

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

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

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

Title 2B.
Chapter 25. (New)
Municipal
Prosecutors
§§1-10
C.2B:25-1 to
2B:25-10
§12
Note to §§1-11

P.L. 1999, CHAPTER 349, *approved January 14, 2000*
Senate, No. 279 (*Second Reprint*)

1 AN ACT establishing the position of municipal prosecutor for each
2 municipal court of this State, providing for the appointment,
3 defining the duties and authorizing the training of municipal
4 prosecutors and supplementing Title 2A of the New Jersey Statutes
5 ²and amending P.L.1996, c.95².
6

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

10 1. ²(New section)² The Legislature finds and declares that
11 municipal prosecutors are a critical component of New Jersey's system
12 for the administration of justice, that the role of municipal prosecutor
13 is not statutorily defined, and that in order to ensure the uniform and
14 proper administration of justice in this State, it is necessary to define
15 the duties of municipal prosecutors.
16

17 2. ²(New section)² As used in this act:

18 a. "Municipal prosecutor" means a person appointed to prosecute
19 all offenses over which the municipal court has jurisdiction.

20 b. "Governing body" of a ²county or² municipality means the
21 officer or body that is the appropriate appointing authority for
22 ²county counsel,² municipal attorney or corporation counsel under the
23 laws applicable to the form of ²county or² municipal government
24 established in the ²county or² municipality pursuant to law, provided
25 that the municipal corporation counsel shall be the appointing
26 authority in any city of the first class with a population greater than
27 270,000, according to the latest federal decennial census and in any
28 city of the second class with a population of greater than 30,000 but
29 less than 43,000, according to the latest decennial census, which city
30 of the second class is located in a county of the first class with a
31 population less than 600,000 according to the latest federal decennial
32 census.

33 c. "Municipal court" means any municipal or ²**[intermunicipal]**

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and 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 11, 1998.

² Assembly AJU committee amendments adopted December 6, 1999.

1 joint municipal or central municipal² court established pursuant to
2 statute .

3 d. "Attorney General" includes the Attorney General of New Jersey
4 and any assistants or deputies who may be designated to carry out the
5 responsibilities conferred on the Attorney General by this act ²or the
6 laws of this State².

7 e. "County prosecutor" shall mean the prosecutor of the county in
8 which the municipal court is situated and any assistant prosecutors of
9 that county who may be designated by this act.

10 ²[f. "Intermunicipal court" shall mean a court established by two
11 or more municipalities in accordance with statutes authorizing
12 municipalities to combine for the purposes of establishing a single
13 court with jurisdiction over the territory of the participating
14 municipalities.]²

15

16 3. ²(New section)² Any person serving as a municipal prosecutor
17 on the effective date of this act shall be exempt from its requirements
18 for a period of either one year or for the expiration of his or her
19 current term of office, whichever is shorter, except that the provisions
20 of the act pertaining to supersession (section 7) and removal (section
21 9) shall be in full force on the effective date of this act.

22

23 4. ²(New section)² a. Each municipal court in this State shall have
24 at least one municipal prosecutor appointed by the governing body of
25 the municipality ², municipalities or county² in accordance with
26 applicable laws, ordinances and resolutions.

27 b. A municipal prosecutor shall be an attorney-at-law of this State
28 in good standing, and shall serve for a term of one year from the date
29 of his or her appointment, except as determined by the governing body
30 of a ²county or a² city of the first class with a population greater than
31 270,000, according to the latest federal decennial census, or the
32 governing body of a city of the second class with a population of
33 greater than 30,000 but less than 43,000, according to the latest
34 decennial census, which city of the second class is located in a county
35 of the first class with a population less than 600,000 according to the
36 latest federal decennial census, and may continue to serve in office
37 pending re-appointment or appointment of a successor. A municipal
38 prosecutor may be appointed to that position in one or more municipal
39 courts. The provisions of this act shall apply to each such position
40 held.

41 c. ²(1)² A municipal prosecutor of ²[an intermunicipal] a joint
42 municipal² court shall be appointed upon the concurrence of the
43 governing bodies of each of the municipalities in accordance with
44 applicable laws, ordinances or resolutions.

45 ²(2) A municipal prosecutor of a central municipal court shall be
46 appointed by the governing body of the county.²

1 d. Municipal prosecutors shall be compensated either on an hourly,
2 per diem, annual or other basis as the ²county, ² municipality or
3 municipalities provide. In the case of ²²~~[an intermunicipal]~~ a joint
4 municipal ² court, municipalities shall, by similar ordinances, enter into
5 an agreement fixing the compensation of the municipal prosecutor and
6 providing for its payment. ²In the case of a central municipal court,
7 the county shall fix the compensation of the municipal prosecutor and
8 provide for its payment.²

9 The compensation of municipal prosecutors shall be in lieu of any
10 and all other fees; provided, however that when a municipal
11 prosecutor is assigned to prosecute a de novo appeal in the Superior
12 Court, the prosecutor shall be entitled to additional compensation
13 unless the municipality expressly provides otherwise at the time the
14 compensation is fixed.

15 e. In accordance with applicable laws, ordinances and resolutions,
16 a municipality may appoint additional municipal prosecutors as
17 necessary to administer justice in a timely and effective manner in its
18 municipal court. Such appointments shall be subject to this act. This
19 subsection also applies to ²~~[intermunicipal]~~ joint municipal courts and
20 central municipal² courts.

21 f. Any municipal court having two or more municipal prosecutors
22 shall have a "chief municipal prosecutor" who shall be appointed by
23 the governing body of the ²county or the² municipality. The chief
24 municipal prosecutor of ²~~[an intermunicipal]~~ a joint municipal² court
25 shall be appointed upon the concurrence of the governing bodies of
26 each municipality. The chief municipal prosecutor shall have authority
27 over other prosecutors serving that court with respect to the
28 performance of their duties.

29 g. (1) Nothing in this act shall affect the appointment of municipal
30 attorneys in accordance with N.J.S.40A:9-139; provided, however,
31 that a person appointed to the positions of both municipal prosecutor
32 and municipal attorney shall be subject to all of the provisions of this
33 act while serving in the capacity of municipal prosecutor.

34 (2) In addition to any other duties proscribed by the provisions of
35 this act, a person serving as both a municipal prosecutor and a
36 municipal attorney may prosecute ²county or² municipal ordinance
37 violations.

