



State of New Jersey

**COUNTY & MUNICIPAL GOVERNMENT
STUDY COMMISSION**

**FORMS OF MUNICIPAL
GOVERNMENT IN NEW JERSEY**

PREPARED FOR THE COMMISSION BY
DR. ERNEST REOCK AND RAYMOND BODNAR
BUREAU OF GOVERNMENT RESEARCH AND SERVICES
RUTGERS, THE STATE UNIVERSITY

New Jersey State Library

Seventeenth Report
January, 1979



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The Commission wishes to acknowledge the helpful comments and suggestions provided by Frank W. Haines, Executive Director of the New Jersey Taxpayers Association and his active participation in the Commission's work sessions prior to the adoption of this report.



State of New Jersey

COUNTY AND MUNICIPAL GOVERNMENT STUDY COMMISSION

115 WEST STATE STREET TRENTON, NEW JERSEY 08625

TO HIS EXCELLENCY GOVERNOR BRENDAN T. BYRNE, AND HONORABLE MEMBERS OF THE SENATE AND GENERAL ASSEMBLY:

The County and Municipal Government Study Commission is pleased to submit its 17th Report, FORMS OF MUNICIPAL GOVERNMENT IN NEW JERSEY.

This report is intended to serve as a reference source on the structural aspects of municipal government in the State. As such, it contains three elements:

an examination of the traditional and current concepts shaping the State-local relationship, commonly referred to as home rule;

a description and evaluation of the various forms of local government and their component elements; and

recommendations for legislative changes where deemed desirable.

The research supporting the study included a state-wide survey of hundreds of municipal officials. The analysis and final product represent a cooperative effort of the Bureau of Government Research and Services of Rutgers University and the Commission members and staff.

Respectfully submitted by the members of the County and Municipal Government Study Commission:

/s/ William V. Musto, Chairman
/s/ Garrett W. Hagedorn.
/s/ Joseph A. Maressa
/s/ Joseph W. Chinnici
/s/ Robert P. Hollenbeck
/s/ Christopher J. Jackman
/s/ Stephen Capestro
/s/ Doris Dealaman

/s/ Arthur R. Sypek
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/s/ Fred G. Stickel, III
/s/ Robert F. Casey
/s/ Myles J. Gilsenan
/s/ Stephen B. Richer
/s/ Samuel A. Alito, Secretary

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Summary of Conclusions and Recommendations

This report identifies the forms of local government organization available to New Jersey municipalities, determines the extent and trends of their use, examines and evaluates the components of each form, indicates the weaknesses where they may exist, and suggests remedies where appropriate.

Two qualifications should be kept in mind in using the report and its recommendations. First, variations in the form of local government organization, while important, can go only part of the way toward producing "good government". Factors within each community -- the financial and human resources primarily -- probably have a far greater impact on governmental performance than whether the mayor is elected directly or from among the governing body, or whether partisan or non-partisan elections are used. Secondly, although an effort has been made to apply uniform criteria in identifying what may be "weaknesses" in a form of local government, it must be acknowledged that one community's "weakness" may be another community's strength. There may be good and sufficient reasons in a particular place for making use of some charter component which has achieved only a mediocre evaluation in other communities. In most cases, the recommendations in this report have been proposed in terms of providing the voters with a greater range of options at the local level. In only a few cases, has a mandatory change been proposed. Even in these instances, the special charter approach remains as the safety valve for the community with special problems. An examination of the few special charters already in use reveals an interesting array of features, with which some of these municipalities are experimenting. While the Legislature has been urged to examine future proposed experiments of this sort in the light of experience in other communities, final action should lean in the direction of permitting individual communities to try new approaches wherever possible. The following specific recommendations are made in the report. In addition, some initial comments concerning the legislation needed to accomplish these recommendations are provided:

- 1) It is recommended that amendments be made to the Commission Form of government law and to the Municipal Manager Form of government law to permit the voters of a municipality, through a petition and referendum process, to increase their municipal governing body from three to five members.

The Commission form of government law, N.J.S.A. 40:70-1 et seq. provides that the Commission shall consist of three members in municipalities having less than 12,000 inhabitants and of five members in municipalities having 12,000 inhabitants or more, N.J.S.A. 40:72-1. To implement the recommendation this section and two other provisions of the Commission form of government law would have to be amended. The municipal manager form of government law, N.J.S.A. 40:79-1 et seq., provides that the municipal council shall consist of 3 members in municipalities having less than 25,000 inhabitants, except that it shall consist of 5 members where prior to the adoption of this form the council consisted of 5 or more members. N.J.S.A. 40:81-1. If the recommendation is to afford the electorate of the smaller municipalities, less than 25,000, the option of increasing the council membership to 5, this could be accomplished by amending N.J.S.A. 40:81-1 and supplementing the chapter by providing the procedures for realizing this objective.

- 2) It is recommended that amendments to the City Form and Town Form of government laws permit reduction of any governing body with nine or more members to nine, seven, or five members, through a petition and referendum process.

The various city form statutes would have to be amended to implement this objective. The referendum act for the incorporation of towns (1895) N.J.S.A. 40:123-1 et seq. provides for the division of the town into wards, N.J.S.A. 40:123-6, and that two councilman-at-large, designated as the mayor, N.J.S.A. 40:125-1. Initially, it would appear necessary to amend N.J.S.A. 40:125-1 to place a cap on the number of councilmen. A procedure for reduction in the size of the governing body could be provided as a supplement and amendment to the statutes.

- 3) It is recommended that an amendment to the Township Form of government laws be made to limit, prospectively, to three the number of wards in townships with over 7,000 in population. The township statutes, N.J.S.A. 40:142-1 et seq., authorize townships having a population of more than 7,000 to be divided into not less than three wards. N.J.S.A. 40:144-1. To cap the number of wards at three, this section would have to be amended. The amendment would not affect townships that currently have more than three wards.

- 4) It is recommended that the statute N.J.S.A. 40:123-1 permitting any town, village, borough, or township with over 4,000 population to form itself into a town, with a council elected entirely from wards, be repealed.

This repeal would be drafted so that it would not affect existing towns. Suitable language foreclosing the future use of N.J.S.A. 40:123-1 would be inserted in the section.

- 5) It is recommended that the Legislature consider carefully any petition for a special charter which includes a municipal governing body based entirely on ward elections.
- 6) It is recommended that the general law for re-drawing wards N.J.S.A. 40:44-1 et seq., and the Optional Municipal Charter Law provides for re-drawing wards, N.J.S.A. 40:69A-197 et seq., be updated and consolidated into a single, uniform ward statute prior to the 1980 census.
- 7) It is recommended that the City Form of government laws be amended to provide for a three-year or four-year term of office for the council member elected at large. Amendments to the city laws saved from repeal (N.J.S.A. 40:103-1 to 40:112-1 et seq.) as well as to N.J.S.A. 40:167-1 et seq. appear to be required to realize this objection.
- 8) It is recommended that the Town and Township Form (with wards) of government laws be amended to permit a change, through a petition and referendum process, to the election of three members of the governing body from each of two or three wards, for three-year staggered terms of office. Towns and townships currently using the two-year term would be permitted to retain this pattern or switch to the new patterns, but no other municipality would be permitted to adopt the two-year term in the future, except by special charter.

To implement this recommendation it appears that it would be necessary to amend the town law, N.J.S.A. 40:123-6 (requiring division of town into not less than three wards), N.J.S.A. 40:125-1 (providing for two councilmen from each ward and one councilman-at-

large), N.J.S.A. 40:125-4 (specifying a two year term for the mayor), and N.J.S.A. 40:125-5 (specifying a two year term for councilmen). Additional procedural provisions for the petition and referendum and staggered terms would be required. In the township law, N.J.S.A. 40:144-1 (authorizing the establishment of wards), N.J.S.A. 40:144-11 (provides for 2 year terms for councilmen representing wards) would have to be amended.

- 9) It is recommended that the Municipal Manager Form of government be amended to permit the voters of a municipality, through a petition and referendum process, to choose to elect their governing body members for staggered terms of office. This could be realized by amending N.J.S.A. 40:81-4 providing for the term of office of members of the council) and supplementing chapter 81 with the necessary procedural requirements. See also N.J.S.A. 40:84-9 (providing for three year terms in certain cases).
- 10) It is recommended that all existing statutory salary limitations for governing body members be eliminated. This would require the repeal of various provisions in Title 40 and the adoption of suitable statutory language concerning salaries.
- 11) It is recommended that the City Form of government laws be amended to provide for at least a three-year term of office for the mayor, through a petition and referendum process. This could be realized by an amendment to the various city form statutes.
- 12) It is recommended that the Town and Township Form (with wards) of government laws be amended to permit a change, through a petition and referendum process, to the election of mayor, for or at least a three-year term of office. The Town law, N.J.S.A. 40:125-1 et seq., makes various references to the councilman-at-large designated as the mayor. N.J.S.A. 40:125-4 providing for two year terms and other provisions in chapter 125 would have to be amended to implement this recommendation. The township form (with wards), N.J.S.A. 40:144-11, provides for the at-large election of one member of the township committee, who is designated as the chairman of the township committee, and in townships having a population of more than 10,000, who is known as the mayor. This section and other provisions in chapter 144 would have to be amended and supplemented to realize the objective.
- 13) It is recommended that the City, Town, Borough, and Township Form of government laws be amended to provide for appointment of all administrative officials now elected, with appropriate requirements to insure that professional qualifications are stressed. This could be realized by amendment to the pertinent sections to Titles 40 and 40A.
- 14) It is recommended that a uniform non-partisan election statute be enacted and made available on an optional basis, through a petition and referendum procedure, to every municipality in the state.
- 15) It is recommended that the uniform non-partisan election statute suggested earlier include run-off elections as an optional feature.
- 16) It is recommended that uniform initiative, referendum, and recall legislation be enacted on an optional basis, to be adopted by the voters of any municipality through a petition and referendum process.
- 17) It is recommended that the uniform initiative, referendum and recall legislation provide for filing petitions with the county board of elections or the county superintendent of

elections, for certification of validity by that board of officer, and for reimbursement of the county by the municipality according to a uniform unit cost per signature.

- 18) It is recommended that legislation require the Secretary of State to develop and promulgate standard initiative, referendum, and recall petition forms, and require the municipal clerk in all municipalities having adopted these powers to make copies of the forms available to any citizen upon request.
- 19) It is recommended that the standard initiative and recall petitions include provision for the municipal clerk, when issuing them, to insert a deadline date 120 days in the future by which they must be filed or become invalid.
- 20) It is recommended that all existing city government laws be repealed and replaced with a single statute, effective in 1981, having sufficient options to cover most variations now in use, and including the following characteristics:
 - a combination of ward and at-large elections;
 - a legislative role for the mayor as presiding officer of the council with the right to vote to break ties;
 - a veto power for the mayor and override;
 - a city administrator under conditions similar to the present ordinance-administrator.
- 21) It is recommended that legislation be developed to provide a new optional plan of municipal government under the Optional Municipal Charter Law, to be known as the "Mayor-Council -Administrator Plan", based on characteristics of the Borough Form with a local administrator.
- 22) It is recommended that the Municipal Manager Form of government law be amended to provide that future managers shall serve at the pleasure of the council, subject to removal at any time by a majority vote. This recommendation could be realized by amendment to N.J.S.A. 40:82-3.
- 23) It is recommended that the OMCL Mayor-Council law be re-written to eliminate alphabetical designations and permit any community to adopt any combination of the variations now defined by those designations.
- 24) It is recommended that the Optional Municipal Charter Law be amended to permit the voters of any municipality using non-partisan elections under the law, to eliminate or introduce the use of run-off elections through a petition and referendum process.
- 25) It is recommended that OMCL Council-Manager law be re-written to eliminate alphabetical designations and permit any community to adopt any combination of the variations now defined by those designations.
- 26) It is recommended that the OMCL Council-Manager law be re-written to include the alternative of having the mayor elected directly by the voters for a fixed term of office of four years.
- 27) It is recommended that the OMCL Small Municipality law be re-written to eliminate alphabetical designations and permit any community to adopt any combination of the variations now defined by those designations.

Recommendations 23 - 27 could be realized by appropriate amendments to the Optional Municipal Charter Law, N.J.S.A. 40:69A-1 et seq.

MUNICIPAL GOVERNMENT FORMS

Introduction

The County and Municipal Government Study Commission was established by the New Jersey Legislature and directed to study the structure and functions of county and municipal government to inquire into the structural and administrative streamlining of such entities. To assure that this mandate was implemented the Commission's designated membership included representatives of county and municipal government, members of the public at large and three members from the Senate and the General Assembly.

A review of the Commission's reports indicates that the majority have involved an analysis of the *functional* aspects of local government (e.g., flood control, bus transportation, local health services). However, at least four of the studies can be categorized as *structural* in nature: **County Government: Challenge and Change**, **Joint Services - An Area-Wide Approach to Local Problems**, **Consolidation: Prospects and Problems**, and **Beyond Local Resources: Federal/State Aid and the Local Fiscal Crisis**. In addition, the enactment of significant legislation can be traced to this series of reports. These included: the **Optional County Charter Law**,¹ authorizing counties to modernize and reorganize their structure for the purpose of more effectively providing services; the **Interlocal Services Act**,² and the **Interlocal Services Aid Act**,³ authorizing municipalities and counties to provide joint services; and providing State assistance to promote these arrangements; and the **Municipal Consolidation Act**,⁴ revising and modernizing the law permitting municipalities to consolidate their governments.

Although treated as separate issues, the Commission's studies of local government indicated that the distinction between structure and function is often illusory. In virtually every functional area, at least some aspects of the internal organization of a community relate to its ability and capacity to provide services and to respond to changing public needs. Forms of government affect even more directly the policy making and political processes in many communities. In addition, a community's organizational form may reflect the general values associated with various characteristics considered important at different points in time. It was for these reasons that the Commission commenced a study to evaluate the organizational forms available to New Jersey municipalities. The study was conducted on behalf of the Commission, by the Bureau of Government Research of Rutgers University.

In format, this report departs from other Commission publications in two principal ways: first, the nature of the subject under study, which dictated an assessment of *many* municipal government forms and component features and their presentation in a cohesive context; and second, the need for a convenient source of public information concerning the structure to municipal government in the State. Thus, the report offers *both* an informational background and the Commission's recommendations for general and specific statutory changes. The report is divided into two major sections:

1) **Home Rule in New Jersey**, which discusses the conceptual basis and New Jersey's particular traditions in municipal law; and II) **Forms of Municipal Government: An Evaluation and Recommendations for Change**.

¹ N.J.S.A. 40:41A-1 et seq. (1972)

² N.J.S.A. 40:8A-1 1973

³ N.J.S.A. 40:8B-1 1973

⁴ N.J.S.A. 40:43-66.35 et seq. 1978

Section A. HOME RULE IN NEW JERSEY

Introduction

Home Rule generally refers to the powers of a municipality to shape its charter and to exercise local self government, subject to constitutional and statutory laws. Within this broad definition, however, are many different interpretations, and some misconceptions, as to the extent and discretion of home rule powers. The different concepts of home rule are particularly accentuated in relation to municipal government forms, where public attitude and traditional practice may be confused with the legal meaning of home rule.

Since Home Rule holds different meanings to different people, the Commission hopes that by setting forth the range of possible conceptual variations in State-local relationships, both existing and potential future practices will be better understood. Thus, the survey of "home rule" in New Jersey contained in this section provides a context for the examination of municipal charter issues in the State. It should be noted that this discussion of the philosophy and application of home rule is extensive rather than intensive, covering the broad sweep of the subject without probing in depth any single aspect. Many of the areas highlighted here could be expanded into separate, detailed studies.

If any single conclusion is emphasized by this section it is that there is no single classification of "home rule" that can be said to cover all aspects of State-local relationships. While New Jersey is not known as a "home rule" state, at least in a legal sense, delegations of authority and responsibility do exist, and they go further in some areas than others. "Home rule" probably is discussed and invoked at least as frequently in New Jersey as in other states. It has been said that "home rule" is a state of mind in New Jersey. While this undoubtedly is so, it is more than a state of mind if the range of alternative patterns is recognized. To some extent, legal "home rule" - - in both constitutional and statutory form - - does exist in New Jersey in a variety of forms, depending upon the area of State-local relationships involved.

A second observation is that the balance between State and local powers is not a static phenomenon. It changes constantly as conditions change and as new constitutional and statutory provisions are enacted. In New Jersey, powers have been granted to local governmental units and they have been withdrawn from the local level.

This section first presents a brief description of the two competing historical concepts of State-local relationships - - Dillon's Rule and the Cooley Doctrine. It then examines the way in which these have been blended into six different *types* of "home rule", and identifies seven *areas* of State-local relationships in which the *types* of "home rule" may be examined. The major portion of the section consists of an examination of each of these *areas* of relationships, first describing the models which might exist under each *type* of "home rule", and followed by a description of New Jersey practice. A brief chapter then attempts to pull together the elements of New Jersey practice found in the preceding pages, and to provide some analysis of where New Jersey stands today. Finally, there is an appendix containing summaries of the suggestions on changes in "home rule" which have been made by various writers.

Chapter 1. CONCEPTS OF AMERICAN STATE-LOCAL RELATIONSHIPS ¹

The opinions and writings of two nineteenth century state jurists, Judge John F. Dillon of Iowa and Judge Thomas M. Cooley of Michigan, have formed the basis for a continuing debate over the last hundred years regarding the relative powers of the states and their local governments.

"Dillon's Rule"

"Dillon's Rule" provides for a strict construction approach of state supremacy over local government. Judge Dillon stated in an Iowa case in 1868, and in later books, that municipal corporations possess only those powers granted by state legislatures in express terms, together with those necessarily implied by the powers granted, and those indispensable powers essential to the objectives of the municipal corporation.

It is a sweeping declaration - - "municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so may it destroy. If it may destroy, it may abridge and control."²

Writers following Dillon elaborated on his "Rule", arguing that the necessary subordinate role of the municipal corporations to the state could not be altered by the courts; that a municipal charter is not a contract and, thus, may be modified or transferred by the state; and that any home rule powers which do exist at the local level must inevitably wither as the state expands the scope of its own activities.³

The "Cooley Doctrine"

In contrast to Judge Dillon's "Rule", Judge Cooley, in an 1871 Michigan case,⁴ described what he considered to be a basic tenet of American political philosophy, namely, that there exists an inherent right of local government. The "Cooley Doctrine" was based on Judge Cooley's reading of the common law and American historical tradition. He considered the right to local self-government to be an absolute right which could not be abridged. Many local governments existed before the state governments, he argued, and therefore were parallel to the states and should continue for "all time". Local government came out of the fabric of American life and was the "cradle" and guardian of American liberty and democracy.

¹For a more extensive discussion of these concepts, see Anwar Hussain Syed, *The Political Theory of American Local Government* (New York: Random House, 1966).

²*City of Clinton v. Cedar Rapids and Missouri R. R. Co.*, 24 Iowa 455 (1868); as quoted in Syed, *op. cit.*, p. 68.

³See Charles W. Tooke, "The Status of the Municipal Corporation in American Law", *Minnesota Law Review*, Vol. 16 (March, 1932), pp. 343-60, and "Construction and Operation of Municipal Powers", *Temple Law Quarterly*, Vol. 7 (1933), pp. 267-89.

⁴*People of Michigan ex rel LeRoy v. Hurlbut*, 24 Michigan 44 (1871); as cited in Syed, *op. cit.*, p. 57.

Judge Cooley conceded that the state could confer necessary powers upon local government and could "mould local institutions according to its view of policy and expediency". However, the local community is entitled to local government, while the state's power is discretionary and ought to be used with extreme caution. Although no local community could claim the right to a particular charter or form of local government, the forms prescribed by the state could not be fixed so rigidly as to prevent differences in approach.

A Constitutional Blending

In the absence of state constitutional guidelines, most legislatures and courts in the nineteenth century opted for "Dillon's Rule", rather than the "Cooley Doctrine". Nevertheless, the idea of inherent local government rights has remained an attractive concept for the general public, for local government officials and, increasingly in the earlier years of the twentieth century, for writers on local government. Thus, attempts were initiated to write specific language into state constitutions that would turn the legislatures and the courts away from the full force of state supremacy, as stated by Judge Dillon, and would begin to provide for some blending of the views of the two judges. In general, these efforts have been characterized as "Home Rule" movements. Their results can be categorized under a handful of headings, although the actual classification of State legislative and constitutional provisions into one category or another may not always be very neat:

State Supremacy - This category, at one end of the spectrum, presumes full acceptance of Judge Dillon's "Rule". A local government is a creature of the state - - subject to creation, abridgement, and destruction by the state - - and it may exercise only those powers granted in express terms, together with those necessarily implied by the powers granted, and those powers essential to the objectives of the local government corporation. The mandating of performance of some function by local governmental units would appear to fall within the heading of a State supremacy approach.

Modified State Supremacy - A second category of home rule approach accepts the general validity of "Dillon's Rule", but places some specific limitations on the powers of the state government with regard to local government. This approach has also been called "negative home rule".¹ In place of Judge Cooley's admonition for legislative self-restraint, the constitution may include an absolute or conditional prohibition against the enactment of special, or local laws dealing with the internal affairs of individual local governments, or there may be language, as in New Jersey, urging the courts to provide "liberal" interpretations of local government powers.

Legislative Grant of Home Rule - An approach known as legislative home rule has the potential for going somewhat beyond the modified state supremacy category. Here, the state legislature delegates home rule powers to local governmental units by statute. The approach has generally been used cautiously, because of the fear that the courts, following "Dillon's Rule", will strike down the law as an invalid delegation of state authority. Moreover, it is often considered a weak form of home rule because the powers granted may be withdrawn or ignored by future legislation.² Optional authorization for local governmental units to perform some function, if they wish, is a common form of legislative home rule grant.

¹ **The History and Status of Local Government Powers in Florida**, Staff Report, Committee on Community Affairs, Florida House of Representatives, July 31, 1972, p. 29.

A special form of legislative home rule appeared recently in Florida. In 1968, a new state constitution presumably gave Florida local governments significant home rule powers. However, rulings by the state attorney general and various court decisions provided interpretations along traditional "Dillon's Rule" lines. In order to clarify the constitutional provisions, the legislature, in 1973, enacted the Municipal Home Rule Powers Act, which repealed ten chapters of statutes dealing with detailed regulation of local government activities. The statement of intent in this law is a sweeping delegation of legislative home rule:

It is the legislative intent that the repeal.....of Chapters 167, 168, 169, 172, 174, 176, 178, 181, 183, and 184 of Florida Statutes shall not be interpreted to limit or restrict the powers of municipal officials, but shall be interpreted as a recognition of constitutional powers. It is, further, the legislative intent to recognize residual constitutional home rule powers in municipal government, and the legislature finds that this can best be accomplished by the removal of legislative direction from the Statute. It is, further, the legislative intent that municipalities shall continue to exercise all powers heretofore conferred on municipalities by the chapters enumerated above, but shall hereafter exercise those powers at their own discretion, subject only to the terms and conditions which they choose to prescribe.¹

Lower courts attempted to nullify the above provision as an unconstitutional delegation of legislative powers, but were overruled by the Florida Supreme Court, which upheld the law.

While this approach has been cited by at least one writer as an illustration of the granting of home rule by statute,² it might better be regarded merely as a clarification of constitutional home rule provisions made necessary by a recalcitrant set of courts and executive officials, who were unable to accept the philosophy of the new Florida constitution. In the absence of the constitutional home rule provisions which the Act re-emphasized, the law might well have fallen before the "unconstitutional delegation of powers" argument.

Constitutional Home Rule - A more drastic step than legislative home rule is the development of constitutional language which not only limits state legislative action in relation to local government, but provides explicitly for certain powers and functions to be exercised by local governments. Two variations generally are identified: constitutional non-self-executing home rule and constitutional self-executing home rule.

Non-Self Executing Home Rule - provisions in a state constitution designate certain functions or powers as appropriate for local government, but require an action of the legislature to implement the constitutional provision. Such legislative action sometimes is optional and sometimes is stated as a mandate. The Model State Constitution, developed by the National Municipal League, for example, provides a non-self-executing alternative in which the legislature is *directed* to provide by general law:

(3) For the adoption or amendment of charters by any county or city for its own government, by a majority vote of the qualified voters of the city or county voting thereon, for methods and procedures for the selection of charter commissions, and for framing, publish-

¹ Quoted in, John M. DeGrove, "Home Rule and Intergovernmental Relations: The Case of Florida", *Partnership Within the States: Local Self-Government in the Federal System*, Stephanie Cole, editor, Institute of Government and Public Affairs, University of Illinois and Center for the Study of Federalism, Temple University, 1976, p. 139.

² Daniel J. Elazar, "State-Local Relations: Reviving Old Theory for New Practice", *ibid.*, p. 29.

ing, disseminating and adopting such charters or charter amendments and for meeting the expenses connected therewith.¹

Self-Executing Home Rule, the second variation of constitutional home rule, involves language which provides authority for local government action without the need for legislative authorization. Again in the Model State Constitution, a self-executing alternative provides in detail the authority and procedure for local preparation and adoption of a city or county charter.² In addition, both versions of the Model State Constitution contain language on local government powers which constitute a self-executing form of home rule:

8.02 Powers of Counties and Cities. A county or city may exercise any legislative power or perform any function which is not denied to it by its charter, is not denied to counties or cities generally, or to counties or cities of its class, and is within such limitations as the legislature may establish by general law. This grant of home rule powers shall not include the power to enact private or civil law governing civil relationships except as incident to an exercise of an independent county or city power, nor shall it include power to define and provide for the punishment of a felony.³

Local Home Rule as an Inherent Right - To complete the spectrum, a full implementation of Judge Cooley's "Doctrine" would involve no specific constitutional language, since the powers of local government would be recognized as inherent and universally acknowledged. Although rarely, if ever, accepted formally as a guiding principle, in fact, this approach frequently finds expression through legislative forbearance when dealing with local government matters.

¹ National Municipal League. **Model State Constitution**, 6th ed. rev. (New York: 1968), Section 8.01 (3).

² *Ibid.* Section 8.01 (3) Alternative.

³ *Ibid.* Section 8.02.

Chapter II. THE STATE-LOCAL RELATIONSHIP IN SPECIFIC AREAS

The preceding pages have described six major types of State-local relationship which define the degree of home rule granted to local communities. It would be a mistake, however, to assume that any state uses a single approach for all aspects of the relationship. For a variety of reasons, a state may adopt different approaches for different purposes. Even in the self-executing home rule provisions of the Model State Constitution, for example, certain powers are withheld from counties and cities.

An extensive list of different areas for potential home rule relationships might be prepared. The more extensive the list, however, the more it resembles the specific enumeration of powers envisioned by Judge Dillion. By restricting the list to a relatively small number of general areas, it may be possible to provide a framework for describing the approaches to home rule used in any given state. Seven areas of relationship are suggested:

The power to create and abolish local governmental units, and to define their geographic boundaries.

The power to determine local government organization.

The power to determine local government processes, such as elections, local legislation, financial administration, and personnel administration.

The power to determine what local government services will be performed and to perform those services.

The power to regulate the use of private property.

The power to regulate personal behavior.

The power to raise money through taxation and borrowing.

Each of the seven areas of State-local relationship has been described below in terms of the situation which might prevail under a particular type of home rule. This is followed by a discussion of New Jersey practice, with an attempt to categorize home rule in this state as it pertains to that area of State-local relationship.

a. **Creation and Abolition of Local Government Units and Definition of Their Boundaries.**

Typical Applications Under Various Types of Home Rule:

State Supremacy - The power to create, abolish, and define the geographic boundaries of local governmental units is held exclusively by the Legislature, which performs the function through the regular legislative process. The State Constitution either is silent on the issue or specifically authorizes exclusive legislative powers in this area.

Modified State Supremacy - The power to create, abolish, and define the geographic boundaries of local governmental units is held by the Legislature, but is exercised within constitutionally-prescribed limits, such as a requirement that the residents of an area must request or approve legislative action, or through some extraordinary legislative procedure, such as a requirement for a 2/3 majority vote.

Legislative Grant of Home Rule - The State Constitution is silent on the issue, but the Legislature has delegated the power to create, abolish, and define the geographic boundaries of local governmental units to the residents of any area in the state, who may act according to

a conclusion without further action by the State government.

Constitutional Home Rule

Non-Self-Executing - The State Constitution authorizes or directs the Legislature to establish procedures by general law to permit the residents of any area in the state to initiate proceedings to create, abolish, and define the geographic boundaries of local government units, and to carry such proceedings to a conclusion without further action by the State government.

Self-Executing - The State Constitution defines the procedures under which the residents of any area in the state may initiate proceedings to create, abolish, and define the boundaries to local governmental units, and may carry such proceedings to a conclusion without further action by the State government.

Local Home Rule as an Inherent Right - The State Constitution is silent, but the right to create, abolish, and define the geographic boundaries of local governmental units is recognized as that of the residents of any area, who may initiate and carry to a conclusion any such proceedings without legislative guidelines or any form of State government approval.

New Jersey Practice - In the face of constitutional silence, New Jersey practice in relation to the power to create, abolish, and define the geographic boundaries of local governmental units has been a combination of "State Supremacy" and "legislative grants of home rule".

Up to the latter part of the nineteenth century, new units of local government were created exclusively through acts of the Legislature. As urbanization spread, however, laws were enacted which permitted the residents of a township to initiate and carry to a conclusion action to create cities, boroughs, or villages from a portion of the township, without further action by the Legislature. A proliferation of these local municipal incorporations led the Legislature to withdraw this grant of home rule power for boroughs in 1897, for villages in 1960, and for cities in 1961.¹ Today, it is generally accepted that the Legislature holds exclusive power to create new units of municipal government. New counties in New Jersey have always been brought into being solely through legislative action.

Other units of local government may still be created through local action, however. The legislature has authorized procedures for the creation of new regional school districts by local boards of education, subject to approval by the State Commissioner of Education and by the voters in local referenda.² Moreover, various statutes provide for creation of authorities and special districts of many kinds through strictly local action.

The power to abolish some local governmental units also has been granted by the Legislature to local officials and voters.

¹ L. 1897, c. 161, see N.J.S.A. 40:86-1 et seq. (N.J.S.A. refers to the New Jersey Statutes Annotated); L. 1960, c. 171; L. 1961, c. 23; for a more detailed discussion of municipal incorporations, consolidations, and annexations, see Stanley H. Friedelbaum, "Origins of New Jersey Municipal Government", *Proceedings of the New Jersey Historical Society*, Vol. 73 (January, 1955), p. 16 and John P. Snyder, *The Story of New Jersey's Civil Boundaries, 1606 - 1968* Trenton: State of New Jersey, Bureau of Geology and Topography, 1969), pp. 60-64.

² N.J.S.A. 18A:13-34.

While the earlier practice had been to require specific legislative approval of attempts to consolidate municipalities or to annex one to another,¹ by the early part of the twentieth century the Legislature had provided general law procedures for the consolidation of two or more municipalities by local action. The successor to this law, though rarely used, was recently updated.² Counties, however, may be abolished only by action of the Legislature.

Local school districts may be abolished if their boards of education, the Commissioner of Education, and the voters approve formation of a regional school district providing all educational services within two or more municipalities.³ A municipal consolidation may bring with it the consolidation of the school districts, as well.⁴ Local public authorities and special districts within a municipality generally may be abolished by action of the governmental unit which created them.

The power of one municipality to annex a portion of another, thereby changing the municipal boundaries, also dates to the early part of this century as a grant of home rule by the Legislature to the residents of the local area.⁵ School district boundaries change as the boundaries of the municipalities within which they are located change, unless vetoed by the Commissioner of Education.⁶ In contrast, a change in county boundaries remains the exclusive prerogative of the Legislature.

In summary, New Jersey has moved somewhat away from strict State Supremacy in terms of the power to create, abolish, and define the geographic boundaries of local governmental units. The residents of a local area have been granted the home rule power to abolish municipalities through consolidation, and they may change municipal boundaries through annexation. At one time, they could create new municipalities through local incorporation, but this authority has been reclaimed by the Legislature in recent years.

With regard to county government, the Legislature still keeps a strong grip on the power to create new counties, abolish old ones, and change county boundaries. In connection with school districts, which administer a function designated by the Constitution as a State responsibility, the Legislature has delegated some home rule power, but generally has coupled this with a requirement for concurrence by a State executive officer - the Commissioner of Education.

b. Determination of Local Government Organization.

Typical Applications Under Various Types of Home Rule:

State Supremacy - The internal organization of each local governmental unit is determined by the Legislature at the time the unit is created, through the granting of a charter embodied in an act which is adopted through normal legislative procedures and which requires no local approval to become effective. Changes in organization require further legislative action. The State Constitution either is silent on the issue or specifically authorizes exclusive legislative powers in this area.

¹ For example, see the series of laws enacted to expand the City of Trenton by adding to it the Borough of South Trenton (L.1851, p. 440), the Township of Millham and the Borough of Chambersburg (L.1888, p. 585), and the Borough of Wilbur (L.1898, c. 17); cited in Snyder, *op. cit.*

² The **Municipal Consolidation Act**, N. J. S. A. 40:43-66.35 et seq.

³ N. J. S. A. 18A:13-34.

⁴ See N. J. S. A. 40:43-66.35 et seq.

⁵ N. J. S. A. 40:43-26 et seq.

⁶ N. J. S. A. 18A:8-3.1 et seq.

Modified State Supremacy - The internal organization of local governmental units is determined by the Legislature within constitutionally - prescribed limits, such as requirements that:

the action be taken by general law, applying to all local units or to classes of local units, rather than to individual local governmental units, or

that the legislation be enacted only through extraordinary legislative processes, or

that the legislation become effective only when approved locally.

Legislative Grant of Home Rule - The State Constitution is silent on the issue, but the legislature has delegated to the public officials or residents of any local governmental unit the power to adopt or modify charters defining the internal organization of the unit, provided that such action is taken according to legislatively - prescribed procedures which may be initiated locally and carried to a conclusion without further State government action.

Constitutional Home Rule

Non-Self-Executing - The State Constitution authorizes or directs the Legislature to establish procedures by general law under which the public officials or residents of any local governmental unit may initiate proceedings to adopt or modify charters defining the internal organization of the unit, and may carry such proceedings to a conclusion without further State government action.

Self - Executing - The State Constitution establishes procedures under which the public officials or residents of a local governmental unit may initiate proceedings to adopt or modify charters defining the internal organization of the unit, and may carry such proceedings to a conclusion without further State government action.

Local Home Rule as an Inherent Right - The State Constitution is silent on the issue, but the right to adopt or modify charters defining the internal organization of a local governmental unit is recognized as residing in the public officials or residents of the unit, who may initiate and carry to a conclusion any such proceedings without legislative guidelines or any form of State government approval.

New Jersey Practice - New Jersey practice with respect to State determination of local government internal organization has moved over the past hundred years from a policy of State supremacy to a combination of modified State supremacy, legislative grants of home rule, and non-self-executing constitutional home rule.

Prior to 1875, the New Jersey Legislature dealt with local government organization through both general laws applicable to broad classes of governmental units and by specific charters applicable to individual places. The first township law, passed in 1798, provided uniformly for the principal officers to be elected or appointed in each of the state's 104 existing townships. Included were a clerk, one or more assessors, one or more collectors, three or more "judicious" freeholders to act on tax appeals, two "chosen" freeholders, two surveyors of highways, one or more overseers of the poor, one or more pound-keepers, one judge of elections, and five members of the township committee.¹

¹ Act of 21 February, 1798.

The general county law of about the same period followed a comparable pattern.¹ When individual municipalities were incorporated as cities, towns, boroughs, or villages from portions of townships, however, the Legislature took the occasion to prescribe the form of organization for each local unit at the time it was chartered.²

By 1875, the Legislature has abused its power under this approach to such an extent that the State Constitution was amended to provide the first modification of State supremacy - a provision that the Legislature could not pass private, local or special laws regulating the internal affairs of towns or counties, or appointing local offices or commissions to regulate municipal affairs, but had to use a general law approach.

This provision was carried over in substantially the same form into the Constitution of 1947:

The Legislature shall not pass any private, special or local laws: . . .

(12) Appointing local officers or commissions to regulate municipal affairs.

(13) Regulating the internal affairs of municipalities formed for local government and counties, except as otherwise in this Constitution provided.

The Legislature shall pass general laws providing for the cases enumerated in this paragraph, . . .³

The constitutional language remains today as a modification of State supremacy.

The Convention of 1947 also introduced an element of non-self-executing constitutional home rule, by directing the Legislature to provide by general law for a procedure whereby the governing of a local governmental unit could petition for the enactment of a private, special or local law regulating the internal affairs of the unit, provided, however, that the Legislature could respond only by a two-thirds vote in each house, and that the law could go into effect only after approval by the governing body or the voters.⁴ This provision has been implemented by law,⁵ and has been used upon a few occasions to grant special charters to municipalities at their request.

Legislative grants of home rule powers with respect to local government internal organization were started on a small scale after 1875, as the Legislature grappled with the problems of providing by general law for the varied needs and desires of different communities. During the 1880's and 1890's, a number of acts provided optional forms of city government which could be adopted through local referenda. In each case, the laws included detailed lists of elected and appointed public officials, as well as specifications for at least some of the city's departments.⁶ Similar optional legislation was enacted for counties, but was declared unconstitutional in 1902 as a special act applying to only a single county.⁷

¹ Act of 13 February, 1798.

² See for example Chapter CLXII of the Laws of 1857, which incorporated the City of Beverly and spelled out the duties of the mayor, nine councilmen, clerk, treasurer, assessor, one to three constables, marshal, judge of elections, three commissioners of tax appeal, harbor master, and pound keeper.

³ Constitution of New Jersey (1947); Article IV, Section VII, paragraph 9.

⁴ Constitution of New Jersey (1947); Article IV, Section VII, paragraph 10.

⁵ N. J. S. A. 1:6-10 et seq.

⁶ N. J. S. A. 40:103-1 et seq.

⁷ Harris I. Effross, *County Governing Bodies in New Jersey: Reorganization and Reform of Boards of Chosen Freeholders, 1798-1974* (New Brunswick: Rutgers University Press, 1975), pp.190-195.

More general applications of the optional charter approach were made after the turn of the century. The first action came in the form of a 1902 optional law permitting counties to change the organization of their governing boards.¹ This was followed by the Commission Form of Government Law in 1911, which authorized all municipalities, including townships, to change their form of government through action initiated locally and carried to a conclusion with no further State action.² Legislative grants of home rule through the optional charter approach were broadened with the passage of the Municipal Manager Form of Government Law in 1923,³ the Optional Municipal Charter Law in 1950,⁴ and the Optional County Charter Law in 1972.⁵

A legislative delegation of home rule powers dealing with local school district organization has existed for many years, with the residents of a local governmental unit having the option of selecting either a Type I district organization, with an appointed school board and budget review by a board of school estimate, or a Type II district organization, with an elected board of education and submission of school tax levies to a referendum vote.⁶

New Jersey practice in connection with State determination of local government internal organization includes elements of several different types of home rule. It may be argued that even "local home rule as an inherent right" may be detected to some degree. While the older general laws dealing with classes or types of municipality and county provide for the election or appointment of certain officials, they rarely are explicit about departmental structure and other aspects of the internal organization of the local government unit. As a result, the internal structure of a township or borough government may be left largely to the will of local governing officials, although certain forms of organization have developed as local custom. The optional plans of the twentieth century sometimes go further, with the Commission Form of Government Law probably the most detailed in specifying the number of departments of municipal government and their precise names although, even here, the assignment of functions to a department and the organization within the department is left relatively vague. In the Optional Municipal Charter Law, there is a limit placed on the number of departments under the mayor-council options, and one department - - the department of administration - - is named and required. Similarly, the Optional County Charter Law refers to a "legal department", but leaves all other aspects of departmental structure to local discretion. The Legislature, thus, appears to have recognized that there is a point - - however vague and ill-defined - - beyond which State determination of local organization should not proceed.

