

LEGISLATIVE HISTORY CHECKLIST  
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NJSA: 40A:62-5

(Municipal  
utilities  
authorities)

LAWS OF: 1991

CHAPTER: 10

Bill No: A4192

Sponsor(s): Zangari

Date Introduced: November 19, 1990

Committee: Assembly: Municipal Government

Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: December 17, 1990

Senate: January 14, 1991

Date of Approval: January 22, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

[FIRST REPRINT]  
ASSEMBLY, No. 4192

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 19, 1990

By Assemblymen ZANGARI, Spadaro,  
Pascrell and Assemblywoman Mullen

1 AN ACT concerning appointments to certain authorities and  
2 amending P.L.1957, c.183 and N.J.S.40A:62-5.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*  
5 *State of New Jersey:*

6 1. Section 4 of P.L.1957, c.183 (C.40:14B-4) is amended to  
7 read as follows:

8 4. a. Any governing body may, in the case of a county by  
9 resolution or ordinance duly adopted, or in the case of a  
10 municipality by ordinance duly adopted, create a public body  
11 corporate and politic under the name and style of "the  
12 ..... municipal utilities authority," or of "the .....  
13 county utilities authority," with the name of said county or  
14 municipality inserted. Said body shall consist of the five  
15 members thereof, who <sup>1</sup>[shall be appointed by the county  
16 governing body in], in the case of a county utilities authority,  
17 shall be appointed by the county governing body, or by the county  
18 executive pursuant to section 37 of P.L.1972, c.154  
19 (C.40:41A-37), as appropriate. In<sup>1</sup> the case of a <sup>1</sup>[county utilities  
20 authority, or, in the case of a<sup>1</sup> municipal utilities authority,  
21 <sup>1</sup>[by]<sup>1</sup> the governing body of a municipality which is not  
22 organized under the town form of government pursuant to the  
23 provisions of N.J.S.40A:62-5, or <sup>1</sup>[by]<sup>1</sup> the mayor of a  
24 municipality organized under the town form of government  
25 pursuant to the provisions of N.J.S.40A:62-5<sup>1</sup>], as hereinafter in  
26 this section provided, and it] shall make the appointment. The  
27 appointments<sup>1</sup> shall constitute the county or municipal authority  
28 contemplated and provided for in this act and an agency and  
29 instrumentality of said county or municipality. After the taking  
30 effect of the resolution or ordinance for the creation of said body  
31 and the filing of a certified copy thereof as in section 7 of this  
32 act provided, five persons shall be appointed as the members of  
33 the county or municipal authority. The members first appointed  
34 shall, by the resolution of appointment, be designated to serve for  
35 terms respectively expiring on the first days of the first, second,  
36 third, fourth and fifth Februarys next ensuing after the date of  
37 their appointment. On or after January 1 in each year after such  
38 first appointments, one person shall be appointed as a member of

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted December 3, 1990.

1 the county or municipal authority to serve for a term  
2 commencing on February 1 in such year and expiring on February  
3 1 in the fifth year after such year. In the event of a vacancy in  
4 the membership of the county or municipal authority occurring  
5 during an unexpired term of office, a person shall be appointed as  
6 a member of the county or municipal authority to serve for such  
7 unexpired term.

8 b. (1) Any county governing body may provide by resolution or  
9 ordinance as appropriate that the county utilities authority  
10 created by it shall consist of seven members. The two additional  
11 members first appointed pursuant to the resolution or ordinance  
12 shall be designated to serve for terms respectively expiring on  
13 the first day of the second and third Februarys next ensuing after  
14 the date of their appointment. On or after January 1 in the year  
15 in which expires the term of the additional member first  
16 appointed and in every fifth year thereafter, one person shall be  
17 appointed as a member of the county utilities authority by the  
18 county governing body as a successor to such additional member,  
19 or reappointment of the additional member, to serve for a term  
20 commencing on February 1 of such year and expiring on February  
21 1 in the fifth year after such year.

22 (2) Any county governing body may provide by resolution or  
23 ordinance as appropriate that the county utilities authority  
24 created by it shall consist of nine members. The four additional  
25 members first appointed pursuant to said resolution or ordinance  
26 shall be designated to serve for terms respectively expiring on  
27 the first day of the second, third, fourth and fifth Februarys next  
28 ensuing after the date of their appointment. On or after January  
29 1 in the year in which expires the term of said additional member  
30 first appointed and in every fifth year thereafter, one person  
31 shall be appointed as a member of the county utilities authority  
32 by said county governing body as a successor to such additional  
33 member, to serve for a term commencing on February 1 of such  
34 year and expiring on February 1 in the fifth year after such year.

