Revised Statutes are operative, shall transmit a copy of the adopt-*
13 *ing ordinance or resolution, as the case may be, to the Civil Service*
14 *Commission.**

1 2. ***[F**or all positions and employments in the classified service,
2 where the service is to be rendered only in a particular unit or
3 where payment is made only from the funds of that local unit, the
4 local unit may limit the eligibility of applicants for such positions
5 and employments to residents of that local unit. The governing
6 body of any local unit which has adopted an ordinance or resolu-
7 tion pursuant to section 1 of this act shall inform the Civil Service

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

8 Commission that it shall not open its eligibility lists to anyone.]*
9 *Any local unit having adopted the provisions of Title 11 (Civil
10 Service) of the Revised Statutes, which has also adopted the provi-
11 sions of section 1 of this act by ordinance or resolution, as appro-
12 priate, may therein limit the eligibility of applicants for positions
13 and employments in the classified service of such local unit to
14 residents of that local unit. Upon receipt of a copy of such ordi-
15 nance or resolution, as the case may be, the Civil Service Commis-
16 sion thereafter shall not open such local unit's eligibility lists to
17 anyone* who is not a bona fide resident of the local unit at the time
18 of the closing date following the announcement of examination;
19 provided, however, that if the commission, after ample advertise-
19A ment, determines that an insufficient number of qualified residents
19B exist for available positions or employments in a particular local
19C unit, it may open eligibilty lists for such positions or employments
19D to qualified nonresidents. ***[**The governing body of a local unit
19E which has adopted a resolution or ordinance pursuant to section 1
19F of this act may require all nonresidents appointed to positions or
19G employments after the effective date of this act to become bona fide
19H residents of the local unit within 1 year of their appointment.

20 It shall be the duty of the hiring authority to insure that all
21 employees hired after the effective date of this act remain bona
22 fide residents of the local unit in which they are employed. Failure
23 of any such employee in the classified service to maintain residency
24 in a local unit shall be cause for removal or discharge from ser-
25 vice. In the event such employee does not maintain bona fide resi-
26 dency, the hiring authority shall notify said employee that failure
27 to again take up bona fide residency in the local unit within 6
28 months of such notification will result in removal or discharge from
29 service. Such removal or discharge shall take effect on the date
30 specified in such notice, but any employee so removed or discharged
31 shall have the right to appeal such action to the commission.]**

1 *3. The governing body of a local unit which has adopted a
2 resolution or ordinance, as the case may be, pursuant to section 1
3 of this act shall require therein that all nonresidents subsequently
4 appointed to positions or employments shall become bona fide
5 residents of the local unit within 1 year of their appointment, except
6 as otherwise provided in such ordinance or resolution pursuant to
7 sections 4 and 5 of this act.

8 It shall be the duty of the hiring authority to insure that all
9 employees hired after the effective date of this act remain bona
10 fide residents of the local unit in which they are employed. Failure

11 of any such employee to maintain residency in a local unit shall
 12 be cause for removal or discharge from service. In the event such
 13 employee does not maintain bona fide residency, the hiring
 14 authority shall notify said employee that failure to again take up
 15 bona fide residency in the local unit within 6 months of such notifica-
 16 tion will result in removal or discharge from service. Such removal
 17 or discharge shall take effect on the date specified in such notice,
 18 but any employee so removed or discharged shall have the right to
 19 such appeals as are available pursuant to law.*

1 ***[3.]*** *4.* Any local unit which has adopted an ordinance or
 2 resolution*, as the case may be,* pursuant to section 1 of this act,
 3 ***[**but which has not adopted the provision of Title 11 (Civil
 4 Service) of the Revised Statutes, and which cannot recruit]**]*** shall
 5 provide therein that whenever the governing body, or appointing
 6 authority, shall determine that there cannot be recruited* a
 7 sufficient number of qualified residents for available *specific*
 7A positions *or employments, the local unit* shall advertise for other
 7B qualified applicants. The local unit *,* or the hiring authority
 7C *thereof,* shall *thereupon* classify all qualified applicants *for
 7D such positions or employments so determined* in the following
 7E manner:

8 a. In the case of municipalities:

9 (1) Other residents of the county in which the municipality is
 10 situate.

11 (2) Other residents of counties contiguous to the county in which
 12 the municipality is situate.

13 (3) Other residents of the State.

14 (4) All other applicants.

15 b. In the case of counties:

16 (1) Other residents of contiguous counties.

17 (2) Other residents of the State.

18 (3) All other qualified applicants.