¹ Ibid, p. 196 ff.

² N. J. S. A. 40:70-1 et seq.

³ N. J. S. A. 40:79-1 et seq.

⁴ N. J. S. A. 40:69A-1 et seq.

⁵ N. J. S. A. 40:41A-1 et seq.

⁶ N. J. S. A. 18A: 9-1 et seq.

c. **Determination of Local Government Processes** - - elections, local legislation, financial administration, and personnel administration.

Typical Applications Under Various Types of Home Rule:

State Supremacy - The processes to be conducted by each local governmental unit are established by the Legislature, which may require them to be uniform, or may specify that they shall vary from place to place. The State Constitution either is silent on the issue or specifically authorizes exclusive legislative powers in this area.

Modified State Supremacy - Local government processes are established by the Legislature within constitutionally-prescribed limits, such as a requirement that action be taken by general law, applying to all local units or classes of units, rather than by special acts dealing with individual local units.

Legislative Grant of Home Rule - The State Constitution is silent on the issue, but the Legislature has delegated to the public officials or residents of any local governmental unit the power to adopt or modify charters or local legislation defining the processes of government in the unit, provided that such action is taken in accordance with legislatively-prescribed procedures which may be initiated locally and carried to a conclusion without further State government action.

Constitutional Home Rule

Non-Self-Executing - The State Constitution authorizes or directs the Legislature to establish procedures by general law under which the public officials or residents of any local governmental unit may initiate proceedings to adopt or modify charters or local legislation defining the processes of government in the unit, and may carry such proceeding to a conclusion without further State government action.

Self-Executing - The State Constitution establishes procedures under which the public officials or residents of a local governmental unit may initiate proceedings to adopt or modify charters or local legislation defining the processes of government in the unit, and may carry such proceedings to a conclusion without further State government action.

Local Home Rule as an Inherent Right - The State Constitution is silent on the issue, but the right to adopt or modify charters or local legislation defining the processes of government in a local governmental unit is recognized as residing in the public officials or residents of the unit, who may initiate and carry to a conclusion any such proceedings without legislative guidelines or any form of State government approval.

New Jersey Practice - Since 1875, New Jersey practice in connection with the processes of local government has been largely a pattern of "State supremacy" modified by some constitutional limitations. There have been limited legislative grants of home rule in some aspects of elections administration and personnel administration. The determination of local governmental processes by legislative and, more recently, administrative action probably represents some of the strongest examples of State control in the New Jersey picture.

General election administration has long been a State-directed, uniformly-conducted process, with detailed legislation spelling out the steps in process.¹

¹ One exception was that the townships of the state were divided into three different groups by county, with township meetings to be held on different dates for each group of counties. Meeting procedure was to be uniform, however. Act of 21 February, 1798, Sec.3.

Prior to 1875, these procedures were supplemented by a variety of local election procedures specified by terms of the individual municipal charters.¹ Since the 1875 "general law" constitutional amendment, election legislation applicable to single municipalities has been prohibited. In a few specialized areas of election administration, however, there has been a legislative grant of home rule through the optional charter approach. The residents of a local governmental unit may choose to select their municipal government officials through nonpartisan elections, by accepting the full "package" of characteristics contained in the Commission Form of Government Law, the Municipal Manager Form of Government Law of 1923, or some of the plans under the Optional Municipal Charter Law. Once the choice is made, the conduct of the election must follow the guidelines of the State law. Similarly, by selecting a particular optional plan, the residents of a county or municipality may gain the powers of recall, of initiative, and of referendum, and the right to select some of their representatives from wards of freeholder districts.

In terms of local legislative processes, while there may be some vague areas where the choice of ordinance, resolution or motion remains a local prerogative, numerous State laws prescribe the form of local action required in order to accomplish some governmental result. The exact procedure for introduction, advertisement, public hearing, and adoption of ordinances is spelled out for all municipalities in considerable detail by State law.² Many of the statutes dealing with the various optional charter plans and other forms of local government add other detailed instructions for the processes of local legislation.³ A more recent State restriction on local discretion is the Open Public Meetings Law, commonly known as the "Sunshine Law", enacted in 1975 and providing detailed instructions for the conduct of public meetings.⁴

While the delegation to local units of the power to tax property in accordance with minimal province-wide rules goes back into New Jersey's colonial history,⁵ more detailed State control on the broad range of local financial activities is much more recent. A State Department of Municipal Accounts was established by State law in 1917, with the power to supervise the financial processes of the state's municipalities and counties.⁶ Financial difficulties encountered by many local governmental units during the 1930's led to widened State supervisory responsibility and more comprehensive statutes governing local budgeting, borrowing, and purchasing. Except for budgetary requirements necessary to meet debt service requirements, expected under-collection of taxes, and unbudgeted obligations from prior years, State legislative and administrative controls on local units have generally dealt with fiscal processes, rather than local financial policy decisions. With the introduction of "budget caps" on municipal, county, and school district budgets, enacted in 1975 and 1976, however, an area previously left to home rule discretion has been made subject to "modified State supremacy".⁷

¹See City of Beverly charter, Laws of 1857, Chapter CLXII.

²N.J.S.A. 40:49-2.

³Commission Form, N.J.S.A. 40:74-1; Municipal Manager Form, N.J.S.A. 40:81-20; Optional Municipal Charter Law, N.J.S.A. 40:69A-179; Boroughs, N.J.S.A. 40:93-1; Towns, N.J.S.A. 40:133-1; Townships, N.J.S.A. 40:147-1; Villages, N.J.S.A. 40:163-1.

⁴N.J.S.A. 10:4-6 et seq.

⁵The General Property Tax; A century of Inequities, Sixth Report of the Commission on State Tax Policy, Trenton, 1953, p. xiv.

⁶Laws of 1917, c. 154.

⁷N.J.S.A. 40A:4-45.1 et seq., N.J.S.A. 18:7A-1 et al.

Some phases of local personnel administration have long been subject to State legislative direction. County freeholders, for example, were limited to a salary of \$1.00 per day by the act of 1798.¹ Limitation or actual prescription of local salaries has remained a common area of legislative activity up to the present, although by changing to one of the optional charter forms of government, the residents and public officials of a local government unit have sometimes been able to gain more freedom in setting local salary levels. More recent legislation has removed some of these restrictions.²

The broader aspects of local personnel administration, however, generally remained as local prerogatives through legislative inaction. For many years, in fact, dating back to 1908, the principal option made available to local governmental units was that of abandonment of their relatively unrestricted status in personnel administration through voluntary affiliation with the State Civil Service system.³ This was an irreversible process until the passage of the Optional County Charter Law in 1972, which included procedures for local administration of a personnel system in place of the State system to which the county may have belonged previously.⁴ This step, thus, constituted a legislative grant of home rule powers in the area of personnel administration. On the other hand, tighter State control of local personnel processes has been required in recent years by legislation dealing with collective bargaining for public employees, which placed this function within the jurisdiction of a State Public Employees Relations Commission.⁵

In summary, many of the areas of local discretion which existed years ago with regard to the processes of local government have been made subject to State regulation as governmental units have become larger, more complicated, and more interrelated. State supremacy, modified primarily by the constitutional requirement for a general law approach, has been the general rule. While efforts have been made to provide legislative grants of home rule for some local processes - - forms of local election, local personnel departments - - strong State control of local government processes remains a major factor in New Jersey.

d. Determination of what local government services will be provided and how they will be performed.

Typical Applications Under Various Types of Home Rule:

State Supremacy - The power to determine what local government services will be provided is held exclusively by the Legislature, which mandates the performance of each service, either by individual governmental units or uniformly by classes of unit or by all local governmental units. The State Constitution either is silent on the issue or specifically authorizes exclusive legislative powers in this area.

¹ Effross, *op. cit.*, p. 30.

² See N.J.S.A. 40A:9-165 et seq., 40:74-5 et seq., 40:87-60.1.

³ N.J.S.A. 11:1-1 et seq., Laws of 1908, c. 156.

⁴ N.J.S.A. 40:41A-131.

⁵ N.J.S.A. 34:13A-1 et seq.

Modified State Supremacy - The power to determine what local government services will be provided is exercised by the Legislature within constitutionally - prescribed limits, such as a requirement that action be taken by general law applying to all units or classes of governmental unit, rather than by special acts dealing with individual local units.

Legislative Grant of Home Rule - The State Constitution is silent on the issue, but the Legislature has delegated to the public officials or residents of a local governmental unit the power to determine what local government services will be provided and the power to perform those services, provided that action is taken in accordance with legislatively - prescribed procedures which may be initiated locally and carried to a conclusion without further State government action.

Constitutional Home Rule

Non-Self-Executing - The State Constitution authorizes or directs the Legislature to establish procedures by general law under which the public officials or residents of a local governmental unit are empowered to determine what local government services will be provided and to provide those services.

Self-Executing - The State Constitution either establishes procedures under which the public officials or residents of a local governmental unit are empowered to determine what local government services will be provided and to provide those services, or it reserves to any local governmental unit the right to perform any public service not denied to it by constitutional provision, legislative action, or its own charter.

Local Home Rule as an Inherent Right - The State Constitution is silent on the issue, but the right to determine what local government services should be provided and the right to perform those services is recognized as residing in the public officials or residents of the local government unit.

New Jersey Practice - New Jersey practice, both before and after the constitutional amendment of 1875, has emphasized legislative grants of optional authority for units of local government to provide specific public services.

The first general township law of February 21, 1798 authorized the use of township funds to provide four different services for the residents of the township: maintenance and support of the poor; building and repairing of pounds; opening, making, working, and repairing of roads and keeping them in order; and the destruction of noxious wild animals and birds. In addition, funds could be expended for running and ascertaining township boundaries and for defending the "common rights" of the township. None of these services, however, were mandated; they were merely authorized, and the decision as to whether and how they would be performed was left to each local township meeting and the township committee which functioned during the intervals between meetings.¹

As new municipalities other than townships were chartered during the nineteenth century, each charter granted by the Legislature spelled out the services which could be offered. The lists tended to become longer and more detailed as years went by. The Borough of Princeton (1813) could merely

¹ Act of 21 February, 1798.

provide improvements "upon or in front of vacant lots".¹ The city of Jersey City (1820), among other things, could provide for nightwatch, fire engines, engine houses, and the extinguishment of fires, the regulation of weights and measures, and the inspection of firewood.² The city of Beverly (1857) was authorized to carry out a list of functions extending over two pages of the statute books.³ The charter generally constituted an authorization, however, not a command, and local decisions could prevail as to whether and in what manner the service was to be performed. A rather limited legislative grant of home rule, thus, could be said to be present, with local governmental units able to provide only those services authorized by the Legislature, but rarely being *required* to provide them.

The same philosophy was followed after the 1875 "general law" amendment to the Constitution. Since specific authorizations could no longer be made for individual governmental units, however, the enumeration of authorized services by general law continued to grow. Moreover, the use of general laws probably strengthened the optional approach, for a power desired by one community might not be sought by another. In the "Home Rule" act of 1917, an extensive list of authorized services, in itself, confirmed that the approach was based on the supremacy of the State, only slightly modified by the Constitutional admonition for general laws.⁴ Home rule, based on legislative grant, occurred only in the sense of legislative forbearance in providing optional authority, rather than mandating services.

With increasing urbanization of the state, however, the Legislature has moved into a more commanding role, at times requiring local governmental units to perform specified services. This has happened most often in the case of services which affect the health, safety, and welfare of the public, especially when the impact may be felt on the general public, rather than merely the residents of a single community. As early as 1887, the Legislature *required* formation of a local board of health in every municipality, and authorized the board to enact ordinances for various public health functions.⁵ By 1975, the approach to public health administration had evolved to the point where a municipality not providing acceptable health services as defined by a State Public Health Council would have those services provided by the State with the municipality being billed for the service.⁶ Other mandated municipal services include civil defense and disaster control⁷ and some aspects of public welfare.⁸

¹ Act of 11 February, 1813.

² Act of 28 January, 1820.

³ Laws of 1857, Chapter CLXII.

⁴ Laws of 1917, c. 152.

⁵ Laws of 1887, c. 68.

⁶ The Local Health Services Act, N.J.S.A. 26:3A2-1 et seq.

⁷ N.J.S.A. App. A:9-40.1 et seq.

⁸ N.J.S.A. App. 44:8-114.

County governments, even more frequently, have been required to perform specific services, such as providing court facilities and staff, correctional and custodial institutions, probation services, public welfare services, weights and measures enforcement, and mosquito control.¹ School districts, as local administrative agencies for a State service responsibility, are required to provide elementary and secondary educational services, either through their own schools or by payment of tuition for children sent elsewhere.²

As some local government services have come to be required by law, the Legislature, by turning the responsibility over to State executive agencies, has acknowledged its own inability to supervise and enforce such mandates. Thus, a State Department of Health monitors local public health services, a State Civil Defense Operations and Administration unit monitors local civil defense and disaster control operations, a State Division of Public Welfare monitors local welfare activities, a State Administrative Office of the Courts monitors local courts and probation services, a State Mosquito Control Commission monitors the work of the county commissions, and a State Department of Education monitors local educational efforts.

In some cases, even where the local government service is optional, rather than required by law, there has been an effort to stimulate performance of the service by providing State financial aid. State aid appropriations have been made for 1976-77 for the purposes of law enforcement planning, repair and construction of shore protection structures, local libraries, county colleges, local road construction and repair, and street lighting.³ None of these are mandated local services but, by inducing local programs in conformance with State regulations, the laws authorizing them may well have the same end result as though the Legislature had used its powers to require local governments to provide the services. In both cases, whether the service is required by law or merely encouraged by financial grant, the result is a degree of local government subordination to State administrative control, a relationship falling within the context of modified State supremacy, rather than some form of home rule.

In summary, New Jersey practice regarding the power to determine what local government services will be provided and the power to perform those services has always been rooted in the idea of State supremacy. That supremacy has been modified in the direction of more home rule authority by the constitutional provision requiring legislation by general law. Significant discretionary powers have been delegated to local governmental units through the Legislature's long-standing policy of making grants of optional authority, rather than requiring performance of a service. In more recent decades, however, the necessity to protect the health, welfare, and safety of the entire population has led to State mandates that certain services be performed by local governments. With this has come increased State administrative control, both of mandated local services and of optional services which are induced through State financial aid.

¹ New Jersey County and Municipal Government Study Commission, *County Government: Challenge and Change*, April 28, 1969, pp.50-52.

² N.J.S.A. 18A:11-1, 18A:38-19.

³ See Proposed Budget for State of New Jersey for Fiscal Year '77-'78, February 1, 1977, pp.293-309.

e. **Regulation of the use of private property.**

Typical Applications Under Various Types of Home Rule:

State Supremacy - The power to regulate the use of private property is held exclusively by the Legislature, which mandates the regulation, either by State or local agencies. The State Constitution either is silent on the issue or authorizes exclusive legislative powers in this area.

Modified State Supremacy - The power to regulate the use of private property is exercised by the Legislature within constitutionally-prescribed limits, such as the requirement that such regulation be carried out by general law applying to all local governmental units or classes of units, rather than by special act dealing with individual local units.

Legislative Grant of Home Rule - The State Constitution is silent on the issue, but the Legislature has delegated the power to regulate the use of private property to the public officials or residents of local governmental units by authorizing them to enact such measures as zoning ordinances, building codes, or rent control ordinances, provided that such action is taken by legislatively-prescribed procedures which may be initiated locally and carried to a conclusion without further State government action.

Constitutional Home Rule

Non-Self-Executing - The State Constitution authorizes or directs the Legislature to establish procedures by general law to permit the public officials or residents of any local governmental unit to regulate the use of private property.

Self-Executing - The State Constitution either establishes procedures under which the public officials or residents of any local governmental unit may regulate the use of private property, or it reserves to any local governmental unit the right to regulate the use of private property in any way not denied to it by constitutional provision, legislative action, or its own charter.

Local Home Rule as an Inherent Right - The State Constitution is silent on the issue, but the right to regulate the use of private residents of any local governmental unit.

New Jersey Practice - Regulation by local governmental units of the use of private property is a concept that has grown in acceptance over the past two hundred years. Generally implemented through legislative grants of optional home rule powers, today such activity has been authorized through non-self-executing constitutional home rule provisions in three areas - - land use zoning, the clearance of blighted areas, and the power of eminent domain. On the other hand, there are indications that home rule powers previously granted by the Legislature may be withdrawn if local performance fails to meet the demands of present conditions.

The township law of 1798 contains little that could be considered a grant of home rule powers to regulate the use of private property, and the individual charters of the early nineteenth century also are silent on the subject.¹ By mid-century, however, the Legislature had started to show some concern.

¹ See for example the charters granted to the Borough of Princeton (Act of 11 February, 1813) and the City of Jersey City (Act of 23 January, 1820).

In 1857, for example, the common council of the City of Beverly was authorized to provide by ordinance for "compelling the occupiers and owners of lots to grade, curb, and pave sidewalks opposite their lots, and to keep the same and the gutters swept and clean, and clear of snow and ice and other impediments".¹

With the "general law" amendment of 1875, the Legislature was forced to abandon its practice of making such grants to individual municipalities. General law grants of optional regulatory powers proliferated, to be consolidated eventually in the 1917 "Home Rule" Act, which listed as optional local powers the right to regulate the construction of buildings of "every" kind, to regulate the storage and use of combustible materials, to inspect docks and warehouses, to regulate chimneys, stoves, boilers, the storage of explosives, the use of soft coal, the size of fences, and many other elements of private property for which public regulation had been unheard of a hundred years earlier.²

The power to regulate the use of private property first gained constitutional sanction in 1927 with the approval of an amendment authorizing the Legislature to enact general laws under which municipalities, other than counties, might adopt zoning ordinances regulating buildings and other structures according to their construction and use.³ The same language, with the addition of a phrase extending such regulation to the uses of land, was carried over into the current Constitution, adopted in 1947.⁴

The 1947 Constitution also contained two new sections which can be considered elements of constitutional home rule. The Legislature was authorized to provide for the exercise of the right of eminent domain by political subdivisions in acquiring property necessary for public improvements, and also for the protection of public improvements, a power known as "excess condemnation."⁵ Secondly, the Legislature was given the power to permit municipal corporations, among others, to undertake the clearance and redevelopment of blighted areas.⁶

The constitutional zoning, blighted area, and eminent domain provisions have been implemented through legislation, although the "excess condemnation" aspect of the eminent domain power appears to lack specific legislative recognition, and might conceivably be considered as a self-executing constitutional home rule provision. However, the major characteristic of New Jersey practice remains the detailed enumeration of optional legislative grants of power to regulate the use of private property. Many, probably most, of the specific enumerations of the 1917 Home Rule Act are still in the general laws of the state today as optional local actions, and newer powers, such as the power to zone, have been granted, as well, on an optional basis, within legislatively-prescribed guidelines.⁷

¹ Laws of 1857, c. CLXII.

² Laws of 1917, c. 152.

³ *Constitution of New Jersey* (1844), Article IV, Section VI, paragraph 5, as amended September 20, 1927.

⁴ *Constitution of New Jersey* (1947), Article IV, Section VI, paragraph 2.

⁵ Leon S. Milmed, "The New Jersey Constitution of 1947", in *New Jersey Statutes Annotated*, Volume on the Constitution of the State of New Jersey, Articles I to III, p. 97. *Constitution of New Jersey* (1947), Article IV, Section VI, paragraph 3.

⁶ *Constitution of New Jersey* (1947), Article VIII, Section III, paragraph 1.

⁷ The Municipal Land Use Law, *N. J. S. A. 40:55D-1 et seq.*

Most recently, however, a significant change has taken place from the continuing delegation of additional regulatory authority to local governments. In 1975, the Legislature "found" that the power to regulate building construction - - for many years a function carried out by local governmental units at their discretion - - had resulted in an undesirable "multiplicity" of construction codes, which provided limits "without any benefits to the public".¹ Consequently, this grant of home rule powers was withdrawn; not only was the use of a Uniform State Construction Code required, but the performance of the function was, itself, mandated for all local governmental units.

f. Regulation of personal behavior.

Typical Applications Under Various Types of Home Rule:

State Supremacy - The power to regulate personal behavior is held exclusively by the Legislature, which mandates the regulation, either by State or local agencies. The Constitution either is silent on the issue or specifically authorizes exclusive legislative powers in this area.

Modified State Supremacy - The power to regulate personal behavior is exercised by the Legislature within constitutionally-prescribed limits, such as the requirement that such regulation be carried out by general law applying to all local governmental units or to classes of units, rather than by special act dealing with individual local units.

Legislative Grant of Home Rule - The State Constitution is silent on the issue, but the Legislature has delegated the power to regulate personal behavior to the public officials or residents of any local governmental unit, provided that the action is taken in accordance with legislatively-prescribed procedures which may be initiated locally and carried to a conclusion without further State government action.

Constitutional Home Rule

Non-Self-Executing - The State Constitution authorizes or directs the Legislature to establish procedures by general law to permit the public officials or residents of any governmental unit to regulate personal behavior.

Self-Executing - The State Constitution either establishes the procedures under which the public officials or residents of a local governmental unit are permitted to regulate personal behavior, or it reserves to any local governmental unit the right to regulate personal behavior in any way not denied to it by constitutional provision, legislative action, or its own charter.

Local Home Rule as an Inherent Right - The State Constitution is silent on the issue, but the right to regulate personal behavior is recognized as residing in the public officials or residents of any local governmental unit.

New Jersey Practice - The pattern followed in regulation of personal behavior in New Jersey has generally been based on State supremacy, only slightly modified by some limiting constitutional provisions, but implemented through the delegation by the Legislature of enumerated powers to local governmental units.

¹ The State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq.

From the earliest constitution until the present, the supreme position of the Legislature in determining acceptable forms of personal behavior has been limited by "rights and privileges" provisions of the State Constitution - - free exercise of religion in the 1776 Constitution; freedoms of speech, of the press, of jury trial, and of collective bargaining, freedom from double jeopardy, from quartering of soldiers, from excessive bail, and other guarantees being added in 1844 and 1947. Within the confines of these restrictions, however, the Legislature up to 1875 was able to delegate to local governmental units the power to regulate personal behavior, either by general law or by specific provision in charters granted to individual incorporated municipalities. The general township law of 1798 empowered the township meeting to make by-laws governing the use of common lands and to impose fines for violations.¹ A typical municipal charter in 1813 granted authority to the mayor and common council of the Borough of Princeton to license inn-keepers, tavern-keepers, and retailers of spirituous liquors.² By 1857, the Legislature, in a charter for the City of Beverly, authorized local ordinances for regulating the vending of meats and vegetables, for regulating butchers, hawkers, pedlars, and petty chapmen, and for the "more effectual suppression of vice and immorality".³

As with all other areas of State-local relationships, the 1875 "general law" constitutional amendment eliminated the Legislature's authority to make differing grants of regulatory powers to different municipalities. Instead, general laws based on classifications of counties and municipalities became more common, with a major consolidation coming in the Home Rule Act of 1917. The long list of powers enumerated at that time had the effect of emphasizing the fact that local governmental units were limited to those specific areas of regulations.

Today, the enumeration of specific powers to regulate private behavior continues in New Jersey law, with municipalities authorized to enact ordinances to prevent vice, drunkenness and immorality; to restrain and punish vagrants and street beggars; to prevent loitering, lounging or sleeping in public places; to regulate swimming and bathing; and on through a long list.⁴ A significant aspect of such grants, however, is the fact that they are, and always have been, optional, rather than mandatory delegations by the Legislature.

g. Raising revenue - - taxation and borrowing.

Typical Applications Under Various Types of Home Rule:

State Supremacy - The power to raise money through taxation or borrowing is held exclusively by the Legislature, which mandates the form and extent of such activity either by State or local agencies. The Constitution is silent on the issue or specifically authorizes exclusive legislative powers in this area.

Modified State Supremacy - The power to raise money through taxation or borrowing is exercised by the State Legislature within constitutionally-prescribed limits, such as requirements for uniformity of taxation or by requirements for public referenda, or that the delegation of such

¹ Act of 21 February, 1798.

² Act of 11 February, 1813.

³ Laws of 1857, Chapter CLXII.

⁴ N.J.S.A. 40:48-1.

powers to local governmental units be carried out by general law applying to all governmental units or classes of units, rather than by special act dealing with individual local units.

Legislative Grant of Home Rule - The State Constitution is silent on the issue, but the Legislature has delegated the power to raise money through taxation or borrowing to the public officials or residents of any local governmental unit, provided that such action is taken in accordance with legislatively-prescribed procedures which may be initiated locally and carried to a conclusion without further State government action.

Constitutional Home Rule

Non-Self-Executing - The State Constitution authorizes or directs the Legislature to establish procedures by general law to permit the public officials or residents of any local governmental unit to raise money through taxation or borrowing.

Self-Executing - The State Constitution either establishes procedures under which the public officials or residents of any local governmental unit may raise money through taxation or borrowing, or it reserves to any local governmental unit the right to tax or to borrow in any way not denied to it by constitutional provision, legislative action, or its own charter.

Local Home Rule as an Inherent Right - The State Constitution is silent on the issue, but the right to raise money through taxation or borrowing is recognized as residing in the public officials or residents of any local governmental unit.

New Jersey Practice - The power to tax and to borrow has come to be considered a subject requiring relatively uniform treatment throughout New Jersey. Although restricted by constitutional rules, especially in the area of property taxes, the prevailing pattern in New Jersey has been for legislative delegations of limited taxing and borrowing authority to local governmental units. In recent decades, State administrative supervision has become almost as important a factor as the original legislative grant of power.

The power to levy taxes on real and personal property was granted to local governmental units in New Jersey's colonial period. As early as 1686, towns (now townships) were authorized to tax property to pay for highways, bridges, and other purposes, and this pattern carried over into the laws of the new state.¹ The first township law of 1798 authorized the assessment, levying and collecting of property taxes for additional public purposes,² and counties were granted similar powers.³ Borrowing of monies was not an authorized township power at this time, however.

Early municipal charters enacted by the Legislature authorized the levy of property taxes for municipal purposes,⁴ and individual municipal charters granted later in the nineteenth century authorized borrowing under specified conditions. The City of Beverly, for example, in 1857 was incorporated and given the power to borrow up to \$3,000 and to secure payment by issuing bonds.⁵

¹ Sixth Report of the Commission on State Tax Policy, *op. cit.*, p. xiv.

² Act of 21 February, 1798.

³ Act of 13 February, 1798.

⁴ See Borough of Princeton charter, Act of 11 February, 1813.

⁵ Laws of 1857, c. CLXII.

As with so many other powers, the 1875 "general law" constitutional amendment forced the Legislature to abandon the practice of granting special taxing and borrowing authority through individual charters. Various attempts were made by general law after 1875 to provide borrowing power for local governmental units, culminating in the Local Bond Act of 1917, which brought all counties, cities, boroughs, townships, towns and villages within the guidelines of a single comprehensive set of procedures.¹ In 1935, faced by numerous defaults or near-defaults, the Legislature placed limits on the debt which could be incurred by a county or municipal government, and provided to State administrative supervision.² The same basic conditions apply today, with local government borrowing taking place under uniform laws and regulations, within limits established by law, and supervised by a State administrative agency.

As a companion to the "general law" amendment in 1875, the people of the state in that year amended the Constitution to provide that property should be taxed under general laws and by uniform rules, according to its true value.³ Thus, uniformity in property tax administration became a constitutional goal in New Jersey. A compromise at the 1947 Convention resulted in additional language being inserted in the State Constitution, requiring that:

All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district.⁴

With this phraseology, another restriction was placed on the Legislature in handling the delegation of taxing powers to local governmental units.

Although the Legislature long ago granted the power of property taxation to local governmental units, other forms of taxation have rarely been authorized. Two such delegations have taken place since 1875 and, therefore, have been made by general law. In 1947, cities of the fourth class (cities "binding" upon the Atlantic Ocean and being seaside or summer resorts)⁵ were authorized to levy a retail sales tax.⁶ Only Atlantic City, of the eleven cities eligible, has used the tax. In 1970, any municipality having over 350,000 population was authorized to levy its own alcoholic beverage taxes, parking taxes, motor fuels taxes, or employer payroll taxes.⁷ Only the City of Newark qualifies, and not all of these taxes have been implemented.

¹ Laws of 1917, c. 240.

² Laws of 1935, c. 77.

³ Constitution of New Jersey (1844), Article IV, Section VII, paragraph 12, as added by election of September 7, 1875.

⁴ Constitution of New Jersey (1947), Article VIII, Section 1, paragraph 1 (a).

⁵ N.J.S.A. 40:167-2;

⁶ N.J.S.A. 40:48-8.15 et seq.

⁷ Local Tax Authorization Act of 1970, N.J.S.A. 40:48C-1 et seq. See also N.J.S.A. 40:48D-1 et seq., authorizing an employer payroll tax in municipalities having a population between 250,000 and 300,000.

In summary, the New Jersey pattern in terms of the power of local governmental units to tax and borrow has been a limited grant of home rule authority by the State Legislature. Only the property tax has been made available on a broad scale and, while the size of the tax levy remains a local prerogative, pursuit of the constitutional demand for uniformity dictates that the tax be administered under detailed laws and regulations supervised by State administrative agencies. Similarly, the power to borrow has been delegated, but only within legislatively-prescribed limits and under the supervision of a State administrative agency.

Chapter III. OBSERVATIONS AND CONCLUSIONS CONCERNING THE NEW JERSEY PRACTICE

The task of categorizing any state with regard to home rule powers is far from simple, and, as the preceeding pages have shown, New Jersey is no exception. Some generalizations are possible, however, and these are depicted in Chart 1. A few keywords have been inserted to identify the principal elements in each case where a type of home rule has been encountered. The estimated general focus, or 'center of gravity', of a particular State-local relationship is shown by the area enclosed in heavy lines. Where a keyword term falls outside this estimate 'center of gravity', it has been considered of relatively minor importance.

There is very little, if any, evidence of self-executing constitutional home rule in New Jersey. The only area where this approach has even been hinted at is in connection with the "excess condemnation" paragraph of the 1947 Constitution. Since excess condemnation is an extension of the power of eminent domain, and since legislative action is required to provide local governmental units with that power, even this constitutional language appears to require legislative action to be effective.

At the other extreme, State supremacy *does* seem to exist in several areas. The power to create new local governmental units was returned to the Legislature after a century of progressively greater local government fragmentation through home rule procedures. Although local units may be eliminated or their boundaries changed through the use of legislative grants of consolidation and annexation powers, these are rather special and limited situations. The other two areas in which the State of New Jersey clearly dominates its local governmental units are found where a determination has been made that a substantial degree of statewide uniformity is essential. One of these is in the area of local government processes, where State laws have mandated the procedures to be followed in elections administration, local legislation, financial administration, and some aspects of local personnel administration. The other area is in connection with the power to tax and to borrow money. In both cases, State administrative supervision has developed into a major characteristic of the State-local relationship. Less obvious, but an area of potential future growth is the mandating of services to be performed by local governmental units. As society becomes more complex, as the accepted sphere of governmental activity widens, as the population density of the state increases, New Jersey may well see a shift in the balance of power with regard to public service performance from optional authorizations for local services to legislative mandates for service or, even, a reassignment of the power to perform some governmental services from local to regional or State agencies. The growth of State administrative controls is a real possibility in this area.

Clearly, a survey of the broad range of powers in Chart 1, shows that **the center of gravity in New Jersey lies in modified State supremacy and legislative grants of home rule, with critical elements being the "general law" and "uniform taxation" amendments to the State Constitution in 1875.**

One aspect of the New Jersey State Constitution which has not yet been mentioned is pertinent here, for it cuts across the areas of State-local relationships already described. This is a paragraph added in 1947, which urges the courts of the State to provide for a "liberal construction" of the powers of counties and municipalities:

Chart 1. Types of Home Rule and Areas of State-Local Relationships. The New Jersey

Areas of State-Local Relationship	TYPES OF HOME RULE					*Local Home Rule as an Inherent Right
	State Supremacy	Modified State Supremacy	Legislative Grant of Home Rule	Constitutional Home Rule Non-Self-Executing	*Self-Executing	
The power to create local governmental units, define their boundaries, and abolish them.	Incorporation	Liberal construction	Consolidation Annexation			
The power to determine local government organization.		General laws Liberal construction	Optional charters	Special charters		
The power to determine local government processes.	Uniformity of: elections financial adm. local legis.	General laws Liberal construction	Personnel			
The power to determine what local government services will be provided, and to perform them.	Some mandated services.	General laws Liberal construction	Most services optional			
The power to regulate the use of private property.		General laws Liberal construction	Most powers optional	Zoning Blighted areas Eminent domain-excess condemn.		
The power to regulate personal behavior.		General laws Liberal construction Rights and privileges	Most powers optional			
The power to raise money through taxation or borrowing.	Uniformity of procedures in: taxation borrowing debt limits	Uniform taxation Liberal construction General laws	Local option on tax levels.			

* Not applicable in New Jersey.

11. The provisions of this Constitution and of any laws concerning municipal corporations formed for local government, or concerning counties, shall be liberally construed in their favor. The powers of counties and such municipal corporations shall include not only those granted in express terms but also those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by this Constitution or by law.¹

This provision obviously constitutes another limitation or modification of State supremacy. There is a question, however, as to its effectiveness, since no simple standard exists for measuring whether judicial interpretations are truly affording a "liberal" construction to county and municipal powers. Certainly, numerous jurists have acknowledged the constitutional language, and have implied that it guided their decisions in a broad range of cases dealing with various subjects, including:

- municipal establishment of election districts;²
- municipal inclusion of a dental plan as part of a collective bargaining agreement;³
- municipal zoning ordinances;⁴
- residency requirements for municipal officers;⁵ and,
- municipal subdivision controls.⁶

On the other hand, there is ample evidence to demonstrate that the existence of a "liberal construction" admonition has not changed the basic judicial approach to State-local relationships in New Jersey. Statements made by courts over the years in dealing with a comparable array of subject matter reinforce the view that Constitutional home rule powers are not conferred on New Jersey local governments:

in a case dealing with subdivision regulation:

"a municipality has only those powers which are granted to it by statute, although those powers by virtue of this section are to be liberally construed."⁷

in a case dealing with control of street solicitors:

"(a) municipality is but (a) creature of (the) state, capable of exercising only those powers granted to it by (the) legislature".⁸

¹ Constitution of New Jersey (1947), Article IV, Section VII, paragraph 11.

² *Reisdorf v. Mayor and Council of the Borough of Mountainside*, 114 N.J. Super. 562 (law Div. 1971).

³ *N.J. Civil Service Association v. City of Camden*, 135 N.J. Super. 308 (Law Div. 1975).

⁴ *Garden State Farms, Inc. v. Bay*, 136 N.J. Super. 1 (Law Div. 1975), rev'd, 146 N.J. Super. 438 (App. Div. 1977).

⁵ *Trainor v. City of Newark*, 137 N.J. Super. 570 (Ch. Div. 1975), rev'd, 145 N.J. Super. 466 (App. Div. 1976).

⁶ *Divan Builders v. Planning Board of Wayne Township*, 66 N.J. 582 (1975).

⁷ *Magnolia Development Co. v. Coles*, 10 N.J. 223 (1952).

⁸ *Moyant v. Borough of Paramus*, 30 N.J. 528 (1959).

in a case dealing with preservation of law and order:

"(a) municipality has only those powers which were granted to it by statute, although those powers, by virtue of constitutional directions, are to be liberally construed".¹

in a case dealing with municipal planning powers:

"There is no inherent right of local self-government; municipalities are but creatures of the state, limited in their powers and capable of exercising only those powers of government granted to them by (the) legislature".²

in a case dealing with establishment of barber shop hours:

"a municipality must act within its delegated authority".³

in a case dealing with workmens compensation for volunteer firemen:

"a municipal corporation is a creature of the State Legislature".⁴

in a case dealing with subdivision controls:

"municipalities may exercise subdivision controls only by virtue of appropriate enabling legislation".⁵

Two general guidelines appear to be accepted by the courts as limitations on the "liberal construction" paragraph of the Constitution. One is that there are some subjects which, because of their nature and statewide importance, are inappropriate for local action. In a case dealing with rent control, the New Jersey Supreme Court said:

"...(there are) matters that because of their nature are inherently reserved for the state alone.... Many other matters of general and statewide significance are not proper subjects for local treatment....."⁶

Secondly, the courts have held that local governmental units may not legislate on subjects in which the Legislature has provided evidence that it intends to preempt the field:

"...a municipality may be unable to exercise a power it would otherwise have if the Legislature has preempted the field.....But an intent to occupy the field must appear clearly".⁷

Cases applying these rules have been decided among others, in the areas of:

licensing of cigarette vending machines,⁸

rent control;⁹

control of obscenity;¹⁰

¹ *Manzo v. City of Plainfield*, 107 N.J. Super. 303 (Law Div. 1969).

² *Sussex Woodlands, Inc. v. Mayor and Council of West Milford Township*, 109 N.J. Super. 432 (Law Division 1970).

³ *Tonsorial, Inc. v. City of Union City*, 115 N.J. Super. 33 (Law Div. 1971).

⁴ *Lauria v. Borough of Ridgefield*, 119 N.J. Super. 287 (Cty. Ct. 1972).

⁵ *Divan Builders v. Planning Board of Wayne Township*, 66 N.J. 582 (1975).

⁶ *Wagner v. City of Newark*, 24 N.J. 467 (1957).

⁷ *Alexander Summer v. Township of Teaneck*, 53 N.J. 548 (1969).

⁸ *Coast Cigarette Sales, Inc. v. Mayor and Council of Long Branch*, 121 N.J. Super. 439 (Law Div. 1972).

⁹ *Inganamort v. Fort Lee*, 62 N.J. 521 (1973).

¹⁰ *Wein v. Town of Irvington*, 126 N.J. Super. 410 (App. Div. 1974), certif. den. 65 N.J. 287 (1974).

licensing and electrical contractors;¹ and, standards for eviction.²

Operating within these limitations, the Legislature has moved to provide a substantial degree of local option through its own acts. Optional charters offer home rule organizational forms to every community. (Municipal charter provisions are discussed in detail in Section II of this report.) In addition, most local government services are authorized on an optional basis, and the list is extensive. The power to regulate both the use of private property and various aspects of personal behavior is largely optional and, again, the list is extensive. There are some indications, however, that if local governmental units do not use their authority effectively, more of the optional regulatory powers granted by the Legislature may be made mandatory, just as uniform building construction regulation was mandated in 1975.

The area where constitutional authorization of home rule powers is most obvious is in the regulation of the use of private property. This may have developed because such activities were less common and accepted in earlier years, and required more explicit constitutional authorization. Zoning for the construction of buildings and the use of land, clearance of blighted areas, and the power of eminent domain all have gained constitutional recognition as appropriate local functions, although to have effect they require legislative implementation.

Finally, while no keywords appear under "Local Home Rule as an Inherent Right", this concept of State-local relations cannot be ignored, for it assuredly exists in New Jersey through legislative deference to local wishes. There are practical, as well as political, limits, however poorly defined, beyond which the Legislature will not go in mandating local activity or transferring functions from local to state spheres. And, by and large, comparable limits are observed by State administrative agencies in dealing with local governmental units. An inherent right of local home rule in New Jersey is truly a state of mind, accepted both by the residents of the state, who usually are citizens of their own local communities first and of the State of New Jersey second, and by the legislators themselves, a large number of whom are either present or past officials of local governmental units.