35 c. Whenever the municipal authority of any county shall  
36 certify to the governing body of any county that it has entered  
37 into a contract pursuant to section 49 of this act (C.40:14B-49)  
38 with one or more municipalities situate within any other county  
39 one additional member of the municipal authority for each such  
40 other county shall be appointed by the governing body of such  
41 other county as in this section provided. The additional member  
42 so appointed for any such other county, and his successors shall  
43 be a resident of one of said municipalities situate within such  
44 other county. The additional member first appointed or to be first  
45 appointed for such other county shall serve for a term expiring on  
46 the first day of the fifth February next ensuing after the date of  
47 such appointment, and on or after January 1 in the year in which  
48 expires the term of the said additional member first appointed,

1 and in every fifth year thereafter, one person shall be appointed  
2 by said governing body as a member of the municipal authority as  
3 successor to said additional member, to serve for a term  
4 commencing on February 1 in such year and expiring on February  
5 1 in the fifth year after such year. If after such appointment of  
6 an additional member for such other county the municipal  
7 authority shall certify to said governing body of such other  
8 county that it is no longer a party to a contract entered into  
9 pursuant to section 49 of this act (C.40:14B-49) with any  
10 municipality situate within such other county, the term of office  
11 of such additional member shall thereupon cease and expire and  
12 no additional member for such other county shall thereafter be  
13 appointed.

14 d. In any county wherein a county sewer authority is  
15 reorganized as a municipal authority pursuant to section 6 of this  
16 act (C.40:14B-6), its governing body shall, by resolution or  
17 ordinance as appropriate, reappoint the existing members of the  
18 authority to terms corresponding to terms of members first  
19 appointed to a municipal authority pursuant to subsection a. of  
20 this section; provided, however, that, if said county sewer  
21 authority has seven members, then the existing members shall be  
22 reappointed to the reorganized municipal authority pursuant to  
23 subsections a. and b. of this section.

24 e. The governing body of a county or municipality may provide  
25 in the ordinance or resolution creating the utilities authority for  
26 not more than two alternate members<sup>1</sup>[, who shall be appointed  
27 by the county governing body in]. In<sup>1</sup> the case of a county  
28 utilities authority<sup>1</sup>[, or, in] the county governing body, or the  
29 county executive pursuant to section 37 of P.L.1972, c.154  
30 (C.40:41A-37), shall make the appointment. In<sup>1</sup> the case of a  
31 municipal utilities authority, <sup>1</sup>[by]<sup>1</sup> the governing body of a  
32 municipality which is not organized under the town form of  
33 government pursuant to the provisions of N.J.S.40A:62-5, or  
34 <sup>1</sup>[by]<sup>1</sup> the mayor of a municipality organized under the town form  
35 of government pursuant to the provisions of N.J.S.40A:62-5<sup>1</sup>,  
36 shall make the appointment<sup>1</sup>. Alternate members shall be  
37 designated by the governing body, or mayor, as appropriate, as  
38 "Alternate No. 1" and "Alternate No. 2" and shall serve during  
39 the absence or disqualification of any regular member or  
40 members. The governing body of the county or municipality shall  
41 provide by ordinance or resolution for the order in which the  
42 alternates shall serve. The term of each alternate member shall  
43 be five years commencing on February 1 of the year of  
44 appointment; provided, however, that in the event two alternate  
45 members are appointed their initial terms shall be four and five  
46 years respectively. The terms of the first alternate members  
47 appointed pursuant to this amendatory act shall commence on the  
48 day of their appointment and shall expire on the fourth or fifth

1 January 31 next ensuing after the date of their appointments, as  
2 the case may be. Alternate members may participate in  
3 discussions of the proceedings but may not vote except in the  
4 absence or disqualification of a regular member. A vote shall not  
5 be delayed in order that a regular member may vote instead of an  
6 alternate member.

7 (cf: P.L.1987, c.213, s.1)

8 2. N.J.S.40A:62-5 is amended to read as follows:

9 40A:62-5. a. The councilman-at-large shall be officially  
10 known and designated as the mayor of. . . . . (the  
11 name of the town in which he is elected). He shall be so  
12 designated in all official documents and instruments of every  
13 kind, and shall sign all ordinances, warrants, bonds, notes,  
14 contracts and all other official documents and instruments by  
15 said title.