19 The hiring authority shall first appoint all those in class 1 and
 20 then those in each succeeding class in the order above listed and
 21 shall appoint a person or persons in any such class only to a po-
 22 sition or positions*, or employment or employments,* remaining
 23 after all qualified applicants in the preceding class or classes
 24 have been appointed or have declined an offer of appointment.
 25 The preference established by this section shall in no way
 26 diminish, reduce or affect the preferences granted pursuant to
 27 any other provisions of the law. A local unit which has recruited
 28 and hired officers and employees under the provisions of this

29 section may require such officers and employees, as a condition
 30 of their continued employment, to become bona fide residents
 31 thereof. Such a requirement shall be specified at the time of
 32 appointment and a reasonable amount of time granted for such
 33 officers and employees to become bona fide residents of the local
 33A unit. ***[Any local unit wherein Title 11 (Civil Service) of the Re-**
 34 **vised Statutes is operative may also adopt this preference order**
 35 **for the appointment of nonresidents. The governing body of any**
 36 **such local unit shall inform the Civil Service Commission of its**
 37 **decision to adopt this preference schedule and the commission shall**
 38 **classify all applicants accordingly.]*** **The Civil Service Commis-*
 39 *sion shall, upon any subsequent notice of the determination of the*
 40 *governing body or the hiring authority of any such local unit*
 41 *wherein Title 11 (Civil Service) of the Revised Statutes is opera-*
 42 *tive that such preference schedule shall be applicable for any*
 43 *specific position or employment, classify all applicants for such*
 44 *position or employment accordingly.**

1 ***[4. A local unit which has adopted an ordinance or resolution**
 2 **pursuant to section 1 of this act may hire without reference to**
 3 **residency any officer or employee with special talents or skills**
 4 **necessary for the operation of government not likely to be found**
 5 **among residents of the local unit. Individuals hired on this basis**
 6 **shall not be required to establish residency within a local unit as**
 7 **a condition of their continued employment. The governing body**
 8 **shall promulgate formal criteria to establish which positions and**
 9 **employments require the appointment of officers and employees**
 10 **with special talents or skills necessary for the operation of gov-**
 11 **ernment, and for determining that such talents or skills are not**
 12 **likely to be found among residents of the local unit. Any local**
 13 **unit wherein the said Title 11 is operative shall forward such cri-**
 14 **teria to the commission.]***

1 *5. *Any local unit adopting the provisions of section 1 of this act*
 2 *shall provide in the adopting ordinance or resolution, as the case*
 3 *may be, that whenever the governing body, or the hiring authority*
 4 *of the local unit, shall determine that there are certain specific*
 5 *positions and employments, requiring special talents or skills which*
 6 *are necessary for the operations of the local unit and which are not*
 7 *likely to be found among the residents of the local unit, such posi-*
 8 *tions or employments so determined shall be filled without reference*
 9 *to residency. Any such provision shall set forth the formal criteria*
 10 *pursuant to which such positions and employments shall be so*
 11 *determined.**

1 ***[5.]*** *6.* Any local unit which has adopted a resolution or
2 ordinance*, *as the case may be,** pursuant to section 1 of this act
3 shall give preference in promotion to officers and employees who
4 are bona fide residents of the local unit. When promotions are
5 based upon merit as determined by suitable promotion tests or
6 other objective criteria, a resident shall be given preference over
7 a nonresident in any instance when all other measurable criteria
8 are equal. The preference granted by this section shall in no way
9 diminish, reduce, or affect the preference granted pursuant to any
10 other provision of ***[the]*** law.

1 ***[6.]*** *7.* The ***[provision]*** *provisions* of this act shall
2 apply to all residency requirements adopted on and after the effec-
3 tive date of this act. Nothing herein shall be construed as to
4 alter, abrogate, repeal or otherwise affect any residency require-
5 ment in effect in any local unit ***[as of]*** *by ordinance or resolu-
6 tion, or rule or regulation of a local unit, on* the effective date of
7 this act; provided, however, that any amendment, modification or
8 other change in any such residency requirement shall be subject
9 to all the relevant provisions of this act.

1 *8. Any requirements concerning eligibility, appointment or
2 promotion contained in any ordinance or resolution adopted pursu-
3 ant to this act shall be subject to any order issued by any court,
4 or by any State or Federal agency pursuant to law, with respect
5 to a requirement of action to eliminate discrimination in employ-
6 ment based upon race, creed, color, national origin, ancestry,
7 marital status or sex, except that any requirement contained in
8 any such ordinance or resolution pursuant to the provisions of
9 section 3 of this act shall continue to apply notwithstanding any
10 such order.*

1 ***[7.]*** *9.* R. S. 11:22-7 and N. J. S. 40A:9-1 are repealed.

1 ***[8.]*** *10.* This act shall take effect immediately.

ASSEMBLY, No. 110

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen CONTILLO, VISOTCKY and BURNS

AN ACT concerning residency requirements amending R. S. 11:22-7
and supplementing Title 11 of the Revised Statutes.

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

1 1. R. S. 11:22-7 is amended to read as follows:

2 11:22-7. For all positions and employments in the classified
3 service, where the service is to be rendered in a particular county,
4 municipality or school district, or any judicial district of such
5 county, and payment therefor is made from the funds of such
6 county, municipality or school district, or judicial district of the
7 county, the commission shall limit the eligibility of applicants to the
8 qualified residents of the county, municipality or school district,
9 or judicial district of such county, in which the service is to be
10 rendered and from the funds of which the employee is to be paid.