¹ *City Council of Elizabeth v. Naturile*, 136 N.J. Super. 213 (Law Div. 1975).

² *Brunetti v. Borough of New Milford*, 68 N.J. 576 (1975).

Section B. FORMS OF MUNICIPAL GOVERNMENT IN NEW JERSEY: AN EVALUATION AND RECOMMENDATIONS FOR CHANGE

The first section of this report established the basis for state-local relationships in seven areas of municipal law. One of these areas, which warrants special attention is the power to determine local government organization. The second section of the report examines those municipal government forms currently available in New Jersey, based on surveys and other information gathered in the course of the study.

Format of the Report

Chapter I reviews the trends in utilization of various forms by the State's municipalities and describes the methodology for the survey of various officials operating in each of the presently used forms.

Chapter II provides a general introduction to the forms of government in use in New Jersey.

Chapter III describes 26 different components which may be found in a municipal charter, outlines the extent to which they are used in the forms of government available under New Jersey law, and presents survey response data, where available, for each component, regardless of the form of government. Included are the following components:

for the GOVERNING BODY — —

the size, pattern of election (wards or at-large), term of office, arrangement of terms of office, presiding officer at meetings, duties of members, and limitations on salaries;

for the MAYOR — —

the method of selection, term of office, type of participation in governing body meetings, and veto power;

for the CHIEF EXECUTIVE — —

an identification of the officer or officers designated as chief executive, and the term of office of such officers;

for the CHIEF APPOINTED ADMINISTRATIVE OFFICER (CAAO) — —

an identification of the officer serving as CAAO, the method of appointment, the term of office, the availability of tenure in the office, and the method of removal from office;

for MAJOR APPOINTMENTS — —

an identification of the location of the major appointive power, and the degree to which administrative officers are elected, rather than appointed;

for the BUDGET — —

an identification of the officer or officers responsible for preparing the municipal budget for consideration by the governing body;

for ELECTIONS — —

the type of election (partisan or non-partisan), and the availability of run-off elections;

for DIRECT VOTER ACTION — —

the availability to the voters of the powers of initiative, referendum, and recall.

Included in the discussion of each component is a description of problems encountered with that component and, where appropriate, recommendations for legislative changes.

Very few state-wide generalizations can be made that some component of a form of government is good or bad for all communities. Local conditions and local preferences and attitudes are more important in affecting governmental performance than any abstract determination of the most appropriate form of local government. The following guidelines, therefore, have been used in framing the recommendations made:

where some component of a form of government has achieved a favorable evaluation, the recommendations attempt to broaden the opportunities for its wider use;

where some component of a form of government has received an unfavorable evaluation, the recommendations attempt to make its abandonment more feasible;

although an effort has been made to apply a uniform system of analysis to identify "weaknesses" in each form of government, discretion has been used in attempting to correct a "weakness" if a change would tend to reduce substantially the alternatives available to individual communities;

in only rare instances has a State-mandated change been suggested.

Chapter IV evaluates each form of local government in terms of its components and recommends legislative changes in that form of government are made.

Appendices to this section of the report include: a summary of a survey of the desirable characteristics of local government and the performance of local governments in achieving these characteristics. (references to this survey are made throughout the report); and a listing of the form of government (and major components) for each of the State municipalities.

Early Trends

Prior to 1875, the New Jersey Legislature dealt with local government organization both through general laws applicable to broad classes of governmental units and by specific charters applicable to individual places. The first township law, passed in 1798, provided uniformly for the principal officers to be elected or appointed in each of the state's 104 existing townships, which covered the complete area of New Jersey. When individual municipalities were incorporated as cities, towns, boroughs, or villages from portions of townships, however, the Legislature took the occasion to prescribe the form of organization for each local unit at the time it was chartered.¹

The legislative practice for addressing this area was altered in 1875. The State Constitution was amended that year to prohibit enactment of private, local or special laws regulating the internal affairs of municipalities or counties, or appointing local offices or commissions to regulate municipal affairs, and providing thereafter for a general law approach. This provision was carried over in substantially the same form into the present Constitution, which was adopted in 1947. As a result, the passage of special laws dealing with individual local units came to a halt, and the forms of governmental organization made available to most New Jersey municipalities since 1875 are contained in general laws.

The Constitution of 1947 included a new section, directing the Legislature to provide by general law for a procedure whereby the governing body of a local unit could petition for the enactment of a private, special or local law regulating the internal affairs of the unit, provided, however, that the Legislature could comply only by a two-thirds vote in each house, and that the law could go into effect only after approval by the governing body or the voters of the community. Thus, the prohibition against legislation granting special charters, introduced by the 1875 amendment, was relaxed. Today, a handful of municipalities function with unique forms of government contained in special charters granted by an extraordinary procedure of the State Legislature.

In a discussion of local government organization it is essential to distinguish between the *forms* of government and the *types* of municipality. A municipality generally becomes of a particular *type* when it is incorporated by the Legislature. There are five *types* of municipality in New Jersey: cities, towns, boroughs, townships, and villages, and, with only one exception,² there is no longer any provision in State law for local option to change a municipality's *type*, once it has been established. A *form* of government is the organizational structure of the municipality - - the principal officials, the method of their selection, and their powers and duties. There are five *forms* of government defined by State laws dating back to the 19th century, which correspond to the five *types* of municipality.

¹ This and the next two paragraphs are based largely on Section I - - "Home Rule in New Jersey, A Survey", prepared for the New Jersey County and Municipal Government Study Commission, in April, 1977.

² See below under **Town Form**.

In addition, there are several optional form-of-government laws enacted subsequently, which permit any *type* of municipality to change its *form* of government. These are the Commission Form of Government Law (1911),¹ the Municipal Manager Form of Government Law (1923),² and the Optional Municipal Charter Law (OMCL) (1950).³ Thus, for example, a borough will operate under the borough *form* of government unless it has changed its form of government to one of the optional laws, or it has obtained a special charter from the Legislature.

The forms of government now available under New Jersey law have been classified as shown in Table 1. Of the 11 basic forms, all were in use on January 1, 1978.

Trends Since 1950

The three decades since 1950 have seen a marked shift in use of the forms of municipal government in New Jersey. With passage of the Optional Municipal Charter Law (OMCL) in that year, three new forms of government became available to any municipality in the state. The result has been a substantial trend, particularly among the large communities, away from older forms and toward those included in the OMCL. Table 1 shows the distribution of the state's 567 local general governments, both by type of municipality and by form of government, at five-year intervals from 1950 through 1970 and as they stood on January 1, 1978.

The older forms associated with a type of municipality - - the City, Town, Borough, Township, and Village Forms - - have declined steadily in use, from 497 communities in 1950 to 423 in 1978, although still covering the majority of individual units of government in the state. The earliest general optional form, commission government, also has lost favor during the past three decades, showing a net loss from 61 to 42 places. At the same time, the forms of government contained in the OMCL have grown from zero to include 86 places by 1978, and eight special charters have been enacted by the Legislature and implemented locally.⁴

Much more striking is a comparison of the proportion of the state's population served by each form of government, as shown in Table 2 and Chart 1. As the larger communities have abandoned the old forms of government in favor of OMCL forms, the balance has shifted drastically. City, Town, Borough, Township, and Village Forms have dropped from a coverage of 56% of the state's population to only 44%. The Commission Form, formerly the most important on a population basis, has declined from serving 40% to only 7% of the population. Their places have been taken by the OMCL forms, which, as of January 1, 1978, cover 42% of the state's population, while special charters add another 3%.

¹ N.J.S.A. 40:70-1 et seq.; commonly known as The Walsh Act.

² N.J.S.A. 40:79 -1 et seq.

³ N.J.S.A. 40:69A-1 et seq.; commonly known as the Faulkner Act.

⁴ Not included here is the City of East Orange, which is sometimes counted as having a special charter. Chapter 149 of the Laws of 1963, under which East Orange functions, is an amendment to the City Government Referendum Act of 1908, a statute theoretically available to any city meeting the population requirements. Although East Orange is the only city now qualified, it cannot truly be said to have a special charter, since the law nowhere limits its future applicability to East Orange.

Table I-1 New Jersey Municipalities by Type and Form of Government, 1950 - 1978.

		1950	1955	1960	1965	1970	1978
Cities:	City Form	27	26	26	25	22	17
	Commission Form	22	20	20	13	14	11
	1923 Mun. Manager Form	3	3	3	4	4	5
	OMCL-Mayor-Council Form	--	4	4	10	10	17
	OMCL-Small Municipality Form	--	----	----	----	----	1
	Special Charter	----	----	----	----	2	2
	Total	52	53	53	53	53	53
Towns:	Town Form	13	13	12	12	11	9
	Commission Form	7	7	7	4	4	4
	Township Form	1	1	----	----	----	----
	1923 Mun. Manager Form	----	----	----	----	----	----
	OMCL-Mayor-Council Form	----	----	----	2	2	3
	OMCL-Council-Manager Form	----	----	1	2	2	2
	OMCL-Small Mun. Form	----	----	----	----	----	----
Boroughs:	Special Charter	----	----	1	1	2	3
	Total	21	21	21	21	21	21
Boroughs:	Borough Form	229	231	229	228	228	222
	Commission Form	24	23	23	24	22	21
	1923 Mun. Manager Form	4	4	5	5	5	2
	OMCL-Mayor-Council Form	----	----	----	----	----	4
	OMCL-Council-Manager Form	----	----	----	----	1	4
	OMCL-Small Mun. Form	----	----	1	1	1	4
	Special Charter	----	----	----	----	----	----
Townships:	Total	257	258	258	258	257	257
	Township Form	226	221	216	207	195	174
	Commission Form	6	8	6	4	4	5
	1923 Mun. Manager Form	1	1	1	1	1	1
	OMCL-Mayor-Council Form	----	----	1	6	12	22
	OMCL-Council-Manager Form	----	2	6	11	17	23
	OMCL-Small Municipality Form	----	----	2	3	3	5
Villages:	Special Charter	----	----	----	----	----	3
	Total	233	232	232	232	232	233
	Village Form	1	1	2	2	2	1
	Commission Form	2	2	2	2	2	1
	1923 Mun. Manager Form	----	----	----	----	----	----
	OMCL-Mayor Council Form	----	----	----	----	----	----
	OMCL-Council-Manager Form	----	----	----	----	----	1
Villages:	OMCL-Small Municipality Form	----	----	----	----	----	----
	Special Charter	----	----	----	----	----	----
	Total	3	3	4	4	4	3

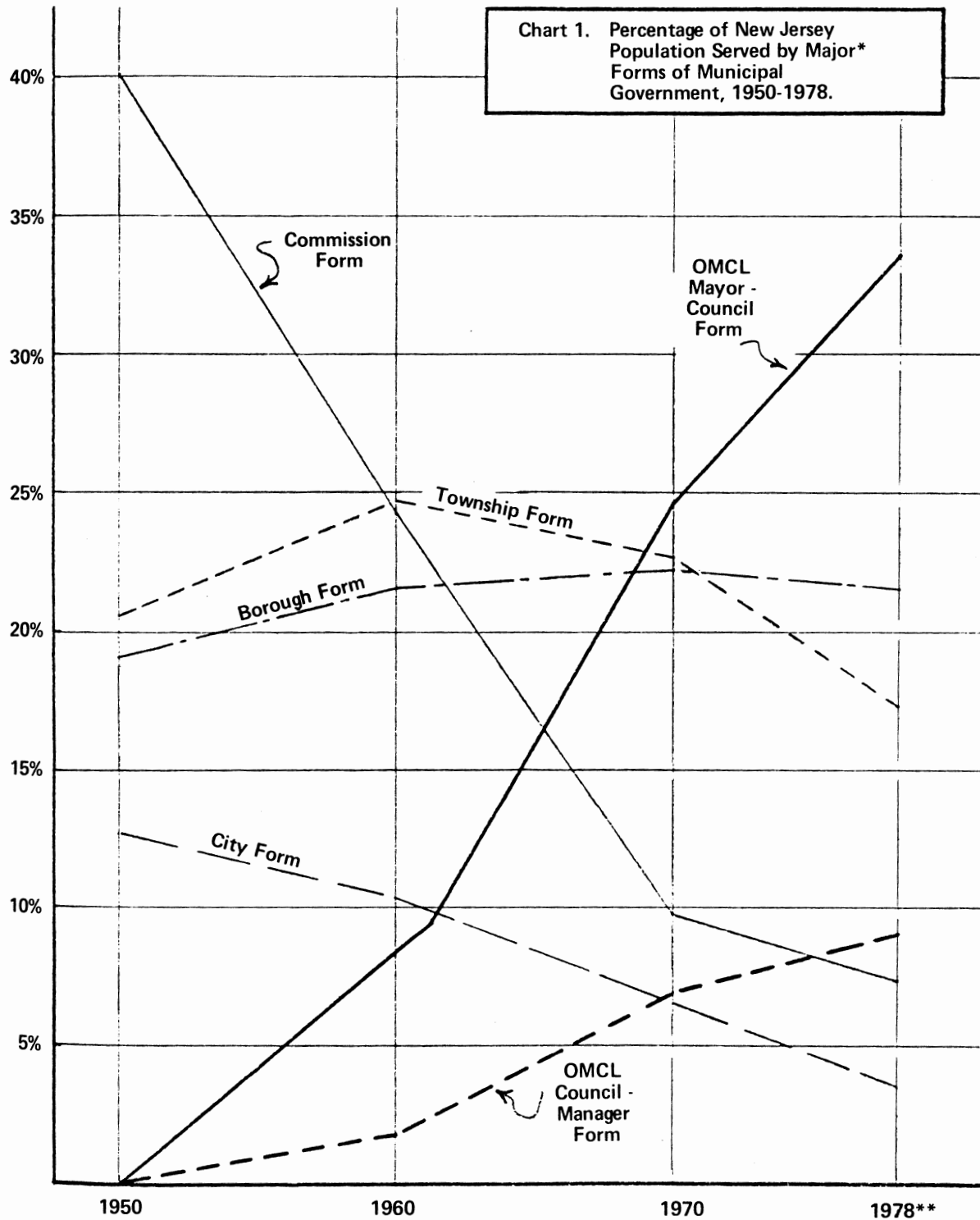
Table I-1 New Jersey Municipalities by Type and Form of Government, 1950-1978. (Continued)

		1950	1955	1960	1965	1970	1978
All Municipalities:	City Form	27	26	26	25	22	17
	Town Form	13	13	12	12	11	9
	Borough Form	229	231	229	228	228	222
	Township Form	227	222	216	207	195	174
	Village Form	1	1	2	2	2	1
	Commission Form	61	60	58	47	46	42
	1923 Mun. Manager Form	8	8	9	10	10	8
	OMCL-Mayor-Council Form	----	4	5	18	24	46
	OMCL-Council-Manager Form	----	2	7	14	21	30
	OMCL-Small Municipality Form	----	----	3	4	4	10
	Special Charter	----	----	1	1	4	8
	Total	566	567	568	568	567	567

Table I-2 Percentage of New Jersey Population Served by Various Forms of Municipal Government, 1950-1978.

	1950	1960	1970	1978 ¹
City Form	12.6%	10.4%	6.4%	3.5%
Town Form	3.9	2.6	1.9	1.5
Borough Form	18.8	21.7	22.2	21.5
Township Form	20.7	24.6	22.6	17.4
Village Form	0.3	0.3	0.2	----
Commission Form	40.0	24.2	9.5	7.4
1923 Municipal Manager Act	3.6	4.0	3.6	3.0
OMCL: Mayor-Council Plans	----	9.3	24.6	33.1
OMCL: Council-Manager Plans	----	1.9	6.7	8.6
OMCL: Small Municipality Plans	----	0.2	0.3	0.6
Special Charters	----	0.9	2.1	3.4

¹Based on 1970 census figures.



* Forms serving less than 5% of state's population during period not shown.

** Using 1970 population figures.

Survey of Municipal Officials

One purpose of this report is to evaluate the performance of the various plans of municipal government organization made available to local governments in New Jersey by legislation extending back for the past century. A major aspect of any such evaluation must be the informed opinion of the public officials who deal with these organizational forms on a daily basis. In order to gather such opinion, a survey was initiated in the Winter of 1974, through distribution of a questionnaire to the mayor and the municipal clerk in each of New Jersey's 567 municipalities, and to the chief appointed administrative officer (CAAO)¹ in those places where it was known that such an office had been established.

A preliminary report on some of the survey results was made to the New Jersey County and Municipal Government Study Commission in March, 1976. At that time, Commission members requested that the data be supplemented with similar responses from members of municipal governing bodies. This was done in the Summer of 1976, using the same questionnaire sent earlier to the mayors, clerks, and CAAO's. In order to eliminate multiple responses from individual communities within each class of respondent, the governing body questionnaires were sent only to a single council, committee, or commission member in each municipality, selected at random from the governing body. If no response was received, another copy was sent to a second governing body member, but only the first response from each municipality was used. This approach, of course, did not eliminate multiple responses from a given municipality in the full sample if the mayor, the clerk, the CAAO, and the governing body member all responded. However, in most cases, responses to the survey have been shown separately for each kind of respondent, thus eliminating duplication.

Response to the questionnaire was reasonably good, as shown in Table 3. A response was received from at least one municipal official in 433 of the state's 567 municipalities, with good statewide distribution, as shown in Table 4.

¹ The CAAO is known by a variety of formal titles -- manager, administrator, business administrator -- depending upon the form of government within which he or she operates.

Table I-3 Questionnaire Distribution and Response by Municipal Officials

Type of Respondent	Potential Number	Responses Received	Percentage Coverage
Mayors	567	148	26.1%
Governing Body Members	567	207	36.5
Chief Appointed Administrative Officers (CAAO)	188*	99*	52.7*
Municipal Clerks	541*	215*	39.7*
Unidentified	-----	14	-----
Total	1,863	683	36.7%

*In 26 cases, a single individual among the respondents turned out to be both the municipal clerk and the CAAO. Responses for such persons have been counted under the CAAO category, and the potential number of municipal clerk responses has been reduced accordingly.

Table I-4 Questionnaire Response by Municipal Officials, by County

County	Number of Municipalities	Municipalities From Which At Least One Response Received	Percentage
Atlantic	23	17	74%
Bergen	70	50	71
Burlington	40	31	78
Camden	37	23	62
Cape May	16	12	75
Cumberland	14	11	79
Essex	22	17	77
Gloucester	24	17	71
Hudson	12	10	83
Hunterdon	26	23	88
Mercer	13	9	69
Middlesex	25	20	80
Monmouth	53	42	79
Morris	39	33	85
Ocean	33	19	58
Passaic	16	14	88
Salem	15	11	73
Somerset	21	18	86
Sussex	24	19	79
Union	21	19	90
Warren	23	18	78
Total	567	433	76%

The major forms of government made available under New Jersey Law have been identified, and recent trends in their use described, in Chapter I. The purpose of this chapter is to provide a brief description of each form in preparation for the discussion of components in Chapter III. A more detailed description and evaluation of the package of components making up each form will be presented in Chapter IV. The major forms of government to be covered are:

- City Form
- Town Form
- Borough Form
- Township Form
- Village Form
- Commission Form
- Municipal Manager Form (1923)
- Optional Municipal Charter Law - Mayor - Council Form
- Optional Municipal Charter Law - Council - Manager Form
- Optional Municipal Charter Law - Small Municipality Form
- Special Charters

City Form

N.J.S.A. 40:167-1 et seq.

The City Form of government is based on a series of laws enacted in the late nineteenth century. It was in use in 17 cities, with 3.5% of the state's population, as of January 1, 1978. In general, the City Form involves a separately-elected mayor and council, with most council members being elected from wards in partisan elections. There is no provision for a chief appointed administrative officer in the basic laws, although such an office could be created locally.¹ Beyond this, it is difficult to generalize about the details of the form of government, since the City government laws, in many cases, represent attempts by the Legislature to circumvent the Constitutional prohibition against special laws by using restrictive population ranges which make what is presumably a general law applicable to only a limited number of places - - sometimes to only one municipality.

Many of the places still using this form of government are quite small, although there are a few cities of moderate size. The laws formerly permitted the residents of a portion of a township to incorporate themselves as a city, and this may have been done in some cases to gain additional representation on the county board of chosen freeholders, since prior and now-repealed laws authorized

¹ See page 49.

a member of that board to be elected from every city ward. It is no longer possible for a new city to be formed by local action alone, and no municipality other than a city may operate under the City Form of government. However, it is possible for any city now using one of the late optional forms of government (Commission Form, Municipal Manager Form, Optional Municipal Charter Law) to revert under the provisions of those laws to a City Form which it might have had in earlier years.

Town Form

N.J.S.A. 40:123-1 et seq.

The Town Form of government also has its roots in the nineteenth century. Nine towns with 1.5% of the state's population still functioned under this form of government on January 1, 1978. There is a mayor chosen in a partisan election for a two-year term of office, and a council, elected at-large or from wards for two-or three-year staggered terms. Since, like the City Form of government, more than one law may apply, generalizations must be limited. There is no provision for a chief appointed administrative officer in the Town government law, although such a post could be created by local action.¹

As with the cities, most towns in New Jersey have switched to one of the optional forms of government. However, the reversion provisions contained in the optional form-of-government laws make it possible for a town which has abandoned that form of government to go back to it. Moreover, it appears possible under an 1895 law for the voters of any village, borough or township with a population over 4,000 to incorporate themselves as a town with the Town Form of government.²

Borough Form

N.J.S.A. 40:86-1 et seq.

The Borough Form is the most common among New Jersey local governments, being used by 222 places with 21.5% of New Jersey's population, as of January 1, 1978. It provides for a mayor and a six-member council, elected separately in partisan elections. The mayor serves for four years, while council members serve three-year terms of office on an overlapping, or staggered, basis. Council members normally are elected at large from the community. However, it is optional for a borough over 10,000 in population to be divided into wards; Roselle and Roselle Park are the only boroughs known to use this plan at present, each with five wards electing a single council member, plus one member elected at large.

The mayor presides at council meetings, but votes only to break ties. He or she has a veto which may be overridden by a 2/3 vote of all members of the council. The mayor nominates all appointive officers subject to council confirmation. However, if the council does not confirm within 30 days, the appointing power is transferred to the council. There is no provision in the basic Borough form-of-government law for a chief appointed administrative officer, although this office could be created through local ordinance.³

¹ See page 49.

² N.J.S.A. 40:123-1 et seq.

³ See page 49.

This form of government is available only to municipalities incorporated by the Legislature as boroughs. Those boroughs which have chosen some other optional form of government could revert to the Borough Form at some future date.

Township Form

N.J.S.A. 40:142-1 et seq.

The Township Form of government is one of the oldest in New Jersey. Although declining in popularity, the Township Form still is the second most numerous, with 174 townships serving 17.4% of the state's population. The governing body is a township committee of three members in small townships and five members in more populous places. Members of the committee are elected for three-year staggered terms in partisan elections, generally from the township at large. Committee members annually choose one of their own number to serve as mayor for that year.

A township with more than 7,000 population may be divided into wards, with the township committee then to consist of two members elected from each ward for two-year staggered terms, and one committee member, elected at large, who serves as mayor during a full two-year term of office. There is no limit on the number of wards which may be created and, therefore, the size of the township committee can be increased indefinitely. Only two places using the Township Form of government, Winslow and Weehawken, are known to use wards at the present time.

The mayor presides at township committee meetings and votes as a member of the committee, but has no other special powers under the Township form-of-government law. In general, all formal legislative and executive powers are exercised by the committee as a whole, but most township committees divide themselves into subcommittees to supervise the administrative activities of the township government. The basic law makes no provision for a chief appointed administrative officer, although this office could be established by local ordinance.¹

The Township Form of government is available only to townships; those townships which have chosen some optional form of government could revert to the Township Form if they chose to do so.

Village Form

N.J.S.A. 40:157-1 et seq.

The Village Form of government is rare in New Jersey, only Loch Arbour, with a 1970 population of 395 persons, now using this kind of governmental organization. The governing body is a board of trustees elected at large for three-year staggered terms of office in elections which may be either partisan or non-partisan. The board annually chooses one of its own members to serve as president of the board; virtually the only power of the president is to preside at meetings. In general, all executive and legislative powers are exercised by the board as a whole. There is no provision for a chief appointed administrative officer, although the position can be created by local ordinance.²

As with the other older forms of government, a village that has adopted one of the optional forms of government could revert to the Village Form in the future. For many years, the residents of a portion of a township, through local action, could become incorporated separately as a village; this option is no longer available under State law.

¹ See page 49.

² See page 49.

Commission Form

N.J.S.A. 40:70-1 et seq.

The first of the 20th century optional forms of municipal government was enacted by the Legislature in 1911 as the Commission Form of Government Law, or the Walsh Act. The law permits the voters of any municipality in New Jersey to abandon their existing form of government - - City, Town, Borough, Township, or Village - - and adopt the Commission Form. During the 1910's and 1920's, over sixty municipalities, including most of the large cities, many older suburbs, and a number of sea-shore resorts, made the change. In the last 25 years, however, the trend has been in the other direction and few large municipalities now use this form of government. As of January 1, 1978, 42 places, with 7.4% of the state's population, used the Commission Form of government.

Under the Commission Form, the voters elect a three-member commission in places with less than 12,000 population, and a five-member commission in large places.¹ Elections are all at large and are held on a non-partisan basis in a special municipal election in May. Candidates are prohibited from adding a political party label to their names on the ballot. Commissioners serve four-year, concurrent terms of office.

The commissioners collectively constitute a board which is the legislative body of the municipality. The executive function of the municipality is divided among the three or five commissioners, each of whom heads one of the municipal departments specified in the law. Subordinate offices and agencies are assigned among the departments by the full board at its organization meeting. One commissioner is chosen to serve as mayor and to preside over meetings of the board. The mayor is directed to "supervise" all departments, but judicial decisions have tended to regard each commissioner as supreme in his or her own department, and the mayor's supervisory powers depend more upon personal qualities than statutory authority.

Unlike the earlier forms of government, the Commission Form authorizes use of the initiative, referendum, and recall powers by the voters of the community.

Any municipality which has adopted the Commission Form may revert to its earlier form of government after six years of trial.

Although the Commission Form of Government Law makes no provision for a CAAO, such an office can be and, in some cases, has been established by local ordinance.²

Municipal Manager Form (1923)

N.J.S.A. 40:79-1 et seq.

In 1923, the Legislature enacted the second of the major optional laws now available, the Municipal Manager Form of Government Law. Any municipality, regardless of type, may replace its existing form of government with the organization outlined by this law. In practice, the law has seen

¹ A municipality which grows above the 12,000 mark may retain its three-member commission up to 25,000 population unless the voters petition for an increase of members.

² See page 49.

only limited use, with eight places, covering 3.0% of New Jersey's population, operating under its provisions on January 1, 1978.

Under the 1923 Municipal Manager Form, the voters elect members of a council for four-year terms of office in non-partisan, at-large elections. The size of the council and the arrangement of terms - - staggered or concurrent - - varies. The council appoints a municipal manager and certain other specified officers of the municipality, and it functions thereafter strictly as a legislative body. The manager is the chief executive, and makes all additional appointments. The manager serves at the pleasure of the council but, after three years, may be removed only for cause. The mayor is selected by the council from its own members, with duties limited to presiding and voting as a member in council meetings, although general law may sometimes designate the mayor as the municipal officer to exercise certain additional powers.

The 1923 Municipal Manager Form of government authorizes the power of recall by the local voters, but not the powers of initiative or referendum.

A municipality with this form of government may revert to its previous form after a four-year trial period.

Optional Municipal Charter Law - Mayor - Council Form

N.J.S.A. 40:69A-1 et seq.; 49:69A-31 et seq.

The Optional Municipal Charter Law of 1950 (OMCL), or Faulkner Act, is the third major legislative act authorizing local option in forms of government organization. It provides for three distinct forms of municipal government - - a series of Mayor-Council plans and Council-Manager plans, which may be adopted by any municipality, and a set of Small Municipality plans, which may be adopted only by municipalities under 12,000 in population. Within each form there are available a number of variations with alphabetical plan designations. The alphabetical variations provide different combinations of so-called "political" elements of the form of government: the use of partisan or non-partisan elections, the use of wards or at-large elections in selecting members of the council, and the arrangement of council terms as concurrent or staggered. The variations of Mayor-Council Form available under the OMCL are:

	<u>Type of Election</u>	<u>Form of Election</u>	<u>Arrangement of Council Terms</u>
Mayor-Council Plan A	Non-partisan	At-large	Concurrent
Mayor-Council Plan B	Non-partisan	At-large	Staggered
Mayor-Council Plan C	Non-partisan	Combination: wards and at-large	Concurrent
Mayor-Council Plan D	Non-partisan	Combination: wards and at-large	Staggered
Mayor-Council Plan E	Partisan	At-large	Staggered
Mayor-Council Plan F	Partisan	Combination: wards and at-large	Staggered

In addition, with the exception of Plan A, which requires a council of five members, a community may choose to have five, seven, or nine members in its council. Under some plans, run-off elections are required if candidates in the first election do not receive a sufficient margin for election.

Aside from these options and a number of other minor variations, most of which have been introduced through amendatory legislation since 1950, all six Mayor-Council plans are essentially the same. They provide for a separately-elected mayor and council, who serve for four-year terms of office. The mayor is the chief executive and is responsible for supervising the departments of the municipal government. The municipal government organization is limited to ten departments, one of which must be a department of administration headed by a business administrator, who administers a centralized purchasing system and the personnel system, and assists the mayor in preparation of the budget. The mayor appoints the department heads, with the advice and consent of the council, and they serve during the mayor's term of office. Department heads may be removed by the mayor, but the council may veto such removal by a 2/3 vote. Subordinate officers and employees are appointed by the department heads. The mayor may attend council meetings, and has the right to speak, but not to vote; some mayors do not attend. The mayor has a veto power over ordinances, which may be overridden only by a 2/3 majority of the council. The mayor prepares the budget and submits it to the council for approval. The council may reduce items in the mayor's budget by simple majority, but may increase them only by a 2/3 majority.

The council is limited to legislative functions, with its only appointment based on the charter being that of the municipal clerk. It has various investigatory and fiscal control powers, but may remove municipal officers from office only for cause. The council elects one of its own members to preside, with the title of president of the council.

The powers of recall, initiative, and referendum are a part of all forms of government under the Optional Municipal Charter Law.

Any municipality adopting an OMCL form of government may revert to its earlier form after three years if under 7,000 in population and after five years if larger.

Although only 46 municipalities operated under this form of government on January 1, 1978, they included most of the large communities of the state; 33.1% of New Jersey's 1970 population was served as of January 1, 1978, the largest percentage for any form of government.

Optional Municipal Charter Law - Council-Manager Form

N.J.S.A. 40:69A et seq.; 40:69A-81 et seq.

The second form of government made available to any municipality under the Optional Municipal Charter Law of 1950 is the Council-Manager option. As with the Mayor-Council plans, there are a number of variations of the form designated by letters of the alphabet:

	<u>Type of Election</u>	<u>Form of Election</u>	<u>Arrangement of Council Terms</u>
Council-Manager Plan A	Non-partisan	At-large	Concurrent
Council-Manager Plan B	Non-partisan	At-large	Staggered
Council-Manager Plan C	Non-partisan	Combination: wards and at-large	Concurrent
Council-Manager Plan D	Non-partisan	Combination: wards and at-large	Staggered
Council-Manager Plan E	Partisan	At-large	Staggered
Council-Manager Plan F	Partisan	Combination: wards and at-large	Staggered

With the exception of Plan A, which requires a council of five members, a community may choose to have five, seven, or nine members in its council. Run-off elections are required in all of the non-partisan elections if the leading candidates in the first election do not receive sufficient votes.

Aside from these variations, the six Council-Manager Plans are substantially the same form of government. There is a council, elected by the voters for four-year terms of office. Council members select the mayor from their own number, and appoint a manager and a municipal clerk. The mayor is little more than a presiding officer for the council, although some additional powers may be granted by general law dealing with all municipalities and all mayors. The council is limited to legislative functions.

The manager is the chief executive, and either appoints all subordinate municipal personnel or delegates the appointive power to department heads. The budget is prepared by the manager, who submits it to the council for revision and approval. The manager serves at the pleasure of the council, and may be removed at any time, so long as a prescribed procedure is followed.

The plans all include the powers of recall, initiative, and referendum. Any municipality adopting and OMCL form of government may revert to its earlier form after three years if under 7,000 in population or after five years if larger. By January 1, 1978, the number of places using one of the OMCL Council-Manager plans had risen to 30, including 8.6% of the state's 1970 population.

Optional Municipal Charter Law - Small Municipality Form

N.J.S.A. 40:69A-1 et seq.; 40:69A-115 et seq.

The third form of government made available under the Optional Municipal Charter Law is the Small Municipality Form, which may be adopted by any municipality which has a population of less than 12,000. Places which adopt one of these plans while under the 12,000 limit appear not to be precluded from retaining the plan if they grow beyond that size, although no such cases have occurred yet.

Four separate Small Municipality plans are available. At-large election of council members is required in every case but, in addition to the other variations found in the Mayor-Council and Council-Manager options, the Small Municipality plans vary in the way in which the mayor is selected:

	<u>Type of Election</u>	<u>Arrangement of Council Terms</u>	<u>Selection of Mayor</u>
Small Municipality Plan A	Non-partisan	Concurrent	Direct election
Small Municipality Plan B	Non-partisan	Concurrent	Selected by and from council
Small Municipality Plan C	Partisan	Staggered	Direct election by voters
Small Municipality Plan D	Partisan	Staggered	Selected by and from council

The mayor and council members are elected for three-year terms of office, although in Plan D, where the mayor is chosen from the council, and council terms are staggered, it is probable that the council would reorganize and re-select its mayor annually. The mayor, whether elected directly by the voters or selected by and from the council, presides at council meetings and is a full-fledged member of the council. The council, including the mayor, may have three, five, or seven members.

The mayor is the chief executive officer of the municipality and appoints specified officers with the advice and consent of the council. The mayor also appoints the finance committee and other committees of the council. There is no provision for a chief appointed administrative officer, although such a position could be created by local ordinance.¹

The powers of recall, initiative, and referendum are available to the voters under this plan.

Any municipality adopting an OMCL form of government may revert to its earlier form after three years if under 7,000 in population or after five years if larger.

Ten municipalities, with 0.6% of the New Jersey population, were served by Small Municipality plans as of January 1, 1978.

Special Charters

As indicated earlier, it is possible for any municipality to obtain a unique form of government by following the special charter procedure provided by the State Constitution and enabling legislation. Although slow to gain attention, the special charter approach has become increasingly popular in recent years, with eight places, including 3.4% of the state's 1970 population, having special charters as of January 1, 1978. The usual approach in writing such charters has been to base them on some existing optional form, with special variations to meet the desires of a particular community. Several features are found in some of the special charters with no counterpart among the other general law municipalities.²

¹ See page 49.

² See page 49.

City, Town, Borough, Township, Village, Commission, and OMCL
Small Municipality Forms, With an Office of Administrator
Established by Ordinance

N.J.S.A. 40A:9-136 et seq.

None of the forms of local government associated with a particular type of municipality make any provision for a chief appointed administrative officer (CAAO), since they were enacted many years before this concept gained general acceptance. Similarly, the Commission Form, enacted in 1911, and the (OMCL) Small Municipality Form, limited to places under 12,000 in population, make no charter provision for a CAAO. As communities increased in population and governmental functions, however, the need for some such officer to coordinate the municipality's activities came to be recognized in a number of places. At first, the need was met by designating some existing officer - - the clerk, the collector, or the engineer in most cases - - to serve as coordinator of municipal functions on an informal basis. Gradually, municipalities began assigning this task more formally by ordinance or resolution, although no specific statutory authorization was available. By 1968, the trend had become so widespread that legislative authority was sought, and it was granted through the enactment of Chapter 367, Laws of 1968. This statute was rewritten slightly in 1971,¹ and now provides a solid basis for the addition of a CAAO to any form of local government where such an office does not exist by charter provision.

The governing body, by ordinance, may create the position of municipal administrator, and assign any powers and duties not required by law to be performed by the governing body itself. This means that the CAAO under this law has no power of appointment or removal although, in practice, many governing bodies may defer to the recommendations of the CAAO. The administrator is appointed by the mayor or chief executive officer of the municipality, with the advice and consent of the governing body, except in the Township and Commission forms of government, where the appointment is made by majority vote of the governing body. The municipal administrator serves at the pleasure of the governing body, and may be removed from office by a 2/3 vote of that body.

As of January 1, 1978, a total of 138 municipalities had made use of the statute authorizing the establishment of an office of municipal administrator by local ordinance.² In general, these were the smaller and medium-sized places (See Table 6); in the aggregate, they covered 22.6% of the state's population.

¹ N.J.S.A. 40A:9-136 to 138.

² It is very probable that some of these places do not have up-to-date ordinances based on N.J.S.A. 40A:9-136 et seq., since many of the ordinances antedate the statute.

Table II-1 Use of Ordinance-Administrator in New Jersey Forms of Municipal Government Not Requiring a Chief Appointed Administrative Officer (CAAO) by Charter Provision; by Range of 1970 Population; as of January 1, 1978.*

1970 POPULATION RANGE	CITY FORM	TOWN FORM	BOR- OUGH FORM	TOWN- SHIP FORM	VILLAGE FORM	COM- MISSION FORM	OMCL SMALL MUN. FORM	SPECIAL CHARTER FORM	TOTAL
0 - 5,000	1 of 5	0 of 2	13 of 103	6 of 104	0 of 1	2 of 21	2 of 8	—	24 of 244 (10%)
5,001 - 10,000	1 of 5	1 of 2	29 of 67	16 of 31	—	0 of 3	1 of 2	0 of 1	48 of 111 (43%)
10,001 - 20,000	2 of 2	—	22 of 42	18 of 26	—	3 of 9	—	0 of 2	46 of 86 (54%)
20,001 - 30,000	2 of 2	—	6 of 8	8 of 9	—	0 of 2	—	—	16 of 21 (76%)
Over 30,000	<u>0 of 2</u>	<u>0 of 1</u>	<u>1 of 2</u>	<u>3 of 4</u>	<u>—</u>	<u>0 of 7</u>	<u>—</u>	<u>—</u>	<u>4 of 16 (25%)</u>
Total	6 of 17	2 of 9	71 of 222	51 of 174	0 of 1	5 of 42	3 of 10	0 of 3	138 of 478 (29%)

* First figure is number of municipalities with ordinance-administrator; second figure is total number of municipalities using form of government.

Chapter III Evaluation of the Components of a Municipal Charter

Every municipal charter, whether an optional plan contained in state law or a special document written for a single community, is a package of individual components put together by the framers of the charter in a way that makes sense to them. The purpose of this chapter is to examine these individual components as they are found in the various forms of government available under New Jersey law. Information is provided on the frequency of use, on the evaluation of the component by municipal officials, and on problems reported in connection with the component. Where appropriate, recommendations are made for legislative action to alleviate these problems.