38
39 5. ²~~(New section)~~² a. A municipal prosecutor, except as provided
40 by paragraph b. of this section and sections 6 and 7 of this act, shall
41 represent the State^{2 2}, the county ² or the municipality in the
42 prosecution of all offenses ², except for zoning violations.² within the
43 statutory jurisdiction of the municipal court as defined by law. A
44 municipal prosecutor shall be responsible for handling all phases of the
45 prosecution of an offense, including but not limited to discovery,
46 pretrial and post-trial hearings, motions, dismissals, removals to

1 Federal District Court and other collateral functions authorized to be
2 performed by the municipal prosecutor by law or Rule of Court. As
3 used in this subsection, the term "post-trial hearing" shall not include
4 de novo appeals in Superior Court.

5 b. A municipal prosecutor may, with the approval of the court
6 and pursuant to the Rules of Court², authorize private attorneys to
7 prosecute citizen complaints filed in the municipal court. A municipal
8 prosecutor may, with the approval of the court, decline to participate
9 in municipal court proceedings in which the defendant is not
10 represented by counsel. ¹The court ²**[must]** ²shall² afford the citizen
11 complainant an opportunity to be heard prior to determining whether
12 to approve a municipal prosecutor's decision to authorize a private
13 attorney to prosecute a citizen complaint or to decline to participate
14 in a municipal court proceeding in which the defendant is not
15 represented by counsel. ¹ ²When the municipal prosecutor declines to
16 prosecute, the prevailing complainant may make an application to the
17 court for counsel fee reimbursement to be paid out of applicable fines,
18 but such reimbursement shall not exceed the amount of the applicable
19 fines. ² Upon a finding that a conflict of interest precludes a municipal
20 prosecutor from participating in a proceeding, the court shall excuse
21 the municipal prosecutor and may, in such a case, request the county
22 prosecutor to provide representation in accordance with section 6 of
23 this act unless the municipality has provided for alternative
24 representation.

25 c. A municipal prosecutor may at any time move before the
26 municipal court to amend or dismiss any complaint for good cause
27 shown in accordance with the Rules of the Court.

28
29 6. ²(New section)² a. Appointments to fill vacancies in the
30 position of municipal prosecutor shall be made in accordance with the
31 provisions of section 4 of this act as soon as practicable.

32 b. Unless the municipality has provided for alternative
33 representation, the Attorney General or the county prosecutor, with
34 notice to the Attorney General, may designate, at the request of the
35 municipal prosecutor or municipal court, one or more assistant or
36 deputy attorneys general or assistant prosecutors to prosecute the
37 business of any municipal court if there is a vacancy in the office of the
38 municipal prosecutor or the municipal prosecutor is temporarily
39 unavailable and the municipal prosecutor or the municipal court has
40 requested such designation.

41
42 7. ²(New section)² Whenever in the opinion of the Attorney
43 General or a county prosecutor the public interest of the State will be
44 promoted by so doing, the Attorney General or county prosecutor,
45 with notice to the Attorney General, may supersede a municipal
46 prosecutor by prosecuting any offense against the laws of this State

1 within the jurisdiction of a municipal court, or by intervening in any
2 prosecution before a municipal court.

3
4 8. ²(New section)² Whenever the Attorney General or county
5 prosecutor shall prosecute in a municipal court of this State pursuant
6 to section 6 of this act, the Attorney General or county prosecutor
7 shall, upon demand, be promptly reimbursed ²by the county,
8 municipality or municipalities² for costs, including the compensation
9 of any assistants or deputies attorney general or assistant prosecutors.

10
11 9. ²(New section)² In addition to any of the other means provided
12 by law for the removal from office of a public official, a municipal
13 prosecutor may be removed by the governing body of a ²county or²
14 municipality ², or as provided by the agreement entered into between
15 two or more municipalities participating in a joint municipal court.² for
16 good cause shown and after a public hearing, and upon due notice and
17 an opportunity to be heard.

18
19 10. ²(New section)² The Attorney General in consultation with the
20 county and municipal prosecutors may develop curricula for training
21 programs for all municipal prosecutors. Participation in such training
22 programs shall be voluntary. An attorney successfully completing a
23 training program shall receive such certification or recognition as
24 deemed appropriate by the Attorney General.

25
26 ²11. Section 14 of P.L. 1996, c. 95 (C.2B:12-27) is amended to
27 read as follows:

28 14. **【A county or municipality】** The governing body of the county
29 or municipality may employ an attorney-at-law as a prosecutor, under
30 the supervision of the Attorney General or county prosecutor, who
31 may represent the State, county or municipality in any matter within
32 the jurisdiction of the central municipal court or any other municipal
33 court in accordance with the provisions of P.L. , c. (C.)(now
34 pending before the Legislature as this bill).²

35 (cf: P.L.1996, c.95, s.14)

36
37 ¹**【11.】** 12.¹ This act shall take effect 90 days after enactment.

38
39
40
41
42 Clarifies duties and responsibilities of municipal prosecutors.

SENATE, No. 279

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:
Senator JOHN A. GIRGENTI
District 35 (Passaic)

SYNOPSIS

Clarifies duties and responsibilities of municipal prosecutors.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT establishing the position of municipal prosecutor for each
2 municipal court of this State, providing for the appointment,
3 defining the duties and authorizing the training of municipal
4 prosecutors and supplementing Title 2A of the New Jersey Statutes.
5

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

9 1. The Legislature finds and declares that municipal prosecutors
10 are a critical component of New Jersey's system for the administration
11 of justice, that the role of municipal prosecutors is not statutorily
12 defined, and that in order to ensure the uniform and proper
13 administration of justice in this State, it is necessary to define the
14 duties of municipal prosecutors.
15

16 2. As used in this act:

17 a. "Municipal prosecutor" means a person appointed to prosecute
18 all offenses over which the municipal court has jurisdiction.

19 b. "Governing body" of a municipality means the officer or body
20 that is the appropriate appointing authority for municipal attorney or
21 corporation counsel under the laws applicable to the form of municipal
22 government established in the municipality pursuant to law; provided
23 that the municipal corporation counsel shall be the appointing
24 authority in any city of the first class with a population greater than
25 270,000, according to the latest federal decennial census and in any
26 city of the second class with a population of greater than 30,000 but
27 less than 43,000, according to the latest decennial census, which city
28 of the second class is located in a county of the first class with a
29 population less than 600,000 according to the latest federal decennial
30 census.

