

40A:14-118

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:14-118 (Police chiefs--municipal--prescribe duties and responsibilities)

LAWS 1981 CHAPTER 266

Bill No. S1243

Sponsor(s) Feldman and others

Date Introduced April 28, 1980

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate County and Municipal Government

Amended during passage Yes No Assembly Committee Substitute enacted

Date of Passage: Assembly June 25, 1981

Senate Dec. 11, 1981

Date of approval Aug. 24, 1981

Following statements are attached if available:

Sponsor statement	Yes	Yes
Committee Statement:	Assembly	Yes
	Senate	Yes
Fiscal Note	Yes	No
Veto Message	Yes	No
Message on signing	Yes	Yes

Following were printed:

Reports	Yes	No
Hearings	Yes	No

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CHAPTER 266 LAWS OF N. J. 1964
APPROVED 8-24-81

ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE, No. 1243

STATE OF NEW JERSEY

ADOPTED JUNE 22, 1981

AN ACT concerning municipal police forces and chiefs thereof and
amending N. J. S. 40A:14-118.

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

1 1. N. J. S. 40A:14-118 is amended to read as follows:

2 40A:14-118. The governing body of any municipality, by ordi-
3 nance, may create and establish [a police department and force
4 and], as an executive and enforcement function of municipal
5 government, a police force, whether as a department or as a divi-
6 sion, bureau or other agency thereof, and provide for the mainte-
7 nance, regulation and control thereof[, and except as otherwise
8 provided by law, appoint]. Any such ordinance shall, in a manner
9 consistent with the form of government adopted by the municipality
10 and with general law, provide for a line of authority relating to
11 the police function and for the adoption and promulgation by the
12 appropriate authority of rules and regulations for the government
13 of the force and for the discipline of its members. The ordinance
14 may provide for the appointment of a chief of police and such mem-
15 bers, officers and personnel as shall be deemed necessary, [deter-
16 mine] the determination of their terms of office, [fix] the fixing of
17 their compensation and [prescribe] the prescription of their
18 powers, functions and duties [and adopt and promulgate rules
19 and regulations for the government of the department and force
20 and for the discipline of its members], all as the governing body
21 shall deem necessary for the effective government of the force.
22 Any such ordinance, or rules and regulations, shall provide that the
23 chief of police, if such position is established, shall be the head of
24 the police force and that he shall be directly responsible to the
25 appropriate authority for the efficiency and routine day to day
26 operations thereof, and that he shall, pursuant to policies estab-
27 lished by the appropriate authority:

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

28 a. Administer and enforce rules and regulations and special
29 emergency directives for the disposition and discipline of the force
30 and its officers and personnel;

31 b. Have, exercise and discharge the functions, powers and duties
32 of the force;

33 c. Prescribe the duties and assignments of all subordinates and
34 other personnel;

35 d. Delegate such of his authority as he may deem necessary for
36 the efficient operation of the force to be exercised under his direc-
37 tion and supervision; and,

38 e. Report at least monthly to the appropriate authority in such
39 form as shall be prescribed by such authority on the operation of
40 the force during the preceding month, and make such other reports
41 as may be requested by such authority.

42 As used in this section, "appropriate authority" means the mayor,
43 manager, or such other appropriate executive or administrative
44 officer, such as a full time director of public safety, or the governing
45 body or any designated committee or member thereof, or any
46 municipal board or commission established by ordinance for such
47 purposes, as shall be provided by ordinance in a manner consistent
48 with the degree of separation of executive and administrative
49 powers from the legislative powers provided for in the charter or
50 form of government either adopted by the municipality or under
51 which the governing body operates.

52 Except as provided herein, the municipal governing body and
53 individual members thereof shall act in all matters relating to the
54 police function in the municipality as a body, or through the appro-
55 priate authority if other than the governing body.

56 Nothing herein contained shall prevent the appointment by the
57 governing body of committees or commissions to conduct investi-
58 gations of the operation of the police force, and the delegation to
59 such committees or commissions of such powers of inquiry as the
60 governing body deems necessary or to conduct such hearing or
61 investigation authorized by law. Nothing herein contained shall
62 prevent the appropriate authority, or any executive or administra-
63 tive officer charged with the general administrative responsibilities
64 within the municipality, from examining at any time the operations
65 of the police force or the performance of any officer or member
66 thereof. In addition, nothing herein contained shall infringe on or
67 limit the power or duty of the appropriate authority to act to
68 provide for the health, safety or welfare of the municipality in an
69 emergency situation through special emergency directives.