Evaluation of Components by Municipal Officials

A direct evaluation by municipal officials is possible for 17 of the 26 municipal charter components described in this chapter. The survey of municipal officials contained many questions dealing with the individual components - - terms of office, methods of selecting public officials, size of governing bodies, powers and duties of municipal officers. In most cases, respondents were asked to report the way in which a particular component was used in their own municipality, and then to indicate their own evaluation of the "best way" for the use of that component. For example, each municipal official was asked whether governing body members were elected (a) at large, (b) all from wards, or (c) from a combination of wards and at large. The officials then were asked which of the three methods he or she considered to be the "best way" of electing the governing body. It was clear that there was a strong tendency to favor the method with which the respondent had experience. This is not surprising, since the respondents were all persons who were functioning - - presumably with some degree of success - - within a particular system of local government. In such conditions, it would be much more surprising if a majority of the persons queried should favor changing the system.

In view of the tendency for respondents to favor the components of their own form of local government, it would be misleading merely to report the percentage of all respondents favoring a particular way of structuring each charter component. If this were done, those forms of government represented most frequently among the respondents would be the obvious winners of the popularity contest. Instead, the approach has been to separate the respondents into groups based upon their experience with the component. In other words, the persons having experience in their own municipality with election of the governing body by wards have been considered separately from the persons whose experience has been with at-large elections. In each group, it would be expected that the percentage of respondents supporting the existing system would be substantial. The degree to which it is less than unanimous would indicate the degree of dissatisfaction with that system. For example, if 94% of those having at-large elections favor at-large elections as the "best way", but only 40% of those using wards regard the use of wards as the "best way", at large elections clearly appear to be more satisfactory than wards.

In order to find some "norm" of support for the existing system, all of the questions asked in the survey have been translated into positive statements. Next, the percentage of agreement with these statements by persons having experience with that use of a charter component was placed in rank order, and the median point of each ranking was then found. For the different kinds of respondent, the "Median Degree of Agreement on All Statements" has been found to be:

For mayors.....	81.6%
For members of governing bodies.....	78.5%
For CAAO'S and clerk-CAAO'S.....	78.6%
For municipal clerks.....	82.8%
For all municipal respondents.....	78.4%

If, on any statement, a higher percentage of agreement than those above was observed, it was taken to indicate stronger-than-average support for that statement. A lower percentage, even if still more than 50%, indicated less-than-average agreement with the statement by those who have had experience with that method of structuring the component of the charter.

The nearly 700 responses to the questionnaire seem a substantial number. Yet, when broken down into four classes of respondents, and then further subdivided according to the use of different approaches to each component of a charter, the coverage may sometimes become very thin. Wherever less than 10 responses have been obtained in any subdivision, that portion of the tables which follow has been marked only with an asterisk,¹ although the responses have been combined with others in order to calculate percentages for "all respondents".

The Governing Body

The name of the governing, or legislative, body varies in New Jersey municipalities. In places using the City, Town, or Borough Forms of government, and in municipalities functioning under the Municipal Manager Government Law of 1923 and the Optional Municipal Charter Law of 1950, the governing body is called the council or, in a few places, the board of aldermen. In townships which retain the Township Form, the governing body is the township committee. In places using the Village Form, it is the board of trustees. And in places operating under the Commission Form of government, the governing body is the board of commissioners.

Size of the Governing Body

Municipal governing bodies in New Jersey generally range from three to nine members, with the three-member bodies being found in small townships and in other small places using the Commission Form, the Municipal Manager Form (1923), and the OMCL Small Municipality Form (See Table III-1).² Nine-member governing bodies are authorized by City and Town government laws and the Mayor-Council and Council-Manager options of the OMCL. Four municipalities using the City Form of government have even larger governing bodies - Burlington City with 12, Linden with 11, East Orange with 10, and Egg Harbor City with 10 (including the mayor, who presides). Most common, due to the numerous borough governments, is the 7-member governing body.

Table III-2 shows the opinion of municipal officials regarding the size of the governing body with which they have had experience. Of the mayors, for example, 93.3% who are active in places having a five-governing body believe that this is "about right". Only 87.8% of the mayors with seven-member governing bodies favor that size, and where there is a three-member governing body, only 70.0% of the mayors think that to be the best size.

¹ Drawing the line at 10 responses will be regarded by many statisticians as extremely liberal.

² In Boroughs and other places where the separately-elected mayor presides, he or she usually is considered a member of the governing body.

Table III-1 Size of New Jersey Municipal Governing Bodies, as of January 1, 1978.

Form of Government	Number of Governing Body Members*						Over 9	Total Number of Municipalities
	3	4	5	6	7	8		
City Form	—	1	1	—	8	3	4	17
Town Form	—	—	—	1	4	4	—	9
Borough Form	—	—	—	—	222	—	—	222
Township Form	73	—	99	—	2	—	—	174
Village Form	—	—	1	—	—	—	—	1
Commission Form	31	—	11	—	—	—	—	42
Municipal Manager Form (1923)	2	—	4	—	2	—	—	8
Mayor-Council Form (OMCL)	—	—	19	—	18	9	—	46
Council-Manager Form (OMCL)	—	—	19	—	10	1	—	30
Small Municipality Form (OMCL)	1	—	7	—	2	—	—	10
Special Charters	—	—	2	—	5	1	—	8
Total	107	1	163	1	273	18	4	567

*Including the mayor when the presiding officer, either with or without a regular vote.

Table III-2 Percentage of Municipal Officials Having Experience With Governing Body of a Particular Size, Who Regard That Size as "About Right".

Statement		Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All Respondents
The number of members of the municipal governing body which is "about right" is:	3	70.0%	69.7%	*	89.5%	80.5%
	5	<u>93.3</u>	<u>93.9</u>	<u>100.0%</u>	85.5	<u>92.7</u>
	7	87.8	92.2	90.0	<u>90.4</u>	90.5
	9	*	*	*	72.7	60.0
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

*Insufficient data; fewer than 10 responses.

**Including unidentified respondents.

NOTE: For directions in interpreting this and similar tables which reflect the opinions of municipal officials see discussion on page 51.

In Table III-2, and in those which will follow, the leading percentage for each group of respondents has been circled. It is clear from the circles here that a five-member governing body is favored by most types of respondents, only the municipal clerks leaning more toward a seven-member body.¹ In each case, the leading attitude toward the size of governing body is stated more strongly than the average support indicated at the bottom of the table by the "Median Degree of Agreement on All Statements". **In general, the opinion seems to be that three members is too few, five is a little better than seven, and nine or more is too many.**

Some of the reasons for these views are apparent. A three-member governing body may be easily hamstrung through illness or absences due to other reasons. With only three members, representation of diverse views in the community may be difficult. At the other end of the scale, the complexity of inter-relationships among a group of individuals probably increases at least as the square of the number of members. Furthermore, involvement, interest, and dedication may decline as the individual role of a governing body member becomes smaller in the larger group.

Although very small (three members) and very large (over nine members) municipal governing bodies appear unsatisfactory at times, no legislative action is suggested to force communities now operating with bodies of this size to make a change. However, the option should be available to any municipality whose voters wish to change. The three-member township committees may be increased to five members through an existing petition and referendum process,² and municipalities using the OMCL Small Municipality plans have the option of a three, five, or seven-member council. On the other hand, three-member governing bodies are required by law for Commission government municipalities with less than 12,000 population,³ and for Municipal Manager Act (1923) communities with less than 25,000 population, unless the community had a larger governing body under its previous form of government.⁴ **It is recommended that amendments be made to the Commission Form of Government Law and to the Municipal Manager Form of Government Law to permit the voters of a municipality, through a petition and referendum process, to increase their municipal governing body from three to five members.**

Similarly, the large city and town councils of nine or more members may serve a purpose where they are in use. While not shown in Table III-2, since there were only a few returns, the municipal respondents from places with more than nine members were evenly divided concerning the desirability of governing bodies with more than nine members. It would seem appropriate, however, to provide the option of a smaller governing body to these places if it is desired. The size of the council in most cities and towns is a result of the number of wards established. Since the municipal governing body appears to have statutory authority to change the number of wards,⁵ they would seem to have the power to reduce the size of the council whenever desired. This may be expecting too much, however, for it would require incumbent council members to compete with each other for a smaller number of seats. In order to give the voters of the community a chance to bring such a change about, **it is recommended that amendments to the City Form and Town Form of government laws permit reduction of any governing body with nine or more members to nine, seven, or five members, through a petition**

¹ No data are shown for CAAO's and clerk-CAAO's with three-member governing bodies, and for mayors, members of governing bodies, and CAAO's and clerk-CAAO's with nine-member governing bodies, because less than 10 responses were received in these categories.

² N.J.S.A. 40:146-3 et seq.

³ N.J.S.A. 40:72-1

⁴ N.J.S.A. 40:81-1

⁵ N.J.S.A. 40:44-1; however, in towns using wards, there must be at least three wards, N.J.S.A. 40:123-6.

and referendum process.

Finally, the statute which permits division of a township into wards is open-ended concerning the number of wards allowed. While one township now using the law has three wards (seven-member township committee) and the other has four wards (nine-member township committee), there have been cases in the past where the number of wards and the township committee have been larger.¹ It is recommended that an amendment to the Township Form of government laws be made to limit to three the number of wards in townships with over 7,000 in population, except that municipalities having four wards on the effective date of the statute may continue such organization.

Pattern of Governing Body Election: Wards or At-Large

Most New Jersey municipalities select the members of their governing bodies in at-large elections, where every voter may vote for every office (See Table III-3). Division of a municipality into wards for representative purposes was introduced in some of the special charters granted by the Legislature prior to 1875. When the Legislature was forced to turn to a general law approach to municipal organization in the last decades of the 19th century, the use of wards was included in the City and Town forms of government which are still in use, usually with at least one member of the governing body or the mayor, who presides, being elected at large. Statutes authorizing the division of boroughs and townships into wards, though little used today, date back to the same era.

Probably because of municipal scandals around the turn of the century, symbolized by the term "ward heeler", the idea of wards became unpopular, and the early optional charter laws of the 20th century - - the Commission Form and the Municipal Manager Form - - required at-large election of all governing body members. By the time the Optional Municipal Charter Law was enacted in 1950, however, the idea of wards had regained some respect, and the use of a combination of wards and at-large election to provide representation to areas of a municipality, which might otherwise be submerged in an at-large vote, was authorized in both the Mayor-Council and Council-Manager options. Today, 52 municipalities use wards, either entirely or in combination with at-large elections (See Table III-3).

The municipal officials responding to the survey were far from enthusiastic about wards. As shown in Table III-4, well over 90% of every group of respondents from at-large municipalities supported that method of electing governing body members. In contrast, where combinations of wards and at-large elections were in use, the percentages of support ranged from 53.8% from the mayors up to only 78.6% from the CAO's and clerk-CAO's. While the percentages all exceed 50%, they are substantially below the "Median Degree of Agreement on All Statements" for most classes of respondent and, thus, constitute relatively weak support for ward elections. Although no breakdown can be given for the different kinds of respondents in places where elections were entirely from wards, the support percentage for all such respondents grouped together was only 40%. Clearly, while wards may be useful in some circumstances, the general opinion of the municipal officials in this survey was not very supportive of the idea.

Woodbridge, for example, had five wards and an 11-member township committee prior to adoption of an OMCL charter.

Table III-3 Use of Wards for Election of New Jersey Municipal Governing Body Members, as of January 1, 1978.

Form of Government	No Wards: All Elections At Large *	All Governing Body Members Elected From Wards*	Some Members Elected From Wards and Some At Large*	Total Num- ber of Mun- icipalities
City Form	3	4	10	17
Town Form	4	5	—	9
Borough Form	220	—	2	222
Township Form	172	2	—	174
Village Form	1	—	—	1
Commission Form	42	—	—	42
Municipal Manager Form (1923)	8	—	—	8
Mayor-Council Form (OMCL)	23	—	23	46
Council-Manager Form (OMCL)	28	—	—	30
Small Municipality Form (OMCL)	10	—	—	10
Special Charters	<u>4</u>	<u>2</u>	<u>2</u>	<u>8</u>
Total	515	13	39	567

*Including the mayor only if selected by the governing body from among its own members.

Table III-4 Percentage of Municipal Officials Having Experience With a Particular Pattern for Election of Governing Body Members, Who Regard that Pattern as the "Best Way".

Statement		Mayors	Members of Gov- erning Bodies	CAAO's and Clerk- CAAO's	Municipal Clerks	All Respon- dents
The "best way" to elect members of the Municipal Governing body is:	All at-large	<u>94.7%</u>	<u>92.5%</u>	<u>92.6%</u>	<u>94.7%</u>	<u>93.8%</u>
	All from wards	*	*	*	*	40.0
	Combination of wards and at- large	53.8%	70.6	78.6	58.8	66.7
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

*Insufficient data; fewer than 10 responses.

**Including unidentified respondents.

The use of wards for representative purposes can serve a legitimate public purpose, particularly when a municipality includes diverse groups of residents. A number of recent court decisions from other jurisdictions have indicated the desirability of wards or districts in assuring minority representation. Two restrictions on wards are reflected in the existing New Jersey statutes, although not being uniformly applied, and both appear to have some validity. First, wards generally are not authorized by the Legislature for very small communities, the assumptions being that the rationale in favor of wards becomes weaker in a small municipality, and that wards would fragment the community unnecessarily. The second restriction is that, where the representative role of individual governing body members is accompanied by a strong, institutionalized, executive role, as in the Commission Form, the use of wards is not appropriate. A commissioner of public safety, or of public works, if elected at all, probably should be elected by, and should represent, all of the voters of the municipality, not just those of a single ward.

Election of the entire governing body from wards, a variation found in only 13 places, received a very poor evaluation by municipal officials. It is authorized under some of the City and Town government laws, in townships over 7,000 in population, and in two special charters. Specific comments by respondents pointed out the difficulty of getting ward council members to take a broad view of the problems of the entire community. The temptation to recommend elimination of this method of representation is tempered by a knowledge of cases in other parts of the country where at-large elections and even combinations of at-large and ward elections have been challenged as devices for diluting or obliterating the voting strength of minorities. The issues remain to be resolved finally, and the only structural recommendations made at this time are intended to foreclose the extension of this form of representation without adequate legislative deliberation:

It is recommended that the statute (N.J.S.A. 40:123-1) permitting any town, village, borough, or township with over 4,000 population to form itself into a town, with a council elected entirely from wards, be repealed. The repealer would have prospective application and not affect any municipalities presently organized in this manner.

It is recommended that the Legislature consider carefully any petition for a special charter which includes a municipal governing body based entirely on ward elections.

In terms of procedure, consideration may be given to further changes. Wards should be re-examined and, if necessary, their boundaries re-drawn to attain equality of representation when new population data become available. Numerous statutes apply at the present time, with two - - the OMCL and a general ward revision law - - covering most municipalities. The general statute antedates judicial action of the 1960's and 1970's on legislative apportionment, and is relatively vague in terms of standards. The two laws set up different procedures, to be carried out by different agencies (See Table III-5). The process would be simplified and probably facilitated if a single statute applied to all New Jersey municipalities using wards for representative purposes. **It is recommended that the general law for re-drawing wards (N.J.S.A. 40:44-1 et seq.) and the Optional Municipal Charter Law provisions for re-drawing wards (N.J.S.A. 40:69A-197 et seq.) be up-dated and consolidated into a single, uniform ward statute prior to the 1980 Census.**

Governing Body Term of Office

The term for which governing body members are elected varies from two years in a few places under the City and Town Forms, the Townships using wards, and one special charter; to three years

Table III-5 Statutory Provisions for Drawing Municipal Ward Boundaries.

	General Ward Law 40:44-1 et seq.	Optional Municipal Charter Law 40:69A-197 et seq.
Applies To:	Any municipality (but this law, in itself, does not authorize a municipality to elect any officers from wards).	All municipalities adopting an OMCL charter which requires wards.
When done:	<p>(a) Law may be used initially at any time. 40:44-1.</p> <p>(b) Boundaries may be readjusted and number changed whenever population of one ward exceeds population of any two other wards, but not more than once every 5 years. 40:44-5.</p> <p>(c) Court cases indicate need for re-adjustment after every census if ward population differ significantly.</p>	<p>(a) Done initially when municipality adopts OMCL charter. 40:69A-197.</p> <p>(b) Boundaries must be readjusted within 3 months after every Federal decennial census. 40:69A-203.</p> <p>(c) Number of wards may be changed only by changing charter.</p>
Who initiates action:	Municipal governing body sets number of wards and initiates action by ordinance. 40:44-1.	Board of ward commissioners initiates action; number of wards set by charter provision. 40:69A-199,203.
Who draws ward boundaries?	Commission of 4 residents and legal voters appointed by mayor or other chief executive, or if there is no such officer, by governing body. No more than two members from same political party. If mayor or governing body fails to make appointments, Superior Court assignment judge may do so. 40:44-2.	Board of ward commissioners consisting of 4 members of county board of elections, plus the municipal clerk. 40:69A-198.
Compensation for ward commission:	Commissioners entitled to necessary expenses, and compensation may be set by governing body. 40:44-6.	Commissioners entitled to necessary expenses, and compensation up to \$500 may be set by governing body. 40:69A-199.2.
Technical assistance:	Commission may hire surveyor and other personnel, with compensation set by governing body. 40:44-6.	Commission may hire curveyor and other personnel, with compensation set by governing body. 40:69A-199.1, 199.2.

Table III-5 (Continued).

	General Ward Law	Optional Municipal Charter Law
Standards for wards:	(a) Formed of contiguous territory. (b) "...shall have regard to equality of population". 40:44-3.	(a) Formed of contiguous territory. (b) Formed of compact territory. (c) Shall not differ in population by more than 10% from population of least populous ward. 40:69A-200.
Time for completion:	60 days. 40:44-3.	30 days. 40:69A-201, 203.
Majority for decision:	Majority of commissioners; if unable to agree, mayor or other chief executive may break tie. 40:44-6.	Majority of commissioners. 40:69A-201.
Report:	Map, description of boundaries, and statement of population of each ward to be filed with Municipal clerk. 40:44-3.	Map and description of boundaries to be filed with: municipal clerk county clerk Secretary of State. Municipal clerk must publish notice of boundaries in at least one newspaper circulating in the municipality within 2 weeks of filing. 40:69A-201, 202.
Effective date of wards:	10 days after filing of report. 40:44-4. If new ward boundaries necessitate new election districts, such districts also are drawn by ward commissioners. 40:44-8.	Upon publication of notice of ward boundaries by municipal clerk. 40:69A-202.

Other ward statutes:

- 40:43-26.....Wards in annexations.
- 40:87-2.....Wards in Boroughs over 10,000 population.
- 40:107-1.....Wards in Cities over 12,000 population.
- 40:108-1.....Wards in Cities under 12,000 population.
- 40:110-1.....Wards in Cities between 6,000 and 10,000 population.
- 40:113-1.....Wards in municipalities governed by improvement commissions in Townships of more than 7,000 population.
- 40:123-6.....Wards in newly-created Towns.
- 40:131-1.....Wards in Towns over 5,000 population.
- 40:144-1.....Wards in Townships over 7,000 population.
- 40:169-10.....Wards in Cities between 5,000 and 6,000 population by the last State census, having 2 precincts, and 9 councilmen.

in some cities and towns, in the Borough, Township and Village Forms, and in the Small Municipality plans of the OMCL; to four years in a few cities and in the Commission Form and the Mayor-Council and Council-Manager options of the OMCL (See Table III-6). Governing body members in places using the Municipal Manager Form of Government (1923) may have either three-or four - year terms, depending upon the prior form of government and the language of the referendum held to change the form of government, although no municipality is currently using the three-year option.

Three-year terms gain the highest degree of approval from most kinds of respondents to the municipal official survey, although four-year terms are not far behind (See Table III-7). In fact, the CAAO'S and clerk-CAAO's are so strong in their support for the longer term that, when their responses are grouped with those of other respondents, they swing the balance slightly in favor of a four-year term of office. Much clearer is the inclination of those officials having experience with two-year terms against such a short period of governing body service.

In the three cities which currently have some members of the city council elected for two-year terms, it is the at-large council member who is affected, while the members elected from wards serve for three years (Englewood, North Wildwood, Summit). There seems to be no logical reason for this combination; in view of the criticism of two-year terms, some change should be considered. **It is recommended that the City Form of government laws be amended to provide for at least a three-year term of office for the council member elected at large.**

Seven towns elect all of their governing body members from wards for two-year staggered terms, thus having an annual election in every ward. The same pattern holds for two townships which use wards for election of the township committee. These places should have an opportunity to eliminate the unpopular two-year term of office without changing the essential nature of the electoral pattern for governing body members. **It is recommended that the Town, Township (with wards) Form of government laws be amended to permit a change, through a petition and referendum process providing for the election of three members of the governing body from each of two or three wards, for three-year staggered terms of office. Towns and townships currently using the two-year term would be permitted to retain that pattern or switch to the new pattern, but no other municipality would be permitted to adopt the two-year term in the future, except by special charter.**

Arrangement of Governing Body Terms of Office

Most New Jersey municipalities have forms of government in which the terms of office of the municipal governing body are staggered, so that the full membership does not stand for election at the same time. The use of concurrent terms, where all members are elected at the same time and serve for the same period, is largely a product of the optional laws of the 20th century, and is found today only in municipalities using the Commission Form, the Municipal Manager Form, and certain of the Mayor-Council, Council-Manager, and Small Municipality plans under the OMCL (See Table III-8).

Attitudes of municipal officials run strongly in favor of the use of staggered terms of office, as shown in Table III-9. While respondents from places using concurrent terms are not opposed to that system, the highest level of approval — from the mayors in the survey — is only 76.9%. This may be compared with more than 95% approval of staggered terms among every class of respondent from the municipalities electing only a portion of their governing body in any single election.

Table III-6 Term of Office of Members of New Jersey Municipal Governing Bodies,* as of January 1, 1978.

Form of Government	2 Years	Some 2 Years; Some 3 Years	3 Years	Some 3 Years; Some 4 Years	4 Years	Total Number of Municipalities
City Form	—	3	5	7	2	17
Town Form	—	—	—	—	—	9
Borough Form	—	—	222	—	—	222
Township Form	2	—	172	—	—	174
Village Form	—	—	1	—	—	1
Commission Form	—	—	—	—	42	42
Municipal Manager Form (1923)	—	—	—	—	8	8
Mayor-Council Form (OMCL)	—	—	—	—	46	46
Council-Manager Form (OMCL)	—	—	—	—	30	30
Small Municipality Form (OMCL)	—	—	10	—	—	10
Special Charters	<u>1</u>	<u>—</u>	<u>5</u>	<u>—</u>	<u>2</u>	<u>8</u>
Total	10	3	417	7	130	567

*Not including the mayor if elected directly by the voters.

Table III-7 Percentage of Municipal Officials Having Experience with a Particular Term of Office for the Governing Body, Who Regard That Term as "About Right".

Statement		Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All ** Respondents
The term of office of the municipal governing body which is "about right" is:	2 years	*	*	*	45.5%	47.8%
	3 years	<u>95.1%</u>	<u>91.0%</u>	84.0%	<u>92.5</u>	91.6
	4 years	93.1	89.1	<u>100.0</u>	88.4	<u>92.4</u>
Median Degree of agreement on All Statements		81.6	78.5	78.6	82.8	78.4

*Insufficient data; fewer than 10 responses.

**Including unidentified respondents.

Table III-8 Arrangement of Terms of Office on New Jersey Municipal Governing Bodies, as of January 1, 1978.

	Municipalities Using Concurrent Terms	Municipalities Using Staggered Terms	Total Number of Municipalities
City Form	—	17	17
Town Form	—	9	9
Borough Form	—	222	222
Village Form	—	174	174
Commission Form	42	—	42
Municipal Manager Form (1923)	8	—	8
Mayor-Council Form (OMCL)	7	39	46
Council-Manager Form (OMCL)	2	28	30
Small Municipality Form (OMCL)	2	8	10
Special Charters	—	8	8
Total	61	506	567

Table III-9 Percentage of Municipal Officials Having Experience With a Particular Arrangement of the Terms of Office of the Governing Body, who Regard that Arrangement as the "Best Way".

Statement		Mayors	Members of Governing Bodies	CAAO's and Clerk - CAAO's	Municipal Clerks	All** Respon- dents
The "best way" to arrange the terms of office of the municipal governing body is to:	stagger them	<u>96.3%</u>	<u>96.8%</u>	<u>95.1%</u>	<u>95.6%</u>	<u>96.1%</u>
	make them	76.9	70.0	56.3	67.9	84.4
	concurrent					
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

** Including unidentified respondents.

The two forms of government which do not permit the use of staggered terms are the Commission Form and the Municipal Manager Form (1923). In the first, the use of staggered terms for the election of persons who clearly are both legislators and administrators would not appear to be very appropriate. A better case can be made for staggering the terms of office for governing body members under the Municipal Manager Form, where the representative and policy-making roles of council members are paramount. **It is recommended that the Municipal Manager Form of government be amended to permit the voters of a municipality, through a petition and referendum process, to choose to elect their governing body members for staggered terms of office.**

Presiding Officer at Governing Body Meetings

Three different patterns are used for designating the officer who presides at meetings of the municipal governing body (See Table III-10). Most often, the governing body selects its own presiding officer; in the basic Township Form, the Commission Form, both the 1923 and the OMCL Manager Forms, and the OMCL Small Municipality Form, the presiding officer so chosen carries the title of mayor. In other places under some of the City Forms, and all of the Mayor-Council options of the OMCL, the presiding officer selected by the governing body is known as the president of the council, and is not the mayor. Some special charter places use each of these approaches.

Table III-10 Presiding Officer for Governing Body Meetings in New Jersey Municipalities as of January 1, 1978

Form of Government	A mayor Elected Directly by the Voters	A Governing Body Member Elected Directly by the Voters	A Governing Body Member Selected by the Governing Body	Total Number of Municipalities
City Form	3	10	4	17
Town Form	9	—	—	9
Borough Form	222	—	—	222
Township Form	2	—	172	174
Village Form	—	—	1	1
Commission Form	—	—	42	42
Municipal Manager Form (1923)	—	—	8	8
Mayor-Council Form (OMCL)	—	—	46	46
Council-Manager Form (OMCL)	—	—	30	30
Small Municipality Form (OMCL)	9	—	1	10
Special Charters	5	—	3	8
Total	250	10	307	567

Almost as frequently, however, a directly-elected mayor presides, thus giving the voters the final word. This pattern is found in some cities, all towns using that form of government, the Borough Form, the townships electing governing body members from wards, the OMCL Small Municipality communities electing their mayor directly, and most special charter places. In ten cities, the voters directly elect both the mayor and a council-member-at-large who presides at meetings of the governing body.

No recommendations are made at this time although, where a separately- elected mayor is available and not so utilized, consideration might be given to providing that official with a legislative role as presiding officer.

Duties of Governing Body Members

Statutes authorizing forms of municipal government in the 19th century rarely provided any detailed description of the role to be played by individual members of the governing body. As a result, individual members frequently acted both as legislators - - enacting ordinances and passing resolutions to establish public policy, and as administrators - - exercising detailed day-to-day supervision over the activities of municipal officers and employees. The common practice, especially in boroughs and townships, was for the governing body to divide itself into sub-committees to supervise different aspects of the local government. This situation continues today for many municipalities operating under the older City, Town, Borough, Township, and Village Forms of government; no statutory provision exists to prohibit this method of operation in the great majority of New Jersey's municipalities (See Table III-11).

With the advent of the Commission Form of government in 1911, a dual role for governing body members was formalized, with members of the board of commissioners collectively forming the municipality's legislative body, and each commissioner, in his or her own right, becoming the executive or administrator of a department.

Table III-11 The Administrative Role of Elected Governing Body Members in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Members Limited to Legislative Duties	Members Required to Perform Both Legislative and Admin. Duties	No Prohibition Against Admin. Role for Members	Total Number of Municipalities
City Form	—	—	17	17
Town Form	—	—	9	9
Borough Form	—	—	222	222
Township Form	—	—	174	174
Village Form	—	—	1	1
Commission Form	—	42	—	42
Municipal Manager Form (1923)	8	—	—	8
Mayor-Council Form (OMCL)	46	—	—	46
Council-Manager Form OMCL)	30	—	—	30
Small Municipality Form (OMCL)	—	—	10	10
Special Charters	2	—	6	8
Total	86	42	439	567

The Municipal Manager Act of 1923 was the first to attempt a clear separation of powers between the executive branch, represented by the manager, and the legislative branch -- the council. This law stated:

"It is the intention of this subtitle that the municipal council shall act in all matters as a body, and it is against the spirit of this subtitle for any of its members to seek to influence the official acts of the municipal manager, or any other officer, or to interfere in any way with the performance by such officers of their duties. . . ." ¹

On the contrary, the municipal manager was designated as the "chief executive and administrative official of the municipality". ²

Similar prohibitions against an administrative role for governing body members were written into both the Mayor-Council and Council-Manager Forms of the Optional Municipal Charter Law in 1950, and they have been carried over into two of the eight special charters. On the other hand, the Small Municipality Form of the OMCL does not include such a prohibition, presumably because it seemed less reasonable in very small places, and six special charters permit an administrative role for governing body members.

The questionnaires sent to municipal officials did not contain any questions which would develop a statistical basis for reflecting clearly the attitude of such persons toward prohibitions against governing body administrative duties. From general comments appended to the questionnaires, however, and from informal observation of New Jersey municipal government, it is apparent that conflicts about the proper role of the elected governing body member are a constant irritant. Mayors and CAO'S complain that governing body members insist on "dabbling" in administration in those places where it is prohibited by charter provision. And governing body members complain about being shut off from the administrative activities of the municipal government. The problem becomes especially acute when the individuals involved have previously served under one of the older forms of government where administration and supervision by an elected governing body member was quite acceptable; the change to a new and apparently more limited legislative role, sometimes is difficult. The situation is made worse by the fact that only about 15% of the municipalities in the state have charters prohibiting an administrative role for governing body members. Comparisons with neighboring communities are inevitable. If the councilman next door can deal with his constituents' problems through direct, individual administrative action, while the local governing body member must act only as a member of the full council, the limitation may be difficult to accept.

There is no simple solution to this problem, which is not limited to those places with a formal prohibition in their charter against governing body involvement in administration. As a community grows, it is inevitable that a corps of full-time, professional administrators will be formed. Conflict between the part-time, elected officials and the full-time professionals is always possible, regardless of the language of the charter. The answer must be in the development of a set of relationships or accommodations between the two groups which permits each to function effectively to provide service to the community. While charter provisions, including limitations on the governing body role, can provide a guide for the nature of these accommodations, it is possible that they can also in-

¹ N.J.S.A. 40:81-16.

² N.J.S.A. 40:82-4.

terjunct obstacles. If administration is insulated too heavily from the elected official, the result can only be frustration and friction.

No recommendations are made here, since the nature of the problem and any steps which might possibly alleviate it are intimately connected with each form of government. A further discussion, with some recommendations, is presented in Chapter IV, in the sections dealing with those forms of government where the problem appears particularly troublesome.

Salaries of the Governing Body

For many years it has been traditional for the State government to determine or, at least, place limits on the salaries which may be paid to members of municipal governing bodies. In recent decades the trend has been to remove such limitations. However, as of January 1, 1978, almost half of New Jersey's municipalities still were covered by salary limit laws, including all places under the Township Form, towns using that form of government and having over 20,000 population¹ or having less than 5,000 and being located in 3rd Class counties, all places under the Borough Form and located in 2nd Class counties over 265,000 in population, and all communities under the Municipal Manager Act of 1923 (See Table III-12).²

Table III-12. Statutory and Charter Limitations on Governing Body Salaries in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Governing Body Salaries Limited by State Law	No Statutory Limit on Governing Body Salaries	Governing Body Salaries Set by Charter	No Governing Body Salaries Permitted	Total Number of Municipalities
City Form	—	17	—	—	17
Town Form	3	6	—	—	9
Borough Form	70	152	—	—	222
Township Form	174	—	—	—	174
Village Form	—	1	—	—	1
Commission Form	—	42	—	—	42
Municipal Manager Form (1923)	8	—	—	—	8
Mayor-Council Form (OMCL)	—	46	—	—	46
Council-Manager Form (OMCL)	—	30	—	—	30
Small Municipality Form (OMCL)	—	10	—	—	10
Special Charters	—	6	1	1	8
Total	255	310	1	1	567

¹ L. 1977, c. 454, effective March 2, 1978 set salaries for mayors and members of the governing body in towns in first class counties having between 11,500 and 40,000 population.

² The statutory provisions are confused by two additional laws. One allowed boroughs in 3rd Class counties, which became 2nd Class after the 1960 census, to continue to pay higher salaries if they had been doing so already (N.J.S.A. 40A:9-166). The second (N.J.S.A. 40:46-23 et seq.) provided for exceeding the salary limits through a referendum process; although this law was repealed by Chapter 200 of the Laws of 1971, some higher salaries apparently still are being paid.

Adoption of the Optional Municipal Charter Law by any municipality has served, since 1950, to free that community from State salary limitations, and Commission government municipalities had statutory salary limits eliminated in 1976. Most special charter municipalities are not limited in the salaries that may be paid to governing body members, but in one case (Gloucester City), a specific salary is written into the charter and may be revised only by another special act of the Legislature. In another case (South Orange), the special charter prohibits any salary for governing body members.

The survey of municipal officials did not develop any direct response which would indicate the attitude of the respondents toward State salary restrictions on local government.

The system, as it has accumulated through a variety of laws over the years, now is directed mostly toward the smaller municipalities (See Table III-13). There appears to be little logic to the pattern. Why should a borough in Middlesex County be limited, and a borough in Monmouth County unlimited? Why place salary limits on a township with 8,000 population, but not on a borough 8,000? And why place statutory salary limits on small places where, it may be argued, the voters may do this more readily themselves? **It is recommended that all existing statutory salary limitations for municipal governing body members be eliminated.**

Table III-13 Municipalities in New Jersey Having Statutory or Charter Limitations on Governing Body Salaries, by 1975 Estimated Population Range, as of January 1, 1978.

1975 Estimated Population Range	Municipalities With Statutory Salary Limits	Municipalities Without Statutory Salary Limits	Total Municipalities
0 — 5,000	129 (54.2%)	109 (45.8%)	238
5,001 — 10,000	58 (47.9%)	63 (52.1%)	121
10,001 — 15,000	27 (34.6%)	51 (65.4%)	78
15,001 — 20,000	19 (46.3%)	22 (53.7%)	41
20,001 — 30,000	13 (40.6%)	19 (59.4%)	32
30,001 — 50,000	8 (24.2%)	25 (75.8%)	33
50,001 — 100,000	3 (17.6%)	14 (82.4%)	17
Over 100,000	— (—)	7 (100.0%)	7
Total	257 (45.3%)	310 (54.7%)	567

There may be some fear that lifting State salary limits will result in runaway salaries for mayors and municipal governing bodies. In an effort to evaluate this prospect, the salaries paid to such officials have been analyzed for all municipalities below 5,000 in population where the information was available. The results are shown in Table III-14. Per capita salaries average \$1.71 in municipalities having State salary limits and \$1.37 in those without such limits. However, this comparison is misleading, since the salaries paid vary considerably by form of government and the nature of the

responsibilities placed on governing body members. The pattern is for the highest per capita salaries to be paid in the Commission Form of government, where governing body members serve both as local legislators and as administrators, frequently in resort communities having large seasonal populations. In the Township Form, where the same mixture of legislative and administrative responsibilities frequently occurs through tradition, moderately high per capita salaries also are paid. Probably the most useful comparison is found in the municipalities using the Borough Form. Here, the 23 places subject to State salary limits pay slightly higher per capita salaries to the members of the council and slightly lower salaries to the mayors than in the 65 boroughs which are not limited by State law. When the two figures are combined, there is little difference to be seen.

Table III-14 Average Salaries Per Capita Paid to Municipal Governing Bodies and Separately-Elected Mayors in New Jersey Municipalities Under 5,000 In Estimated 1975 Population, by Form of Government, and With and Without Statutory Salary Limits, 1976-77.

Form of Government	Average Per Capita Salary in Municipalities With State Salary Limits				Average Per Capita Salary in Municipalities Without State Salary Limits			
	Number	Governing Body	Mayor	Total	Number	Governing Body	Mayor	Total
City Form	—	—	—	—	2	\$.94	\$.30	\$1.24
Town Form	2	\$.94	\$.25	\$1.18	—	—	—	—
Borough Form	23	.80	.19	.99	65	.76	.26	1.02
Township Form	92	1.92	—	1.92	—	—	—	—
Village Form	—	—	—	—	1	0	0	0
Commission Form	—	—	—	—	19	3.17	—	3.17
Municipal Manager Form (1923)	1	.75	—	.75	—	—	—	—
OMCL Small	—	—	—	—	4	.95	.41	1.36
Total	118	\$1.67	\$.19	\$1.71	91	\$1.14	\$.27	\$1.37

Source of data: **New Jersey Municipal Salary Report: Mayors, Members of Governing Bodies, and Other Key Municipal Officials -- Police**, New Jersey State League of Municipalities, Trenton, New Jersey, August, 1977.

Notes: Most data are for 1977, although some salaries are for 1976.

Where the mayor is selected by the governing body from its own membership, his or her salary is included under the governing body.

The Mayor

There is an office of mayor in every New Jersey municipality, except the Village of Loch Arbour and the Township of South Orange Village, but the position differs according to the form of government in use. Generally, the mayor in the Mayor-Council plans under the OMCL is considered a "strong" mayor, since he or she is designated as the municipal Chief executive, is given substantial appointive powers, has a veto requiring an extraordinary legislative majority to override, and prepares the municipal budget for submission to the governing body. The mayors in certain other forms of government - - the City, Town, and Borough Forms, and the Small Municipality plans under the OMCL - - also have significant, though more limited, authority. In the remaining forms of government, the Township Form, the Village Form (where the chief elected official is called the village president), the Commission Form, the Municipal Manager Form, and the Council-Manager plans under the OMCL, the mayor is essentially a member of the governing body, chosen by his or her colleagues to preside at meetings and to perform appropriate ceremonial functions. This is not to say that a mayor in one of the latter forms of government cannot be a dominant figure in the municipality. Such a situation is quite possible, but it must be based on individual personality traits or on the mayor's position in the political system, rather than on the formal powers granted by the form of government.

Method of Selection of Mayor

Under the City, Town, and Borough Forms of government, the Township Form when wards are used, the Mayor-Council plans, two of the Small Municipality plans of the OMCL, and six of the special charters, the mayor is elected directly by the voters of the municipality (See Table III-15). The Township and Village Forms,¹ the Commission Form, the Municipal Manager Form (1923), the Council-Manager plans of the OMCL, and two of the special charters provide only for election of municipal governing body members, one of whom is then selected by the members to serve as mayor.

As shown in Table III-16 there is solid agreement among municipal officials from places where the mayor is elected directly that their method of selection is the "best way". The mayors, themselves, lead the way with an approval percentage of 97.8%. Only the governing body members show a slight hesitation in endorsing direct election fully. On the other hand, the respondents from places where the mayor is selected by and from the governing body are considerably less happy with their system. Here, the mayors lag the most, with only 54.1% of those holding office by virtue of their colleagues' favor indicating that this is the "best way" to select a mayor. However, even the governing body members, who make the selection of mayor, produce only a modest support percentage of 66.3%, well below the Median Degree of Agreement on All Statements.

Direct election of the mayor in those places where he or she is now chosen by the governing body from its own members could be made available as a local option. Generally, these are the forms of government where the mayor is little more than a presiding officer at present; the only exceptions are the OMCL Small Municipality Plans B and D, where the mayor is the chief executive.

¹The presidents of the boards of trustees in Loch Arbour Village and in the Township of South Orange Village are counted here as mayors, although not technically carrying that title.