11 *In the event that the commission, after ample advertisement,*
12 *determines that an insufficient number of qualified residents exists*
13 *for available positions in a particular county, municipality, school*
14 *district or any judicial district in such a county, it shall open*
15 *eligibility for such positions to qualified nonresidents. The gov-*
16 *erning body of a county or municipality, as the case may be, may,*
17 *by ordinance or resolution, require all nonresidents appointed to*
18 *positions after the effective date of this act to become bona fide*
19 *residents of the particular county, municipality, school district, or*
20 *any judicial district in such a county within 1 year of the effective*
21 *date of their appointment. If upon the expiration of said 1 year*
22 *period an employee has not complied with the residency require-*
23 *ment of this act, the hiring authority shall order the removal or*
24 *discharge of such employee from service. Such order shall not take*
25 *effect until approved by the commission.*

1 2. (New section) It shall be the duty of the commission, at the
2 time of examination, to determine that applicants for the classified
3 service who have claimed residency in a particular county, municipi-
4 pality, school district or any judicial district of such a county have
5 their place of abode within the boundaries of such unit and are
6 bona fide residents thereof. It shall be the duty of the hiring au-
7 thority to determine that all such employees remain bona fide resi-
8 dents of the particular county, municipality, school district, or any
9 such judicial district of such a county in which they are employed.
10 Failure of any employee in the classified service to maintain bona
11 fide residency in a particular county, municipality, school district
12 or any judicial district in such a county shall be cause for removal
13 or discharge from service. In the event an employee has not main-
14 tained bona fide residency, the hiring authority shall notify said
15 employee that failure to again take up bona fide residency within
16 the particular county, municipality, school district, or any judicial
17 district in such a county within 6 months of such notification will
18 result in removal or discharge. If upon the expiration of said 6-
19 month period the employee has not complied with such notice, the
20 hiring authority shall order the removal or discharge of such em-
21 ployee from service. Such order shall not take effect until approved
22 by the commission.

1 3. This act shall take effect immediately.

STATEMENT

This bill amends R. S. 11:22-7 to permit the Civil Service Commission to open eligibility lists for classified employees to non-residents of a county or a municipality when it has established that insufficient numbers of qualified residents exist to fill available positions. It makes the commission responsible for determining the residency of applicants at the time of examination and gives the hiring authority responsibility for insuring the continued residency of such employees. The bill also provides a procedure whereby classified employees may be discharged from service if they fail to comply with county and municipal residency requirements.

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 110

STATE OF NEW JERSEY

DATED: MAY 2, 1978

The committee, at the request of the sponsor, adopted a committee substitute for Assembly Bill No. 110. Assembly Bills Nos. 110 and 111 were two companion bills which dealt with residency requirements for county and municipal officers and employees. The committee believes that the problems created by residency requirements for local government workers could be resolved in one bill, which would cover county and municipal workers in both the classified and unclassified service.

The substitute measure is a permissive bill which permits counties and municipalities to adopt residency requirements for local government officers and employees if they choose to do so. It establishes a mechanism whereby local units which adopt residency requirements may hire nonresidents when they cannot recruit qualified applicants for available positions and to hire nonresidents for jobs that require highly specialized skills not likely to be found in a single county or municipality. It requires that any county or municipality which has adopted a residency requirement pursuant to this act shall give preference in promotion to residents of the local unit.

The bill repeals N. J. S. 40A:9-1 which requires that all county and municipal officers be residents of the local unit for which they work. It also repeals R. S. 11:22-7 which prohibits the Civil Service Commission from opening eligibility lists for county and municipal jobs to nonresidents. In 1977, the Superior Court, Appellate Division, found that R. S. 11:22-7 mandated durational residency for all county and municipal workers in the classified service. Following this decision several counties initiated actions to dismiss nonresident workers on the basis of the court's interpretation of R. S. 11:22-7. The committee has no quarrel with a local unit's decision to require officers and employees to be residents but it believes such a decision is purely a local matter and should not be made on the basis of a State-mandated requirement.

The substitute measure makes residency requirement an option of the county and the municipality. It does, however, establish broad guidelines which are designed to insure that residency requirements, if adopted, will be fair to all concerned parties and that they can be equitably enforced. The bill would only affect officers and employees hired after the act's effective date and would not affect any residency requirement already in effect. It also does not cover any local government officers and employees exempted from residency requirements by other statutes.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 110

STATE OF NEW JERSEY

By Assemblymen CONTILLO, COSTELLO, GIRGENTI, HARD-
WICK and SMITH

ADOPTED MAY 4, 1978

AN ACT concerning residency requirements for municipal and
county employees, supplementing Title 40A of the New Jersey
Statutes and repealing R. S. 11:22-7 and N. J. S. 40A:9-1.

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

1 1. Unless otherwise provided by law, the governing body of any
2 county or municipality (hereinafter referred to as a "local unit")
3 may by resolution or ordinance, require all officers and employees
4 employed by the local unit after the effective date of this act to be
5 bona fide residents therein. A bona fide resident for the purpose
6 of this act is a person having a permanent domicile within the
7 local unit and one which has not been adopted with the intention
8 of again taking up or claiming a previous residence acquired out-
9 side of the local units boundaries.