1 2. This act shall take effect immediately.

26 b. Have, exercise and discharge the functions, powers and duties
27 of the force;

28 c. Prescribe the internal organization of the force and the duties
29 and assignments of all subordinates and other personnel;

30 d. Assign the functions, powers and duties of all officers and
31 employees;

32 e. Administer the work of the force through the divisions and
33 such other units of administration as he may find necessary or
34 desirable;

35 f. Delegate such of his authority as he may deem necessary for
36 the efficient operation of the force to be exercised under his direc-
37 tion and supervision; and,

38 g. Report at least monthly to the appropriate authority, in such
39 form as shall be prescribed by such authority, on the operation of
40 the force during the preceding month, and make such other reports
41 as may be requested by such authority.

42 As used in this section, "appropriate authority" means the
43 mayor, manager, or such other appropriate executive or adminis-
44 trative officer, or the governing body or any designated committee
45 or member thereof, or any municipal board or commission estab-
46 lished by ordinance for such purposes, as shall be provided by
47 ordinance in a manner consistent with the degree of separation of
48 executive and administrative powers from the legislative powers
49 provided for in the charter or form of government adopted by the
50 municipality.

51 The municipal governing body shall act in all matters relating
52 to the police function in the municipality as a body, or through the
53 appropriate authority if other than the governing body.

1 2. This act shall take effect immediately.

SPONSOR'S STATEMENT

This bill clarifies responsibility for the conduct of municipal police activities by providing for the duties and responsibilities of chiefs of police.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE No. 1243

STATE OF NEW JERSEY

DATED: JUNE 22, 1981

The Assembly Committee Substitute would clarify the responsibility for the conduct of municipal police forces by providing for a line of authority with respect to the exercise of the police function in municipalities and by providing for the duties and responsibilities of chiefs of police in those instances where that position is established by the municipal governing body.

The bill would provide statutory direction that the police force is an executive and enforcement function of municipal government. Each municipality having a police force would be required to establish a line of authority relating to the police function and to designate an "appropriate authority" which may be the mayor, manager or governing body, depending on the form of municipal government. The "appropriate authority" shall adopt rules and regulations for the government of the police force which the chief of police shall be subject to. The line of authority would be required to be consistent with the degree of separation of executive and administrative powers from legislative powers inherent in the municipal form of government. The municipal governing body and any individual thereof would be required to act as a body as through the "appropriate authority" in all matters relating to the police function.

The bill affirms the power of the governing body to conduct official investigations of the police force, and the power of executive and administrative officers in their official capacity to examine the operations of the police force and the performance of any officer therein, as well as the power of such officers or the governing body to issue special directives concerning the police function in emergency situations.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1243

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 1980

Senate Bill No. 1243 clarifies the responsibility for the conduct of municipal police forces by providing for a line of authority with respect to the exercise of the police function in municipalities and by providing for the duties and responsibilities of chiefs of police in those instances where that position is established by the municipal governing body.

The Senate committee amended the bill to remove a requirement that each municipality appoint a chief of police. As amended, the bill provides that the chief of police, if the position is established, shall exercise certain specific duties, powers and responsibilities and shall be responsible to an appropriate authority for the efficiency and day to day operations of the police force.

The bill would provide statutory direction that the police force is an executive and enforcement function of municipal government, and would remove the implication of the current statute that the police force shall be a department of municipal government. Each municipality having a police force would be required to establish a line of authority relating to the police function, and to designate an "appropriate authority" for the adoption and promulgation of rules and regulations for the government of the police force. The line of authority would be required to be consistent with the degree of separation of executive and administrative powers from legislative powers inherent in the municipal form of government. The municipal governing body would be required to act through the "appropriate authority" in all matters relating to the police function. The bill, as amended, would establish, in somewhat the same manner as is provided for the administrative service in the Council-Manager form of government of the "Optional Municipal Charter Law" (N. J. S. A. 40:69A-91), the principle of non-interference of elected officers individually in the operation of the police force. The bill affirms the power of the governing body to conduct official investigations of the police force, and the power of executive and

administrative officers in their official capacity to examine the operations of the police force and the performance of any officer therein.