31 c. "Municipal court" means any municipal or intermunicipal court
32 established pursuant to statute.

33 d. "Attorney General" includes the Attorney General of New Jersey
34 and any assistants or deputies who may be designated to carry out the
35 responsibilities conferred on the Attorney General by this act.

36 e. "County prosecutor" shall mean the prosecutor of the county in
37 which the municipal court is situated and any assistant prosecutors of
38 that county who may be designated by this act.

39 f. "Intermunicipal court" shall mean a court established by two or
40 more municipalities in accordance with statutes authorizing
41 municipalities to combine for the purposes of establishing a single
42 court with jurisdiction over the territory of the participating
43 municipalities.
44

45 3. Any person serving as a municipal prosecutor on the effective
46 date of this act shall be exempt from its requirements for a period of

1 either one year or for the expiration of his or her current term of
2 office, whichever is shorter, except that the provisions of the act
3 pertaining to supersession (section 7) and removal (section 9) shall be
4 in full force on the effective date of this act.

5
6 4. a. Each municipal court in this State shall have at least one
7 municipal prosecutor appointed by the governing body of the
8 municipality in accordance with applicable laws, ordinances and
9 resolutions.

10 b. A municipal prosecutor shall be an attorney-at-law of this State
11 in good standing, and shall serve for a term of one year from the date
12 of his or her appointment, except as determined by the governing body
13 of a city of the first class with a population greater than 270,000,
14 according to the latest federal decennial census, or the governing body
15 of a city of the second class with a population of greater than 30,000
16 but less than 43,000, according to the latest decennial census, which
17 city of the second class is located in a county of the first class with a
18 population less than 600,000 according to the latest federal decennial
19 census, and may continue to serve in office pending re-appointment or
20 appointment of a successor. A municipal prosecutor may be appointed
21 to that position in one or more municipal courts. The provisions of
22 this act shall apply to each such position held.

23 c. A municipal prosecutor of an intermunicipal court shall be
24 appointed upon the concurrence of the governing bodies of each of the
25 municipalities in accordance with applicable laws, ordinances or
26 resolutions.

27 d. Municipal prosecutors shall be compensated either on an hourly,
28 per diem, annual or other basis as the municipality or municipalities
29 provide. In the case of an intermunicipal court, municipalities shall, by
30 similar ordinances, enter into an agreement fixing the compensation of
31 the municipal prosecutor and providing for its payment.

32 The compensation of municipal prosecutors shall be in lieu of any
33 and all other fees; provided, however that when a municipal
34 prosecutor is assigned to prosecute a de novo appeal in the Superior
35 Court, the prosecutor shall be entitled to additional compensation
36 unless the municipality expressly provides otherwise at the time the
37 compensation is fixed.

38 e. In accordance with applicable laws, ordinances and resolutions,
39 a municipality may appoint additional municipal prosecutors as
40 necessary to administer justice in a timely and effective manner in its
41 municipal court. Such appointments shall be subject to this act. This
42 subsection also applies to intermunicipal courts.

43 f. Any municipal court having two or more municipal prosecutors
44 shall have a "chief municipal prosecutor" who shall be appointed by
45 the governing body of the municipality. The chief municipal
46 prosecutor of an intermunicipal court shall be appointed upon the

1 concurrence of the governing bodies of each municipality. The chief
2 municipal prosecutor shall have authority over other prosecutors
3 serving that court with respect to the performance of their duties.

4 g. (1) Nothing in this act shall affect the appointment of municipal
5 attorneys in accordance with N.J.S.40A:9-139; provided, however,
6 that a person appointed to the positions of both municipal prosecutor
7 and municipal attorney shall be subject to all of the provisions of this
8 act while serving in the capacity of municipal prosecutor.

9 (2) In addition to any other duties proscribed by the provisions of
10 this act, a person serving as both a municipal prosecutor and a
11 municipal attorney may prosecute municipal ordinance violations.

12

13 5. a. A municipal prosecutor, except as provided by paragraph b.
14 of this section and sections 6 and 7 of this act, shall represent the State
15 or the municipality in the prosecution of all offenses within the
16 statutory jurisdiction of the municipal court as defined by law. A
17 municipal prosecutor shall be responsible for handling all phases of the
18 prosecution of an offense, including but not limited to discovery,
19 pretrial and post-trial hearings, motions dismissals, removals to
20 Federal District Court and other collateral functions authorized to be
21 performed by the municipal prosecutor by law or Rule of Court. As
22 used in this subsection, the term "post-trial hearing" shall not include
23 de novo appeals in Superior Court.

24 b. A municipal prosecutor may, with the approval of the court,
25 authorize private attorneys to prosecute citizen complaints filed in the
26 municipal court. A municipal prosecutor may, with the approval of the
27 court, decline to participate in municipal court proceedings in which
28 the defendant is not represented by counsel. Upon a finding that a
29 conflict of interest precludes a municipal prosecutor from participating
30 in a proceeding, the court shall excuse the municipal prosecutor and
31 may, in such a case, request the county prosecutor to provide
32 representation in accordance with section 6 of this act unless the
33 municipality has provided for alternative representation.

34 c. A municipal prosecutor may at any time move before the
35 municipal court to amend or dismiss any complaint for good cause
36 shown in accordance with the Rules of the Court.

37

38 6. a. Appointments to fill vacancies in the position of municipal
39 prosecutor shall be made in accordance with the provisions of section
40 4 of this act as soon as practicable.

41 b. Unless the municipality has provided for alternative
42 representation, the Attorney General or the county prosecutor, with
43 notice to the Attorney General, may designate, at the request of the
44 municipal prosecutor or municipal court, one or more assistant or
45 deputy attorneys general or assistant prosecutors to prosecute the
46 business of any municipal court if there is a vacancy in the office of the

1 municipal prosecutor or the municipal prosecutor is temporarily
2 unavailable and the municipal prosecutor or the municipal court has
3 requested such designation.

4
5 7. Whenever in the opinion of the Attorney General or a county
6 prosecutor the public interest of the State will be promoted by so
7 doing, the Attorney General or county prosecutor, with notice to the
8 Attorney General, may supersede a municipal prosecutor by
9 prosecuting any offense against the laws of this State within the
10 jurisdiction of a municipal court, or by intervening in any prosecution
11 before a municipal court.