Table III-15 Method of Selection of the Mayor in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Mayor Elected Directly by Voters	Mayor Selected by Governing Body From Among Own Members	Total Number of Municipalities
City Form	17	—	17
Town Form	9	—	9
Borough Form	222	—	222
Township Form	2	—	174
Village Form	—	172	1
Commission Form	—	1	42
Municipal Manager Form (1923)	—	42	42
Mayor-Council Form (OMCL)	46	—	46
Council-Manager Form (OMCL)	—	30	30
Small Municipality Form (OMCL)	9	1	10
Special Charters	6	2	8
Total	311	256	567

Table III-16 Percentage of Municipal Officials Having Experience With a Particular Method of Selecting the Mayor, Who Regard That Method as the "Best Way".

Statement	Mayors	Members of Governing Bodies	CAAO's and Clerk - CAAO's	Municipal Clerks	All* Respondents
The "best way" through direct election by the voters	<u>97.6%</u>	<u>90.9%</u>	<u>96.4%</u>	<u>94.6%</u>	<u>94.6%</u>
to have the members of the governing body select one of their own members	54.1%	66.3	77.5	68.4	66.1
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

* Including unidentified respondents

Direct election of the mayor undoubtedly would serve to enhance that officer's position, in relation to both the rest of the governing body members and to the CAAO, if there is one. Table III-17 shows the opinion of municipal officials toward strengthening the mayor's powers in those communities where that officer is now chosen by the governing body from its own members. Aside from the Municipal Manager Form, sentiment for strengthening the mayor appears greatest in those forms of government where there is a CAAO - the townships with an ordinance administrator and the OMCL Council-Manager Form. This may indicate a desire to create a better focus for elected political leadership to balance the administrative role of the CAAO. No recommendations are made here for changes in the manner of selecting the mayor under the existing forms of municipal government, although they will be considered under the different forms of government in Chapter IV.

Table III-17 Opinion of the General Powers of the Mayor in Forms of Government Where the Mayor is Selected by the Governing Body From Among Its Own Members.

Form of Government	Mayor's General Powers	Mayors	Members of Governing Body	CAAO's and Clerk-CAAO's	Municipal Clerks	All Respondents
Township; Without CAAO	should be increased.	29.6%	7.1%	—	12.9%	14.4%
	are about right	70.4	85.7	—	84.3	82.0
	should be decreased.	—	7.1	—	2.9	3.6
Township; With CAAO	should be increased.	58.8	42.9	35.7%	—	36.4
	are about right	35.3	42.9	50.0	100.0	54.5
	should be decreased.	5.9	14.3	14.3	—	9.1
Commission; Without CAAO	should be increased.	*	6.7	—	12.5	15.8
	are about right.	*	80.0	—	87.5	78.9
	should be decreased.	*	13.3	—	—	5.3
Commission; With CAAO	should be increased.	*	*	*	*	*
	are about right	*	*	*	*	*
	should be decreased.	*	*	*	*	*
Municipal Manager Form (1923)	should be increased.	*	*	*	*	5.3
	are about right	*	*	*	*	84.2
	should be decreased.	*	*	*	*	10.5
OMCL Council- Manager Form	should be increased.	46.2	16.7	25.0	20.0	26.3
	are about right	53.8	44.4	62.5	40.0	50.9
	should be decreased.	—	38.9	12.5	40.0	22.8

* Insufficient data; fewer than 10 responses.

Mayor's Term of Office

The mayor's term of office varies from one to four years in a rather complicated pattern. In municipalities where the governing body reorganizes every year, and where it has the power to select the mayor from its own membership, the term of office of the mayor must be considered to be for only a single year (although the individual may have been elected to a three-year term as a member of the governing body). This pattern is found in the Township and Village Form of government, in Small Municipality Plan D of the OMCL, and in two special charters (See Table III-18).

A two-year term of office for the mayor is found in some City Forms and in the Town Form of government. In Council-Manager Plans B, D, E, and F of the OMCL, the combination of four-year staggered terms for the council members results in a two-year election cycle, and would seem to lead toward the selection of a mayor by and from that body for a two-year term. In practice, however, different municipalities appear to be using one-, two-, and four-year terms for the mayor,, and the law provides no clear rule.

In Small Municipality Plans A and C of the OMCL, the mayor is elected directly by the voters for a three-year term, and it is probable that Small Municipality Plan B would produce the same pattern through the combination of the selection of the mayor by and from the council, which has been elected for three-year concurrent terms of office. Some of the places under the City Form of government also report using a three-year term for the mayor.

Some of the optional charter laws of the 20th century - - the Commission Form and the Mayor-Council plans of the OMCL - - have used a four-year term for the mayor, and some of the places using the City government laws also have four-year terms for the mayor. Council-Manager Plans A and C under the OMCL, which have concurrent four-year terms for governing body members, also use a four-year term of office for the mayor, who is selected by and from that body at its organization meeting. Under the Borough Form of government, the mayor now serves for four years, the change from an earlier pattern of two years being mandated by the Legislature in 1969.

Finally, municipalities operating under the Municipal Manager Form (1923) apparently could use either a one-year or four-year term for the mayor, with no clear statutory provision; those places now under that form of government all use a four-year term.

With the exception of governing body members, who opt for three years, most respondents lean toward a four-year term for the mayor (See Table III-19). Mayors and CAAO's favor this length term by a substantial margin over the alternative of one year. Municipal clerks also are supportive of four-year mayoral terms, but more narrowly. Little support is given to the two-year term as an alternative.

Recommendations have already been made to eliminate the two-year term of office for governing body members in the City Form of government, and to permit places under the Town Form with wards the option of switching from two-year to three-year terms for governing body members.¹ Comparable changes in the term of office of the mayor in these forms of government appear logical, and the following recommendations, therefore, are made. **It is recommended that the City Form of government laws be amended to provide for a three or four year term of office for the mayor. It is recommended that the Town and Township (with wards) form of government laws be amended to permit a change, through a petition and referendum process, to the election of the mayor, at large, for a three or four year term of office.**

¹ See page 60.

Table III-18 Term of Office of the Mayor in New Jersey Municipalities, as of January 1, 1978.

Form of Government	1 Year	2 Years	3 Years	4 Years	1,2, or 4 Years by Local Custom	Total Number of Municipalities
City Form	—	1	3	13	—	17
Town Form	—	9	—	—	—	9
Borough Form	—	—	—	222	—	222
Township Form	172	2	—	—	—	174
Village Form	1	—	—	—	—	1
Commission Form	—	—	—	42	—	42
Municipal Manager Form (1923)	—	—	—	8	—	8
Mayor-Council Form (OMCL)	—	—	—	46	—	46
Council Manager Form (OMCL)	—	—	—	2	28	30
Small Municipality Form (OMCL)	1	—	9	—	—	10
Special Charters	2	1	2	3	—	8
Total	176	13	14	336	28	567

Table III-19 Percentage of Municipal Officials Having Experience With a Particular Term of Office for the Mayor, Who Regard That Term as "About Right".

Statement	Mayors	Members of Governing Bodies	CAAO's and Clerk - CAAO's	Municipal Clerks	All** respon- dents
The term of office of the Mayor which is "about right", is:					
1 year	57.8%	77.6%	57.1%	83.1%	73.7%
2 years	*	*	*	42.9	48.4
3 Years	*	<u>90.9</u>	*	*	81.0
4 years	<u>90.6</u>	77.1	<u>88.3</u>	<u>85.9</u>	<u>84.7</u>
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

*Insufficient data; fewer than 10 responses

**Including unidentified respondents

Participation by Mayor in Governing Body Meetings

Four basic patterns exist for participation by the mayor in meetings of the governing body. In those forms of government where the mayor is chosen by and from the governing body - - the Township Form, the Village Form, the Commission Form, the Municipal Manager Form, the Council-Manager plans under the OMCL, Small Municipality Plans B and D of that law, and some of the special charters - - the mayor abandons none of his prerogatives as a member of the governing body upon being chosen to preside. Rather, he or she continues to speak and to vote as a regular member of that body. The same form of participation is authorized for the mayor in the Town Form, under some City government laws, for the mayor in Small Municipality Plans A and C of the OMCL, and in other special charters, even though these officers are all elected directly by the voters (See Table III-20). An interesting and unusual twist is that Town mayors have the power of veto over council actions, even when they voted on that action as members of their respective councils. The courts have found nothing improper in this combination of powers.¹

A second kind of participation found primarily in the Borough Form, although it also exists under some City laws and special charters, is for the mayor to preside, but to vote only in case of ties. A few respondents to the questionnaire survey from the Township Form also reported this pattern of activity, but this may merely reflect a practice of having the mayor vote last, with the possibility that he or she might abstain if a majority has already been reached.

The third variation is for the mayor to attend governing body meetings, with the right to be heard, but neither to preside nor to vote in the proceedings of the body. This is possible under the City Form of government laws, under the Mayor-Council plans of the OMCL, and under some special charters. A general law² authorizes the mayor in every municipality, unless otherwise prohibited, to vote to break ties on any governing body action. It would appear that "every municipality" boils down to only 14 cities, since specific language in all other forms of government seems to be prohibitory or to make the statute redundant. Finally, there are the places under the OMCL Mayor-Council plans where the mayor simply does not attend governing body meetings.

As shown in Table III-21, there is strong support among municipal officials for having the mayor preside, with all of the voting privileges of any other member of the governing body. Trailing significantly behind in support are the alternatives of (a) having the mayor preside, but vote only on ties, and (b) having the mayor present, but merely as an observer, with the right to be heard. Far lower in popularity is the pattern found in the Mayor-Council plans under the OMCL, where the mayor has the option of attending the council meetings, and frequently does *not* attend. Less than half of the persons with this sort of experience think that it is the "best" form of participation by the mayor. A recommendation which might eliminate this pattern of mayoral non-participation will be considered in Chapter V in connection with the OMCL Mayor-Council Form.

¹ See *Woodhull v. Manahan*, 85 N.J. Super. 157, (App. Div. 1964), *aff'd* 43 N.J. 445 (1964).

² N.J.S.A. 40A:9-132.

Veto Power of the Mayor

The Mayor in about half of the New Jersey municipalities is given the power to veto ordinances and, in some cases, resolutions, with an extraordinary majority - - two thirds - - of all members of the council required to override that veto. Provisions of this sort are found in some City Forms, the Town Form, the Borough Form, and the Mayor-Council plans under the OMCL, as well as in some special charters (See Table 29). The remaining forms of government, most of which include the mayor or as a member of the governing body, do not provide for a veto over that body's actions. One special charter (Westfield) authorizes a mayoral veto which can be overridden by a simple majority of the council.

This issue provides the first clear split between mayors and governing body members among the survey respondents (See Table III-23). Mayors, particularly, and CAAO's strongly support the idea of a veto power for the mayor. Governing body members are much less enthusiastic, although not producing an overwhelming degree of support for the absence of a veto power, either. Municipal clerks fall between these groups although, in general, giving support to the idea of a mayoral veto.

In some cases, the divergence of opinions on this aspect of the charter may be almost meaningless. In the Borough Form, by law, the mayor has a veto, subject to a 2/3 override. But, with a council of six members, the same number of votes - - four - - is necessary for both initial passage of an ordinance against the mayor's wishes and for override by 2/3 of the members. This may explain why 104 respondents from Borough Form governments said they had a mayoral veto, subject to 2/3 respondents said they had a mayoral veto, subject to override by a simple majority; and 34 respondents said their mayor had no veto power. In the final result, they were all right!

With the exception of the Town Form, the veto power of the mayor is generally found in forms of government where the mayor does not have a regular vote in governing body proceedings. There seems to be no good reason to recommend any change in this pattern.

The Chief Executive

Designation of the municipal chief executive is not always clear in the older form-of-government laws. In the City and Town Forms, the separate election of a mayor on an at-large basis, usually for a longer term of office than other elected officials, combined with the assignment of special powers, such as the right to preside at meetings and the veto power, imply that the mayor probably should be considered as the chief executive. In the Borough Form, although the term "chief executive" is not used, the mayor is declared responsible for seeing that state laws and local ordinances are "faithfully executed". The statutes concerning the Township Form and Village Forms do not single out the mayor as anything more than a presiding officer, thus leaving all executive powers in the hands of the township committee or village board of trustees as collective bodies (See Table III-24).

The more recent optional charter laws of the 20th century generally are more definite. Under the Commission Form, although the board of commissioners has discretion in assigning functions among the statutory departments, once this is done at the board's organization meeting, each commissioner becomes the executive officer of his or her own department. The separately-elected mayor is designated as chief executive in the OMCL Mayor-Council Form and in the Small Municipality Form, whether elected directly or selected by the council from its own members. In the Municipal

Table III-20 Participation by the Mayor in Governing Body Meetings in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Presides and Votes as a Regular Member	Presides, But Votes Only to Break Ties	Does Not Preside, But Is Present	Does Not Attend	Total Number of Municipalities
City Form	1	2	14	—	17
Town Form	9	—	—	—	9
Borough Form	—	222	—	—	222
Township Form	174	—	—	—	174
Village Form	1	—	—	—	1
Commission Form	42	—	—	—	42
Municipal Manager Form (1923)	8	—	—	—	8
Mayor-Council Form (OMCL)	—	—	32	14	46
Council-Manager Form (OMCL)	30	—	—	—	30
Small Municipality Form (OMCL)	10	—	—	—	10
Special Charters	5	2	1	—	8
Total	280	226	47	14	567

Table III-21 Percentage of Municipal Officials Having Experience With a Particular Form of Participation by the Mayor in Governing Body Meetings, Who Regard That Form of Participation as the "Best Way".

Statement	Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All ** Respondents
The best form of participation by the Mayor in governing body meetings is where the Mayor:					
presides and has a regular vote as a member	<u>90.9%</u>	<u>86.5%</u>	<u>90.0%</u>	<u>95.0%</u>	<u>91.2%</u>
presides, but votes only in case of ties	67.2	73.5	66.7%	78.5	72.5
is present and may speak, but neither presides nor votes	64.7	78.6	75.0	*	71.7
does not attend	*	*	*	*	46.7
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

* Insufficient data; fewer than 10 responses.

** Including unidentified respondents.

Table III-22 Power of the Mayor to Veto Ordinances in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Mayor May Veto Ordinances, Subject or Override by 2/3 Vote	Mayor May Veto Ordinances, Subject to Override by Majority	Mayor Has No Veto Power	Total Number of Municipalities
City Form	15	—	2	17
Town Form	9	—	—	9
Borough Form	222	—	—	222
Township Form	—	—	174	174
Village Form	—	—	1	1
Commission Form	—	—	42	42
Municipal Manager Form (1923)	—	—	8	8
Mayor-Council Form (OMCL)	46	—	—	46
Council-Manager Form (OMCL)	—	—	30	30
Small Municipality Form (OMCL)	—	—	10	10
Special Charters	<u>3</u>	<u>1</u>	<u>4</u>	<u>8</u>
Total	295	1	271	567

Table III-23 Percentage of Municipal Officials Having Experience With Veto Power of Mayor, Who Regard That Form of Veto as the "Best Way".

Statement	Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All * Respondents
It is best for the Mayor to have a veto power which can be overridden only by a 2/3 vote of the governing body.	<u>92.6%</u>	72.9%	<u>91.1%</u>	<u>82.8%</u>	<u>84.4%</u>
It is best for the Mayor to have no veto power.	53.5	<u>78.4</u>	78.0	76.1	72.5
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

*Including unidentified respondents.

Table III-24 Nature of the Chief Executive in New Jersey Municipalities, as of January 1, 1978.

Form of Government	See Below for Detailed Descriptions:							Total No. of Municipalities
	A	B	C	D	E	F	G	
City Form	—	17	—	—	—	—	—	17
Town Form	—	9	—	—	—	—	—	9
Borough Form	222	—	—	—	—	—	—	222
Township Form	—	—	—	174	—	—	—	174
Village Form	—	—	—	1	—	—	—	1
Commission Form	—	—	—	—	42	—	—	42
Municipal Manager Form (1923)	—	—	—	—	—	8	—	8
Mayor-Council Form (OMCL)	46	—	—	—	—	—	—	46
Council Manager Form (OMCL)	—	—	—	—	—	30	—	30
Small Municipality Form (OMCL)	9	—	1	—	—	—	—	10
Special Charters	4	2	—	—	—	1	1	8
Total	281	28	1	175	42	39	1	567

A — Separately-elected mayor is clearly designated as chief executive.

B — Separately-elected mayor has implied responsibility as chief executive.

C — Mayor chosen by governing body from among own members is chief executive.

D — Governing body members constitute collective chief executive.

E — Executive powers divided among governing body members.

F — Chief appointed administrative officer is chief executive.

G — Chief appointed administrative officer has implied responsibility as chief executive.

most cases drawing on language from other statutes, designate the municipal chief executive in a variety of ways.

Municipal officials in the survey were not asked directly their opinion of the best type of chief executive. The nature of the chief executive is a basic characteristic which differentiates the various forms of government from each other. No changes are recommended.

Chief Executive's Term of Office

Almost all municipal chief executives in New Jersey serve for a fixed term of office, with only the 38 municipal managers and two special charter administrators serving at the pleasure of the governing body (See Table III-25). This term most frequently is four years, including the mayors in the Borough Form, most of the City Form places, the OMCL Mayor-Council Form, and some of the special charters, and the individual commissioners who serve four-year concurrent terms as departmental chief executives in the Commission Form. Table III-25 shows the chief executive as having only a one-year term in the Township Form, because the township committee, which serves as a collective chief executive, reorganizes every year, although its members are elected for three-year, staggered terms of office.

While the municipal officials surveyed were not asked *directly* for an opinion about the desirability of the local chief executive serving a fixed term versus serving at the pleasure of the governing body, opinions expressed with regards to the length of the term of office enforce the recommendations, made previously, which would have the effect of increasing the term of the chief executive in City and Town Forms of government from two to at least three years.

Table III-25 Term of Office of the Chief Executive in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Fixed Term of:				At Pleasure of Governing Body	Total Number of Municipalities
	1 Year	2 Years	3 Years	4 Years		
City Form	—	1	3	13	—	17
Town Form	—	9	—	—	—	9
Borough Form	—	—	—	222	—	222
Township Form*	174	—	—	—	—	174
Village Form*	1	—	—	—	—	1
Commission Form	—	—	—	42	—	42
Municipal Manager Form (1923)	—	—	—	—	8	8
Mayor-Council Form (OMCL)	—	—	—	46	—	46
Council-Manager Form (OMCL)	—	—	—	—	30	30
Small Municipality (Form OMCL)	1	—	9	—	—	10
Special Charters	—	1	2	3	2	8
Total	176	11	14	326	40	567

*Although most township committee members and village trustees are elected for three-year terms of office, any single grouping of members into a collective chief executive has a duration of only one year. Similarly, the mayor under Small Municipality Plan D may have been elected as a council member for a tree year term, but his or her term as mayor, with chief executive responsibilities, has only a one-year duration.

The Chief Appointed Administrative Officer (CAAO)

The older forms of government - - City, Town, Borough, Township, Village, and the first of the optional form-of-government laws of this century - - the Commission Form - - make no specific provision for a position of chief appointed administrative officer. Legislation within the past 10 years has provided authority for the governing body in such places to add this kind of official to their existing governmental structure through passage of a local ordinance. The same law can be used to add a CAAO to the Small Municipality plans under the OMCL. According to this statute, the title of such a position is "municipal administrator", although numerous places describe the person as the city administrator, town administrator, borough administrator, etc.

Beginning with the Municipal Manager Form of Government Law of 1923, the establishment of an office of CAAO became an integral part of most new optional charter legislation. In that law, the individual is known as the manager; in the Mayor-Council plans of the OMCL (1950), he or she is the business administrator; and in the Council-Manager options, the title again is manager.

Most of the larger municipalities in New Jersey have taken some steps to provide for a CAAO, either through adoption of a charter requiring a manager or business administrator, or through passage of a local ordinance establishing a comparable office. In general, the larger the community, the more likely that the charter approach has been used. As of January 1, 1978, 89 municipalities had a CAAO required by charter, and 138 had a CAAO based on a local ordinance (See Table III-26).

The nature of the CAAO varies by form of government. In the 38 places using the 1923 Municipal Manager Form or the OMCL Council-Manager Form, the manager, as local chief executive, is given clear and extensive powers to administer the activities of the municipal government (See Table III-27). Where the municipality has adopted the Mayor-Council Form under the Optional Municipal Charter Law, the CAAO is the business administrator, who serves as head of the department of administration under the mayor's supervision; while the business administrator under this form of government has certain duties clearly stated in the charter, the powers so delegated are limited compared to those of a municipal manager. Finally, the CAAO's whose office is based on a local ordinance have the least statutory or charter authority, since their duties are defined by the municipal governing body, which may not delegate to them any powers or duties which, by law, it must perform itself.

No direct evaluation of the nature of the CAAO's office can be developed from the questionnaire sent to municipal officials. Since the nature of the CAAO is one of the features which distinguish one form of government from another, no recommendations for change are made here.

Method of Appointment of the CAAO

Two broad patterns exist for appointment of the CAAO. In places having a separately-elected mayor and governing body, the pattern involves appointment by the mayor, with the advice and consent of the governing body. This applies to the office of municipal administrator added to the City, Town, and Borough Forms of government by ordinance, to the business administrator required by the Mayor-Council plans of the OMCL, and to any CAAO position established in Small Municipality Plans A and C of that law. The same pattern is used in Small Municipality Plans B and D, since the

Table III-26 Method of Establishment of Office of Chief Appointed Administrative Officer (CAAO) in New Jersey Municipalities, by Range of 1970 Population, as of January 1, 1978.

1970 Population Range	Total Municipalities	CAAO Required by Charter	CAAO Established by Ordinance	No CAAO
0 — 5,000	248	4 (2%)	24 (10%)	220 (89%)
5,001 — 10,000	120	9 (7%)	48 (40%)	63 (52%)
10,001 — 20,000	115	29 (25%)	46 (40%)	40 (35%)
20,001 — 30,000	29	8 (28%)	16 (55%)	5 (17%)
Over 30,000	55	39 (71%)	4 (7%)	12 (22%)
	567	89 (16%)	138 (24%)	340 (60%)

Table III-27 Nature of the Chief Appointed Administrative Officer (CAAO) in New Jersey Municipalities, as of January 1, 1978.

Form of Government	CAAO Has Clear and Extensive Powers	CAAO Has Clear, But Limited Powers	Governing Body Defines CAAO Duties	There is No CAAO	Total Number of Municipalities
City Form	—	—	6	11	17
Town Form	—	—	2	7	9
Borough Form	—	—	71	151	222
Township Form	—	—	51	123	174
Village Form	—	—	—	1	1
Commission Form	—	—	5	37	42
Municipal Manager Form (1923)	8	—	—	—	8
Mayor-Council Form (OMCL)	—	46	—	—	46
Council-Manager Form (OMCL)	30	—	—	—	30
Small Municipality Form (OMCL)	—	—	3	7	10
Special Charters	—	4	1	3	8
Total	38	50	139	340	567

mayor is considered the chief executive, even though elected by and from the council (See Table III-28).

The other pattern, generally in use where there is a mayor who is merely the presiding officer, selected by and from the governing body, is for appointment of the CAAO by majority vote of that body, including the mayor. This pattern is found, by law, in the Township and Commission Forms of government and, logically, should hold for the Village Form, as well.

A difference of opinion between mayors and governing body members might be expected on this issue, and it does exist (See Table III-29). The mayors and, to a lesser extent, the municipal clerks are most supportive of a system involving appointment by the mayor with advice and consent of the governing body. The governing body members and CAAO's lean more toward appointment by a majority vote of the governing body. Overall, among all municipal respondents, the question is almost evenly divided. The linkage of the method for appointing a CAAO with the role of the mayor in relation to the governing body appears logical. No recommendations are made for change.

Term of Office of the CAAO

Only the Mayor-Council plans of the OMCL and one special charter provide that the CAAO should serve during the term of office of the mayor. In all other forms of government - - the Municipal Manager Form (1923), the Council-Manager plans of the OMCL, the City, Town, Borough, Township, Village, and Commission Forms, and the Small Municipality plans of the OMCL, where a CAAO position may be established by local ordinance - - that officer serves at the pleasure of the governing body (See Table III-30). Westfield, in its special charter, authorizes a fixed term for the CAAO, and the term has been established locally at one year.

With the exception of the mayors, municipal respondents to the survey favored a CAAO term of office at the pleasure of the governing body (See Table III-31). As might have been expected, the mayors differed on this point, and indicated a relatively strong opinion that the term of service for the CAAO should be linked to their own term.

The question may be raised as to whether the linking of the CAAO's term of office to that of the mayor in the OMCL Mayor-Council Form may contribute to some of the friction between mayor and council found in that form. The subject will be addressed more directly in Chapter IV.

Tenure in Office for the CAAO

Under the Municipal Manager Form of Government (1923), the manager, after three years in office, may be removed only for cause. This, in effect, grants tenure to the position of CAAO. In a special survey made during the summer of 1976, six of the seven managers under this law had acquired tenure.¹

No other form of government in New Jersey specifically grants tenure to the CAAO (See Table III-32). Tenure in office is a definite factor among the ordinance-administrators, however, where the CAAO job in smaller communities frequently is combined with other offices. Almost half of those responding to the questionnaire (42 or 92; or 46%) had tenure in some non-CAAO office at the time of the survey. Of these, 30% (28 persons) had tenure in another position at the time they were ap-

¹ Of the six, one also had tenure as a municipal engineer and one as a health officer.

Table III-28 Method of Appointment of the Chief Appointed Administrative Officer (CAAO) in New Jersey Municipalities, as of January 1, 1978.

Form of Government	CAAO Appointed By Mayor With Advice and Consent of Governing Body	CAAO Appointed by Governing Body	There is No CAAO	Total Number of Municipalities
City Form	6	—	11	17
Town Form	2	—	7	9
Borough Form	71	—	151	222
Township Form	—	51	123	174
Village Form	—	—	1	1
Commission Form	—	5	37	42
Municipal Manager (Form (1923)	—	8	—	8
Mayor-Council (Form (OMCL)	46	—	—	46
Council-Manager (Form (OMCL)	—	30	—	30
Small Municipality (Form (OMCL)	3	—	7	10
Special Charters	2	3	3	8
Total	130	97	340	567

Table III-29 Percentage of Municipal Officials Having Experience With a Particular Method of Appointing the Chief Appointed Administrative Officer, Who Regard That Method as the "Best Way".

Statement	Mayors	Members of Governing Bodies	CAAO's and Clerk — CAAO's	Municipal Clerks	All* Respondents
The best way to have the CAAO appointed is:					
by the Mayor with advice and consent of the governing body	<u>96.0%</u>	71.9%	84.1%	<u>92.0%</u>	85.2%
by majority vote of the governing body (in- cluding the mayor)	78.4	<u>85.7</u>	<u>91.3</u>	83.8	<u>85.5</u>
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4
*Including unidentified respondents					

Table III-30 Term of Office of the Chief Appointed Administrative Officer (CAAO) in New Jersey Municipalities, as of January 1, 1978.

Form of Government	CAAO Serves at Pleasure of Governing Body	CAAO Serves During Mayor's Term of Office	CAAO Serves for a Fixed Term of One Year	There is No CAAO	Total Number of Municipalities
City Form	6	—	—	11	17
Town Form	2	—	—	7	9
Borough Form	71	—	—	151	222
Township Form	51	—	—	123	174
Village Form	—	—	—	1	1
Commission Form	5	—	—	37	42
Municipal Manager Form (1923)	8	—	—	—	8
Mayor-Council Form (OMCL)	—	46	—	—	46
Council-Manager Form (OMCL)	30	—	—	—	30
Small Municipality Form (OMCL)	3	—	—	7	10
Special Charters	3	1	1	3	8
Total	179	47	1	340	567

Table III-31 Percentage of Municipal Officials Having Experience With a Particular Term of Service for the Chief Appointed Administrative Officer Who Regard that Term of Service as "The Best".

Statement		Mayors	Members of Governing Bodies	CAAO'S and Clerk - CAAO's	Municipal Clerks	All* Respondents
The best term of service for the CAAO is:	during the term of office of	<u>94.1%</u>	72.2%	73.7%	66.7%	78.5%
	at the pleasure of the governing body	73.5	<u>86.0</u>	<u>86.7</u>	<u>71.4</u>	<u>80.6</u>
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

*Including unidentified respondents

Table III-32 Acquisition of Tenure in Office by the Chief Appointed Administrative Officer (CAAO) in New Jersey Municipalities, as of January 1, 1978.

Form of Government	CAAO May Acquire Tenure in That Office	CAAO May Not Acquire Tenure in That Office	There is No CAAO	Total Number of Municipalities
City Form	—	6	11	17
Town Form	—	2	7	9
Borough Form	—	71	151	222
Township Form	—	51	123	174
Village Form	—	—	1	1
Commission Form	—	5	37	42
Municipal Manager Form (1923)	8	—	—	8
Mayor-Council Form (OMCL)	—	46	—	46
Council-Manager Form (OMCL)	—	30	—	30
Small Municipality Form (OMCL)	—	3	7	10
Special Charters	—	5	3	8
Total	8	219	340	567

Table III-33 Percentage of Municipal Officials Having Experience With Particular Patterns of Tenure for the Chief Appointed Administrative Officer, Who Regard That Pattern as "Desirable".

Statement	Mayors	Members of Governing Bodies	CAAO's and Clerk — CAAO's	Municipal Clerks	All ¹ Respondents
It is desirable for the chief appointed administrative officer to have tenure.	64.7%	40.0%	*	*	58.3%
It is not desirable for the chief appointed administrative officer to have tenure.	<u>88.9</u>	<u>90.5%</u>	76.1%	74.6%	<u>82.2</u>
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

*Insufficient data; fewer than 10 responses

¹ Including unidentified respondents

pointed as ordinance-administrator. Most common was tenure as municipal clerk, with 21 persons having such protection when appointed CAAO, and 16 more gaining tenure as clerk while serving as administrator. Ordinance-administrators also reported that they held tenure in some cases as tax collector, treasurer, health officer, tax assessor, and water superintendent, with multiple tenure in a few cases.

The mayors and governing body members in the survey were clearly inclined against granting tenure to the CAAO (See Table III-33).¹ Although the data available were insufficient for the calculation of percentages of support *for* tenure by the CAAO's and municipal clerks, it is probable that they have a somewhat different viewpoint from the elected officials, since their support for *no* tenure is less than their Median Degree of Agreement on All Statements.

The tenure provisions of the Municipal Manager Form (1923) have sometimes been cited as a significant reason why that form has been adopted by so few communities. Since this is the only form of government where the CAAO attains tenure in that position, a recommendation for change will be considered in Chapter IV, along with other aspects of that form.

Removal of the CAAO from Office

Four patterns have been found for removal of the CAAO from office (See Table III-34). Under the Mayor-Council plans of the OMCL, the business administrator, who is appointed by the mayor with the advice and consent of the council, may be removed from office by the mayor, with the proviso that the council, by a 2/3 vote of all members, may veto such removal.

In the Municipal Manager Form of government (1923) and the Council-Manager plans under the OMCL, the manager, who is appointed by the council and serves at their pleasure, may be removed by a simple majority vote of the council.

For those municipalities where the office of municipal administrator has been established by a local ordinance - - the City, Town, Borough, Township, Village, and Commission Forms of government, and the Small Municipality plans under the OMCL - - the enabling statute provides for removal of the CAAO by a 2/3 vote of the governing body.

One special charter (Westfield) simply reverses the appointment process: the CAAO, with a one-year fixed term, may be removed by the mayor with the approval of the council, but only for cause.

Where sufficient data are available in Table III-35, the highest degree of support is given to removal of the CAAO by a 2/3 vote of the governing body. However, the responses to this question, with the exception of those from governing body members, are less positive than the Median Degree of Agreement on All Statements, indicating that these opinions are not as strongly held as many others in the survey. It may be noted that mayors, especially, and CAAO's to a lesser extent, are particularly cool to the idea of removing the CAAO by a simple vote of the governing body.

The low municipal evaluation of the pattern of removing the CAAO by a vote of a simple majority or the governing body may indicate that this approach should be re-considered in those forms where it is now in use - - the Municipal Manager Form (1923) and the OMCL Council-Manager Form.

¹ Although only eight places under the Municipal Manager Form could have CAAO's with tenure in that office, the mayor and governing body respondents included sufficient persons where a CAAO had tenure under some other statute, so that a significant evaluation could be reported.

Table III-34 Provisions for Removal from Office of the Chief Appointed Administrative Officer (CAAO) in New Jersey Municipalities, as of January 1, 1978.

Form of Government	CAAO May Be Removed By:				There is No CAAO	Total Number of Municipalities
	A	B	C	D		
City Form	—	6	—	—	11	17
Town Form	—	2	—	—	7	9
Borough Form	—	71	—	—	154	222
Township Form	—	51	—	—	123	174
Village Form	—	—	—	—	1	1
Commission Form	—	5	—	—	37	42
Municipal Manager* Form (1923)	8	—	—	—	—	8
Mayor-Council Form (OMCL)	—	—	46	—	—	46
Council Manager Form (OMCL)	30	—	—	—	—	30
Small Municipality Form (OMCL)	—	3	—	—	7	10
Special Charters	3	—	1	1	3	8
Total	41	138	47	1	340	567

A - Majority of Governing Body.

B - 2/3 Majority of Governing Body.

C - Mayor, Subject to Veto by 2/3 Majority of Governing Body.

D - Mayor, With Approval of Governing Body.

* Removal under the Municipal Form (1923) is by majority of the governing body, but only for cause after three years of service.

Table III-35 Percentage of Municipal Officials Having Experience With a Particular Procedure for Removal of the Chief Appointed Administrative Officer, Who Regard That Procedure as "The Best".

Statement		Mayors	Members of Governing Bodies	CAAO's and Clerk — CAAO'S	Municipal Clerks	All** Respondents
The "best way" to provide for removal of the CAAO from office is:	by the Mayor with possible veto by 2/3 of governing body	*	*	*	*	75.0%
	by simple majority vote of the governing body	38.1%	63.6%	53.8%	71.4%	56.8
	by 2/3 majority vote of the governing body	*	<u>81.8</u>	<u>77.8</u>	<u>72.7</u>	<u>78.2</u>
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

* Insufficient data; fewer than 10 responses

** Including unidentified respondents

The 1923 law provides that this method of removal may be used only "for cause" after three years of managerial service, thus making the council's removal powers considerably less than would appear at first. Under the OMCL Council-Manager Form, the manager is give such extensive powers under the charter that any change to make removal more difficult should be approached very cautiously.

Characteristics of Chief Appointed Administrative Officers (CAAO)

In a special survey made during the Summer of 1976, responses were received from 92 "ordinance-administrators" and 72 managers and business administrators whose offices were created by charter provision. As might have been expected, since they served in smaller communities, the ordinance-administrators reported that they carried a large number of additional responsibilities: 45 (49%) were also the municipal clerk; 17 (19%) were the municipal treasurer; and other titles covered a wide range of duties. Sixty-six of the 92 (72%) had some other municipal function besides administrator. In contrast, the charter-CAAO's, serving in larger places, held other offices much less frequently (28 of 72 respondents, or 39%). Where charter-CAAO's did serve in multiple capacities, their additional responsibility frequently entailed assignment as a department head, most often as director of public safety (6 respondents).

Prior service in municipal government provided a major entrance point for the ordinance-administrators, with 89% (82 of 92) reporting some earlier public experience. In general, the persons holding these positions appear to fall into two broad groups: those whose past service in some specialized aspect of their municipal government has marked them as a particularly competent person to whom general administrative responsibilities may be given; and a somewhat smaller group which had acquired general administrative experience or training elsewhere prior to being recruited by the municipality. Typical of the first group of "local talent" are the municipal clerks. Over one-third of the ordinance-administrators responding to the survey (32 of 92) had previously been either the municipal clerk or a deputy or assistant clerk. About one-sixth (14 of 92) had prior experience in local elective office, as mayor, councilman, or township committeeman, frequently in a neighboring municipality. Other common backgrounds included municipal treasurer or tax collector.

The second group might be characterized as the "transients". Included are those ordinance-administrators (21 of 92, or 23%) reporting prior general administrative experience elsewhere, plus persons in specialized fields of local government, such as planning and development, with a relatively high degree of mobility.

Managers and business administrators in charter-CAAO positions also had a high frequency of prior public service (61 of 72, or 85%), with a greater degree of general administrative experience (41 of 72 respondents, or 57%). Past service on a municipal governing body was a minor factor (4 respondents), and only one person had been a municipal clerk before becoming a charter-CAAO. Over 40% (29 of 72) of the charter-CAAO's had prior experience as the chief appointed administrative officer in some other community.

In general, the ordinance-administrators had a less extensive educational background than persons serving as charter-CAAO's, averaging not quite a 4-year baccalaureate degree, while the charter-CAAO's averaged about one year of graduate study (See Table III-36). Most charter-CAAO's had some graduate study; most ordinance-administrators did not.

Probably reflecting the fact that many are chosen from the ranks of local career officials, the ordinance-administrators tend to be older than their counterparts in charter-CAAO communities.

When this latter group is classified by the particular charter law, a wide range is seen, with the 1923 Municipal Manager Act incumbents being substantially older than any other group, averaging almost 57 years - - possibly due to the tenure-of-office provisions of that law. Municipal managers under the Optional Municipal Charter Law, on the other hand, average hardly over 40 years of age, with none above 60 (See Table III-37).

The Appointive Power

The locus of appointive power varies widely among the different forms of New Jersey municipal government (See Table III-38). The appointments considered most important by municipal respondents are, in order:

- the attorney,
- members of the planning board,
- the chief appointed administrative officer,
- members of the zoning board of adjustment,
- the municipal clerk
- the engineer,
- the treasurer,
- the police chief,
- the auditor, and
- department heads generally.

While the method of making some appointments is controlled by the form of government, others, such as the appointments to the planning board, are largely controlled by general law.

Nine different appointment patterns have been identified, although three of these are found in only one or two special charter communities. Most common - - because boroughs are the most common form of local government - - is the pattern used only in that form. In the Borough Form, the mayor makes appointments with the approval of the council; however, if the council does not concur with the mayor's nomination, it may make the appointment itself after 30 days. This unique pattern finds little favor with the borough mayors, a majority of whom, according to the questionnaire responses, believe that their appointive powers should be increased (See Table III-39). The governing body members do not agree; in fact, about one-quarter of the borough council members held the opinion that the mayor's appointive powers should be decreased. More than three-quarters of the clerks and CAO's, presumably more neutral observers, opted for no change, with the rest split about evenly between increasing and decreasing the mayor's appointive powers. All four groups of borough officials gave substantial majorities to the idea that the appointive power of the council was "about right".

The second appointment pattern, found in numerous examples, is for the governing body, as a group, to make most major appointments. This approach is found in the Township Form, where the mayor is selected by the township committee from among its own members (See Table III-40). In the City and Town Forms, although the directly-elected mayor has some appointive power, particularly under general laws dealing with the planning board and the ordinance-administrator, the major weight of the appointive power appears also to be in the council. Although some mayors in these communities would like to have broader appointive powers themselves, they show little inclination to decrease the appointive powers of the governing body, perhaps because they often play a role in the process as

Table III-36 Educational Background of Person Serving as Chief Appointed Administrative Officer in New Jersey Municipalities; Based on Survey Responses, Summer, 1976.