16 b. The mayor shall be the head of the municipal government.

17 c. The mayor shall have all those powers placed in the mayor  
18 by general law.

19 d. The mayor shall be known as the chairman of the council,  
20 preside at all its meetings and possess all the powers of a member  
21 of council.

22 e. Every ordinance adopted by the council shall be presented  
23 to the mayor within five days after its passage, Sundays  
24 excepted, by the town clerk. The mayor shall, within ten days  
25 after receiving the ordinance, either approve it by affixing his  
26 signature thereto or return it to the council by delivering it to  
27 the clerk together with a statement setting forth his objections  
28 thereto. No ordinance shall take effect without the mayor's  
29 approval, unless the mayor fails to return the ordinance to the  
30 council, as prescribed above, or unless the council, upon  
31 consideration of the ordinance following its return, shall, by a  
32 vote of two-thirds of all members of the council, resolve to  
33 override the veto.

34 f. No ordinance shall be passed except by a vote of a majority  
35 of the members of the council present at the meeting, provided  
36 that at least four affirmative votes shall be required for such  
37 purpose.

38 g. The mayor shall appoint all of the members of the municipal  
39 utilities authority in municipalities where such an authority has  
40 been created by the municipal governing body pursuant to the  
41 provisions of P.L.1957, c.183 (C.40:14B-1 et seq.).

42 (cf: N.J.S.40A:62-5)

43 3. This act shall take effect immediately.

44

45

LOCAL GOVERNMENT

46

47 Authorizes certain mayors to make appointments of members of  
48 municipal utilities authorities.

1 kind, and shall sign all ordinances, warrants, bonds, notes,  
2 contracts and all other official documents and instruments by  
3 said title.

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18 council, as prescribed above, or unless the council, upon  
19 consideration of the ordinance following its return, shall, by a  
20 vote of two-thirds of all members of the council, resolve to  
21 override the veto.

22 f. No ordinance shall be passed except by a vote of a majority  
23 of the members of the council present at the meeting, provided  
24 that at least four affirmative votes shall be required for such  
25 purpose.

26 g. The mayor shall appoint all of the members of the municipal  
27 utilities authority in municipalities where such an authority has  
28 been created by the municipal governing body pursuant to the  
29 provisions of P.L.1957, c.183 (C.40:14B-1 et seq.).

30 (cf: N.J.S.40A:62-5)

31 3. This act shall take effect immediately.

32  
33  
34 STATEMENT

35  
36 This bill provides that the mayor of a municipality organized  
37 under the town form of government pursuant to the provisions of  
38 N.J.S.40A:62-5 shall appoint the members of a municipal utilities  
39 authority established pursuant to the provisions of P.L.1957,  
40 c.183 (C.40:14B-1 et seq.). Current law requires that such  
41 appointments be made by the municipal governing body.

42  
43  
44 LOCAL GOVERNMENT

45  
46 Authorizes certain mayors to make appointments of members of  
47 municipal utilities authorities.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4192

STATE OF NEW JERSEY

DATED: NOVEMBER 29, 1990

The Assembly Municipal Government Committee reports favorably Assembly Bill No. 4192.

This bill provides that the mayor of a municipality organized under the town form of government pursuant to the provisions of N.J.S.40A:62-5 shall appoint the members of a municipal utilities authority established pursuant to the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.). Current law requires that such appointments be made by the municipal governing body.

It is the understanding of the committee that the language used in section 1 of the bill, amending section 4 of P.L.1957, c.183 (C.40:14B-4), is intended to only specifically differentiate the appointment process of authority members by municipalities operating under the town form of government from the appointment process used by other municipalities and counties. The amendment is not intended to change the way in which appointments are made to a county utility authority board by a county executive, with the advice and consent of the freeholder board, under section 37 of P.L.1972, c.154 (C.40:41A-37).

SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 4192

STATE OF NEW JERSEY

DATED: JANUARY 10, 1991

The Senate County and Municipal Government Committee reports favorably Assembly Bill No. 4192 [1R].

Assembly Bill No. 4192 [1R] provides that the mayor of a municipality organized under the town form of government pursuant to the provisions of N.J.S.40A:62-5 shall appoint the members of a municipal utilities authority established pursuant to the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.). Current law requires that such appointments be made by the municipal governing body.