The following sets forth what the committee believes to be the "appropriate authority" to exercise regulatory power over the police function in each form of municipal government:

Mayor-Council Plans (OMCL)—Mayor and any department head designated by ordinance;

Council-Manager Plans (OMCL)—Manager and any department head designated by ordinance;

Small Municipality Plans (OMCL)—Governing body or any committee of council designated for the purpose pursuant to N. J. S. A. 40:69A-123;

Commission Form—Commissioner designated to serve as director of department of public safety;

Municipal Manager Form (1923)—Manager and any department head designated by municipal council;

Borough Form—Governing body, or committee of its members created for the purpose;

Town Form—Mayor (who is councilman-at-large and voting member of governing body);

Township Form—Governing body, or committee of its members created for the purpose;

Village Form—Governing body;

City Form (P. L. 1897, c. 30; C. 40:108-1 et seq.)—Mayor;

City Form (P. L. 1899, c. 52; C. 40:109-3 et seq.)—Mayor;

City Form (P. L. 1963, c. 149; C. 40:103-5 et seq.)—Board of police commissioners;

Special Charters—As provided in the charter.

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

AUGUST 24, 1981

KATHRYN FORSYTH/DAVID DEMAIO

Governor Brendan Byrne today signed the following bills into law:

S-3025, sponsored by Senator Eugene Bedell (D-Monmouth), amends the Local Bond Law to permit a municipality's financial advisor to bid for its bonds at a public sale.

Under prior law, a town's financial advisor could not bid on bonds being offered by that municipality either at a public or private sale. This bill retains that prohibition for private sales, but permits the advisor to bid for the bonds at public sales.

S-3085, sponsored by Senator Frank Graves, Jr. (D-Passaic), permits the courts to postpone, suspend or revoke the driving privileges of a person who uses a motor vehicle in the course of committing a crime, a disorderly persons offense or a delinquent act.

This type of punishment would replace or be in addition to the dispositions currently available to the courts. Any suspension may not exceed two years.

S-3264, sponsored by Senator Steven Perskie (D-Atlantic), permits all honorably discharged veterans to receive special vendors' licenses.

Prior law restricted issuance to veterans who served in time of war or during war-like conditions. The county clerks issue the licenses.

S-1272, sponsored by Senator John Skevin (D-Bergen), permits a policeman to hold a titular office or leadership position in a fraternal, veterans or religious organization which has a club liquor license.

Under prior law, a policeman could not hold such a liquor license and therefore could not be head of a licensed club.

ACS for^S 1243, sponsored by Senator Matthew Feldman (D-Bergen), clarifies the responsibility for the conduct of municipal police forces by providing for a line of authority with respect to the police function in municipalities and by providing for the duties and responsibilities of police chiefs in those instances where that position is established by ordinance by the municipal governing body.

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The bill requires that each municipality having a police force establish a line of authority relating to the police function and designate an appropriate authority (which may be the mayor, the manager or governing body, depending on the form of municipal government in effect) to adopt rules and regulations for the government of the police force to which the police chief shall be subject.

The police chief would be the head of the force and have clear-cut authority to act as such. He would be directly responsible to the appropriate authority for the day-to-day routine operations.

The line of authority must be consistent with the degree of separation of executive and administrative powers from legislative powers inherent in the municipal form of government.

A-1170, sponsored by Assemblyman Frederic Remington (R-Essex), allowing former judges from the abolished Division of Tax Appeals—members of the Public Employees' Retirement System (PERS)—benefits comparable to those of the Judicial Retirement System.

Members of the Judicial Retirement System may retire at 3/4 of their total benefits if they have served 10 years as a judge and are between 65 and 70 years old, or if they have served at least 20 years and are between 60 and 65 years old.

This bill allows judges from the former Division of Tax Appeals to receive 3/4 of final compensation if they have served 13 years as a judge, are 60 years old, and have served at least 25 years in State or local government.

These judges were carried over to the new Tax Court when the Division of Tax Appeals was abolished in 1978. They remained in the PERS.

A-1188, sponsored by Assemblyman David C. Schwartz (D-Middlesex), permitting members of the Public Employees' Retirement System who were once elected municipal officials earning under \$500 to buy credit from PERS based on their former service.

Currently, municipal officials earning under \$500 are not eligible for membership in PERS. This bill permits any current member of PERS to obtain credit based on their past ineligible service as a municipal official.