Educational Level	Ordinance-Admin-istrators	Charter-Administrators				Sub-Total Charter-CAAO's	Total
		OMCL Mayor-Council Plans	OMCL Council-Manager Plans	1923 Municipal Manager Act	Special Charters		
High School	14 (15%)	—	1	1	—	2 (3%)	16 (10%)
Some College	22 (24%)	2	1	2	—	5 (7%)	27 (16%)
Completed College	32 (35%)	14	5	1	1	21 (29%)	53 (32%)
Graduate Work	24 (26%)	15	22	3	4	44 (61%)	68 (41%)
Average Years of Education	15.35	16.81	17.07	15.43	17.40	16.82	16.00

Table III-37 Age of Persons Serving as Chief Appointed Administrative Officer in New Jersey Municipalities; Based on Survey Responses, Summer, 1976.

Age Range	Ordinance-Adminis-trators	Charter-Administrators				Sub-Total Charter-CAAO's	Total
		OMCL Mayor-Council Plans	OMCL Council-Manager Plans	1923 Municipal Manager Act	Special Charters		
21 - 30	6(7%)	5	5	—	—	10(14%)	16(10%)
31 - 40	14(15%)	10	12	—	1	23(32%)	37(23%)
41 - 50	21(23%)	5	5	2	3	15(21%)	36(22%)
51 - 60	41(45%)	5	7	3	1	16(23%)	57(35%)
Over 60	9(10%)	5	—	2	—	7(10%)	16(10%)
Average Age	49.7	43.7	40.6	56.9	43.6	43.8	47.1

as a regular member of that body. The CAAO's in these places are not as enthusiastic about appointments by the governing body; over one-quarter felt that his power should be decreased.

The Mayor-Council and Small Municipality Forms of government under the Optional Municipal Charter Law provide for the mayor to make major appointments with the advice and consent of the council. Here a wide difference of opinion separates the mayors and the council members (See Table III-41). More than half of the mayors believe that their appointive powers should be *increased*; more than half of the council members think that the mayor's appointive powers should be *decreased*; only a minority in either case is satisfied with the present situation. In contrast, a majority of the CAAO's and the municipal clerks indicate that the present appointive powers of the mayor are satisfactory, and those indicating that some change should be made are split just about evenly on whether the change should be to strengthen or to weaken the mayor.

Under the Commission Form of government, the appointment of major municipal officers is assigned to the individual commissioners. Although the questionnaire responses generally support the

Table III-38 Method of Making Major Appointments in New Jersey Municipalities, as of January 1, 1978.

Form of Government	A	B	C	D	E	F	G	H	I	Total Number of Municipalities
City Form	—	—	—	—	—	—	—	—	17	17
Town Form	—	—	—	—	—	—	—	—	9	9
Borough Form	—	—	222	—	—	—	—	—	—	222
Township Form	—	—	—	—	—	—	—	—	174	174
Village Form	—	—	—	—	—	—	—	—	1	1
Commission Form	—	—	—	—	—	—	—	42	—	42
Municipal Manager Form (1923)	—	—	—	—	—	8	—	—	—	8
Mayor-Council Form (OMCL)	—	46	—	—	—	—	—	—	—	46
Council-Manager Form (OMCL)	—	—	—	30	—	—	—	—	—	30
Small Municipality Form (OMCL)	—	10	—	—	—	—	—	—	—	10
Special Charters	1	2	—	—	2	—	1	—	2	8
Total	1	58	222	30	2	8	1	42	203	567

A — Mayor Makes Major Appointments

B — Mayor Makes Major Appointments With Advice and Consent of Governing Body.

C — Mayor Makes Major Appointments With Advice and Consent of Governing Body: If Mayor's Nominations Not Approved, Governing Body Makes Appointments.

D — CAAO Makes Appointments

E — CAAO Makes Appointments With Advice and Consent of Governing Body.

F — Governing Body Makes Specified Appointments; CAAO Appoints All Others.

G — Governing Body Makes Specified Appointments; Mayor Appoints All Others.

H — Individual Governing Body Members Make Major Appointments.

I — Governing Body as a Group Makes Major Appointments

appointive power of the commission as the law now stands, they do not lend themselves to testing sentiment for some alternative pattern.

In the 30 municipalities now operating under the Council-Manager Form of the OMCL, major appointments are made by the manager, with no formal requirement for approval by the council. Although governing body members are less than enthusiastic about this arrangement, a slender majority still favors it as "about right" (See Table III-42). A substantial minority of managers indicate a belief that their appointive powers should be increased.

The final pattern of appointments outside of the special charters is found in the Municipal Manager Form of 1923, where the governing body appoints - - in addition to the manager - - the assessor, auditor, treasurer, clerk, and attorney. All other major appointments not covered by general law are made by the manager. While not enough questionnaires were received from these places to provide a

Table III-39 Opinion of the Appointive Power in Form of Government Where the Governing Body May Refuse to Confirm Mayor's Appointments and May Make Appointments Itself.*

Statements		Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All** Respondents
Appointive Power of the Mayor:	should be increased.	<u>55.0</u> %	5.9%	14.3%	12.5%	22.6%
	is about right.	45.0	<u>70.6</u>	<u>75.0</u>	<u>78.6</u>	<u>66.0</u>
	should be decreased.	—	23.5	10.7	8.9	11.3
Appointive Power of the Governing Body:	should be increased.	13.8	16.7	9.7	10.8	13.3
	is about right	<u>70.7</u>	<u>79.2</u>	<u>77.4</u>	<u>83.1</u>	<u>77.9</u>
	should be decreased.	15.5	4.2	12.9	6.2	8.8
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

* Borough Form

** Including unidentified respondents.

breakdown by type of municipal official, the total responses are very favorable, an "about right" evaluation being given to both the governing body's and the manager's appointive powers on almost 90% of the questionnaires.

Finally, there are other appointment patterns which some communities are experimenting with through special charters. In one place (Westfield), the mayor makes major appointments with no formal council role; in two places (Middletown and Montvill), the CAAO makes major appointments with the approval of the council; and in one place (South Orange), the governing body (board of trustees) makes specified appointments, with the president of the board, who is chosen by them from their own ranks, making all others.

Election of Administrative Officers

One factor which cuts into the appointive power of the mayor, the governing body, or the CAAO is the direct election of some other municipal officials. This is a characteristic of the older forms of municipal government, and is now found only in the City, Town, Borough, and Township Forms of government (See Table III-43). The most common municipal officers still elected under some forms of government include the clerk, the tax collector, and the tax assessor. Tenure of office laws are available for all of these officers, and many persons have gained permanent status - - to the extent that the elective nature of the office sometimes is forgotten. None of the forms of government enacted by the Legislature in the 20th century provide for election of any officers other than the mayor and governing body.

When queried in the survey, a majority of the municipal officials in the communities having some elected administrative officials supported the system, although substantial minorities of CAAOs and mayors indicated that there should be fewer elected officials (See Table III-44). In the places where only the mayors and governing bodies were elected, very few municipal officials advocated the election of any municipal officers (See Table III-45).

Table III-40 Opinion of the Appointive Power in Forms of Government Where Major Appointments are Made by the Governing Body.*

Statements		Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All** Respondents
Appointive Power of the Governing Body:	should be increased.	20.4%	14.3%	5.3%	3.1%	10.2%
	is about right	<u>75.5</u>	<u>82.9</u>	<u>68.4</u>	<u>91.8</u>	<u>83.8</u>
	should be decreased.	4.1	2.9	26.3	5.2	6.0
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

* City, Town, and Township Forms.

** Including unidentified respondents.

A hundred years ago the tasks of the municipal clerk, the tax assessor, and the tax collector were regarded as a responsibility which any citizen could perform adequately. Election may well have been an appropriate method for filling these offices. Today, the world of municipal government has changed, and the offices require both professional skill and continuity. This has been recognized by the Legislature through the enactment, for all three positions, of tenure-of-office laws which require training, demonstrated competence, or extended experience in the position. Direct election is an appropriate method for choosing governing body members who establish local public policy. It is not an appropriate method for choosing administrative officers who must possess a high level of technical expertise. Despite the existence of some support for election of administrative officials among respondents to the surveys, it is recommended that the City, Town, Borough, and Township Form of government laws be amended to provide for appointment of all administrative officials now elected, with appropriate requirements to insure that professional qualifications are stressed.

Table III-41 Opinion of the Appointive Powers in Forms of Government Where Major Appointments are Made by the Mayor With the Advice and Consent of the Governing Body.*

Statement		Mayor	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All** Respondents
Appointive Power of the Mayor:	should be increased.	<u>61.5%</u>	4.5%	22.2%	18.2%	23.4%
	is about right.	38.5	40.9	<u>66.7</u>	<u>54.5</u>	<u>50.0</u>
	should be decreased.	0	<u>54.5</u>	11.1	27.3	26.6
Median Degree of Agreement on All Statements		81.6	78.5	78.6	82.8	78.4

* OMCL Mayor-Council and Small Municipality Forms.

** Including unidentified respondents.

Table III-42 Opinion of the Appointive Power in Forms of Government Where Major Appointments are Made by the Chief Appointed Administrative Officer (CAAO).*

Statement		Mayors	Members of Governing Bodies	CAAO's and Clerk- CAAO's	Municipal Clerks	All** Respondents
Appointive Power of the CAAO:	should be increased.	**	7.1%	31.3%	20.0%	17.4%
	is about right.	**	<u>57.1</u>	<u>68.8</u>	<u>40.0</u>	<u>58.7</u>
	should be decreased.	**	35.7	0	<u>40.0</u>	23.9
Median Degree of Agree- ment on All Statements		81.6	78.5	78.6	82.8	78.4

*OMCL Council-Manager Form.

**Insufficient data; fewer than 10 responses.

***Including unidentified respondents.

Table III-43 Election of Administrative Officers, Other Than the Mayor and Members of the Governing Body, in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Some Administrative Officers Are Elected	Only the Mayor and Members of the Governing Body are Elected	Total Number of Municipalities
City Form	17	—	17
Town Form	9	—	9
Borough Form	222	—	222
Township Form	174	—	174
Village Form	—	1	1
Commission Form	—	42	42
Municipal Manager Form (1923)	—	8	8
Mayor-Council Form (OMCL)	—	46	46
Council-Manager Form (OMCL)	—	30	30
Small Municipality (Form (OMCL)	—	10	10
Special Charters	—	8	8
Total	422	145	567

Table III-44 Opinion of the Number of Elected Municipal Administrative Officers in Forms of Government Where Such Officers Are Now Elected.*

Statements	Mayors	Members of Governing Bodies	CAAO's and Clerk- CAAO's	Municipal Clerks	All** Respondents
There should be MORE elected municipal administrative officers.	15.2%	12.8%	6.2%	12.9%	12.4%
Keep the PRESENT NUMBER of elected municipal administrative officers.	<u>55.4</u>	<u>73.8</u>	<u>54.2</u>	<u>88.6</u>	<u>70.1</u>
There should be FEWER elected municipal administrative officers.	29.5	13.5	40.0	5.7	17.5
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

*City, Town, Borough, and Township Forms.

**Including unidentified respondents.

Table III-45 Opinion of the Number of Elected Municipal Administrative Officers in Forms of Government Where NO Such Officers Are Now Elected.*

Statements	Mayors	Members of Governing Bodies	CAAO's and Clerk- CAAO's	Municipal Clerks	All** Respondents
There should be MORE elected municipal administrative officers.	6.5%	9.3%	0%	14.3%	8.2%
Keep the PRESENT NUMBER (None) of elected municipal administrative officers.	<u>93.5</u>	<u>90.7</u>	<u>100.0</u>	<u>85.7</u>	<u>91.8</u>
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

*Commission, Municipal Manager (1923), OMCL Mayor-Council, OMCL Council-Manager, OMCL Small Municipality Forms, and all Special Charters.

**Including unidentified respondents.

The Budget

The older forms of municipal government make no special provision for preparation of a budget for review and consideration by the governing body; by indirection, the task is left to the governing body members, unless it is delegated by them to some other officer. In the more recent optional charter laws, which attempt to establish a clear distinction between the executive and legislative functions of local government, care has been taken to designate the municipal officers responsible for preparing what might be called an "executive" budget for submission to the governing body. In 58 cases, as of January 1, 1978, this duty falls to the mayor; in 42 cases, an appointed CAAO prepares the budget; in all other cases, the responsibility remains with the governing body (See Table III-46). No questionnaire responses address this subject directly.

Table III-46 Responsibility for Initial Preparation of the Budget in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Responsibility for Initial Preparation of the Budget is Assigned to:			Total Number of Municipalities
	The Mayor	The CAAO	The Governing Body	
City Form	—	—	17	17
Town Form	—	—	9	9
Borough Form	—	—	222	222
Township Form	—	—	174	174
Village Form	—	—	1	1
Commission Form	—	—	42	42
Municipal Manager Form (1923)	—	8	—	8
Mayor-Council Form (OMCL)	46	—	—	46
Council-Manager Form (OMCL)	—	30	—	30
Small Municipality Form (OMCL)	10	—	—	10
Special Charters	2	4	2	8
Total	58	42	467	567

Types of Municipal Elections

During the first half of the 19th century, local elections frequently were held at different times from those for higher offices. By the end of the century, however, the election dates had been consolidated, and political parties had come to play a significant role in the election of candidates for municipal office. One of the major elements of the "reform" movements of the early 20th century was an effort to remove local government from the influence of political party competition by making the elections "non-partisan". This was done by changing the election date from the November general election, when county, state, and national offices were contested, to some more neutral time of year; by providing for nomination entirely by petition, rather than party caucus or primary; by prohibiting the use of political party identification of candidates on the official ballot forms; and, in some cases, by prohibiting grouping or "bracketing" of candidates on the ballot.

The Municipal Manager Form of Government Law (1923) goes the furthest in this direction, changing the municipal election date to May, using a petition approach for nomination, prohibiting any party or policy designated for candidates, and forbidding any grouping of candidates. Both the Commission Form of Government Law (1911) and certain plans under the Optional Municipal Charter Law¹ (1950) provide for non-partisan elections in May, use petitions for nomination, and prohibit party affiliations from appearing on the ballot, but they allow candidates to be grouped and permit some non-party slogan or policy designation after the candidates' names. The Village Form of government, since 1907, has permitted the board of trustees to place on the ballot the question of whether the village should change to a non-partisan type of local election. If approved, the pattern is substantially the same as that in the Commission Form, for which it provided a model (See Table III-47).

The older forms of government continue to use partisan elections, where a candidate may gain a party endorsement by running in the primary election held in the Spring in preparation for the general election in November. Independent candidates, too, may file petitions and run for office in the general election.

As shown in Table III-48, all types of municipal respondents in the survey of municipal officials give an endorsement to the use of non-partisan elections. CAAO's appear especially decisive in their dislike of partisan elections, while the governing body members provide the most substantial support for non-partisan elections. Mayors and municipal clerks have more divided allegiances but, they too, come down on the side of non-partisan elections when grouped according to the experience in their own forms of government.

One of the open questions about non-partisan elections is whether they can ever succeed in completely eliminating the role of the political parties. Such mechanical things as changing the election date and prohibiting party names on the ballot are a step in this direction, but it is difficult to prevent persons in political parties from supporting candidates on a more or less organized basis. Data from the survey, as shown in Table III-49, indicate a belief by the respondents that a few non-partisan elections really eliminate the role of the political parties. The results are reasonably consistent; according to each group of respondents having non-partisan elections, political parties play "a major role" in from one-quarter to one-third of the communities. In another one-quarter to one-

¹ Mayor-Council Plans A, B, C, D; Council-Manager Plans A, B, C, D; and Small Municipallty Plans A and B.

Table III-47 Types of Elections in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Partisan Elections	Non-Partisan Elections	Total Number of Municipalities
City Form	17	—	17
Town Form	9	—	9
Borough Form	222	—	222
Township Form	174	—	174
Village Form	—	1	1
Commission Form	—	42	42
Municipal Manager Form (1923)	—	8	8
Mayor-Council Form (OMCL)	24	22	46
Council-Manager Form (OMCL)	18	12	30
Small Municipality Form (OMCL)	8	2	10
Special Charters	7	1	8
Total	479	88	567

Table III-48 Percentage of Municipal Officials Having Experience With a Particular Type of Elections, Who Regard That Type as "The Best".

Statement	Mayor	Members of Governing Bodies	CAAO's and Clerk- CAAO's	Municipal Clerks	All** Respondents
It is best to elect the governing of the municipality in: partisan elections	77.0%	63.3%	37.5%	79.4%	68.2%
non-partisan elections	<u>81.8</u>	<u>91.7</u>	<u>88.5</u>	<u>81.6</u>	<u>86.1</u>
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

**Including unidentified respondents

third of the places, they play "some role"; and in another one-fifth to one-third they play "a very small role". In only a small minority of communities does the use of non-partisan elections appear to have eliminated the role of parties in local elections.

The non-partisan election laws under the different forms of government vary in some of their particulars, and there may be some merit in the preparation of a uniform non-partisan law which would apply to all municipalities using this form of election. On the other hand, the variations among the existing laws do not appear to cause substantial difficulty and, in most cases, they are accepted and understood by the communities using them. To mandate a superficial uniformity probably would serve no good purpose. Therefore, any uniform statute developed should be made available on an optional, rather than mandatory basis.

A second aspect of this subject will be more controversial. In the questionnaire results, a surprisingly large minority of municipal respondents in places now using partisan elections expressed a belief that non-partisan elections were a better approach. This raises the question of making non-partisan elections available to those communities still operating under the older forms of City, Town, Borough, and Township government. One probable objection is based on cost. These forms of government hold municipal elections every year, and a non-partisan election would constitute an added cost. By increasing the governing body term of office from three to four years, however, these older forms could be adjusted to a two-year election cycle which would make them similar in some ways to the OMCL Small Municipality Form.

Table III-49 Description of the Role of Political Parties in Municipalities Having Non-Partisan Elections, By Municipal Officials From Such Communities.

Political Parties described as playing:	Mayors	Members of Governing Bodies	CAAO's and Clerk - CAAO's	Municipal Clerks	All ¹ Respondents
a major role.	30.0%	27.3%	23.1%	24.3%	26.1%
some role.	30.0	25.5	26.9	32.4	28.3
a very small role	30.0	29.1	34.6	18.9	27.5
no role at all.	10.0	18.2	15.4	24.3	18.1

The estimated cost of a non-partisan election was found to be less than 50 cents per capita through the 1969-75 period. (See Table III-50). This may be a price that some communities operating under the older forms of government may be willing to pay every two or four years in order to try non-partisan elections. **It is recommended that a uniform non-partisan election statute be enacted and made available on an optional basis, through a petition and referendum procedure to every municipality in the state.**

Run-Off Elections

One of the potential problems involved in non-partisan elections is that, without the screening process of a primary election for party nomination, the number of individual candidates on the municipal election ballot may proliferate to the point where no candidate will achieve a majority, or even a substantial plurality of the vote. This has led to the idea of having a run-off election, where the

Table III-50 Estimated Cost Per Capita of Non-Partisan Elections in Municipalities Operating Under the Optional Municipal Charter Law, 1969-1975.

	1969	1970	1971	1972	1973	1974	1975	7-Year Total
Number of Municipalities Holding Election	6	8	6	5	6	8	6	45
Average Cost Per Capita*	\$.416	\$.427	\$.375	\$.464	\$.547	\$.429	\$.445	\$.441
Median Cost Per Capita	.359	.466	.290	.502	.435	.460	.400	.452
Highest Cost Per Capita	.870	.631	.984	.647	1.247	.645	.821	1.247
Lowest Cost Per Capita	.184	.174	.092	.262	.232	.179	.158	.092

Estimated cost per capita determined by deducting from the amount for "Elections" in the year of the election the average of the amounts for the same item in the years immediately preceding and immediately following the election year, and dividing by the municipality's estimated or actual population in the election year.

Source of data: Annual Reports of the Division of Local Government Services, Department of Community Affairs, State of New Jersey.

Municipalities included are: Bayonne, Brick, Camden, Cedar Grove, Franklin Township (Somerset), Hoboken, Irvington, Jersey City, Mount Holly, Newark, Newton, Ocean Township (Monmouth), Sparta, Trenton, Vineland, West Orange.

*The average is the unweighted mean figure for the municipalities holding elections in a given year.

top vote-getters in the initial election face each other for a second time without the multitude of other candidates who help to dilute the vote. Only the Optional Municipal Charter Law in New Jersey provides for run-off elections. They apply to the non-partisan elections in Council-Manager Plans A, B, C, and D, to Mayor-Council Plans B and C, and to the municipalities which adopted Mayor-Council Plans A and D up to 1956; only 27 places are now affected (See Table III-51).

None of the types of municipal respondents having experience with run-off elections show great enthusiasm for them (See Table III-52). In contrast, the persons who do not have such elections indicate, by more than 80%, that they do not want them. In the thought that this result may be weighted too heavily with persons who have no need for run-offs because they function within a partisan election plan, a special check was made of the respondents from Commission and Municipal Manager Forms (1923) of government, where non-partisan elections are not accompanied by run-offs. The results are overwhelming; only three (8.3%) of the 36 respondents from these places favored run-offs.

In view of the relative lack of support for run-off elections, and in the knowledge that they create additional costs for the municipality, it is recommended that the uniform non-partisan election statute suggested earlier include run-off elections as an optional feature.

Table III-51 Use of Run-Off Elections in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Run-Off Elections	Do Not Have Run-Off Elections	Total Number of Municipalities
City Form	—	17	17
Town Form	—	9	9
Borough Form	—	222	222
Township Form	—	174	174
Village Form	—	1	1
Commission Form	—	42	42
Municipal Manager Form (1923)	—	8	8
Mayor-Council Form (OMCL)	15	31	46
Council-Manager Form (OMCL)	12	18	30
Small Municipality Form (OMCL)	—	10	10
Special Charters	—	8	8
Total	27	540	567

Table III-52 Percentage of Municipal Officials Having Experience With and Without Run-Off Elections, Who Regard Such Elections as "Desirable" or "Not Desirable".

Statement	Mayors	Members of Governing Bodies	CAAO'S and Clerk-CAAO's	Municipal Clerks	All* Respondents
It <u>is</u> desirable to have run-off elections when a majority vote is not achieved in the first election.	68.8%	75.0%	52.9%	63.6%	62.7%
It is <u>not</u> desirable to have run-off elections when a majority vote is not achieved in the first election.	<u>82.0</u>	<u>81.1</u>	<u>81.3</u>	<u>87.9</u>	<u>83.6</u>
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

*Including unidentified respondents

Direct Powers of the Voters

Part of the reform movement of the early 20th century was an effort to enable the voters of a community to play a direct role in their local government:

- by proposing ordinances and enacting them by a referendum vote if the governing body declines to act (power of "initiative");
- by vetoing the implementation of ordinances enacted by the governing body (power of "referendum"); and
- by removing members of the governing body from office prior to the end of the term for which they were elected if they have not performed to the satisfaction of the voters (power of "recall").

All three of these general powers were written into the Commission Form of Government Law (1911) and the Optional Municipal Charter Law (1950). The Municipal Manager Form of Government Law (1923) provides for recall, but not for initiative or referendum. No other forms of government currently authorize initiative, referendum or recall as general local powers. However, there are a variety of statutes which permit action by the voters through a petition and referendum process in specialized cases.¹

Power of Initiative

About one-fourth of the municipalities in New Jersey have forms of government including the power of initiative (See Table III-53). Municipal respondents to the survey from municipalities where the power of initiative exists are generally very supportive of it, as shown in Table III-54. Only the municipal clerks show some coolness although, even here, the degree of support is higher than the Median Degree of Agreement on All Statements. Except for the clerks, there was less support among the respondents from those places not having the power of initiative for their own system.

The Power of Referendum

The power of referendum appears to be available in the same municipalities as the power of initiative (See Table III-55). This is not quite so, since the three special charter communities shown in Tables III-53 and III-55 are not the identical places.

The reaction to a question on the power of Referendum is more unanimous than for the power of Initiative (See Table III-56). Every group of municipal respondents from places having this power authorized for the voters give it a substantial measure of support. Where the power is not available, the respondents still support their own pattern, but to a lesser degree.

¹ See, for example: N.J.S.A. 40:49-27 regarding referendum on incurring of indebtedness; 40:12-10 regarding establishment of a recreation system; 40:60-46 regarding leasing of a municipal casino or bathing establishment; 40:178-18 regarding construction of streets along streams.

Table III-53 Availability of the Power of Initiative in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Voters Have the Power of Initiative	Voters Do Not Have the Power of Initiative	Total Number of Municipalities
City Form	—	17	17
Town Form	—	9	9
Borough Form	—	222	222
Township Form	—	174	174
Village Form	—	1	1
Commission Form	42	—	42
Municipal Manager Form (1923)	—	8	8
Mayor-Council Form (OMCL)	46	—	46
Council Manager Form (OMCL)	30	—	30
Small Municipality Form (OMCL)	10	—	10
Special Charters	3	5	8
Total	131	436	567

Table III-54 Percentage of Municipal Officials Having Experience With and Without the Power of INITIATIVE, Who Regard That Power as "Desirable" or "Not Desirable".

Statements	Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All* Respondents
It <u>is</u> desirable for the voters of the municipality to have the power of Initiative.	<u>86.8%</u>	<u>90.5%</u>	<u>87.2%</u>	83.6%	<u>87.2%</u>
It is <u>not</u> desirable for the voters of the municipality to have the power of Initiative.	81.6	70.7	77.1	<u>84.7</u>	78.9
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

* Including unidentified respondents

Table III-55 Availability of the Power of Referendum in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Voters Have the Power of Referendum	Voters Do Not Have the Power of Referendum	Total Number of Municipalities
City Form	—	17	17
Town Form	—	9	9
Borough Form	—	222	222
Township Form	—	174	174
Village Form	—	1	1
Commission Form	42	—	42
Municipal Manager Form (1923)	—	8	8
Mayor-Council Form (OMCL)	46	—	46
Council-Manager Form (OMCL)	30	—	30
Small Municipality Form (OMCL)	10	—	10
Special Charters	3	5	8
Total	131	436	567

Table III-56 Percentage of Municipal Officials Having Experience With and Without the Power of REFERENDUM, Who Regard That Power as "Desirable" or "Not Desirable".

Statements	Mayors	Members of Governing Bodies	CAAO's and Clerk-CAAO's	Municipal Clerks	All* Respondents
It is <u>desirable</u> for the voters of the municipality to have the power of REFERENDUM.	<u>81.9%</u>	<u>84.9%</u>	<u>88.5%</u>	<u>83.6%</u>	<u>86.4%</u>
It is <u>not</u> desirable for the voters of the municipality to have the power of REFERENDUM.	85.7	68.3	80.5	78.2	77.7
Median Degree of Agreement on All Statements	81.6	78.5	78.6	82.8	78.4

*Including unidentified respondents

Table III-57 Availability of the Power of Recall in New Jersey Municipalities, as of January 1, 1978.

Form of Government	Voters Have the Power of Recall	Voters Do Not Have the Power of Recall	Total Number of Municipalities
City Form	—	17	17
Town Form	—	9	9
Borough Form	—	222	222
Township Form	—	174	174
Village Form	—	1	1
Commission Form	42	—	42
Municipal Manager Form (1923)	8	—	8
Mayor-Council Form (OMCL)	46	—	46
Council-Manager Form (OMCL)	30	—	30
Small Municipality Form (OMCL)	10	—	10
Special Charters	3	5	8
Total	139	428	567

Table III-58 Percentage of Municipal Officials Having Experience With and Without the Power of RECALL, Who Regard That Power as "Desirable" or "Not Desirable".

Statements	Mayors	Members of Governing Bodies	CAAO's and Clerk- CAAO's	Municipal Clerks	All* Respondents
It <u>is</u> desirable for the voters of the municipality to have the power of RECALL	<u>89.9%</u>	<u>87.3%</u>	<u>84.9%</u>	<u>77.5%</u>	<u>84.6%</u>
It is <u>not</u> desirable for the voters of the municipality to have the power of RECALL	64.5	58.5	76.3	75.0	68.6
Median Degree of Agree ment on All Statements	81.6	78.5	78.6	82.8	78.4

*Including unidentified respondents

The Power of Recall

Recall is available to the voters in a few more places than Initiative and Referendum (See Table III-57). The third of the direct powers of voters -- the power of recall -- also gains general support from those municipal officials having experience with it, while the persons in other communities give relatively lukewarm support to their own plan, which lacks the power of recall (See Table III-58).

The powers of initiative, referendum, and recall, which are now available to voters only in communities that have adopted one of the 20th century optional charter forms of government or a special charter, have received substantial endorsement in the municipal officials survey. Bills have been introduced in the present legislative session which would extend these powers to all communities.¹ No detailed analysis of these proposals has been made here; however, the availability of such powers to all communities appears desirable. The major questionable feature of many of the recent bills is that the proposed legislation would impose these powers on all municipalities by State mandate. In order to remove this criticism, **it is recommended that uniform initiative, referendum, and recall legislation be enacted on an optional basis, to be adopted by the voters of any municipality through a petition and referendum process.**

Although extension of the powers of initiative, referendum, and recall is recommended, there are some problems with existing procedures which do not appear to be addressed by the proposed legislation. One problem, which has led to frequent and extensive litigation, is the requirement that the process be initiated by accumulating signatures on a petition which is then submitted to the local municipal clerk for validation of the signatures as those of registered voters within the municipality. An initiative, referendum, or recall petition, by its very nature, represents a conflict between a group of citizens and the municipal governing body. While not intended as a criticism of any municipal clerk, it must be pointed out that his responsibility in some communities may constitute an inordinate burden on a local official who frequently must depend upon the municipal governing body for reappointment, and always depends upon that body for budgetary support. Furthermore, the clerk generally must rely for legal advice upon the municipal attorney, who holds one of the most important appointments made by the mayor or governing body of the municipality. Validation of petition signatures is a task which may occur only occasionally in a given municipality, thus providing little chance for the clerk or the attorney to develop a high level of expertise in the subject.

Some alternative to local validation of signatures is desirable. No substitute for the voter's signature appears readily available. It would be possible, however, to transfer the responsibility for certifying the validity of the signatures to some agency having a less immediate interest in the outcome. An obvious place to assign the task is the county board of elections or the county superintendent of elections, who maintain the basic voting records against which the signatures must be checked.²

¹ A uniform recall bill, A1482, is pending in committee; a uniform initiative and referendum proposal, A362, has passed the Assembly and received second reading in the Senate.

² In some cases, the task already is being "subcontracted" by the municipality to the county superintendent of elections; see *D'Ascensio v. Benjamin*, 137 N. J. Super. 155 (Ch. Div. 1975), *aff'd* 142 N. J. Super. 52 (App. Div. 1976), *certif. den.* 71 N. J. 526 (1976).

This would remove the responsibility from the municipality concerned; moreover, in most cases, it would assign the duty to a bi-partisan agency which, through the frequency of petitions from a larger number of municipalities, might be in a better position to develop personnel with the particular skills required.

If such a transfer were made, the county board of elections or the superintendent of elections should be reimbursed by the municipality for the costs incurred. Data included in a recent judicial decision involving validation of signatures on an initiative petition in Essex County, can provide some guideline to the work units and costs involved.¹ In this instance, the signatures were checked in a so-called Phase I at a rate of about 19 per hour, with labor costs set at \$9.00 per hour, for a cost of \$.475 per signature. In this Phase, the signatures on the petition were identified with election districts according to the addresses attached, and were checked against signatures in the election binder book to determine if they matched. A Phase II was included, in which those signatures which did not match any signature in the election binder book were checked against other records, such as active and inactive alphabetical voter card files and lists of address transfers, marriages, and changes of name. In this case, Phase II was necessary because the signatures had been gathered over an 18-month period. The work pace for Phase II averaged 6.3 signatures checked per hour which, at \$9.00 per hour, came to \$1.43 per signature. These unit costs, if substantiated from other parts of the state, could serve as a basis for a formula by which a municipality could repay the county agency for its services. **It is recommended that the uniform initiative, referendum, and recall legislation provide for filing petitions with the county board of elections or the county superintendent of elections, for certification of validity by that board or officer, and for reimbursement of the county by the municipality according to a uniform unit cost per signature.**

All three types of direct voter participation -- initiative, referendum, and recall - suffer from the problem that they frequently are started by groups of citizens having little experience in government and inadequate legal advice. Too often, the attempt to prepare petitions results in technical errors which may invalidate the work after an extensive effort to gather signatures. If the citizens have the right to petition for some action, they should have the right to some assistance in eliminating technical errors. One way in which this might be done is to have government, itself, provide standard, approved petition forms on which signatures may be gathered. **It is recommended that legislation require the Secretary of State to develop and promulgate standard initiative, referendum, and recall petition forms, and require the municipal clerk in all municipalities having adopted these powers to make copies of the forms available to any citizen upon request.**

A third problem involving initiative and recall petitions concerns the time period during which signatures may be gathered. Currently, there is no limit to this time period, and courts have accepted initiative petitions gathered over as much as an 18-month period. Since opinions change over time, it would appear that there should be some limitation to the period during which a voter's signature may be carried on a petition. Moreover, as has been described above, permitting a long time period makes the checking of signatures a costly and involved task. A 90-day period for gathering signatures appears reasonable. **It is recommended that the standard initiative and recall petitions include provisions for the municipal clerk, when issuing them, to insert a deadline date, 120 days in the future, by which they must be filed or become invalid.**

¹ Ibid.

Classification of Municipal Official Responses

In an effort to draw some generalizations from the multitude of municipal official opinions reported, each component in the tables has been classified according to the following scheme:

- Class A - Percentage support is higher than for any alternative statement.
Percentage support is higher than the Median Degree of Agreement on All Statements.
Percentage support is 50% or higher.
- Class B - Percentage support is higher than for any alternative statement.
Percentage support is lower than the Median Degree of Agreement on All Statements.
Percentage support is 50% or higher.
- Class C - Percentage support is lower than for some alternative statement.
Percentage support is higher than the Median Degree of Agreement on All Statements.
Percentage support is 50% or higher.
- Class D - Percentage support is lower than for some alternative statement.
Percentage support is lower than the Median Degree of Agreement on All Statements.
Percentage support is 50% or higher.
- Class E - Percentage support is below 50%.

Class A Components

Following this scheme, if all of the Class A components are aggregated, they might be considered as the basis for a "preferred" form of government: they represent the collection of best alternatives, all of which have achieved both above-average and majority support from the municipal officials having experience with them. It should be noted, however, that some preferred components may be difficult to reconcile with others. Class A for "All Respondents" includes from the following:

- A governing body of 5 members;
- A governing body elected at-large;
- A governing body elected for 4-year terms of office;
- A governing body serving staggered terms of office;
- A mayor elected directly by the voters;
- A mayor serving a 4-year term of office;
- A mayor who presides and has a regular vote as a member of the governing body;
- A mayor with a veto power which can be overridden only by a 2/3 vote of the governing body;
- A CAAO appointed by majority vote of the governing body;¹
- A CAAO who serves at the pleasure of the governing body;
- A CAAO who does not acquire tenure;

¹ The survey did not ask directly whether there should be a CAAO. These statements address the structuring of that position if it does exist.

- Major appointments made by the governing body;¹
- No direct election of administrative officers beyond the mayor and governing body;
- The election of the mayor and governing body in non-partisan elections;
- No use of run-off elections;
- The power of initiative for the voters;
- The power of referendum for the voters;
- The power of recall for the voters.

Class B Components

Class B components represent a somewhat lesser degree of approval. While still better than any alternative, they are supported by the persons using them with less enthusiasm than is given to other components of a local government structure. In general, they may be called "very acceptable". For "All respondents", the Class B components are:

- A CAAO who may be removed by a 2/3 vote of the governing body;
- Some municipal administrative officers are elected.

CLASS C Components

The components in Class C have achieved less support from the municipal officials having experience with them than was achieved by some alternative from the officials having experience with that alternative. Nevertheless, they do represent a collection of local government structural components which are supported strongly (above median level) by more than a majority of the officials using them and, as such, should be considered "acceptable". For "All Respondents", the components in Class C are:

- A governing body of 3 members;
- A governing body of 7 members;
- A governing body elected for 3-year terms of office;
- A mayor serving a 3-year term of office;
- A CAAO appointed by the mayor with advice and consent of the governing body;
- A CAAO who serves during the mayor's term of office;
- No power of initiative for the voters.

Class D Components

Class D components are those which, while supported by more than half of the municipal officials having experience with them, are not supported as strongly as many other components. While

¹ The various patterns for major appointments have been classified by comparing the "about right" responses in Tables III-39, 40, 41 and 42.

While not considered undesirable, their use in local charters is at least "questionable". For "All Respondents", the Class D components are:

- A governing body of 9 members;
- A governing body elected through a combination of wards and at-large election;
- A governing body serving concurrent terms of office;
- A mayor selected by and from the members of the governing body;
- A mayor serving a 1-year term of office;
- A mayor who presides, but votes only in case of ties;
- A mayor who is present at governing body meetings and may speak, but neither presides nor votes;
- A mayor without a veto power;
- A CAAO who has tenure in office;
- A CAAO who may be removed by the mayor, with a possible veto by 2/3 of the governing body;
- A CAAO who may be removed by a simple majority vote of the governing body;
- Major appointments made by the mayor with advice and consent of the governing body; provided, that if the governing body does not concur, it may make the appointments;
- Major appointments made by the mayor with the advice and consent of the governing body;
- Major appointments made by the Chief Appointed Administrative Officer;
- The election of the mayor and governing body in partisan elections;
- Run-off elections where a majority vote is not achieved;
- No power of referendum for the voters;
- No power of recall for the voters.

Class E Components

Class E components are few in number; they include those aspects of a local charter which have found little favor with the municipal officials who have been exposed to them. Less than half of the experienced persons believe that they are the "best way" of doing things. Their continued use should be considered "highly questionable". For "All Respondents", the Class E components are:

- A governing body elected entirely from wards;
- A governing body elected for 2-year terms of office;
- A mayor serving a 2-year term of office;
- A mayor who does not attend meetings of the governing body.

Chapter IV - Evaluation of the Forms of Municipal Government

In the preceding chapter, the forms of municipal government were broken down into their charter components, with each component being examined in detail. This chapter will put the components back into the package known as a form of government, in order to evaluate each form as a whole.

In making these evaluations, the greatest reliance has been placed on the opinions of the municipal respondents, who have worked with the charters on a day-to-day basis. These results, modified by a number of perceptions and subjective factors, are classified in the following manner:

Class E - Highly Questionable

" D - Questionable

" C - Acceptable

" B - Very Acceptable

" A - Preferred

Particular components of a charter are listed as "weak" if they fall within class E or D, or if in the judgment of the Commission, they demonstrate some other doubtful characteristics.

The listing of a charter component as a "weakness" is considered primarily as a cause for further exploration of ways to remedy that weakness. However, not every component identified in this manner is matched with some solution. In many cases, what might appear to be a weakness may be an essential aspect of a form of government; to change this aspect might change the nature of the form of government in such a way as to reduce the options available to the municipalities in New Jersey.

In addition to the evaluation of charter components by the municipal respondents, each mayor, council member, clerk, and CAAO was asked to evaluate the performance of his or her own municipal government in relation to ten selected characteristics of local government:

Economy
Responsiveness
Honesty
Stability
Participation
Effectiveness
Accountability
Balance
Flexibility

The definitions of each term, and the procedure for calculating an overall evaluation for each form of government, are described in Appendix B.

City Form

Although only 17 New Jersey municipalities now use the City Form of government, there are many different combinations of charter components. The major common features are a mayor, elected directly by the voters and having relatively weak powers, and a council, frequently of large size and, usually, with most members elected from wards. Details of the charter components in the City Form of government, together with their evaluations from Chapter III, are shown in Table IV-1.