1 2. For all positions and employments in the classified service,
2 where the service is to be rendered only in a particular unit or
3 where payment is made only from the funds of that local unit, the
4 local unit may limit the eligibility of applicants for such positions
5 and employments to residents of that local unit. The governing
6 body of any local unit which has adopted an ordinance or resolu-
7 tion pursuant to section 1 of this act shall inform the Civil Service
8 Commission that it shall not open its eligibility lists to anyone
9 who is not a bona fide resident of the local unit at the time of the
10 closing date following the announcement of examination; provided,
11 however, that if the commission, after ample advertisement, de-
12 termines that an insufficient number of qualified residents exist
13 for available positions or employments in a particular local unit,
14 it may open eligibility lists for such positions or employments
15 to qualified nonresidents. The governing body of a local unit which
16 has adopted a resolution or ordinance pursuant to section 1 of this
17 act may require all nonresidents appointed to positions or employ-

18 ments after the effective date of this act to become bona fide resi-
19 dents of the local unit within 1 year of their appointment.

20 It shall be the duty of the hiring authority to insure that all
21 employees hired after the effective date of this act remain bona
22 fide residents of the local unit in which they are employed. Failure
23 of any such employee in the classified service to maintain residency
24 in a local unit shall be cause for removal or discharge from ser-
25 vice. In the event such employee does not maintain bona fide resi-
26 dency, the hiring authority shall notify said employee that failure
27 to again take up bona fide residency in the local unit within 6
28 months of such notification will result in removal or discharge from
29 service. Such removal or discharge shall take effect on the date
30 specified in such notice, but any employee so removed or discharged
31 shall have the right to appeal such action to the commission.

1 3. Any local unit which has adopted an ordinance or resolution
2 pursuant to section 1 of this act, but which has not adopted the
3 provisions of Title 11 (Civil Service) of the Revised Statutes,
4 and which cannot recruit a sufficient number of qualified residents
5 for available positions shall advertise for other qualified appli-
6 cants. The local unit or the hiring authority shall classify all
7 qualified applicants in the following manner:

8 a. In the case of municipalities:

9 (1) Other residents of the county in which the municipality is
10 situate.

11 (2) Other residents of counties contiguous to the county in which
12 the municipality is situate.

13 (3) Other residents of the State.

14 (4) All other applicants.

15 b. In the case of counties:

16 (1) Other residents of contiguous counties.

17 (2) Other residents of the State.

18 (3) All other qualified applicants.

19 The hiring authority shall first appoint all those in class 1 and
20 then those in each succeeding class in the order above listed and
21 shall appoint a person or persons in any such class only to a po-
22 sition or positions remaining after all qualified applicants in the
23 preceding class or classes have been appointed or have declined
24 an offer of appointment. The preference established by this section
25 shall in no way diminish, reduce or affect the preferences granted
26 pursuant to any other provisions of the law. A local unit which
27 has recruited and hired officers and employees under the provisions
28 of this section may require such officers and employees, as a con-

29 dition of their continued employment, to become bona fide resi-
30 dents thereof. Such a requirement shall be specified at the time
31 of appointment and a reasonable amount of time granted for such
32 officers and employees to become bona fide residents of the local
33 unit. Any local unit wherein Title 11 (Civil Service) of the Re-
34 vised Statutes is operative may also adopt this preference order
35 for the appointment of nonresidents. The governing body of any
36 such local unit shall inform the Civil Service Commission of its
37 decision to adopt this preference schedule and the commission shall
38 classify all applicants accordingly.

1 4. A local unit which has adopted an ordinance or resolution
2 pursuant to section 1 of this act may hire without reference to
3 residency any officer or employee with special talents or skills
4 necessary for the operation of government not likely to be found
5 among residents of the local unit. Individuals hired on this basis
6 shall not be required to establish residency within a local unit as
7 a condition of their continued employment. The governing body
8 shall promulgate formal criteria to establish which positions and
9 employments require the appointment of officers and employees
10 with special talents or skills necessary for the operation of gov-
11 ernment, and for determining that such talents or skills are not
12 likely to be found among residents of the local unit. Any local
13 unit wherein the said Title 11 is operative shall forward such cri-
14 teria to the commission.

1 5. Any local unit which has adopted a resolution or ordinance
2 pursuant to section 1 of this act shall give preference in promotion
3 to officers and employees who are bona fide residents of the local
4 unit. When promotions are based upon merit as determined by
5 suitable promotion tests or other objective criteria, a resident shall
6 be given preference over a nonresident in any instance when all
7 other measurable criteria are equal. The preference granted by
8 this section shall in no way diminish, reduce, or affect the prefer-
9 ence granted pursuant to any other provision of the law.

1 6. The provision of this act shall apply to all residency require-
2 ments adopted on and after the effective date of this act. Nothing
3 herein shall be construed as to alter, abrogate, repeal or otherwise
4 affect any residency requirement in effect in any local unit as of
5 the effective date of this act; provided, however, that any amend-
6 ment, modification or other change in any such residency require-
7 ment shall be subject to all the relevant provisions of this act.

1 7. R. S. 11:22-7 and N. J. S. 40A:9-1 are repealed.

1 8. This act shall take effect immediately.