12
13 8. Whenever the Attorney General or county prosecutor shall
14 prosecute in a municipal court of this State pursuant to section 6 of
15 this act, the Attorney General or county prosecutor shall, upon
16 demand, be promptly reimbursed for costs, including the compensation
17 of any assistants or deputies attorney general or assistant prosecutors.

18
19 9. In addition to any of the other means provided by law for the
20 removal from office of a public official, a municipal prosecutor may be
21 removed by the governing body of a municipality for good cause
22 shown and after a public hearing, and upon due notice and an
23 opportunity to be heard.

24
25 10. The Attorney General in consultation with the county and
26 municipal prosecutors may develop curricula for training programs for
27 all municipal prosecutors. Participation in such training programs shall
28 be voluntary. An attorney successfully completing a training program
29 shall receive such certification or recognition as deemed appropriate
30 by the Attorney General.

31
32 11. This act shall take effect 90 days after enactment.

33
34
35 STATEMENT

36
37 This bill would give statutory recognition to the office of the
38 municipal prosecutor and defines the role, responsibilities and duties
39 of the office.

40 The following is a summary of the bill's provisions.

41 1. Each municipal court shall have at least one municipal
42 prosecutor appointed by the municipal governing body.

43 2. Municipal prosecutors would be appointed for a term of one
44 year, except that the governing bodies in certain municipalities meeting
45 certain population criteria may designate different terms.

1 They would be compensated at an annual salary fixed by the
2 municipality.

3 3. Municipalities may appoint more than one municipal prosecutor.
4 If a municipality does appoint more than one prosecutor, a "chief
5 municipal prosecutor," who would have authority over the other
6 prosecutors, would be designated by the municipality.

7 4. Municipal prosecutors would represent the State in the
8 prosecution of all offenses within the statutory jurisdiction of the
9 municipal court. A municipal prosecutor, with the approval of the
10 municipal court, would be empowered to authorize private attorneys
11 to prosecute citizens' complaints and could decline to participate in
12 proceeding in which the defendant is not represented by counsel.

13 5. If a finding of conflict of interest precludes a municipal
14 prosecutor from handling a proceeding, the prosecutor may request
15 the county prosecutor to provide representation.

16 6. At the request of the municipal court or the municipal
17 prosecutor, the Attorney General could designate lawyers from the
18 Attorney General's office or assistant prosecutors to prosecute in a
19 municipal court if there is a vacancy in the office of municipal
20 prosecutor or if the prosecutor is temporarily unavailable.

21 7. The Attorney General or a county prosecutor may supersede a
22 municipal prosecutor and handle a prosecution in a municipal court if
23 in their opinion the public interest of the State would be promoted.

24 8. If because of a vacancy in the office of the municipal
25 prosecutor, the Attorney General or a county prosecutor is required
26 to handle matters in a municipal court, their offices would be entitled
27 to reimbursement for costs including the compensation of their staff.

28 9. A municipal prosecutor may be removed by the municipal
29 governing body for good cause after a hearing and an opportunity to
30 be heard.

31 10. The Attorney General is authorized to establish training
32 programs for municipal prosecutors.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 279

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1999

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 279 (1R).

This bill would statutorily define the role, responsibilities and duties of the municipal prosecutor. The following is a summary of the major provisions of the bill:

1. Each municipal court shall have at least one municipal prosecutor appointed by the municipal governing body.

2. Municipal prosecutors would be appointed for a term of one year, except that the governing bodies in certain municipalities meeting certain population criteria may designate different terms. They would be compensated at an annual salary fixed by the municipality.

3. Municipalities may appoint more than one municipal prosecutor. If a municipality does appoint more than one prosecutor, a "chief municipal prosecutor," who would have authority over the other prosecutors, would be designated by the municipality.

4. Municipal prosecutors would represent the State in the prosecution of all offenses within the statutory jurisdiction of the municipal court. A municipal prosecutor, with the approval of the municipal court, would be empowered to authorize private attorneys to prosecute citizens' complaints and could decline to participate in proceeding in which the defendant is not represented by counsel. However, the bill requires the municipal court to afford citizen complainants an opportunity to be heard prior to determining whether to approve a municipal prosecutor's decision to authorize a private attorney to prosecute or to decline to participate in a municipal court proceeding.

5. If a finding of conflict of interest precludes a municipal prosecutor from handling a proceeding, the prosecutor may request the county prosecutor to provide representation.

6. At the request of the municipal court or the municipal prosecutor, the Attorney General could designate lawyers from the Attorney General's office or assistant prosecutors to prosecute in a municipal court if there is a vacancy in the office of municipal

prosecutor or if the prosecutor is temporarily unavailable.

7. The Attorney General or a county prosecutor may supersede a municipal prosecutor and handle a prosecution in a municipal court if in their opinion the public interest of the State would be promoted.

8. If the Attorney General or a county prosecutor is required to handle matters in a municipal court, their offices would be entitled to reimbursement for costs including the compensation of their staff.

9. A municipal prosecutor may be removed by the municipal governing body for good cause after a hearing and an opportunity to be heard.

10. The Attorney General is authorized to establish training programs for municipal prosecutors.

The committee amended the bill for technical consistency by changing the references to "intermunicipal court" throughout the bill to "joint municipal court" and "central municipal court" so that the bill would be consistent with Title 2B of the New Jersey Statutes. Some references to the appropriate county or municipal governing bodies also were included.

In addition, the committee amended section 5 of the bill to provide that in a case where a prosecutor has declined to prosecute and the party has enlisted a private attorney that party may make an application to the court for counsel fee reimbursement which would be paid out of the applicable fines. This reimbursement could not exceed the amount of the applicable fines. The committee heard testimony, in particular, on the issue of shoplifting cases which are often handled by a private prosecutor at the municipal court level for a large retail establishment at that establishment's expense. This new provision would enable the court to award fees in those and other private prosecution matters to permit the recoupment of some of the costs of representation.

The committee also amended this section of the bill to clarify that the prosecutor would not prosecute zoning violation cases.

These amendments make this bill identical to Assembly, No. 2468 (1R).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 279

STATE OF NEW JERSEY

DATED: JANUARY 6, 2000

The Assembly Appropriations Committee reports favorably Senate Bill No. 279 (2R).