Table IV-2 shows the evaluation by municipal officials of municipal performance under the City Form of governments. In most aspects, the evaluation is rather favorable, with performance rated at above-average levels in stability, participation and efficiency.

Major weak spots of the City Form appear to include:

- the large size of the council in some cities, with nine or more members in seven municipalities;
- the use of wards for election of almost all city council members;
- the short (2-year) term of office for the single at-large council member found in some cities;
- the short (2-year) term of office for the mayor in one city;
- the limited form of participation by the mayor in council meetings in most cities;
- the lack of a veto power for the mayor in some cities;
- the lack of a chief appointed administrative officer in most cities;
- the election of some administrative officials;
- partisan elections;
- the absence of the powers of referendum and recall; and
- the confused nature of the statutes governing this form of government.

Some of these weaknesses are addressed by recommendations already made, namely:

- that amendments to the City Form and Town Form of government laws permit reduction of any governing body with nine or more members to nine, seven, or five members, through a petition and referendum process;
- that the City Form of government laws be amended to provide for at least a three-year term of office for the council member elected at large;
- that the City Form of government laws be amended to provide for at least a three-year term of office for the mayor;
- that the City, Town, Borough, and Township Form of government laws be amended to provide for appointment of all administrative officials now elected, with appropriate requirements to insure that professional qualifications are stressed; and
- that optional statutes be enacted to authorize non-partisan elections and the powers of initiative, referendum and recall in any municipality.

Table IV-1 Evaluation of the Components of the CITY Form of Government. (17 Cities as of January 1, 1978)

Component	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY	Name: COUNCIL		
Size	4 members (1 city)		
(Including	5 members (1 city)	A	Preferred
the mayor,	7 members (8 cities)	C	Acceptable
when pre-	9 members (3 cities)	D	Questionable
siding, either	10 members (2 cities)		
with or	11 members (1 city)		
without vote.)	12 members (1 city)		
Use of Wards	All council members elected at large (3 cities)	A	Preferred
	All council members elected from wards (4 cities)	E	Highly Questionable
	One council-member-at-large, with rest elected from wards (10 cities)	D	Questionable
Term of Office	Cities electing all council members at-large: 3 years (3 cities)	C	Acceptable
	Cities electing all council members from wards:		
	3 years (2 cities)	C	Acceptable
	4 years (2 cities)	A	Preferred
	Cities electing council by combination of wards and at-large:		

Table IV-1 Evaluation of the Components of the CITY Form of Government. (17 Cities as of January 1, 1978) Continued

Component	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY (Con't.)			
Term of Office (Con't.)	Members from wards: 3 years (10 cities)	D	Acceptable
	At-large members: 2 years (3 cities)	E	Highly Questionable
	4 years (7 cities)	A	Preferred
Arrangement of Terms of Office	Staggered	A	Preferred
Presiding Officer at Meetings	Directly-elected mayor (3 cities)		
	The council member elected at-large (10 cities)		
	A member chosen by and from the council (4 cities)		
Duties of Members	No prohibition against administrative duties		
Salaries	Generally, no statutory limitation		
MAYOR Method of Selection	Direct election by voters	A	Preferred

Table IV-1 Evaluation of the Components of the CITY Form of Government (17 Cities as of January 1, 1978) Continued

		Evaluation by Municipal Officials	
Components	Description	Class	
MAYOR (Continued)			
Term of Office	2 years (1 city)	E	Highly Questionable
	3 years (3 cities)	C	Questionable
	4 years (13 cities)	A	Preferred
Participation in Governing Body Meetings	Presides and votes as a regular member (1 city)	A	Preferred
	Presides, but votes only to break ties (2 cities)	D	Questionable
	Does not preside, but is present and may speak, and may vote to break ties (14 cities)	D	Questionable
Veto Power	May veto ordinances subject to override by 2/3 of council (15 cities)	A	Preferred
	No veto power (2 cities)	D	Questionable
CHIEF EXECUTIVE	No explicit designation, but mayor's executive responsibil- ities may be implied by direct election, veto power, and gen- erally longer term of office.		
Term of Office	Chief executive (mayor serves for fixed term of office (2,3, or 4 years)		

Table IV-1 Evaluation of the Components of the CITY Form of Government (17 Cities as of January 1, 1978) Continued

		Evaluation by Municipal Officials	
Components	Description	Class	
CHIEF APPOINTED ADMINISTRA- TIVE OFFICER (CAAO)	There can be a CAAO with duties defined by the council, if the office of mu- nicipal administrator is estab- lished by local ordinance (6 cities)		
Appointment	By mayor with advice and consent of council	C	Acceptable
Term of Office	At the pleasure of the council	A	Preferred
Tenure in Office	No tenure in office	A	Preferred
Removal from Office	By 2/3 vote of council	B	Very Acceptable
MAJOR APPOINT- MENTS	Made by council	A	Preferred
Election of Administrative Officers	Some administrative offi- cers are elected	B	Very Acceptable
BUDGET	Preparation of the budget is the responsibility of the council.		

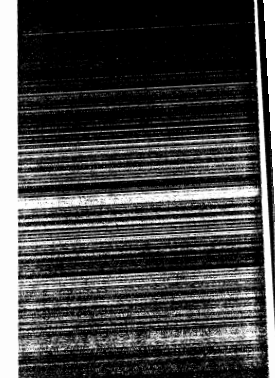


Table IV-1 Evaluation of the Components of the CITY Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
ELECTIONS			
Type	Partisan	D	Questionable
Run-Off Elections	No run-offs	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters do <u>not</u> have the power of initiative	C	Acceptable
Referendum	Voters do <u>not</u> have the power of referendum	D	Questionable
Recall	Voters do <u>not</u> have the power of recall	D	Questionable

In view of the generally favorable evaluation of this form, only one other suggestion is made. An understanding of the City Form of government is made especially difficult by the welter of laws which may or may not apply to a particular city. Accountability -- the characteristic which covers assignment of responsibility and the evaluation of performance -- is especially difficult in such circumstances. This may be an appropriate time to stop placing city law on top of city law, and start with a fresh slate. It is recommended that all existing city government laws be repealed and replaced with a single statute, effective in 1981, having sufficient options to cover most variations now in use, and including the following characteristics:

- a combination of ward and at-large elections;
- a legislative role for the mayor as presiding officer of the council with the right to vote to break ties;
- a veto power for the mayor; and
- a city administrator under conditions similar to the present ordinance-administrator.

Cities would be encouraged to petition the Legislature for a special charter if the options under the new City Form of government law were not acceptable to them.

**Table IV-2 Evaluation by Municipal Officials
of Performance Under the CITY
Form of Government**

	All Forms of Government	CITY FORM
economy	Good	Good
responsiveness	Good	Good
honesty	Good to Excellent	Good to Excellent
ability	Good	Good to Excellent
participation	Fair to Good	Good
effectiveness	Good	Good
efficiency	Good	Good to Excellent
accountability	Fair to Good	Fair to Good
balance	Fair to Good	Fair to Good
flexibility	Fair to Good	Fair to Good

Town Form

Of the 21 towns in New Jersey, only nine still used the Town Form of local government organization as of January 1, 1978. There are similarities of this form of government to the City Form. Again, more than one law exists, and it is not always easy to identify which statute applies, although the number of potential variations under the town laws is considerably smaller than for the cities. Major common features are a directly-elected mayor with relatively weak powers; a council, frequently composed of members chosen mostly from wards; and no requirement in the basic laws for a chief appointed administrative officer, although two towns have established the position by local ordinance. The components making up the Town Form are listed in Table IV-3 with their evaluations from Chapter III.

The overall evaluation of performance by the Town Form municipalities is not high (See Table IV-4). Municipal respondents give their towns above-average ratings only in Participation and Accountability, while they fall short in Responsiveness, Stability, Efficiency, Balance, and Flexibility.

Weak spots of the Town Form include:

- the use of Town councils of as many as nine members in relatively small communities;
- the emphasis on ward elections, with five of the nine places electing only the mayor at large;
- the short (2-year) term of governing body office in most towns;
- the short (2-year) term of office for the mayor;
- the lack of any chief appointed administrative officer in most towns;
- the election of some administrative officials;
- partisan elections; and
- the absence of the powers of referendum and recall.

Recommendations made previously which would have a direct impact on the weaknesses of the Town Form of government include:

- amendments to the City Form and Town Form of government laws to permit reduction of any governing body with nine or more members to nine, seven, or five members, through a petition and referendum process;
- repeal of the statute (N.J.S.A.40:123-1) permitting any town, village, borough, or township with over 4,000 population to form itself into a town, with a council elected entirely from wards;
- amendment of the Town and Township Form (with wards) of government laws to permit a change, through a petition and referendum process, to the election of three members of the governing body from each of two or three wards, for three-year staggered terms of office. Towns and townships currently using the two-year term would be permitted to retain this pattern or switch to the new pattern, but no other municipality would be permitted to adopt the two-year term in the future, except by special charter;
- amendment of the Town and Township Form (with wards) of government laws to permit a change, through a petition and referendum process, to the election of the mayor, at-

Table IV-3 Evaluation of the Components of the TOWN Form of Government (9 Towns as of January 1, 1978).

Component	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY	Name: Council or Board of Alderman		
Size (Including the mayor, who presides and votes.)	6 members (1 town)		
	7 members (4 towns)	C	Acceptable
	9 members (4 towns)	D	Questionable
Use of Wards	All council members elected at large (4 towns)	A	Preferred
	One council-member-at-large (the mayor), with rest elected from wards (5 towns)	D	Questionable
Term of Office	2 years (7 towns)	E	Highly Questionable
	3 years (2 towns)	C	Questionable
Arrangement of Terms of Office	Staggered	A	Preferred
Presiding Officer at Meetings	Directly-elected mayor.		

Table IV-3 Evaluation of the Components of the TOWN Form of Government (9 Towns as of January 1, 1978) Continued

Component	Description	Evaluation by Municipal Officials	
		Class	
Duties of Members	No prohibition against administrative duties		
Salaries	Limited by law in towns over 20,000 and in towns under 5,000 in 3rd class counties (3 towns)		
MAYOR			
Method of Selection	Direct election by voters	A	Preferred
Term of Office	2 years	E	Highly Questionable
Participation in Governing Body Meetings	Presides and votes as a regular member	A	Preferred
Veto Power	May veto ordinances and resolutions subject to override by 2/3 of council	A	Preferred
CHIEF EXECUTIVE	No explicit designation, but mayor's executive responsibilities implied by direct election, veto power, and responsibility for signing all official documents		

Table IV-3 Evaluation of the Components of the TOWN Form of Government (9 Towns as of January 1, 1978) Continued

Components	Description	Evaluation by Municipal Officials Class	
CHIEF EXECUTIVE (Continued)			
Term of Office	Chief executive (mayor) serves for fixed (2-year) term of office		
CHIEF APPOINTED ADMINISTRATIVE OFFICER	There can be a CAAO with duties defined by the council, if the office of municipal administrator is established by local ordinance (2 towns)		
Appointment	By mayor with advice and consent of council	C	Acceptable
Tenure in Office	No tenure in office	A	Preferred
Term of Office	At the pleasure of the of the council	A	Preferred
Removal from Office	By 2/3 vote of council	B	Very Acceptable
MAJOR APPOINT- MENTS	Made by council	A	Preferred

Table IV-3 Evaluation of the Components of the TOWN Form of Government (9 Towns as of January 1, 1978) Continued

Component	Description	Evaluation by Municipal Officials Class	
MAJOR APPOINT- MENTS (Continued)			
Election of Administrative Officers	Some administrative offi- cers are elected	B	Very Acceptable
BUDGET	Preparation of the budget is the responsibility of the council.		
ELECTIONS			
Type	Partisan	D	Questionable
Run-Off Elections	No run-offs	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters do <u>not</u> have the power of initiative	C	Acceptable
Referendum	Voters do <u>not</u> have the power of referendum	D	Questionable
Recall	Voters do <u>not</u> have the power of recall	D	Questionable

large, for at least a three year term of office.

- amendment of the City, Town, Borough, and Township Form of government laws to provide for appointment of all administrative officials now elected, with appropriate requirements to insure that professional qualifications are stressed;
- the enactment of optional statutes to authorize non-partisan elections and the powers of initiative, referendum, and recall in any municipality.

No further changes in the Town Form of government are suggested, since provision can be made in any town, by local ordinance, for a chief appointed administrative officer.

**Table IV-4 Evaluation by Municipal Officials
of Performance Under the TOWN
Form of Government**

	All Forms of Government	TOWN FORM
Economy	Good	Good
Responsiveness	Good	Fair to Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Fair to Good
Participation	Fair to Good	Good
Effectiveness	Good	Good
Efficiency	Good	Fair to Good
Accountability	Fair to Good	Good
Balance	Fair to Good	Fair
Flexibility	Fair to Good	Fair

Borough Form

The most numerous form of government in New Jersey is the Borough Form, being used by 222 municipalities as of January 1, 1978. The major features are a directly-elected mayor, chosen for a four-year term of office, and a council of six members, generally elected at large, and always for three-year staggered terms. The mayor serves as presiding officer for council meetings, but may vote only to break ties. The mayor's veto of ordinances may be overridden by a two-thirds majority, four of the six council members. The appointment power is shared, with the mayor having the authority to initiate appointments, subject to council approval; however, if the mayor does not propose an appointment, or if the council does not approve the mayor's nominees, the council, itself, may make the appointment. Details of the components making up the Borough Form of government are shown in Table IV-5. One of the major variations possible is the establishment of an office of municipal administrator, which 71 boroughs had done by local ordinance, as of the beginning of 1978.

Table IV-5 Evaluation of the Components of the BOROUGH Form of Government. (222 Boroughs as of January 1, 1978)

Components	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY	Name: Council		
Size (Including the mayor, who presides, but votes only to break ties.	7 members	C	Acceptable
Use of Wards	At-large elections (220 boroughs)	A	Preferred
	Boroughs over 10,000 in population may use combination of ward and at-large election (2 boroughs)	D	Questionable
Term of Office	3 years	C	Acceptable
Arrangement of Terms of Office	Staggered	A	Preferred
Presiding Officer at Meetings	Directly-elected mayor		

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Table IV-5 Evaluation of the Components of the BOROUGH Form of Government. (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY (Con't.)			
Duties of Members	No prohibition against administrative duties		
Salaries	Statutory limitations for boroughs in 2nd class counties over 265,000 in population (70 boroughs)		
	No statutory limits on salaries in other boroughs (152 boroughs)		
MAYOR			
Method of Selection	Direct election by voters	A	Preferred
Term of Office	4 years	A	Preferred
Participation in Governing Body Meetings	Presides, but votes only to break ties	D	Questionable
Veto Power	May veto ordinances, subject to override by 2/3 of council.	A	Preferred

Table IV-5 Evaluation of the Components of the BOROUGH Form of Government (Continued).

Component	Description	Evaluation by Municipal Officials Class	
CHIEF EXECUTIVE	There is a single, directly elected chief executive (the mayor).		
Term of Office	Chief executive serves for fixed term of 4 years.		
CHIEF APPOINTED ADMINISTRATIVE OFFICER (CAAO)	There <u>can be</u> a CAAO with duties defined by the council, if the office of municipal administrator is established by local ordinance (66 boroughs).		
Appointment	By mayor with advice and consent of council.	C	Acceptable
Term of Office	At the pleasure of the council.	A	Preferred
Tenure in Office	No tenure in office.	A	Preferred
Removal from Office	by 2/3 of council.	B	Very Acceptable
MAJOR APPOINT- MENTS	Made by mayor with advice and consent of council; if no nominations made by mayor or of mayor's nominations not approved, council makes appointments.	D	Questionable

Table IV-5 Evaluation of the Components of the BOROUGH Form of Government (Continued).

Component	Description	Evaluation by Municipal Officials Class	
MAJOR APPOINTMENTS (Continued)			
Election of Administrative Officers	Some administrative officers are elected	B	Very Acceptable
BUDGET	Preparation of the budget is the responsibility of the council		
ELECTIONS Type	Partisan	D	Questionable
Run-off Elections	No run-offs	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters do <u>not</u> have the power of initiative	C	Acceptable
Referendum	Voters do <u>not</u> have the power of referendum	D	Questionable
Recall	Voters do <u>not</u> have the power of recall	D	Questionable

Data from communities using the Borough Form are available in sufficient quantity to permit the tabulation of separate evaluations for boroughs with an administrator and for those which have not established the office.

Table IV-6 shows the general evaluation of the Borough Form of government for those places which have not provided for a municipal administrator. The results here are slightly poorer than the evaluation for all forms of government, with municipal respondents from such boroughs indicating a lower-than-average evaluation in terms of Effectiveness.

A substantial difference is found when the same sort of evaluation is made for the boroughs which have established the office of municipal administrator, as shown in Table IV-7. Instead of average or below-average scores, the evaluations are above average for a number of characteristics. Municipal respondents rate their local government performance above average in Honesty, Participation, Accountability, and Balance in the Boroughs with administrators.

The most obvious weakness of the original Borough Form of government, apparent from the evaluation of components and cited by a number of respondents, is the absence of any provision for a chief appointed administrative officer to provide supervision of municipal activities. This has been remedied to a considerable extent, apparently with favorable results, in a number of places through the use of the optional statute authorizing establishment by ordinance of an office of municipal administrator. The seeming success of this approach may come from the close relationships which must be maintained under this form by the mayor, the governing body, and the CAAO. The mayor has few appointments which can be made without council involvement; the enactment of legislation is a joint activity; the mayor plays a significant role in council meetings, even though lacking a regular vote; and the CAAO, who is appointed with council approval, carries out duties defined by the council, and serves at the pleasure of the council. Institutionalized cleavages among these three agencies are minimized in this form. It may be argued that the lack of strong, independent powers for the mayor or CAAO would be a fatal weakness in larger municipalities or in places where there are deep antagonisms in the community. This may or may not be true. For the type of communities where this form of government is now in use, however, it appears to be appropriate.

The use of wards for electing most of the borough council probably is a weakness, but it is in use in only two out of the 222 boroughs under this plan, and no recommendations for change are made.

Other aspects of the Borough Form which are evaluated as "questionable", but which appear to be integral characteristics of this form of government are:

- the limited role of the mayor as presiding officer for governing body meetings, empowered only to vote to break ties; and
- the limited appointive role of the mayor, who may lose his power of appointment to the council after a fixed period of time.

The use of partisan elections, and the absence of the powers of referendum and recall also should be considered weaknesses of the Borough Form, and recommendations have been made to meet them by:

the enactment of optional statutes to authorize non-partisan elections and the powers of initiative, referendum, and recall in any municipality.

**Table IV-6 Evaluation by Municipal Officials
of Performance Under the BOROUGH Form of
Government Without an Ordinance Administrator**

	All Forms of Government	BOROUGH FORM; No Administration
Economy	Good	Good
Responsiveness	Good	Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Good
Participation	Fair to Good	Fair to Good
Effectiveness	Good	Fair to Good
Efficiency	Good	Good
Accountability	Fair to Good	Fair to Good
Balance	Fair to Good	Fair to Good
Flexibility	Fair to Good	Fair to Good

**Table IV-7 Evaluation by Municipal Officials
of Performance Under the BOROUGH Form of
Government With an Ordinance-Administrator**

	All Forms of Government	BOROUGH FORM With Administration
Economy	Good	Good
Responsiveness	Good	Good
Honesty	Good to Excellent	Excellent
Stability	Good	Good
Participation	Fair to Good	Good
Effectiveness	Good	Good
Efficiency	Good	Good
Accountability	Fair to Good	Good
Balance	Fair to Good	Good
Flexibility	Fair to Good	Fair to Good

Another aspect of the Borough Form which is considered here as a weakness is the election of some administrative officers. A recommendation already has been made to change this pattern; namely, that the City, Town, Borough, and Township Form of government laws be amended to provide for appointment of all administrative officials now elected, with appropriate requirements to insure that professional qualifications are stressed.

One further thought flows from the evaluation of the Borough Form with a local municipal administrator. If this form of government is relatively successful, and the evidence gathered here suggests that it is, should not the form be made available to places other than boroughs? This could be recommended by a charter study commission or placed on the ballot through direct petition.

It is recommended that legislation be developed to provide a new optional form of municipal government under the Optional Municipal Charter Law, to be known as the "Mayor-Council-Administrator Plan", based on the characteristics of the Borough Form with a local administrator.

Township Form

Second most numerous among New Jersey local governments is the Township Form, although many of the 174 communities using this form of organization are very small in population. The major feature is a township committee, generally of three or five members, elected at large for staggered terms. The township committee collectively exercises all legislative and executive functions of the municipality, although the tradition is for the committee to establish subcommittees to supervise different functional areas of the township government. As of January 1, 1978, fifty-one townships had made use of the statute authorizing them to establish the office of municipal administrator, with the person holding that office being appointed by the township committee, performing duties defined by the township committee, and serving at the pleasure of the township committee. The mayor in the Township Form of government is merely one of the committee members, chosen by the other members to serve as presiding officer. Details of the components making up the Township Form of government are shown in Table IV-8.

As with the Borough Form, there are enough townships to permit separate evaluations for those places with and those without a municipal administrator. Table IV-9 shows the general evaluation of performance in the Township Form of government without a local administrator. The result is almost exactly the same as the statewide average. Only in connection with Responsiveness do the municipal officials deviate by indicating a slightly lower-than-average evaluation. When the places which have enacted local ordinances to establish the office of administrator are examined, as shown in Table IV-10, there is some change. Here, the municipal respondents indicate better-than-average performance in Balance and Flexibility. On the whole, while not as striking as the differences seen in the Borough Form when an administrator was added, the establishment of the position of municipal administrator does appear to correlate with improved township government performance.

The major weaknesses of the Township Form include:

- the small size (3members) of many township committees;
- the lack of any limit on the number of wards and the size of the township committee in those places over 7,000 which may decide to use wards for local elections;
- the use of a two-year term of office for all township committee members in these same places;
- the selection of the mayor from among the members of the township committee;
- a one-year term of office for the mayor in most townships and a two-year term where wards are used;
- the lack of a veto power for the mayor;
- the lack of any chief appointed administrative officer in places which have not established the office by ordinance;
- the election of some administrative officials;
- partisan elections; and

-- the absence of the powers of referendum and recall.

Some of these weaknesses are addressed by recommendations already made:

- that an amendment to the Township Form of government laws be made to limit, prospectively, to three the number of wards in townships with over 7,000 in population;
- that the Town and Township Form (with wards) of government laws be amended to permit a change, through a petition and referendum process, to the election of three members of the governing body from each of two or three wards, for three-year staggered terms of office. Towns and townships currently using the two-year term would be permitted to retain this pattern or switch to the new pattern, but no other municipality would be permitted to adopt the two-year term in the future, except by special charter;
- that the City, Town, Borough, and Township Form of government laws be amended to provide for appointment of all administrative officials now elected, with appropriate requirements to insure that professional qualifications are stressed; and
- that optional statutes be enacted to authorize any municipality to adopt non-partisan elections and the powers of initiative, referendum, and recall.

Legislation already exists which would permit any township to increase the size of the township committee from three to five members. Selection of the mayor from the members of the township committee and the lack of a veto power for the mayor, although given a low evaluation, may be considered essential parts of the Township Form, which should not be changed so long as that form is to remain available. The one-year term of office for most township mayors appears difficult to change, so long as three-year staggered terms of office are continued. And, finally, any township may provide for a chief appointed administrative officer by enacting a local ordinance.

Table IV-8 Evaluation of the Components of the TOWNSHIP Form of Government

Components	Description	Evaluation by Municipal Officials Class	
GOVERNING BODY	Name: Township Committee		
Size	3 members (73 townships)	C	Acceptable
	5 members when township exceeds 4,500 population or where approved by referendum, or when in excess of 3,500 in some counties (99 townships)	A	Preferred
	7 members (or more) when township is divided into wards (2 townships)	C	Acceptable
Use of Wards	At-Large elections (172 townships)	A	Preferred
	Townships over 7,000 in population may be divided into wards with two members from each ward and one elected at large (2 townships)	D	Questionable
Term of Office	3 years (172 townships)	C	Acceptable
	2 years where township divided into wards (2 townships)	E	Highly Questionable

Table IV-8 Evaluation of the Components of the TOWNSHIP Form of Government

Components	Description	Evaluation by Municipal Officials Class	
GOVERNING BODY (Con't.)			
Arrangement of Terms of Office	Staggered	A	Preferred
Presiding Officer at Meetings	Mayor selected by township committee from among own members (172 townships)		
	Committee-member-at-large elected directly by voters when township is divided into wards (2 townships)		
Duties of Members	No prohibition against administrative duties		
Salaries	Statutory limitations in all townships		
MAYOR			
Method of Selection	Selected by township committee from among own members (172 townships)	D	Questionable
	Direct election by voters where township divided into wards (2 townships)	A	Preferred

Table IV-8 Evaluation of the Components of the TOWNSHIP Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
MAYOR (Continued)			
Term Office	1 year (172 townships)	D	Questionable
	2 years where township divided into wards (2 townships)	E	Highly Questionable
Participation in Governing Body Meetings	Presides and votes as a regular member	A	Preferred
Veto Power	None	D	Questionable
CHIEF EXECUTIVE	Township committee is a collective chief executive		
Term of Office	Members of collective chief executive serve for fixed term of office		
Term of Office	At the pleasure of the township committee	A	Preferred
Tenure in Office	No tenure in office	A	Preferred
Removal from Office	By 2/3 vote of township committee	B	Very Acceptable
MAJOR APPOINT- MENTS	Made by township committee	A	Preferred

Table IV-8 Evaluation of the Components of the TOWNSHIP Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
CHIEF APPOINTED ADMINISTRA- TIVE OFFICER (CAAO)	There <u>can be</u> a CAAO with duties defined by the town- ship committee, if the office of municipal administrator is established by local ordinance (50 townships)		
Appointment	By township committee	A	Preferred
BUDGET	Preparation of the budget is the responsibility of the town- ship committee		
ELECTIONS Type	Partisan	D	Questionable
Run-Off Elections	No run-offs	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters do <u>not</u> have the power of initiative	C	Acceptable
Referendum	Voters do <u>not</u> have the power of referendum	D	Questionable
Recall	Voters do <u>not</u> have the power of recall	D	Questionable
Election of Administrative Officers	Some administrative officers are elected	B	Very Acceptable

Table IV-9 Evaluation by Municipal Officials of Performance
Under the Township Form of Government Without an
Ordinance-Administrator

	Municipal Respondents	
	All Forms of Government	TOWNSHIP FORM No Administrator
Economy	Good	Good
Responsiveness	Good	Fair to Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Good
Participation	Fair to Good	Fair to Good
Effectiveness	Good	Good
Efficiency	Good	Good
Accountability	Fair to Good	Fair to Good
Balance	Fair to Good	Fair to Good
Flexibility	Fair to Good	Fair to Good

Table IV-10 Evaluation by Municipal Officials of Performance
Under the Township Form of Government With an
Ordinance-Administrator

	Municipal Respondents	
	All Forms of Government	TOWNSHIP FORM With Admin.
Economy	Good	Good
Responsiveness	Good	Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Good
Participation	Fair to Good	Fair to Good
Effectiveness	Good	Good
Efficiency	Good	Good
Accountability	Fair to Good	Fair to Good
Balance	Fair to Good	Good
Flexibility	Fair to Good	Good

Village Form

Since only one village now exists in New Jersey, with a population of less than 400 persons, and the form can no longer be adopted through local action, no detailed evaluation of the components of that form is presented here. A general description of the form was provided previously.

Commission Form

As pointed out in Chapter I of this section, the Commission Form of government has declined in popularity in recent decades until now it is used by only 42 New Jersey municipalities, many of them quite small in population. The main feature of the form is a three-or five-member board of commissioners, elected for four-year concurrent terms of office. The board as a group constitutes the governing body for legislative purposes, but each commissioner is the executive officer of a department designated by law. The detailed components of the form, together with their evaluations, are shown in Table IV-11.

Since only five of the 42 Commission government places have established the office of municipal administrator, all evaluation data for the Commission Form have been presented in a single table (See Table IV-12). Municipal respondents have a favorable perception of the performance of their local government, giving above-average marks to Participation, Accountability, Balance, and Flexibility, with no evaluations falling below "Good".

The principal weaknesses observed are:

- the small (3-member) boards of commissioners found in most places still using the Commission Form;
- the use of concurrent terms of office;
- the selection of the mayor from among the members of the board of commissioners;
- the lack of a veto power for the mayor;
- the lack of a chief appointed administrative officer in most places.

In addition, the questionnaires brought forth a number of complaints of the kind which have been heard for years about the Commission Form — that it places far too much emphasis on the executive responsibilities of individual commissioners in their own departments at the expense of the coordination of the entire municipal government. One anomalous aspect of the Commission Form is that the law contains language authorizing the mayor to "supervise all departments". In practice, the language has become almost meaningless, probably because the courts have interpreted the law to uphold the right of each commissioner to appoint and remove personnel within his or her department.

As long ago as the late 1940's, the Commission on Municipal Government¹ recommended that the mayor in the Commission Form be elected directly. Direct election of the mayor might provide that officer with sufficient prestige so that he or she could exercise a leadership and coordination

¹Local Self-Government in New Jersey: A Proposed Optional Charter Plan; Final Report of the Commission on Municipal Government; State of New Jersey, Trenton, 1949; pp. 110-120.

Table IV-11 Evaluation of the Components of the COMMISSION
Form of Government (42 municipalities as of January 1, 1978)

Components	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY	Name: Board of Commissioners		
Size	3 members in municipalities under 12,000 in population (31 places)	C	Acceptable
	5 members in all other munici- palities (11 places)	A	Preferred
Use of Wards	All at-large elections	A	Preferred
Term of Office	4 years	A	Preferred
Arrangement of Terms of Office	Concurrent	D	Questionable
Presiding Officer at Meetings	Mayor selected by board of commissioners from among own members		
Duties of Members	Members required to combine legislative and administrative duties		
Salaries	No statutory limitations		

Table IV-11 Evaluation of the Components of the COMMISSION
Form of Government (42 municipalities as of January 1, 1978)

Components	Description	Evaluation by Municipal Officials	
		Class	
MAYOR			
Method of Selection	Selected by board of com- missioners from among own members	D	Questionable
Term of Office	4 years	A	Preferred
Participation in Governing Body Meetings	Presides and votes as a regular member	A	Preferred
Veto Power	No veto power	D	Questionable
CHIEF EXECUTIVE	Executive powers are divided among the 3 or 5 statutory departments, each headed by a member of the board of com- missioners		
Term of Office	Commissioners serve for a fixed term of 4 years		
CHIEF APPOINTED ADMINISTRA- TIVE OFFICER (CAAO)	There can be a CAAO with duties defined by the board of commissioners, if the office of municipal administrator is established by local ordinance (5 places)		
Appointment	By board of commissioners	A	Preferred

Table IV-11 Evaluation of the Components of the COMMISSION
Form of Government (Continued).

		Evaluation by Municipal Officials	
Components	Description	Class	
(CAAO) Continued			
Term of Office	At the pleasure of the board of commissioners	A	Preferred
Tenure in Office	No tenure in office	A	Preferred
Removal from Office	By 2/3 vote of board of commissioners	B	Very Acceptable
MAJOR APPOINT- MENTS			
Election of Administrative Officers	No administrative Officers elected except commissioners	A	Preferred
BUDGET			
	Preparation of the budget is the responsibility of the board of commissioners		
ELECTIONS			
Type	Non-partisan	A	Preferred
Run-Off Elections	No run-offs	A	Preferred

Table IV-11 Evaluation of the Components of the COMMISSION
Form of Government (Continued).

Components	Description	Evaluation by Municipal Officials	
		Class	
DIRECT VOTER ACTION			
Initiative	Voters have the power of initiative	A	Preferred
Referendum	Voters have the power of referendum	A	Preferred
Recall	Voters have the power of recall	A	Preferred

function effectively. If this were not sufficient, other changes might be considered to strengthen the mayor's powers. The Commission on Municipal Government suggested that the mayor be made director of a department of administration, with a role as chief budget officer, the right to administer a centralized personnel system, and the function of administering the personnel system. Also recommended was authority for the mayor to assign commissioners to particular departments. None of these changes were enacted in the past, and none are recommended here, since they would all seem to change the nature of the Commission Form of government.

The following recommendation, which has already been made, has an impact on the Commission Form:

that amendments be made to the Commission Form of government law and to the Municipal Manager Form of government law to permit the voters of a municipality; through a petition and referendum process, to increase their municipal governing body from three to five members.

The remaining weaknesses have not been addressed by any specific recommendation. Although concurrent terms of office have not found favor with the survey respondents, the use of staggered terms appears inappropriate for election of commissioners with both legislative and administrative responsibilities. Similarly, any provision for a mayoral veto, when the mayor participates and votes as a member of the board of commissioners, seems inappropriate. The lack of a chief appointed administrative officer could be remedied by establishment of such an office by local ordinance.

Table IV-12 Evaluation by Municipal Officials of Performance Under the COMMISSION Form of Government

	All Forms of Government	COMMISSION FORM
Economy	Good	Good
Responsiveness	Good	Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Good
Participation	Fair to Good	Good
Effectiveness	Good	Good
Efficiency	Good	Good
Accountability	Fair to Good	Good
Balance	Fair to Good	Good
Flexibility	Fair to Good	Good

Municipal Manager Form (1923)

The Municipal Manager Form of government law, enacted in 1923, was the first in New Jersey to make a clear distinction between the legislative and executive functions of local government. Only eight places now use the form of government. There is a council, consisting of from three to seven members, whose duties are legislative, and an appointed manager, who is the chief executive officer. The detailed components of the form are shown in Table IV-13 together with their evaluations.

The overall evaluations of performance under this form are close to the statewide average, being a little higher than normal for Participation, and a little lower for Responsiveness.

Weaknesses of this form of government include:

- the small size (3 members) of the council in some places;
- the use of concurrent terms for election of council members;
- selection of the mayor from among the council members;
- the lack of a mayoral veto power;
- the possibility of tenure for the manager;
- removal of the manager by a simple majority of the council; and
- absence of the power of referendum.

Two of these weaknesses would be remedied by recommendations already made:

- that amendments be made to the Commission Form of government law and to the Municipal Manager Form of government law to permit the voters of a municipality, through a petition and referendum process, to increase their municipal governing body from three to five members.
- that the Municipal Manager Form of government be amended to permit the voters of a municipality, through a petition and referendum process, to choose to elect their governing body members for staggered terms of office.

Direct election of the mayor could be considered if there were strong sentiment for increasing the status of the mayor. This sentiment does not appear to exist in Municipal Manager communities; questionnaire responses from these communities did not cite the powers or lack of powers of the mayor as a problem. No change is recommended. The lack of a mayoral veto, although listed as a "weakness", appears appropriate for this form of government, where the mayor is a member of the council, with full voting rights.

Tenure for the manager also is listed as a weakness. This feature of the Municipal Manager Form has frequently been given as one reason for the limited use of this form of local government. Tenure for an appointed officer with substantial executive powers may well be inappropriate. **It is recommended that the Municipal Manager Form of government law be amended to provide that, any manager appointed in the future, shall serve at the pleasure of the council, subject to removal at any time by a majority voter.** The amendments should contain appropriate safeguards for managers who already have attained tenure in these communities.

No recommendation is made to correct the "weakness" of requiring only a simple majority of the council for removal of a manager. In a form of government where a chief appointed officer is granted substantial authority by the charter, it would appear appropriate to provide for relatively easy removal of that officer if he or she fails to perform to the satisfaction of the elected representatives of the community.

OMCL Mayor-Council Form

Although used by only 48 municipalities as of January 1, 1978, the Mayor-Council Form of government under the Optional Municipal Charter Law is particularly important because most of the larger communities of the state, comprising one-third of New Jersey's population, are included. This form of government features a directly-elected mayor with relatively strong executive powers, and a council, which is limited to legislative duties, but with several devices for checking the mayor. Also required is a Chief Appointed Administrative Officer (CAAO) known as the business administrator, who is appointed by the mayor with the advice and consent of the council, and who serves during the mayor's term of office. Table IV-15 outlines the components of this form of government and their individual evaluations.

Table IV-16 shows the general evaluation of OMCL Mayor-Council Form performance, which is rated as somewhat below average by municipal respondents in terms of Effectiveness and Efficiency.

Weaknesses in the OMCL Mayor-Council Form include:

- The use of concurrent terms of office in some places;
- large councils of nine members in a number of places;
- the use of a combination of wards and at-large elections in some places;
- the limited role of the mayor in connection with governing body meetings where, at most, the mayor attends and speaks, and in some places does not attend at all;
- the procedure for removing the chief appointed administrative officer from office, which may only be done by the mayor, and is subject to governing body veto;
- major appointments by the mayor with the advice and consent of the council;
- partisan elections in some places; and,
- the use of run-off elections in some communities.

The OMCL Mayor-Council Form, more than any other New Jersey form of local government, sets up a wide gulf between the mayor and the council. The mayor makes most major appointments; the council may only veto his or her nominations. The mayor prepares the budget; the council reacts, but may increase or add items only by an extraordinary majority. The CAAO serves, essentially, at the pleasure of the mayor; the council may veto removal of the CAAO. The council is limited to legislative functions; the executive branch is relatively insulated from council control. The mayor, with no formal role to play at council meetings, frequently does not attend. The result, in many cases, is an atmosphere of contention and conflict between mayor and council. Questionnaires received from municipal officials in this study abound with complaints; (a) that the mayor is too strong; (b) that the council can hamstring the mayor; (c) that the council interferes in administration; (d) that the council is barred from administration; (e) that discord is the major feature of the plan.

Table IV-13 Evaluation of the Components of the MUNICIPAL
MANAGER Form of Government (1923) (8 municipalities
as of January 1, 1978).

Components	Description	Evaluation by Municipal Officials Class	
GOVERNING BODY	Name: Council		
Size	3, 5, 7, or 9 members, depending on population:		
	3 members (2 places)	C	Acceptable
	5 members (4 places)	A	Preferred
	7 members (2 places)	C	Acceptable
Use of Wards	All at-large elections	A	Preferred
Term of Office	4 years (8 places)	A	Preferred
	3 years if municipality formerly had 3-year terms and voters approve (None)	C	Acceptable
Arrangement of Terms of Office	Concurrent (8 places)	D	Questionable
	Staggered if municipality formerly had staggered terms and voters approve (None)	A	Preferred
Presiding Officer at Meetings	Mayor selected by council from among own members		
Duties of Members	Limited to legislative duties		

Table IV-13 Evaluation of the components of the MUNICIPAL
MANAGER Form of Government (1923) (8 municipalities
as of January 1, 1978).

		Evaluation by Municipal Officials Class	
GOVERNING BODY (Con't.)			
Salaries	Statutory limitations, based on population		
MAYOR Method of Selection	Selected by council from among own members	D	Questionable
Term of Office	No statutory provision; practice is 4 years where council terms are concur- rent (8places)	A	Preferred
Participation in Governing Body Meetings	Presides and votes as a regular member	A	Preferred
Veto Power	No veto power	D	Questionable
CHIEF EXECUTIVE	There is a single appoint- ed chief executive (the man- ager)		
Term of Office	At the pleasure of the council.		

Table IV-13 Evaluation of the Components of the MUNICIPAL
MANAGER Form of Government (1923) (Continued).

