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NEW JERSEY LEGISLATIVE HISTORIES

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What is a legislative history? As used at the New Jersey State Law Library, the term means a compilation of documents in which are recorded the purpose or the intent behind the passage of a particular statute. It should be remembered that there are probably as many "intents" as there are legislators, lobbyists, and other individuals involved in the passage of legislation.

While there may be many "intents," the main problem in legislative history research is finding a document in which these intents have been recorded. In contrast to federal legislation, for which in-depth reports, hearings, debates, and other documents are available, the search for legislative history on the state level often results in little information and that information is frequently of marginal usefulness.

In this article the term legislative history applies only to a particular chapter law passed in a given year. The purpose behind its passage as gleaned from the documents applies only to that particular chapter law. Later amendments will have documents which may disclose the intent behind each later amendment.

Bill Number

The most important step in compiling a legislative history in New Jersey is to determine first the bill number. Almost all relevant documents are keyed to this number. To find a bill number for a law passed since 1915, the last issue of the *New Jersey Legislative Index* for that

year has a table that shows the corresponding bill number for each chapter law. The *Legislative Index* will also indicate the sponsor, the committee that considered the bill, the dates of passage, and the Governor's action.

The State Law Library has developed a conversion table for chapter laws signed between 1880 and 1915. Before 1880, however, the subject index to the *Assembly Minutes* and the *Senate Journal* must be searched to determine the bill number.

Statements

Perhaps the most useful documents showing legislative intent are the statements. There are three types of statements. First, the sponsor of a bill will indicate his view as to the purpose behind the bill in the sponsor's statement. This document is appended to the bill as originally introduced. The sponsor's statement is not reprinted on amended versions of the bill. While almost universal today, the existence and usefulness of a sponsor's statement diminishes as a search is made for histories more remote in time. Because sponsor's statements were often required by the rules of the Assembly and the Senate, many legislators fulfilled the letter, if not the spirit, of the rules by saying, "The purpose of this act is expressed in its title."

When a bill is released from committee, a committee statement will often be issued giving the committee's view of the purpose or the need for the proposed legislation. Rare in the early 1970s, today each bill released from

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committee usually has a statement by either or both the Assembly or the Senate committee considering the bill.

When a bill is amended by the full house after being released from committee, a statement expressing the reason for the amendment has appeared in recent years on many bills. The statements on floor amendments, as they are called, are not published. In compiling a legislative history, the State Law Library must request file copies from the Office of Legislative Services on an individual basis.

Finally, if the bill has any fiscal impact on either revenues or expenditures, a fiscal note is prepared. Although the fiscal note is usually not directly relevant to the legislative intent, it may contain useful information.

The statements described above may be detailed and express a clear purpose for the legislation or they may be very general and provide little useful information. There is little consistency in the preparation of the statements.

Statements are available from the legislative bill room for the current session, and from the State Law Library's bound set of bills for prior years. In recent years, West Publishing Company has often reprinted complete or abridged statements in the *New Jersey Session Law Service* and the *New Jersey Statutes Annotated* pocket parts.

Hearings and Reports

Occasionally public hearings are held on proposed legislation by a committee considering the bill. Public reactions to the bill are received and evaluated by committee members. The hearings may concern specific legislation, or they may concern a general topic, examining the need for changes in the law or evaluating alternative proposals. They may be useful in determining public perception of a bill, especially if an association has been responsible for its introduction.

The hearings, if transcribed, are deposited in the New Jersey State Library and, in addition, distributed to many New Jersey university

and public libraries in the New Jersey Document Depository Network.

Reports investigating the need for legislation are occasionally published by legislative committees or commissions, study commissions appointed by the Governor, or commissions established jointly by the Legislature and the Governor. Private associations, such as the New Jersey State Bar Association, often issue reports recommending changes in the law. These reports are also found at the State Library and often at the New Jersey depository libraries.

At the State Library, access to these publications is by subject or, since 1970, by a special table which lists reports or hearings dealing with specific bills by the bill number.

The minutes of the annual meeting of judges were published in the *Judicial Conference Proceedings* from 1948-1982. The discussions often involved pending legislation. Along with these proceedings were published the annual reports of the various committees appointed by the Supreme Court, which contained recommendations for changes in the law. The *New Jersey Law Journal* now regularly reprints these reports as a special supplement.

Wording of the Bill

An examination of the wording changes that may take place during the course of passage should be made in legislative history research. Concepts and phrases removed or added may have a bearing on the final intent of the adopted bill.

Wording changes may be found in a number of documents. Frequently, when major changes in the statutes are being made, statutory drafts will be drawn up prior to introduction. For example, in the 1937 revision of the New Jersey statutes, there were three published drafts. When major changes have resulted in new titles to *New Jersey Statutes Annotated*, such as 2A, 2C, 14A, 40A, and others, statutory drafts are prepared. Occasionally these drafts will contain notes from the committee assigned to prepare the revision.

These statutory drafts are available at the State Law Library for examination and loan. For certain major revisions, such as 12A and 14A, West has reprinted commission reports and commissioners' section-by-section comments in the bound *N.J.S.A.* volumes. In other cases, *N.J.S.A.* may give citations to reports, uniform laws (e.g., Title 3B), or law review articles.

After a bill is introduced, the various amendments adopted are also available in the State Law Library's bound set of bills. Prior to 1982, each set of adopted amendments was printed separately and the bill was reprinted showing additions and deletions. In 1982, the Legislature stopped printing separate amendment sheets. Instead, the bottom of the first page of the reprinted bill has a key that explains which amendments were made by whom on what date.