Senate Bill No. 279 (2R) statutorily defines the role, responsibilities and duties of the municipal prosecutor. The bill provides that:

1. Each municipal court shall have at least one municipal prosecutor appointed by the governing body of the municipality, municipalities or the county, as the case may be depending on whether the court is municipal, joint municipal or central municipal.

2. Municipal prosecutors will be appointed for a term of one year, except that the governing bodies in certain municipalities meeting certain population criteria may designate different terms. Municipal prosecutors will be compensated on an hourly, per diem or annual basis as determined by the appointing authorities.

3. Municipalities may appoint more than one municipal prosecutor. If a municipality does appoint more than one prosecutor, a "chief municipal prosecutor," who would have authority over the other prosecutors, would be designated by the appointing governing bodies.

4. Municipal prosecutors will represent the State in the prosecution of all offenses within the statutory jurisdiction of the municipal court except zoning violations. A municipal prosecutor, with the approval of the municipal court, will be empowered to authorize private attorneys to prosecute citizens' complaints and can decline to participate in a proceeding in which the defendant is not represented by counsel. However, the bill requires the municipal court to afford citizen complainants an opportunity to be heard prior to determining whether to approve a municipal prosecutor's decision to authorize a private attorney to prosecute or to decline to participate in a municipal court proceeding in which the defendant is not represented by counsel.

5. If a finding of conflict of interest precludes a municipal prosecutor from handling a proceeding, the court may request the county prosecutor to provide representation.

6. At the request of the municipal court or the municipal

prosecutor, the Attorney General may designate lawyers from the Attorney General's office or assistant prosecutors to prosecute in a municipal court if there is a vacancy in the office of municipal prosecutor or if the prosecutor is temporarily unavailable.

7. The Attorney General or a county prosecutor may supersede a municipal prosecutor and handle a prosecution in a municipal court if in the Attorney General's or the county prosecutor's opinion the public interest of the State would be promoted.

8. If the Attorney General or a county prosecutor is required to handle matters in a municipal court, their offices are be entitled to reimbursement for costs including the compensation of their subordinate attorneys.

9. In addition to any of the other means provided by law for the removal from office of a public official, a municipal prosecutor may be removed before the end of the prosecutor's one-year term by the appointing governing body for good cause after a hearing and an opportunity to be heard.

10. The Attorney General is authorized to establish training programs for municipal prosecutors.

As reported, this bill is identical to Assembly Bill No. 2468 (1R), as also reported by the committee.

FISCAL IMPACT:

The Administrative Office of the Courts (AOC) states that because the cost of funding municipal prosecutors rests entirely with the municipalities, the bill would generate no added expenses for the State or county governments. The AOC notes that currently, out of 536 municipal courts, the municipal governing body has created the position of municipal prosecutor in 485 courts. The option of compensating the municipal attorney on an hourly, per diem or annual basis as determined by the appointing authority allows municipalities great flexibility in obtaining only those services that they desire.

The Office of Legislative Services notes that the current version of the bill provides for the reimbursement of counsel fees to private counsel out of applicable fines. Because these fees would be provided from and limited to the fines paid, and no fines would otherwise be imposed in those cases where the municipal prosecutor has declined to prosecute, there would be no added cost to the municipality and no loss of the proceeds of fines.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 279

STATE OF NEW JERSEY

DATED: MARCH 23, 1998

The Senate Judiciary Committee reports favorably Senate Bill No. 279.

This bill would statutorily define the role, responsibilities and duties of the municipal prosecutor. The following is a summary of the major provisions of the bill:

1. Each municipal court shall have at least one municipal prosecutor appointed by the municipal governing body.
2. Municipal prosecutors would be appointed for a term of one year, except that the governing bodies in certain municipalities meeting certain population criteria may designate different terms. They would be compensated at an annual salary fixed by the municipality.
3. Municipalities may appoint more than one municipal prosecutor. If a municipality does appoint more than one prosecutor, a "chief municipal prosecutor," who would have authority over the other prosecutors, would be designated by the municipality.
4. Municipal prosecutors would represent the State in the prosecution of all offenses within the statutory jurisdiction of the municipal court. A municipal prosecutor, with the approval of the municipal court, would be empowered to authorize private attorneys to prosecute citizens' complaints and could decline to participate in proceedings in which the defendant is not represented by counsel.
5. If a finding of conflict of interest precludes a municipal prosecutor from handling a proceeding, the prosecutor may request the county prosecutor to provide representation.
6. At the request of the municipal court or the municipal prosecutor, the Attorney General could designate lawyers from the Attorney General's office or assistant prosecutors to prosecute in a municipal court if there is a vacancy in the office of municipal prosecutor or if the prosecutor is temporarily unavailable.
7. The Attorney General or a county prosecutor may supersede a municipal prosecutor and handle a prosecution in a municipal court if in their opinion the public interest of the State would be promoted.
8. If because of a vacancy in the office of the municipal prosecutor, the Attorney General or a county prosecutor is required to handle matters in a municipal court, their offices would be entitled to reimbursement for costs including the compensation of their staff.

9. A municipal prosecutor may be removed by the municipal governing body for good cause after a hearing and an opportunity to be heard.

10. The Attorney General is authorized to establish training programs for municipal prosecutors.

This bill was prefiled for introduction in the 1998 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

STATEMENT TO
SENATE, No. 279

with Senate Floor Amendments
(Proposed By Senator GIRGENTI)

ADOPTED: JUNE 11, 1998

S-279 would regulate the duties of the municipal prosecutors. Section 5 of the bill provides that municipal prosecutors may, with the approval of the municipal court authorize private attorneys to prosecute citizen complaints. Section 5 also authorizes municipal prosecutors to decline, with the approval of the court, to participate in proceedings in which the defendant is not represented by counsel. This amendment would require municipal courts to afford citizen complainants an opportunity to be heard prior to determining whether to approve a municipal prosecutor's decision to authorize a private attorney to prosecute or to decline to participate in a municipal court proceeding.