STATEMENT

This bill permits a county or municipality, by resolution or ordinance, to require all officers and employees hired after the effective date of this act to be bona fide residents of the local unit which employs them. The bill applies to counties and municipalities which have adopted Title 11 (Civil Service) of the Revised Statutes and those which have not. It establishes a mechanism whereby local units which adopt residency requirements may hire nonresidents when there is an insufficient number of qualified residents available for existing positions, and to hire, without regard to residency, any individual for a job that requires highly specialized skills not likely to be found in a local unit. It requires a local unit which has adopted a residency requirement pursuant to this act to give preference in promotion to residents of the local unit.

The bill repeals N. J. S. 40A:9-1 which mandates that all local officers be residents of the local unit for which they work and also repeals R. S. 11:22-7 which requires Civil Service employees to be residents of the local unit which employs them. This permissive bill makes residency requirements an option of the local unit and it insures that residency requirement, if adopted, will be equitably and uniformly enforced. The bill does not cover any local officer specifically exempted from residency requirements by other statutes.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 110

STATE OF NEW JERSEY

DATED: MAY 25, 1978

The Senate committee includes herein for purposes of establishing Legislative intent the text of the Assembly Committee Statement setting forth the purposes of the bill:

“The committee, at the request of the sponsor, adopted a committee substitute for Assembly Bill No. 110. Assembly Bills Nos. 110 and 111 were two companion bills which dealt with residency requirements for county and municipal officers and employees. The committee believes that the problems created by residency requirements for local government workers could be resolved in one bill, which would cover county and municipal workers in both the classified and unclassified service.

The substitute measure is a permissive bill which permits counties and municipalities to adopt residency requirements for local government officers and employees if they choose to do so. It establishes a mechanism whereby local units which adopt residency requirements may hire nonresidents when they cannot recruit qualified applicants for available positions and to hire nonresidents for jobs that require highly specialized skills not likely to be found in a single county or municipality. It requires that any county or municipality which has adopted a residency requirement pursuant to this act shall give preference in promotion to residents of the local unit.

The bill repeals N. J. S. 40A:9-1 which requires that all county and municipal officers be residents of the local unit for which they work. It also repeals R. S. 11:22-7 which prohibits the Civil Service Commission from opening eligibility lists for county and municipal jobs to nonresidents. In 1977, the Superior Court, Appellate Division, found that R. S. 11:22-7 mandated durational residency for all county and municipal workers in the classified service. Following this decision several counties initiated actions to dismiss nonresident workers on the basis of the court's interpretation of R. S. 11:22-7. The committee has no quarrel with a local unit's decision to require officers and employees to be residents but it believes such a decision is purely a local matter and should not be made on the basis of a State-mandated requirement.

The substitute measure makes residency requirement an option of the county and the municipality. It does, however, establish broad guidelines which are designed to insure that residency requirements, if adopted, will be fair to all concerned parties and that they can be equitably enforced. The bill would only affect officers and employees hired after the act's effective date and would not affect any residency requirement already in effect. It also does not cover any local government officers and employees exempted from residency requirements by other statutes."

The Senate committee amended the bill to clarify certain provisions and to tighten certain procedural aspects of the bill. The committee was particularly concerned to assure that the powers granted to local units to waive adopted residency requirements in certain cases (under section 4 of the bill as amended, whenever the local unit determines that an insufficient number of recruits are available within the local unit to fill specific positions; and, under section 5 of the bill as amended, whenever the local unit determines that certain positions or employments requiring special talents or skills shall be filled without regard to residency) shall be set forth in the ordinance or resolution adopting residency, so that the citizens of the local unit may be aware of the existence and provisions of these waiver powers.

The Senate committee amendments would also assure that section 3 of the bill as amended, providing for persons appointed after the effective date of the act to become residents within 1 year of appointment of a local unit adopting a residency ordinance or resolution, shall apply to all local units adopting residency under the act, and not only to local units under civil service. Such is the purpose of setting off these provisions as a separate section.

The other major provision of the Senate committee amendments is to provide that the requirements of any residency ordinance or resolution shall be subject to any court order, or any State or Federal agency order, requiring affirmative action on the part of a local employer. The committee, however, intends that the provisions of section 3 of the act, discussed above, shall continue to apply to any persons appointed subject to any such order.

In addition to the above, the Senate committee was particularly concerned to establish whether or not a residency ordinance or resolution adopted by a civil service county or municipality, shall apply to unclassified positions, as well as classified positions, within such local unit. The committee determined that the provisions of section 1 of the act are sufficiently general as to assure that any such residency ordinance or resolution shall also apply to unclassified positions, notwithstanding the fact that the bill contains no provision relating explicitly to such unclassified positions. The committee, therefore, determined that no amendment was necessary in this regard.

SENATE COMMITTEE AMENDMENTS TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 110

STATE OF NEW JERSEY

ADOPTED MAY 25, 1978

Amend page 1, section 1, line 2, omit this line in its entirety, insert "local unit".

Amend page 1, section 1, line 3, after "ordinance," insert "as appropriate,"; after "require", insert ", subject to the provisions of this act,".

Amend page 1, section 1, line 9, omit "units", insert "unit's"; after "boundaries.", insert "Any local unit wherein the provisions of Title 11 (Civil Service) of the Revised Statutes are operative, shall transmit a copy of the adopting ordinance or resolution, as the case may be, to the Civil Service Commission.".