Amended versions of bills in the current session are available at the legislative bill room and also on subscription from the Office of Legislative Services. This subscription includes all bills, statements, and fiscal notes.

Sometimes the sponsor's statement will indicate that the bill is based on a federal statute, the statute of another state, or a model act as proposed by a private organization, such as the American Law Institute. These acts can be examined at the State Law Library and at most law school libraries.

Debates

There are no recorded debates in New Jersey. There are, however, the official journals of each house: the *Senate Journal* and *Assembly Minutes*. While these journals carry no debates, they include such useful information as Governor's messages, the votes cast by legislators on bills, and a record of bills passed or released from committee. They are available at the State Law Library and at the libraries in the New Jersey Documents Depository Network.

Governor's Actions

The Governor is involved in the passage of a law in a number of ways. In his annual message or by special message, the Governor will propose changes in the law which will result in specific bills. Occasionally, a study commission established by the Governor will evaluate an area of law and make recommendations for change.

When the Governor vetoes a bill, he will indicate in his message accompanying the veto if he opposed the bill outright or if he will accept the bill if certain changes are made. This conditional veto can be useful in researching a bill if changes are subsequently adopted by the legislature. Veto messages were published in a separate series from 1947 through 1977 and are also found in the *Minutes* and *Journal*.

If the Governor decides to sign a bill, his statement at the time of signing is available at the State Library. Usually it is general in nature. Occasionally, however, it may give a more detailed view of the Governor's idea of the purpose behind the act. On rare occasions, prior to signing a bill, the Governor will hold a public hearing to obtain the views of interested parties.

The Counsel to the Governor, in evaluating a bill prior to recommending that the Governor sign or veto it, will examine a wide range of documents both public and private to determine its value. The Governor's Counsel's files are available in the Counsel's Office for several years and are then transferred to the State Archives.

Compiled Legislative Histories

The State Law Library has long recognized the need for the ready availability of legislative history information. It has, therefore, established an on-going program of compiling legislative histories. A search is made for the existence of any documents which would

record the legislative intent and, if found, these documents are listed on a summary sheet. (See sample on page 5) Documents that are located are either attached to or are cited on the sheet to facilitate retrieval. Histories are compiled as new bills are signed and are compiled retrospectively at the request of a judge. Once compiled, these histories are available for examination or photocopy by anyone.

Unofficial Sources

When none of the official sources of legislative history exist, unofficial sources may be the only location for information of legislative intent. This is particularly true of older acts prior to the time when statements were issued with any regularity.

The most useful informal source of information may be the newspaper accounts of the passage of a bill. Indeed, since no debates are recorded, newspaper accounts may be the only source for the comments by legislators on a bill. Often articles are written by reporters at the time of passage by the Legislature or signing by the Governor. These dates can be determined through the *Legislative Index* or the *Journal and Minutes*.

During the 1960s the State Library began clipping newspaper articles on current legislation and organizing them by topic. The Gov-

ernment Reference Section of the State Library has a list of the subject headings used and the year that the topic was added to the list. This time-consuming project was phased out in the early months of 1989 and was supplanted by full-text online services. The *Bergen Record* is available online from 1986, the *Newark Star Ledger* from May 1989, and the *Atlantic City Press* from 1990.

Other unofficial sources such as books, theses, newspaper articles, and special studies may be useful in describing the conditions that existed prior to passage. The search for this type of material is limited only by one's imagination. See Cameron Allen, *A Guide to New Jersey Legal Bibliography and Legal History* (Littleton, Colorado: Fred B. Rothman, 1984) Chapter 4.

In conclusion, it must be emphasized that while there are many possible sources for legislative intent, rarely will many of these sources exist for any particular act. Indeed, in most instances, only a few meaningful documents will exist. However, there are enough occasions when one finds a useful item to explain clear legislative intent that it is essential that a search be made. The researcher must remember to be diligent and persistent.



26:3D-22 et seq

LEGISLATIVE HISTORY CHECKLIST

NJSA: 26:3D-22 et seq.

(Smoking—retail food stores)

LAWS OF: 1985

CHAPTER: 186

Bill No: A639

Sponsor(s): Herman

Date Introduced: Pre-filed

Committee: **Assembly:** Judiciary

Senate: Law, Public Safety and Defense

Amended during passage: Yes

Substituted for S2484 (not attached since identical to A639). Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** December 13, 1984

Senate: March 7, 1985

Date of Approval: June 12, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey Legislature. General Assembly.

H434 Judiciary Committee.

1984d Public hearing, held 9-25-84. Trenton, 1984.

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Hearings referred to in statements:

974.90 New Jersey. Legislature. General Assembly.
H434 Judiciary, Law, Public Safety and Defense Committee.
1980 Public hearing on A. 1722 through A1729,
held 7-24-80 and 11-12-1980. Trenton, 1980.

See also:

974.90 New Jersey. Public Health Council.
H434 In the matter of the public hearing
1978q on regulation of smoking in certain
public places, held 12-11-78.

974.90 Carlson. Regina
H434 Smoking or health in New Jersey:
1981h a progress report on making nonsmoking
the norm. Trenton, 1981.

974.90 Goldmann. Sidney
H434 In the matter of the public hearing
1979b on the regulation of smoking in
certain public places: hearer's report
and recommendation. Trenton, 1979.

974.90 New Jersey. Legislature. Assembly.
H434 Legislative Oversight Committee.
1978d Review of NJAC 8:15-1.1
through 8:15-1.4. May 15, 1978.
Trenton, 1978.

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