ASSEMBLY, No. 2468

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED SEPTEMBER 28, 1998

Sponsored by:

Assemblyman DAVID C. RUSSO

District 40 (Bergen and Passaic)

SYNOPSIS

Clarifies duties and responsibilities of municipal prosecutors.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the position of municipal prosecutor for each
2 municipal court of this State, providing for the appointment,
3 defining the duties and authorizing the training of municipal
4 prosecutors and supplementing Title 2A of the New Jersey Statutes.
5

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

9 1. The Legislature finds and declares that municipal prosecutors
10 are a critical component of New Jersey's system for the administration
11 of justice, that the role of municipal prosecutor is not statutorily
12 defined, and that in order to ensure the uniform and proper
13 administration of justice in this State, it is necessary to define the
14 duties of municipal prosecutors.
15

16 2. As used in this act:

17 a. "Municipal prosecutor" means a person appointed to prosecute
18 all offenses over which the municipal court has jurisdiction.

19 b. "Governing body" of a municipality means the officer or body
20 that is the appropriate appointing authority for municipal attorney or
21 corporation counsel under the laws applicable to the form of municipal
22 government established in the municipality pursuant to law, provided
23 that the municipal corporation counsel shall be the appointing
24 authority in any city of the first class with a population greater than
25 270,000, according to the latest federal decennial census and in any
26 city of the second class with a population of greater than 30,000 but
27 less than 43,000, according to the latest decennial census, which city
28 of the second class is located in a county of the first class with a
29 population less than 600,000 according to the latest federal decennial
30 census.

31 c. "Municipal court" means any municipal or intermunicipal court
32 established pursuant to statute.

33 d. "Attorney General" includes the Attorney General of New Jersey
34 and any assistants or deputies who may be designated to carry out the
35 responsibilities conferred on the Attorney General by this act.

36 e. "County prosecutor" shall mean the prosecutor of the county in
37 which the municipal court is situated and any assistant prosecutors of
38 that county who may be designated by this act.

39 f. "Intermunicipal court" shall mean a court established by two or
40 more municipalities in accordance with statutes authorizing
41 municipalities to combine for the purposes of establishing a single
42 court with jurisdiction over the territory of the participating
43 municipalities.

1 3. Any person serving as a municipal prosecutor on the effective
2 date of this act shall be exempt from its requirements for a period of
3 either one year or for the expiration of his or her current term of
4 office, whichever is shorter, except that the provisions of the act
5 pertaining to supersession (section 7) and removal (section 9) shall be
6 in full force on the effective date of this act.

7
8 4. a. Each municipal court in this State shall have at least one
9 municipal prosecutor appointed by the governing body of the
10 municipality in accordance with applicable laws, ordinances and
11 resolutions.

12 b. A municipal prosecutor shall be an attorney-at-law of this State
13 in good standing, and shall serve for a term of one year from the date
14 of his or her appointment, except as determined by the governing body
15 of a city of the first class with a population greater than 270,000,
16 according to the latest federal decennial census, or the governing body
17 of a city of the second class with a population of greater than 30,000
18 but less than 43,000, according to the latest decennial census, which
19 city of the second class is located in a county of the first class with a
20 population less than 600,000 according to the latest federal decennial
21 census, and may continue to serve in office pending re-appointment or
22 appointment of a successor. A municipal prosecutor may be appointed
23 to that position in one or more municipal courts. The provisions of
24 this act shall apply to each such position held.

25 c. A municipal prosecutor of an intermunicipal court shall be
26 appointed upon the concurrence of the governing bodies of each of the
27 municipalities in accordance with applicable laws, ordinances or
28 resolutions.

29 d. Municipal prosecutors shall be compensated either on an hourly,
30 per diem, annual or other basis as the municipality or municipalities
31 provide. In the case of an intermunicipal court, municipalities shall, by
32 similar ordinances, enter into an agreement fixing the compensation of
33 the municipal prosecutor and providing for its payment.

34 The compensation of municipal prosecutors shall be in lieu of any
35 and all other fees; provided, however that when a municipal
36 prosecutor is assigned to prosecute a de novo appeal in the Superior
37 Court, the prosecutor shall be entitled to additional compensation
38 unless the municipality expressly provides otherwise at the time the
39 compensation is fixed.

40 e. In accordance with applicable laws, ordinances and resolutions,
41 a municipality may appoint additional municipal prosecutors as
42 necessary to administer justice in a timely and effective manner in its
43 municipal court. Such appointments shall be subject to this act. This
44 subsection also applies to intermunicipal courts.

45 f. Any municipal court having two or more municipal prosecutors
46 shall have a "chief municipal prosecutor" who shall be appointed by

1 the governing body of the municipality. The chief municipal
2 prosecutor of an intermunicipal court shall be appointed upon the
3 concurrence of the governing bodies of each municipality. The chief
4 municipal prosecutor shall have authority over other prosecutors
5 serving that court with respect to the performance of their duties.

6 g. (1) Nothing in this act shall affect the appointment of municipal
7 attorneys in accordance with N.J.S.40A:9-139; provided, however,
8 that a person appointed to the positions of both municipal prosecutor
9 and municipal attorney shall be subject to all of the provisions of this
10 act while serving in the capacity of municipal prosecutor.

11 (2) In addition to any other duties proscribed by the provisions of
12 this act, a person serving as both a municipal prosecutor and a
13 municipal attorney may prosecute municipal ordinance violations.

14
15 5. a. A municipal prosecutor, except as provided by paragraph b.
16 of this section and sections 6 and 7 of this act, shall represent the State
17 or the municipality in the prosecution of all offenses within the
18 statutory jurisdiction of the municipal court as defined by law. A
19 municipal prosecutor shall be responsible for handling all phases of the
20 prosecution of an offense, including but not limited to discovery,
21 pretrial and post-trial hearings, motions, dismissals, removals to
22 Federal District Court and other collateral functions authorized to be
23 performed by the municipal prosecutor by law or Rule of Court. As
24 used in this subsection, the term "post-trial hearing" shall not include
25 de novo appeals in Superior Court.

26 b. A municipal prosecutor may, with the approval of the court,
27 authorize private attorneys to prosecute citizen complaints filed in the
28 municipal court. A municipal prosecutor may, with the approval of the
29 court, decline to participate in municipal court proceedings in which
30 the defendant is not represented by counsel. The court must afford
31 the citizen complainant an opportunity to be heard prior to
32 determining whether to approve a municipal prosecutor's decision to
33 authorize a private attorney to prosecute a citizen complaint or to
34 decline to participate in a municipal court proceeding in which the
35 defendant is not represented by counsel. Upon a finding that a conflict
36 of interest precludes a municipal prosecutor from participating in a
37 proceeding, the court shall excuse the municipal prosecutor and may,
38 in such a case, request the county prosecutor to provide representation
39 in accordance with section 6 of this act unless the municipality has
40 provided for alternative representation.