Amend page 1, section 2, lines 1 through 8, omit these lines in their entirety, insert "Any local unit having adopted the provisions of Title 11 (Civil Service) of the Revised Statutes, which has also adopted the provisions of section 1 of this act by ordinance or resolution, as appropriate, may therein limit the eligibility of applicants for positions and employments in the classified service of such local unit to residents of that local unit. Upon receipt of a copy of such ordinance or resolution, as the case may be, the Civil Service Commission thereafter shall not open such local unit's eligibility lists to anyone".

Amend page 1, section 2, lines 15 through 31, after "nonresidents.", omit remainder of section.

Amend page 1, section 2, after line 31, insert new section as follows:

"3. The governing body of a local unit which has adopted a resolution or ordinance, as the case may be, pursuant to section 1 of this act shall require therein that all nonresidents subsequently appointed to positions or employments shall become bona fide residents of the local unit within 1 year of their appointment, except as otherwise provided in such ordinance or resolution pursuant to sections 4 and 5 of this act.

It shall be the duty of the hiring authority to insure that all employees hired after the effective date of this act remain bona fide residents of the local unit in which they are employed. Failure of any such employee to maintain residency in a local unit shall be cause for removal or discharge from service. In the event such employee does not maintain

bona fide residency, the hiring authority shall notify said employee that failure to again take up bona fide residency in the local unit within 6 months of such notification will result in removal or discharge from service. Such removal or discharge shall take effect on the date specified in such notice, but any employee so removed or discharged shall have the right to such appeals as are available pursuant to law.”.

Amend page 2, section 3, line 1, omit “3.”, insert “4.”; after “resolution”, insert “, as the case may be,”.

Amend page 2, section 3, line 2, omit “but which has not adopted the”.

Amend page 2, section 3, line 3, omit this line in its entirety.

Amend page 2, section 3, line 4, omit “and which cannot recruit”, insert “shall provide therein that whenever the governing body, or appointing authority, shall determine that there cannot be recruited”.

Amend page 2, section 3, line 5, after “available”, insert “specific”; after “positions”, insert “or employments, the local unit”.

Amend page 2, section 3, line 6, after “unit”, insert “,”; after “authority”, insert “thereof,”; after “shall”, insert “thereupon”.

Amend page 2, section 3, line 7, after “applicants”, insert “for such positions or employments so determined”.

Amend page 2, section 3, line 22, after “positions”, insert “, or employment or employments,”.

Amend page 3, section 3, lines 33 through 38, after “unit.”, omit remainder of section, insert “The Civil Service Commission shall, upon any subsequent notice of the determination of the governing body or the hiring authority of any such local unit wherein Title 11 (Civil Service) of the Revised Statutes is operative that such preference schedule shall be applicable for any specific position or employment, classify all applicants for such position or employment accordingly.”.

Amend page 3, section 4, lines 1 through 14, omit these lines in their entirety, insert:

“5. Any local unit adopting the provisions of section 1 of this act shall provide in the adopting ordinance or resolution, as the case may be, that whenever the governing body, or the hiring authority of the local unit, shall determine that there are certain specific positions and employments, requiring special talents or skills which are necessary for the operations of the local unit and which are not likely to be found among the residents of the local unit, such positions or employments so determined shall be filled without reference to residency. Any such provision shall set forth the formal criteria pursuant to which such positions and employments shall be so determined.”.

Amend page 3, section 5, line 1, omit “5.”, insert “6.”; after “ordinance”, insert “, as the case may be,”.

Amend page 3, section 5, line 9, omit "the".

Amend page 3, section 6, line 1, omit "6.", insert "7."; omit "provision", insert "provisions".

Amend page 3, section 6, line 4, omit "as of", insert "by ordinance or resolution, or rule or regulation of a local unit, on".

Amend page 3, section 6, line 7, after "act.", insert new section as follows:

"8. Any requirements concerning eligibility, appointment or promotion contained in any ordinance or resolution adopted pursuant to this act shall be subject to any order issued by any court, or by any State or Federal agency pursuant to law, with respect to a requirement of action to eliminate discrimination in employment based upon race, creed, color, national origin, ancestry, marital status or sex, except that any requirement contained in any such ordinance or resolution pursuant to the provisions of section 3 of this act shall continue to apply notwithstanding any such order."

Amend page 3, section 7, line 1, omit "7.", insert "9."

Amend page 3, section 8, line 1, omit "8.", insert "10."

[SENATE REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 110
with Senate committee amendments adopted May 25, 1978

STATE OF NEW JERSEY

ADOPTED MAY 4, 1978

By Assemblymen CONTILLO, COSTELLO, GIRGENTI, HARD-
WICK and SMITH

AN ACT concerning residency requirements for municipal and
county employees, supplementing Title 40A of the New Jersey
Statutes and repealing R. S. 11:22-7 and N. J. S. 40A:9-1.