41 c. A municipal prosecutor may at any time move before the
42 municipal court to amend or dismiss any complaint for good cause
43 shown in accordance with the Rules of the Court.

44
45 6. a. Appointments to fill vacancies in the position of municipal
46 prosecutor shall be made in accordance with the provisions of section

1 4 of this act as soon as practicable.

2 b. Unless the municipality has provided for alternative
3 representation, the Attorney General or the county prosecutor, with
4 notice to the Attorney General, may designate, at the request of the
5 municipal prosecutor or municipal court, one or more assistant or
6 deputy attorneys general or assistant prosecutors to prosecute the
7 business of any municipal court if there is a vacancy in the office of the
8 municipal prosecutor or the municipal prosecutor is temporarily
9 unavailable and the municipal prosecutor or the municipal court has
10 requested such designation.

11

12 7. Whenever in the opinion of the Attorney General or a county
13 prosecutor the public interest of the State will be promoted by so
14 doing, the Attorney General or county prosecutor, with notice to the
15 Attorney General, may supersede a municipal prosecutor by
16 prosecuting any offense against the laws of this State within the
17 jurisdiction of a municipal court, or by intervening in any prosecution
18 before a municipal court.

19

20 8. Whenever the Attorney General or county prosecutor shall
21 prosecute in a municipal court of this State pursuant to section 6 of
22 this act, the Attorney General or county prosecutor shall, upon
23 demand, be promptly reimbursed for costs, including the compensation
24 of any assistants or deputies attorney general or assistant prosecutors.

25

26 9. In addition to any of the other means provided by law for the
27 removal from office of a public official, a municipal prosecutor may be
28 removed by the governing body of a municipality for good cause
29 shown and after a public hearing, and upon due notice and an
30 opportunity to be heard.

31

32 10. The Attorney General in consultation with the county and
33 municipal prosecutors may develop curricula for training programs for
34 all municipal prosecutors. Participation in such training programs shall
35 be voluntary. An attorney successfully completing a training program
36 shall receive such certification or recognition as deemed appropriate
37 by the Attorney General.

38

39 11. This act shall take effect 90 days after enactment.

40

41

42 STATEMENT

43

44 This bill would statutorily define the role, responsibilities and duties
45 of the municipal prosecutor. The following is a summary of the major
46 provisions of the bill:

- 1 1. Each municipal court shall have at least one municipal
2 prosecutor appointed by the municipal governing body.
- 3 2. Municipal prosecutors would be appointed for a term of one
4 year, except that the governing bodies in certain municipalities meeting
5 certain population criteria may designate different terms. They would
6 be compensated at an annual salary fixed by the municipality.
- 7 3. Municipalities may appoint more than one municipal prosecutor.
8 If a municipality does appoint more than one prosecutor, a "chief
9 municipal prosecutor," who would have authority over the other
10 prosecutors, would be designated by the municipality.
- 11 4. Municipal prosecutors would represent the State in the
12 prosecution of all offenses within the statutory jurisdiction of the
13 municipal court. A municipal prosecutor, with the approval of the
14 municipal court, would be empowered to authorize private attorneys
15 to prosecute citizens' complaints and could decline to participate in
16 proceeding in which the defendant is not represented by counsel.
17 However, the bill requires the municipal court to afford citizen
18 complainants an opportunity to be heard prior to determining whether
19 to approve a municipal prosecutor's decision to authorize a private
20 attorney to prosecute or to decline to participate in a municipal court
21 proceeding.
- 22 5. If a finding of conflict of interest precludes a municipal
23 prosecutor from handling a proceeding, the prosecutor may request
24 the county prosecutor to provide representation.
- 25 6. At the request of the municipal court or the municipal
26 prosecutor, the Attorney General could designate lawyers from the
27 Attorney General's office or assistant prosecutors to prosecute in a
28 municipal court if there is a vacancy in the office of municipal
29 prosecutor or if the prosecutor is temporarily unavailable.
- 30 7. The Attorney General or a county prosecutor may supersede a
31 municipal prosecutor and handle a prosecution in a municipal court if
32 in their opinion the public interest of the State would be promoted.
- 33 8. If because of a vacancy in the office of the municipal
34 prosecutor, the Attorney General or a county prosecutor is required
35 to handle matters in a municipal court, their offices would be entitled
36 to reimbursement for costs including the compensation of their staff.
- 37 9. A municipal prosecutor may be removed by the municipal
38 governing body for good cause after a hearing and an opportunity to
39 be heard.
- 40 10. The Attorney General is authorized to establish training
41 programs for municipal prosecutors.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2468

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1999

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2468.

This bill would statutorily define the role, responsibilities and duties of the municipal prosecutor. The following is a summary of the major provisions of the bill:

1. Each municipal court shall have at least one municipal prosecutor appointed by the municipal governing body.

2. Municipal prosecutors would be appointed for a term of one year, except that the governing bodies in certain municipalities meeting certain population criteria may designate different terms. They would be compensated at an annual salary fixed by the municipality.

3. Municipalities may appoint more than one municipal prosecutor. If a municipality does appoint more than one prosecutor, a "chief municipal prosecutor," who would have authority over the other prosecutors, would be designated by the municipality.

4. Municipal prosecutors would represent the State in the prosecution of all offenses within the statutory jurisdiction of the municipal court. A municipal prosecutor, with the approval of the municipal court, would be empowered to authorize private attorneys to prosecute citizens' complaints and could decline to participate in proceeding in which the defendant is not represented by counsel. However, the bill requires the municipal court to afford citizen complainants an opportunity to be heard prior to determining whether to approve a municipal prosecutor's decision to authorize a private attorney to prosecute or to decline to participate in a municipal court proceeding.

5. If a finding of conflict of interest precludes a municipal prosecutor from handling a proceeding, the prosecutor may request the county prosecutor to provide representation.

6. At the request of the municipal court or the municipal prosecutor, the Attorney General could designate lawyers from the Attorney General's office or assistant prosecutors to prosecute in a municipal court if there is a vacancy in the office of municipal prosecutor or if the prosecutor is temporarily unavailable.

7. The Attorney General or a county prosecutor may supersede a

municipal prosecutor and handle a prosecution in a municipal court if in their opinion the public interest of the State would be promoted.

8. If the Attorney General or a county prosecutor is required to handle matters in a municipal court, their offices would be entitled to reimbursement for costs including the compensation of their staff.

9. A municipal prosecutor may be removed by the municipal governing body for good cause after a hearing and an opportunity to be heard.

10. The Attorney General is authorized to establish training programs for municipal prosecutors.

The committee amended the bill for technical consistency by changing the references to "intermunicipal court" throughout the bill to "joint municipal court" and "central municipal court" so that the bill would be consistent with Title 2B of the New Jersey Statutes. Some references to the appropriate county or municipal governing bodies also were included.

In addition, the committee amended section 5 of the bill to provide that in a case where a prosecutor has declined to prosecute and the party has enlisted a private attorney that party may make an application to the court for counsel fee reimbursement which would be paid out of the applicable fines. This reimbursement could not exceed the amount of the applicable fines. The committee heard testimony, in particular, on the issue of shoplifting cases which are often handled by a private prosecutor at the municipal court level for a large retail establishment at that establishment's expense. This new provision would enable the court to award fees in those and other private prosecution matters to permit the recoupment of some of the costs of representation.

The committee also amended this section of the bill to clarify that the prosecutor would not prosecute zoning violation cases.

These amendments make this bill identical to Senate, No. 279 (2R).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2468

STATE OF NEW JERSEY

DATED: JANUARY 6, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2468 (1R).

Assembly Bill No. 2468 (1R) statutorily defines the role, responsibilities and duties of the municipal prosecutor. The bill provides that:

1. Each municipal court shall have at least one municipal prosecutor appointed by the governing body of the municipality, municipalities or the county, as the case may be depending on whether the court is municipal, joint municipal or central municipal.

2. Municipal prosecutors will be appointed for a term of one year, except that the governing bodies in certain municipalities meeting certain population criteria may designate different terms. Municipal prosecutors will be compensated on an hourly, per diem or annual basis as determined by the appointing authorities.

3. Municipalities may appoint more than one municipal prosecutor. If a municipality does appoint more than one prosecutor, a "chief municipal prosecutor," who would have authority over the other prosecutors, would be designated by the appointing governing bodies.

4. Municipal prosecutors will represent the State in the prosecution of all offenses within the statutory jurisdiction of the municipal court except zoning violations. A municipal prosecutor, with the approval of the municipal court, will be empowered to authorize private attorneys to prosecute citizens' complaints and can decline to participate in a proceeding in which the defendant is not represented by counsel. However, the bill requires the municipal court to afford citizen complainants an opportunity to be heard prior to determining whether to approve a municipal prosecutor's decision to authorize a private attorney to prosecute or to decline to participate in a municipal court proceeding in which the defendant is not represented by counsel.

5. If a finding of conflict of interest precludes a municipal prosecutor from handling a proceeding, the court may request the county prosecutor to provide representation.

6. At the request of the municipal court or the municipal

prosecutor, the Attorney General may designate lawyers from the Attorney General's office or assistant prosecutors to prosecute in a municipal court if there is a vacancy in the office of municipal prosecutor or if the prosecutor is temporarily unavailable.

7. The Attorney General or a county prosecutor may supersede a municipal prosecutor and handle a prosecution in a municipal court if in the Attorney General's or the county prosecutor's opinion the public interest of the State would be promoted.

8. If the Attorney General or a county prosecutor is required to handle matters in a municipal court, their offices are be entitled to reimbursement for costs including the compensation of their subordinate attorneys.

9. In addition to any of the other means provided by law for the removal from office of a public official, a municipal prosecutor may be removed before the end of the prosecutor's one-year term by the appointing governing body for good cause after a hearing and an opportunity to be heard.

10. The Attorney General is authorized to establish training programs for municipal prosecutors.

As reported, this bill is identical to Senate Bill No. 279 (2R), as also reported by the committee.

FISCAL IMPACT:

The Administrative Office of the Courts (AOC) states that because the cost of funding municipal prosecutors rests entirely with the municipalities, the bill would generate no added expenses for the State or county governments. The AOC notes that currently, out of 536 municipal courts, the municipal governing body has created the position of municipal prosecutor in 485 courts. The option of compensating the municipal attorney on an hourly, per diem or annual basis as determined by the appointing authority allows municipalities great flexibility in obtaining only those services that they desire.

The Office of Legislative Services notes that the current version of the bill provides for the reimbursement of counsel fees to private counsel out of applicable fines. Because these fees would be provided from and limited to the fines paid, and no fines would otherwise be imposed in those cases where the municipal prosecutor has declined to prosecute, there would be no added cost to the municipality and no loss of the proceeds of fines.

FISCAL NOTE

[First Reprint]

ASSEMBLY, No. 2468

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: DECEMBER 28, 1999

Assembly Bill No. 2468 (1R) of 1998 statutorily defines the role, responsibilities and duties of the municipal prosecutor.

Under the bill, each municipal court would have a minimum of one municipal prosecutor. Municipal prosecutors would represent the State in the prosecution of all offenses within the statutory jurisdiction of the municipal court. In addition, a municipal prosecutor, with the approval of the municipal court, would be empowered to authorize private attorneys to prosecute citizens' complaint and could decline to participate in proceedings in which the defendant is not represented by counsel. If the position of municipal prosecutor is vacant, or the prosecutor is unavailable, the Attorney General, at the request of the municipal court, could designate lawyers from the Attorney General's office or assistant prosecutors to prosecute in a municipal court case. In such instance the Attorney General's office or county prosecutor is entitled to reimbursement from the municipality for the costs of prosecuting such case.

The bill also provides that in the instance where a prosecutor has declined to prosecute and the party has enlisted a private attorney, that party may make an application to the court for counsel fee reimbursement which would be paid out of the applicable fines. The reimbursement could not exceed the amount of the applicable fines.

The Administrative Office of the Courts states that because the cost of funding municipal prosecutors rests entirely with the municipalities, the bill would generate no added expenses for the State or county governments. The AOC notes that currently, out of 536 municipal courts, the municipal governing body has created the position of municipal prosecutor in 485 courts.

The Office of Legislative Services adds that the amended version of the bill provides for the reimbursement of counsel fees to private counsel out of applicable fines. Because these fees would be provided from fines paid, there would be no added cost to the municipality.

This fiscal note has been prepared pursuant to P.L.1980, c.67.