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

1 1. Unless otherwise provided by law, the governing body of any
2 ***[**county or municipality (hereinafter referred to as a "local
3 unit")**]*** **local unit** may by resolution or ordinance, **as appro-*
4 *priate,** require ***, *subject to the provisions of this act,** all officers
5 and employees employed by the local unit after the effective date
6 of this act to be bona fide residents therein. A bona fide resident
7 for the purpose of this act is a person having a permanent domicile
8 within the local unit and one which has not been adopted with the
9 intention of again taking up or claiming a previous residence
10 acquired outside of the local **[**units**]*** **unit's** boundaries. **Any*
11 *local unit wherein the provisions of Title 11 (Civil Service) of the*
12 *Revised Statutes are operative, shall transmit a copy of the adopt-*
13 *ing ordinance or resolution, as the case may be, to the Civil Service*
14 *Commission.**

1 2. **[**For all positions and employments in the classified service,
2 where the service is to be rendered only in a particular unit or
3 where payment is made only from the funds of that local unit, the
4 local unit may limit the eligibility of applicants for such positions
5 and employments to residents of that local unit. The governing
6 body of any local unit which has adopted an ordinance or resolu-
7 tion pursuant to section 1 of this act shall inform the Civil Service

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

8 Commission that it shall not open its eligibility lists to anyone.]*
9 *Any local unit having adopted the provisions of Title 11 (Civil
10 Service) of the Revised Statutes, which has also adopted the provi-
11 sions of section 1 of this act by ordinance or resolution, as appro-
12 priate, may therein limit the eligibility of applicants for positions
13 and employments in the classified service of such local unit to
14 residents of that local unit. Upon receipt of a copy of such ordi-
15 nance or resolution, as the case may be, the Civil Service Commis-
16 sion thereafter shall not open such local unit's eligibility lists to
17 anyone* who is not a bona fide resident of the local unit at the time
18 of the closing date following the announcement of examination;
19 provided, however, that if the commission, after ample advertise-
19A ment, determines that an insufficient number of qualified residents
19B exist for available positions or employments in a particular local
19C unit, it may open eligibilty lists for such positions or employments
19D to qualified nonresidents. *[(The governing body of a local unit
19E which has adopted a resolution or ordinance pursuant to section 1
19F of this act may require all nonresidents appointed to positions or
19G employments after the effective date of this act to become bona fide
19H residents of the local unit within 1 year of their appointment.

20 It shall be the duty of the hiring authority to insure that all
21 employees hired after the effective date of this act remain bona
22 fide residents of the local unit in which they are employed. Failure
23 of any such employee in the classified service to maintain residency
24 in a local unit shall be cause for removal or discharge from ser-
25 vice. In the event such employee does not maintain bona fide resi-
26 dency, the hiring authority shall notify said employee that failure
27 to again take up bona fide residency in the local unit within 6
28 months of such notification will result in removal or discharge from
29 service. Such removal or discharge shall take effect on the date
30 specified in such notice, but any employee so removed or discharged
31 shall have the right to appeal such action to the commission.]*

1 *3. The governing body of a local unit which has adopted a
2 resolution or ordinance, as the case may be, pursuant to section 1
3 of this act shall require therein that all nonresidents subsequently
4 appointed to positions or employments shall become bona fide
5 residents of the local unit within 1 year of their appointment, except
6 as otherwise provided in such ordinance or resolution pursuant to
7 sections 4 and 5 of this act.

8 It shall be the duty of the hiring authority to insure that all
9 employees hired after the effective date of this act remain bona
10 fide residents of the local unit in which they are employed. Failure

11 of any such employee to maintain residency in a local unit shall
 12 be cause for removal or discharge from service. In the event such
 13 employee does not maintain bona fide residency, the hiring
 14 authority shall notify said employee that failure to again take up
 15 bona fide residency in the local unit within 6 months of such notifica-
 16 tion will result in removal or discharge from service. Such removal
 17 or discharge shall take effect on the date specified in such notice,
 18 but any employee so removed or discharged shall have the right to
 19 such appeals as are available pursuant to law.*

1 *~~3.~~* *4.* Any local unit which has adopted an ordinance or
 2 resolution*, as the case may be,* pursuant to section 1 of this act,
 3 *~~but~~ which has not adopted the provision of Title 11 (Civil
 4 Service) of the Revised Statutes, and which cannot recruit]* *shall
 5 provide therein that whenever the governing body, or appointing
 6 authority, shall determine that there cannot be recruited* a
 7 sufficient number of qualified residents for available *specific*
 7A positions *or employments, the local unit* shall advertise for other
 7B qualified applicants. The local unit *,* or the hiring authority
 7C *thereof,* shall *thereupon* classify all qualified applicants *for
 7D such positions or employments so determined* in the following
 7E manner:

8 a. In the case of municipalities:

9 (1) Other residents of the county in which the municipality is
 10 situate.

11 (2) Other residents of counties contiguous to the county in which
 12 the municipality is situate.

13 (3) Other residents of the State.

14 (4) All other applicants.

15 b. In the case of counties:

16 (1) Other residents of contiguous counties.

17 (2) Other residents of the State.

18 (3) All other qualified applicants.

19 The hiring authority shall first appoint all those in class 1 and
 20 then those in each succeeding class in the order above listed and
 21 shall appoint a person or persons in any such class only to a po-
 22 sition or positions*, or employment or employments,* remaining
 23 after all qualified applicants in the preceding class or classes
 24 have been appointed or have declined an offer of appointment.
 25 The preference established by this section shall in no way
 26 diminish, reduce or affect the preferences granted pursuant to
 27 any other provisions of the law. A local unit which has recruited
 28 and hired officers and employees under the provisions of this

29 section may require such officers and employees, as a condition
 30 of their continued employment, to become bona fide residents
 31 thereof. Such a requirement shall be specified at the time of
 32 appointment and a reasonable amount of time granted for such
 33 officers and employees to become bona fide residents of the local
 33A unit. ***[Any local unit wherein Title 11 (Civil Service) of the Re-**
 34 **vised Statutes is operative may also adopt this preference order**
 35 **for the appointment of nonresidents. The governing body of any**
 36 **such local unit shall inform the Civil Service Commission of its**
 37 **decision to adopt this preference schedule and the commission shall**
 38 **classify all applicants accordingly.]*** **The Civil Service Commis-*
 39 *sion shall, upon any subsequent notice of the determination of the*
 40 *governing body or the hiring authority of any such local unit*
 41 *wherein Title 11 (Civil Service) of the Revised Statutes is opera-*
 42 *tive that such preference schedule shall be applicable for any*
 43 *specific position or employment, classify all applicants for such*
 44 *position or employment accordingly.**

1 ***[4. A local unit which has adopted an ordinance or resolution**
 2 **pursuant to section 1 of this act may hire without reference to**
 3 **residency any officer or employee with special talents or skills**
 4 **necessary for the operation of government not likely to be found**
 5 **among residents of the local unit. Individuals hired on this basis**
 6 **shall not be required to establish residency within a local unit as**
 7 **a condition of their continued employment. The governing body**
 8 **shall promulgate formal criteria to establish which positions and**
 9 **employments require the appointment of officers and employees**
 10 **with special talents or skills necessary for the operation of gov-**
 11 **ernment, and for determining that such talents or skills are not**
 12 **likely to be found among residents of the local unit. Any local**
 13 **unit wherein the said Title 11 is operative shall forward such cri-**
 14 **teria to the commission.]***

1 *5. *Any local unit adopting the provisions of section 1 of this act*
 2 *shall provide in the adopting ordinance or resolution, as the case*
 3 *may be, that whenever the governing body, or the hiring authority*
 4 *of the local unit, shall determine that there are certain specific*
 5 *positions and employments, requiring special talents or skills which*
 6 *are necessary for the operations of the local unit and which are not*
 7 *likely to be found among the residents of the local unit, such posi-*
 8 *tions or employments so determined shall be filled without reference*
 9 *to residency. Any such provision shall set forth the formal criteria*
 10 *pursuant to which such positions and employments shall be so*
 11 *determined.**

1 ***[5.]*** *6.* Any local unit which has adopted a resolution or
 2 ordinance*, *as the case may be,** pursuant to section 1 of this act
 3 shall give preference in promotion to officers and employees who
 4 are bona fide residents of the local unit. When promotions are
 5 based upon merit as determined by suitable promotion tests or
 6 other objective criteria, a resident shall be given preference over
 7 a nonresident in any instance when all other measurable criteria
 8 are equal. The preference granted by this section shall in no way
 9 diminish, reduce, or affect the preference granted pursuant to any
 10 other provision of ***[the]*** law.

1 ***[6.]*** *7.* The ***[provision]*** *provisions* of this act shall
 2 apply to all residency requirements adopted on and after the effec-
 3 tive date of this act. Nothing herein shall be construed as to
 4 alter, abrogate, repeal or otherwise affect any residency require-
 5 ment in effect in any local unit ***[as of]*** *by ordinance or resolu-
 6 tion, or rule or regulation of a local unit, on* the effective date of
 7 this act; provided, however, that any amendment, modification or
 8 other change in any such residency requirement shall be subject
 9 to all the relevant provisions of this act.

1 *8. Any requirements concerning eligibility, appointment or
 2 promotion contained in any ordinance or resolution adopted pursu-
 3 ant to this act shall be subject to any order issued by any court,
 4 or by any State or Federal agency pursuant to law, with respect
 5 to a requirement of action to eliminate discrimination in employ-
 6 ment based upon race, creed, color, national origin, ancestry,
 7 marital status or sex, except that any requirement contained in
 8 any such ordinance or resolution pursuant to the provisions of
 9 section 3 of this act shall continue to apply notwithstanding any
 10 such order.*

1 ***[7.]*** *9.* R. S. 11:22-7 and N. J. S. 40A:9-1 are repealed.

1 ***[8.]*** *10.* This act shall take effect immediately.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JUNE 30, 1978

KATHY FORSYTH

Governor Brendan Byrne today signed a bill that repeals two statutes which prohibit non-residents from holding county and municipal jobs.

The bill, A-110, is sponsored by Assemblyman Paul J. Contillo (D-Bergen).

This bill repeals N.J.S.40A:9-1 which requires that 11 county and municipal officers be residents of the local unit for which they work. It also repeals R.S. 11:22-7 which prohibits the Civil Service Commission from opening eligibility lists for county and municipal jobs to non-residents.

The bill also establishes a procedure for permitting local governing units to establish residency requirements.

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