Components	Description	Evaluation by Municipal Officials	
		Class	
CHIEF APPOINTED ADMINISTRATIVE OFFICER (CAA)	There is a CAAO with clear and extensive powers (the manager)		
Appointment	By council	A	Preferred
Term of Office	At the pleasure of the council	A	Preferred
Tenure in Office	Manager gains tenure after 3 years	D	Questionable
Removal from Office	By majority of council	D	Questionable
MAJOR APPOINT- MENTS	Council appoints specified officers; manager appoints all others		
Election of Adminis- trative Officers	No administrative officers elected	A	Preferred
BUDGET	Preparation of the budget for consideration by the council is the responsibility of the appointed manager		

Table IV-13 Evaluation of the Components of the MUNICIPAL
MANAGER Form of Government (1923) (Continued).

Components	Description	Evaluation by Municipal Officials	
		Class	
ELECTIONS			
Type	Non-partisan	A	Preferred
Run-Off Elections	No run-offs	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters do <u>not</u> have the power of initiative	C	Acceptable
Referendum	Voters do <u>not</u> have the power of referendum	D	Questionable
Recall	Voters have the power of recall	A	Preferred

Table IV-14 Evaluation by Municipal Officials of Performance Under the MUNICIPAL MANAGER Form of Government (1923)

	All Forms of Government	MUNICIPAL MANAGER FORM
Economy	Good	Good
Responsiveness	Good	Fair to Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Good
Participation	Fair to Good	Good
Effectiveness	Good	Good
Efficiency	Good	Good
Accountability	Fair to Good	Fair to Good
Balance	Fair to Good	Fair to Good
Flexibility	Fair to Good	Fair to Good

Table IV-15 Evaluation of the Components of the OMCL MAYOR - COUNCIL Form of Government (46 municipalities as of January 1, 1978).

Components	Description	Evaluation by Municipal Officials Class	
GOVERNING BODY	Name: Council		
Size	5, 7, or 9 members:		
	5 members (all Plans) (19 places)	A	Preferred
	7 members (all Plans but Plan A) (18 places)	C	Acceptable
	9 members (all Plans but Plan A) (9 places)	D	Questionable
Use of Wards	All at-large (Plans A, B, E) (23 places)	A	Preferred
Term of Office	4 years	A	Preferred
Arrangement of Terms of Office	Concurrent (Plans A, C) (7 places)	D	Questionable
	Staggered (Plans B, D, E, F) (39 places)	A	Preferred
Presiding Officer at Meetings	President selected by council from among own members		
Duties of Members	Limited to legislative duties		
Salaries	No statutory limitations		

Table IV-15 Evaluation of the Components of the OMCL MAYOR - COUNCIL Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
MAYOR			
Method of Selection	Direct election by voters	A	Preferred
Term of Office	4 years	A	Preferred
Participation in Governing Body Meetings	Mayor neither presides nor votes but may attend and speak:		
	Attends and speaks (32 places)	D	Questionable
	Does Not attend (14 places)	E	Highly Questionable
Veto Power	May veto ordinances subject to override by 2/3 of council	A	Preferred
CHIEF EXECUTIVE	There is a single, directly elected chief executive (the mayor)		
Term of Office	Chief executive serves for a fixed term of 4 years		
CHIEF APPOINTED ADMINISTRATIVE OFFICER (CAAO)	There is a CAAO with clear, but limited powers (the business administrator)		

Table IV-15 Evaluation of the Components of the OMCL MAYOR - COUNCIL Form of Government (Continued)

		Evaluation by Municipal Officials	
		Class	
(CAAO) (Continued)			
Appointment	By mayor with advice and consent of the council	C	Acceptable
Term of Office	During mayor's term of office	C	Acceptable
Tenure in Office	No tenure in office	A	Preferred
Removal from Office	By mayor, subject to veto by 2/3 of council	D	Questionable
MAJOR APPOINTMENTS	Made by directly-elected mayor with advice and consent of council	D	Questionable
Election of Administrative Officers	No administrative officers, other than mayor, elected	A	Preferred
BUDGET	Preparation of the budget for consideration by the council, is the responsibility of the directly-elected mayor		
ELECTIONS Type	Partisan (Plans E, F) 24 places)	D	Questionable

Table IV-15 Evaluation of Components of the OMCL MAYOR-COUNCIL Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials Class	
ELECTIONS (Continued)			
Type	Non-partisan (Plans A,B,C, D) (22 places)	A	Preferred
Run-off Elections	Have run-offs (Plans B,C and some A, D) (15 places)	D	Questionable
	Do <u>not</u> have run-offs (Plans E, F and some A, D) (31 places)	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters have the power of initiative	A	Preferred
Referendum	Voters have the power of referendum	A	Preferred
Recall	Voters have the power of recall	A	Preferred

Table IV-16 Evaluation by Municipal Officials of Performance Under the OMCL MAYOR-COUNCIL Form of Government

	All Forms of Government	OMCL MAYOR- COUNCIL FORM
Economy	Good	Good
Responsiveness	Good	Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Good
Participation	Fair to Good	Fair to Good
Effectiveness	Good	Fair to Good
Efficiency	Good	Fair to Good
Accountability	Fair to Good	Fair to Good
Balance	Fair to Good	Fair to Good
Flexibility	Fair to Good	Fair to Good

A form of government emphasizing a sharp separation of legislative and executive powers may have great usefulness at the national or state levels. There is a question, though, whether it works well at the municipal level. One conclusion of this report is that some steps should be taken to bring the mayor and council closer together in this form of government. While these problems were noted and discussed by the Commission, no recommendations are made at this time.

A second issue was also discussed by the Commission: although the mayor is the chief executive, the business administrator is the person often responsible for running the daily activities of the municipal government. Under this form of government, the business administrator is insulated from council control because he or she can only be removed by the mayor. One possible change in approach might make the administrator more responsive to the council, e. g., by serving at its pleasure. On the other hand, if this approach were implemented, the task of the business administrator would undoubtedly be more difficult, if he or she would be responsible to **both** mayor and council. The Commission makes no recommendations concerning this matter at present.

The Mayor-Council Form, as presented in the Optional Municipal Charter Law, consists of six variations, known by alphabetical designations: A, B, C, etc. These six plans provide for differences in partisan or non-partisan elections, wards or at-large elections, and staggered or concurrent terms. While they cover most combinations of these factors, they do not cover every one, and there seems to be no good reason why some combinations should not be made available. **It is recommended that the OMCL Mayor-Council law be re-written to eliminate alphabetical designations and permit any community to adopt any combination of the variations now defined by those designations.** This change may not be as drastic as it seems. The only new combinations which would be made available would be (a) partisan elections, at-large, for concurrent terms, and (b) partisan elections, partially from wards, with concurrent terms.

With this change, plus existing provisions of the statute, the voters in individual communities would have a broad range of options available so that, if they wished, they could eliminate several of the "weaknesses" described above while keeping the major features of the Mayor-Council Form. The councils of nine members could be reduced in size; the use of wards could be eliminated; the use of concurrent terms could be stopped; non-partisan elections could be used if desired but the choice would be made locally.

Listed as a weakness is the practice of having major appointments made by the mayor with the advice and consent of the council. However, since the municipal respondents, who give only lukewarm support to this approach, are widely split on whether the mayor's appointive power should be increased or decreased, no recommendations for change are made.

The remaining "weakness" is the use of run-off elections. Introduced in an effort to guarantee majority rule, the run-off may be both costly and disruptive. There is a question whether the gains outweigh the losses. At any rate, it might be better to leave the decision to local determination. **It is recommended that the Optional Municipal Charter Law be amended to permit the voters of any municipality using non-partisan elections under the law to eliminate or introduce the use of run-off elections through a petition and referendum process.**

OMCL Council-Manager Form

Thirty municipalities were using the Council-Manager Form of government under the Optional Municipal Charter Law as of January 1, 1978. The major features of the form, which are similar to the Municipal Manager Form of government law of 1923, include an elected council of from five to nine members, who appoint a manager to serve at their pleasure. Council members are prohibited from participating in administrative functions. The components of the form are outlined in Table IV-17.

An overall evaluation of performance in Council-Manager communities is shown in Table IV-18. Municipal respondents give the form average evaluations, except in Accountability, Balance, and Flexibility, where the rating is above average.

The weaknesses in this form of government are:

- the use of a nine-member council in one place;
- the use of wards for the election of some council members;
- the use of concurrent terms of council office in two places;
- the selection of the mayor from among the council members;
- the short (one or two-year) term of office for the mayor in most places;
- the lack of a mayoral veto power;
- removal of the manager by a simple majority of the council;
- major appointments by the CAAO;
- partisan elections in some places; and
- the use of run-off elections in many places.

The use of run-off elections has been dealt with by a recommendation already made:

that the Optional Municipal Charter Law be amended to permit the voters of any municipality using non-partisan elections under the law to eliminate or introduce the use of run-off elections through a petition and referendum process.

The same suggestion for eliminating the alphabetical designations for the various Mayor-Council plans under the Optional Municipal Charter Law, is made here for the Council-Manager Form. **It is recommended that the OMCL Council-Manager law be re-written to eliminate alphabetical designations and permit any community to adopt any combination of the variations now defined by those designations.** As with the Mayor-Council Form, this change would make available the combinations of (a) partisan elections, at-large, for concurrent terms and (b) partisan elections, partially from wards, with concurrent terms. With this change, and existing law, the voters in each community could eliminate nine-member councils, the use of wards, and the use of concurrent terms and partisan elections, without changing the basic features of the Council-Manager Form, if they felt that the changes were desirable in their own circumstances.

Opinion was sharply divided on whether the powers of the mayor under this form of government should be increased or decreased. Direct election of the mayor would create a political focus in the

Council-Manager Form which is now lacking. This might be desirable. On the other hand, it would alter to some extent the relationships between the manager and the council. The case is not clear either for or against the change. With the thought of making a wide variety of alternatives available, however, **it is recommended that the OMCL Council-Manager Law be re-written to include the alternative of having the mayor elected directly by the voters for a fixed term of office of four years.**

So long as the mayor is considered as a voting member of the council, whether directly-elected or selected from among the council members, there seems to be no good reason to provide that officer with a veto power.

Listed as a weakness is the policy of having the appointed manager make major appointments of other officers. A substantial minority of governing body members indicated that the manager's appointive powers should be reduced. This could be done by making specified appointments by the manager subject to confirmation by the council, an approach found in some special charters. Undoubtedly, this process now takes place on an informal basis in many communities. A recommendation to formalize this approach in the charter has been seriously considered, but is not made at this time because of the possibility that it might change the essential nature of the Council-Manager Form of government.

Finally, there is the apparent "weakness" of having the manager removable by a simple majority of the council. As with the Municipal Manager Form (1923), it seems appropriate, so long as this appointed officer is given substantial executive powers by the charter, that this or her removal be kept relatively easy. Requirement for a simple majority meets this objective.

OMCL Small Municipality Form

The Small Municipality Form of government under the Optional Municipal Charter Law is now used by ten municipalities, a number of which have adopted this sort of charter in the last few years. The form has four variations, and includes a mayor and a council in each plan. In two of the plans the mayor is elected directly by the voters; in the other two plans he or she is chosen from among members of the council. Details of the components making up the Small Municipality Form are shown in Table IV-19. No evaluation of performance can be given, because so few communities were using this form of government at the time the survey was made.

Weaknesses of the Small Municipality Form, include;

- the small size (3 members) of some councils;
- the use of concurrent terms of office for the council in some places;
- the selection of the mayor from among members of the council in two of the four variations;
- the lack of a veto power for the mayor;
- major appointments by the mayor with the advice and consent of the council;
- the lack of a chief appointed administrative officer; and
- partisan elections in some places.

Table IV-17 Evaluation of the Components of the OMCL COUNCIL-MANAGER Form of Government (30 municipalities as of Jan. 1, 1978).

Components	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY	Name: Council		
Size	5, 7, or 9 members: 5 members (all Plans) (19 places)	A	Preferred
	7 members (all Plans but Plan A) (10 places)	C	Acceptable
	9 members (all Plans but Plan A) (1 place)	D	Questionable
Use of Wards	All at-large (Plans A, B, E) (28 places)	A	Preferred
	Combination of wards and at large (Plans C, D, F) (2 places)	D	Questionable
Term of Office	4 years	A	Preferred
Arrangement of Terms of Office	Concurrent (Plans A, C) (2 places)	D	Questionable
	Staggered (Plans B, D, E, F) (28 Places)	A	Preferred
Presiding Officer at Meetings	Mayor selected by council from among own members		

Table IV-17 Evaluation of the Components of the OMCL COUNCIL-MANAGER Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
GOVERNING BODY (Con't.)			
Duties of Members	Limited to legislative duties		
Salaries	No Statutory limitations		
MAYOR			
Method of Selection	Selected by council from among own members	D	Questionable
Term of Office	1 year (Some Plan B, D, E, F places)	D	Questionable
	2 years (Some Plan B, D, E, F places)	E	Highly Questionable
	4 years (Plans A, C) (2 places)	A	Preferred
Participation in Governing Body Meetings	Presides and votes as a regular member	A	Preferred
Veto Power	No veto power	D	Questionable
CHIEF EXECUTIVE			
	There is a single appointed chief executive (the manager)		
Term of Office	The manager serves at the plea- sure of the council		

Table IV-17 Evaluation of the Components of the OMCL COUNCIL-MANAGER Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
CHIEF APPOINTED ADMINISTRATIVE OFFICER (CAAO)	There is a CAAO with and extensive powers (the manager)		
Appointment	By the council	A	Preferred
Term of Office	At the pleasure of the council	A	Preferred
Tenure in Office	No tenure in office	A	Preferred
Removal from Office	By a majority of the council	D	Questionable
MAJOR APPOINTMENTS	Made by appointed manager	D	Questionable
Election of Administrative Officers	No administrative officers elected	A	Preferred
BUDGET	Preparation of the budget for consideration by the council is the responsibility of the appointed manager		

Table IV-17 Evaluation of the Components of the OMCL COUNCIL-MANAGER Form of Government (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
ELECTIONS			
Type	Partisan (Plans E, F) (18 places)	D	Questionable
	Non-partisan (Plans A, B, C, D) (12 places)	A	Preferred
Run-Off Elections	Have run-offs (Plans A, B, C, D) (12 places)	D	Questionable
	Do <u>not</u> have run-offs (Plans E, F) (18 places)	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters have the power of initiative	A	Preferred
Referendum	Voters have the power of referendum	A	Preferred
Recall	Voters have the power of recall	A	Preferred

**Table IV-18 Evaluation by Municipal Officials of Performance Under
the OMCL COUNCIL-MANAGER Form of Government**

	All Forms of Government	OMCL COUNCIL- MANAGER FORM
Economy	Good	Good
Responsiveness	Good	Good
Honesty	Good to Excellent	Good to Excellent
Stability	Good	Good
Participation	Fair to Good	Fair to Good
Effectiveness	Good	Good
Efficiency	Good	Good
Accountability	Fair to Good	Good
Balance	Fair to Good	Good
Flexibility	Fair to Good	Good

Table IV-19 Evaluation of the Components of the OMCL SMALL MUNICIPALITY Form of Government (Continued)

Components	Description	Evaluation By Municipal Officials	
		Class	
MAYOR Method of Selection	Direct election by voters (Plans A, C) (9 places)	A	Preferred
	Selected by council from among own members (Plans B, D) (1 place)	D	Questionable
Term of Office	3 years where mayor is elected directly by voters (Plans A, C) or where se- lected by and from council elected for concurrent terms (Plan B (9 places)	C	Acceptable
	1 year where selected by and from council elected for stag- gered terms (Plan D) (1 place)	D	Questionable
Participation in Governing Body Meetings	Presides and votes as a regular member	A	Preferred
Veto Power	No veto power	D	Questionable
CHIEF EXECUTIVE	The chief executive (mayor) is elected directly by the voters (Plans A, C) (9 places)		
	The chief executive (mayor) is selected by the council from among its own members (Plans B, D) (1 place)		

Table IV-19 Evaluation of the Components of the OMCL SMALL MUNICIPALITY Form of Government (Continued)

Components	Description	Evaluation By Municipal Officials	
		Class	
CHIEF EXECUTIVE (Continued)			
Term of Office	The mayor serves for a fixed term of office		
CHIEF APPOINTED ADMINISTRA- TIVE OFFICER (CAAO)	There can be a CAAO with duties defined by the council, if the office of municipal ad- ministrator is established by local ordinance (3 places)		
Appointment	By mayor with advice and consent of council	C	Acceptable
Term of Office	At the pleasure of the council	A	Preferred
Tenure in Office	No tenure in office	A	Preferred
Removal from Office	By 2/3 vote of council	B	Very Acceptable
MAJOR APPOINT- MENTS	Made by mayor with advice and consent of council	D	Questionable

Table IV-19 Evaluation of the Components of the OMCL SMALL MUNICIPALITY Form of Government (10 municipalities as of Jan. 1, 1978).

Components	Description	Evaluation by Municipal Officials	
GOVERNING BODY	Name: Council	Class	
Size	3 members (1 place)	C	Acceptable
(Including	5 members (7 places)	A	Preferred
the mayor,	7 members (2 places)	C	Acceptable
who presides and votes as a regular member			
Use of Wards	All at-large elections	A	Preferred
Term of Office	3 years	C	Acceptable
Arrangement of Terms of Office	Concurrent (Plans A, B) (2 places)	D	Questionable
	Staggered (Plans C, D) (8 places)	A	Preferred
Presiding Officer at Meetings	Directly-elected mayor (Plans A, C) (9 places)		
	Mayor selected by council from among own members (Plans B, D) (1 place)		
Duties of Members	No prohibition against administrative duties		
Salaries	No statutory limitations		

Table IV-19 Evaluation of the Components of the OMCL SMALL MUNICIPALITY Form of Government

Components	Description	Evaluation by Municipal Officials	
Class			
MAJOR APPOINTMENTS (Continued)			
Election of Administrative Officers	No administrative officers, other than mayor and council, are elected	A	Preferred
BUDGET	Preparation of the budget for consideration by the council is the responsibility of the mayor with the assistance of the treasurer.		
ELECTIONS			
Type	Partisan (Plans C, D) (8 places)	D	Questionable
	Non-partisan (Plans A, B) (2 places)	A	Preferred
Run-Off Elections	No run-offs	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters have the power of initiative	A	Preferred
Referendum	Voters have the power of referendum	A	Preferred
Recall	Voters have the power of recall	A	Preferred

If the same pattern is followed as for the other forms of government under the Optional Municipal Charter Law, the alphabetical designations would be eliminated and all combinations of variables made available. This would provide four new combinations for the Small Municipality Form of government:

- non-partisan elections, with staggered terms, and selection of the mayor directly by the voters;
- non-partisan elections, with staggered terms, and selection of the mayor from among the council members
- partisan elections, with concurrent terms, and election of the mayor directly by the voters; and
- partisan elections, with concurrent terms, and selection of the mayor from among the council members.

It should be noted that the first two new variations, which combine non-partisan elections with staggered terms, would result in a non-partisan election **every** year, so long as three-year terms of office are continued. This might cause a financial burden, which most communities might not wish to assume. Nevertheless, if local option is a desirable goal, the choice should be made available. **It is recommended that the OMCL Small Municipality law be re-written to eliminate alphabetical designations and permit any community to adopt any combination of the variations now defined by those designations.** With this approach, plus existing law, any community could eliminate three-member councils, the use of concurrent terms, and selection of the mayor from among members of the governing body, and the use of partisan elections, without changing other elements of the Small Municipality Form, if it chose to do so.

The one-year term of office for the mayor under some combinations would remain. The lack of a veto power, so long as the mayor has a regular vote, appears appropriate. And the procedure for providing for a CAAO already exists in the statute authorizing an ordinance-administrator.

Listed as a weakness is the practice of having major appointments made by the mayor with the advice and consent of the council. However, since the municipal respondents, who give only lukewarm support to this approach, are widely split on whether the mayor's appointive power should be increased or decreased, no recommendations for change are made.

Special Charters

Eight communities, as of January 1, 1978, were using special charters granted specifically to them through extraordinary procedures of the Legislature. Table IV-20 lists the components found in these eight special acts in various combinations, and shows their evaluation where possible. Some components not found in any general form of New Jersey local government are included.

The following weaknesses, based largely on Table IV-20 exist in some of the special charters:

- a governing body of nine members in one place;
- the election of all governing body members from wards in two places;
- the election of some governing body members from wards and some at large in two places;
- a short (2-year) term of office for the mayor in three places;
- limited participation by the mayor in governing body meetings in three places;

- the lack of a veto power for the mayor in four places;
- the lack of a chief appointed administrative officer in three places;
- removal of the CAAO from office by the mayor, subject to veto by the governing body in one place;
- Removal of the CAAO from office by a simple majority of the governing body in three places;
- major appointments by the mayor with the advice and consent of the governing body in two places;
- partisan elections in seven places; and
- absence of the powers of referendum and recall in five places.

No recommendations are made for changing any of these "weaknesses". While meeting the criteria for classification as a weakness, they may be perfectly appropriate for the particular community involved. It is suggested that in the future, however, the Legislature should carefully consider the experience of other communities before approving special charters including features which may have had a relatively poor evaluation elsewhere.

A potential problem not indicated in Table IV-20, is the tendency to write into some special charters features which might better be left to the discretion of the local governing body. Thus, Plainfield's charter specifies three departments of the local government; Gloucester City's charter specifies the salary to be paid to governing body members; and South Orange's charter requires that no salary be paid. To make a change in any of these basically local decisions would require the adoption of a special act of the Legislature amending the charter.

Table IV-20 Evaluation of the Components Found in SPECIAL CHARTERS (8 municipalities as of January 1, 1978).

		Evaluation by Municipal Officials	
Components	Description	Class	
GOVERNING BODY			
Size (Including the mayor, if the presiding officer)	5 members (2 places)	A	Preferred
	7 members (5 places)	C	Acceptable
	9 members (1 place)	D	Questionable
Use of Wards	All members elected at large (4 places)	A	Preferred
	All members elected from wards (2 places)	E	Highly Questionable
	Some members elected from wards and some at large (2 places)	D	Questionable
Term of Office	2 years (1 place)	E	Highly Questionable
	3 years (5 places)	C	Acceptable
	4 years (2 places)	A	Preferred
Arrangement of Terms of Office	Staggered (8 places)	A	Preferred
Presiding Officer at Meetings	Directly-elected mayor (5 places)		

Table IV-20 Evaluation of the Components Found in SPECIAL CHARTERS (Continued)

		Evaluation by Municipal Officials	
Components	Description	Class	
GOVERNING BODY (Con't.)			
Presiding Officer at Meetings (Continued)	Mayor selected by govern- ing body from among own members (2 places)		
	President selected by govern- ing body from among own members (1 place)		
Duties of Members	Limited to legislative duties (2 places)		
	No prohibition against ad- ministrative duties (6 places)		
Salaries	No statutory or charter limit- ation (6 places)		
	Salaries fixed in charter (1 place)		
	No salaries permitted (1 place)		
MAYOR Method of Selection	Direct election by voters (6 places)	A	Preferred
	Selected by governing body from among own members (2 places)	D	Questionable
Term of Office	1 year (2 places)	D	Questionable
	2 years (1 place)	E	Highly Questionable

Table IV-20 Evaluation of Components Found in SPECIAL CHARTERS (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
MAYOR (Continued)			
Term of Office	3 years (2 places)	C	Acceptable
	4 years (3 places)	A	Preferred
Participation in Governing Body Meetings	Presides and votes as a regular member (5 places)	A	Preferred
	Presides, but votes only to break ties (2 places)	D	Questionable
	Neither presides nor votes but is present and may speak (1 place)	D	Questionable
Veto Power	May veto ordinances, subject to override by 2/3 of governing body (3 places)	A	Preferred
	May veto ordinances, subject to override by majority of governing body (1 place)		
	No veto power (4 places)	D	Questionable
CHIEF EXECUTIVE	Directly-elected mayor is chief executive by implication (2 places)		
	Directly-elected mayor is designated as chief executive (4 places)		

Table IV-20 Evaluation of Components Found in SPECIAL CHARTERS (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
CHIEF EXECUTIVE (Continued)	Appointed CAAO is designated as chief executive (1 place)		
	Appointed CAAO is chief executive by implication (1 place)		
Term of Office	Chief executive serves for a fixed term of office (6 places)		
	Chief executive serves at pleasure of governing body (2 places)		
CHIEF APPOINTED ADMINISTRATIVE OFFICER (CAAO)	There is a CAAO with limited powers (4 places)		
	A CAAO position with limited powers is authorized, but not required by charter; position has been established (1 place)		
	There <u>can be</u> a CAAO with duties defined by the governing body, if the office of municipal administrator is established by local ordinance (None)		

Table IV-20 Evaluation of the Components Found in SPECIAL CHARTERS (Continued)

Components (CAAO) (Con't.)	Description	Evaluation by Municipal Officials	
		Class	
Appointment	By mayor with advice and consent of governing body (2 places)	C	Acceptable
	By governing body (3 places)	A	Preferred
Term of Office	During mayor's term of office (1 place)	C	Acceptable
	At the pleasure of the governing body (3 places)	A	Preferred
Tenure in Office	No tenure in office	A	Preferred
Removal from Office	By mayor, with approval of governing body (1 place)		
	By mayor, subject to veto by 2/3 of governing body (1 place)	D	Questionable
	By majority of governing body (3 places)	D	Questionable
MAJOR APPOINTMENTS	Major appointments made mayor (1 place)		
	Major appointments made by mayor with advice and consent of governing body (2 places)	D	Questionable

Table IV-20 Evaluation of the Components Found in SPECIAL CHARTERS (Continued)

Components	Description	Evaluation by Municipal Officials	
		Class	
MAJOR APPOINTMENTS (Continued)	Major appointments made by CAAO with advice and consent of governing body (2 places)		
	Specified appointments made by governing body rest by mayor (1 place)		
	Major appointments made by governing body (2 places)	A	Preferred
Election of Administrative Officers	No administrative Officers elected	A	Preferred
Budget	Preparation of the budget for consideration by the governing body is the responsibility of the CAAO (4 places)		
	Preparation of the budget for consideration by the governing body is the responsibility of the directly elected mayor (2 places)		
	Preparation of the budget is the responsibility of the governing body (2 places)		
ELECTIONS Type	Partisan (7 places)	D	Questionable
	Non-partisan (1 place)	A	Preferred

Table IV-20 Evaluation of the Components Found in SPECIAL
CHARTERS (Continued)

Components	Description	Evaluation by Municipal Officials Class	
ELECTIONS (Continued)			
Run-Off Elections	No run-offs	A	Preferred
DIRECT VOTER ACTION			
Initiative	Voters have the power of initiative (3 places)	A	Preferred
	Voters do <u>not</u> have the power of initiative (5 places)	C	Acceptable
Referendum	Voters have the power of referendum (3 places)	A	Preferred
	Voters do <u>not</u> have the power of referendum (5 places)	D	Questionable
Recall	Voters have the power of recall (3 places)	A	Preferred
	Voters do <u>not</u> have the power of recall (5 places)		

APPENDIX A

Summary of Suggestions Concerning State-Local Relationship By Leading Writers

This appendix provides a brief summary of suggestions made by various writers to improve State-local relationships. It is based largely on the following sources:

- (1) **Home Rule: An annotated Bibliography With Emphasis on Illinois**, Institute of Government and Public Affairs, University of Illinois, Urbana, 1974.
- (2) Papers prepared for a 1975 Conference on Partnership Within the State: Local Self-Government in the Federal System. Most of these papers have been edited and appear in a 1976 publication issued subsequent to the Conference:
- (3) **Partnership Within the States: Local Self-Government in the Federal System**, edited by Stephanie Cole, Institute of Government and Public Affairs, University of Illinois and Center for the Study of Federalism, Temple University, 1976.

Summaries of suggestions made both at the Conference and by earlier writers have been placed in four categories:

Suggestions to Curb State Involvement in Local Affairs

Suggestions for New Structures of Local Government

Suggestions for Changed Relationships Between State and Local Governments

Criticisms of the Home Rule Concept

Suggestions to Curb State Involvement in Local Affairs

This category received major attention in early articles, but is not as common in the literature since 1961.

1. Every new state constitution, its bill of rights, should:
 - a. recognize local self-government,
 - b. prohibit special legislation,
 - c. recognize the right of the state legislature to pass general laws,
 - d. recognize that the state legislature can only shape powers of local government with the consent of the municipality, subject to voter ratification.

Amasa M. Eaton, "The Right to Local Self-Government: V", **Harvard Law Review**, Vol. 14 (June, 1900), pp. 116-38.
2. American states should follow the European system in which local legislative bodies determine local policy, subject only to control by state administrative bodies.

Frank J. Goodnow, "Municipal Home Rule", **Political Science Quarterly**, Vol. 21 (March, 1906), pp. 77-90.
3. Limits on taxing and borrowing should be set by home rule charter and not by legislature.

Duane C. Buchholz, "Home Rule: A Solution for Municipal Problems?", **Wyoming Law Journal**, Vol. 16 (Fall, 1961), pp. 47-73.

Suggestions for New Structures of Local Government

1. A modern local government article in the Constitution would provide a framework to accommodate both state responsibility and local freedom in the conduct of local affairs. Home rule should not be an obstacle to the adjustment of structure and boundaries of local governments by the legislature. It should sponsor, not impede, intergovernmental cooperative efforts.

Edward M. Kresky, "Local Government" In **Salient Issues of Constitutional Revision**. New York: National Municipal League, 1961, pp. 150-62.
2. States should create popularly controlled regional governments in metropolitan areas, with sufficient powers and finances to solve areawide problems. State governors should appoint commissions to prepare plans for metropolitan federations.

Joseph F. Zimmerman, "Evolving State-Local Relations in New England", **Partnership Within the States**, op. cit., pp. 213-247.
3. The system of local area jurisdictions in which most people find themselves members of local political communities should be large enough:
 - a. to maintain good quality services, properly regarded as of a local nature with a minimum of state or federal aid,
 - b. to command enough knowledge and professional talent to conduct their affairs competently and to play a more or less autonomous role in the state and national affairs into which they are drawn,
 - c. to minimize the adverse spillover effects of their own actions on neighboring communities or of the actions of neighbors on them,
 - d. to have a population mix not so skewed from that of state and nation that its people cannot readily relate to a fairly wide range of the concerns of the larger society.
Johne E. Bebout, "A Perspective on Home Rule", **Partnership Within the States**, op. cit., pp. 3-27.
4. Local governments should be structured for the effective discharge of their responsibilities, subject to the right of their citizens to alter or reform them as they find necessary.
Bebout, ibid.
5. There should be responsible regional institutions that can develop broad regional policies and coordinate the provision of services to people and help to client governments.
Bebout, ibid.

Suggestions for Changed Relationships Between State and Local Governments

The third category contains the largest number of suggestions because it recognizes a major role for both state and local governments, based on a series of changed relationships.

1. The state should allow local governments broad residual powers. The state should, at the time, exert greater leadership in solving inter-local problems.

U. S. Advisory Commission on Intergovernmental Relations. **1966 State Legislative Program**. Washington, D. C., October, 1965.

2. There should be a shared powers approach. The municipality would have initial power to act in certain enumerated areas, subject to veto of state legislature. An administrative agency in the executive branch would deal with jurisdictional disputes.

John P. Keith, "Sharing of Powers", **National Civic Review**, Vol. 56 (December, 1967), pp. 621-26.

3. There should be more ready means than are now generally available for altering local boundaries and abolishing or consolidating local units that do not qualify as effective entities for self-government.

Bebout, *op. cit.*

4. The governing powers for local governments should be unenumerated by constitutional, statutory, or bureaucratic constraints that would prevent their taking initiatives in meeting any of the needs of the community or being creative and innovative in meeting new problems.

Bebout, *op. cit.*

5. Judge Thomas M. Cooley elaborated upon his doctrine that the states are unions; therefore, we should consider states neither unitary or federal, but as unions of their civil communities.

The Cooley doctrine remains a more accurate description of the realities of American state-local relations and a more appropriate American theory of that relationship.

What is lacking is an enumeration of the proper doctrine of state-local relations within the context of the union theory and the development of appropriate strategies and tactics for the implementation of that doctrine.

Daniel J. Elazar, "State-Local Relations: Reviving Old Theory for New Practice", **Partnership Within the States**, *op. cit.*, pp. 29-42.

6. Recent demands for efforts to accomplish home rule suggest that doctrines of separation should be applied to state-local as well as national-state relations. Current research is attempting to develop empirical evidence which will aid in answering the questions, what difference does it make?

Alan K. Campbell, "Functional Assignment in a Federal System", **Partnership Within the States**, *op. cit.*, pp. 43-58.

7. Within the unitary state framework, the state should delegate powers in broad terms to local units, subject to the overruling authority of the state:

A municipal corporation which adopts a home rule charter may exercise any power or perform any function which the legislature has power to devolve upon a non-home rule charter municipal corporation and which is not denied to that municipal corporation by its home rule charter, is not denied to all home rule charter municipal corporations by statutes and is within such limitations as may be established by statute.

The state legislature is the policy-making institution that is vested with the authority to make the accommodation between local interests and actions on the one hand and the larger community concerns and welfare on the other.

Jefferson B. Fordham, "Observations Upon the Contemporary Stance of Local Government in the Federal-State Scheme of Things", paper prepared for Conference on "Partnership Within the States".

8. There should be a constitutional amendment which would give cities greater standing before the courts in conflicts with the state. The clear presumption of this position is that there are gains to be made when nearly equal partners enter into conflict resolution. Implicit in this approach is the assumption that significant externality questions could be resolved more efficiently through a system of mutual adjustment and judicial review.

A Local Government Policy Review Board should be formed to include, among other functions:

- a. Oversight of a revamping of the fiscal reporting system of local and state government to provide systematic and useful information that could be used in designing new institutional arrangements.
- b. Review of the allocation of functions -- but not in the traditional sense. Functions should be earmarked as to whether they are to be performed by state or local units. Local communities would still retain the right to determine the institutional structure for the delivery of services.
- c. A comprehensive review of present fiscal structures, with the goal of increasing the reallocation of fiscal resources to local control. Such an increase in reallocation would be an attempt to provide local governments with tax bases that grow with the economy. A priority would be given to the design of a system of tax sharing that would allow local communities to undertake equity programs and to receive tax credits from state and federal governments. Tax sharing would allow local communities to undertake community development programs based upon local priorities and administered by local agencies. They would, however, be free of federal bureaucracy and regulation.

Robert B. Hawkins, Jr., "Local Government Reform in an Increasingly Complex Intergovernmental System", **Partnership Within the States**, op. cit., pp. 77.

9. The primary need for local governments is for ability to influence the legislature and, perhaps more importantly, administrative enactments and policy decisions which affect them. This includes the ability to decide themselves when that situation exists.

Local officials must claim the self-government role and positively assert it, not only on a locality basis but on a collective basis through state and national organizations. "Paying the ante" in a federal system means fostering linkage instead of isolation.

Earl M. Baker, "Pennsylvania Home Rule: A Lively Vestige", paper prepared for Conference on "Partnership Within the States"

10. The impact of general revenue sharing has established a direct national-local relationship. This will result in a more centralizing trend, perhaps a national system of local government. We need a basic reform of American local government. We must deal openly with the responsibility-capacity issue.

Thomas J. Anton, "Toward a New Conception of Local Responsibility", *Partnership Within the States*, op. cit., pp. 59-75.

11. There should be a jointly developed state-local assignment of functions, policy, and process according to the following criteria:

Economic Efficiency. Functions should be assigned to jurisdictions (a) that are large enough to realize economies of scale and small enough not to incur diseconomies of scale (economies of scale); (b) that are willing to provide alternative service within a price range and level of effectiveness acceptable to local citizenry (service competition); and (c) that adopt pricing policies for their functions whenever possible (public pricing).

Fiscal Equity. Appropriate functions should be assigned to jurisdictions (a) that are large enough to encompass the cost and benefits of a function or that are willing to compensate other jurisdictions for the service costs imposed or for benefits received by them by them (economic externalities); and (b) that have adequate fiscal capacity to finance their public service responsibilities and that are willing to implement measures that insure inter-personal and interjurisdictional fiscal equity in the performance of a function (fiscal equalization).

Political Accountability. Functions should be assigned to jurisdictions (a) that are controllable by, accessible to, and accountable to their residents in the performance of their public service responsibilities (access and control); and (b) that maximize the conditions and opportunities for active and productive citizen participation in the performance of a function (citizen participation).

Administrative Effectiveness. Functions should be assigned to jurisdictions (a) that are responsible for a wide variety of functions and that can balance competing functional interests (general-purpose character); (b) that encompass a geographic area adequate for effective performance of a function (geographic adequacy); (c) that explicitly determine the goals of and means of discharging public service responsibilities and that periodically reassess program goals in light of performance standards (management capability); (d) that are willing to pursue intergovernmental policies for promoting interlocal functional cooperation and reducing interlocal functional conflict (intergovernmental flexibility); and (e) that have adequate legal authority to perform a function and rely on it in administering the function (legal adequacy).

Advisory Commission on Intergovernmental Relations, **Substate Regionalism and the Federal System**, Vol. IV; **Governmental Functions and Processes: Local and Area-wide** (Washington, D. C.: U. S. Government Printing Office, 1974), p. 20.

Criticisms of the Home Rule Concept

The fourth category contains suggestions which are critical of the home rule concept. Some of these suggestions indicate a modification or elimination of the traditional understanding of home rule.

1. Uncertainty over the extent of power of a home rule grant is partly attributable to the failure of the courts and commentators to distinguish between home rule as a grant of power to municipalities and home rule as a restricting on the power of the legislature.
Terrance Sandalow, "The Limits of Municipal Power under Home Rule: A Role for the Courts", **Minnesota Law Review**, Vol. 48 (1964), p. 643.
2. Home rule has added new problems by creating too many governments, each with limited powers and limited territorial jurisdiction, thus inhibiting a rational approach to metropolitan problems.
Frank P. Grad, "The State's Capacity to Respond to Urgan Problems: The State Constitution" In Alan K. Campbell and Donna E. Shalala, **The States and the Urban Crisis**. Englewood Cliffs, N. J.: Prentice-Hall, 1970, pp. 27-58.
3. The concept of home rule should be dismissed as a useful guide to the future. No participant in local government needs to be reminded of the overwhelming constraints imposed on local action by state constitutional or legislative provisions. Defined as autonomy or independence, home rule does not exist. Defined in terms of degrees of local discretion, the concept cannot be specified in advance, since superior authority can intervene at any time to impose its rule on an activity previously regarded as discretionary.
Anton, *op. cit.*
4. The movement for home rule is based on the following assumptions, all of which are of questionable validity:
 - a. that the legal statement of the state-local relationship is the basis of actual political practice.
 - b. that local authority is reflected by structural autonomy.
 - c. that state legislatures can and will lessen their role in local government.
 - d. that there is a clear distinction between what is state and what is local.
 - e. that home rule constitutes modernization.Baker, *op. cit.*

APPENDIX B

Desirable Characteristics of Local Government

To assist in the evaluation of the performance of a local government unit, it is necessary to have some definition of the characteristics which are desired. A search of reports on local government from other states and of the general literature, yielded a list of ten characteristics which appeared with some regularity. Definitions were prepared in an effort to distinguish among the individual characteristics. These were included in the questionnaire sent to the municipal officials, with a request to place the characteristics in rank order according to their relative desirability. Since the definitions all were written in positive terms, and all are desirable, this was not an easy task for the respondents. The ten characteristics, together with the definitions supplied to the respondents, are:

ECONOMY — a form of government which is the **least expensive**.

RESPONSIVENESS — a form of government which does **what the residents of the community want done**.

HONESTY — a form of government which **discourages unethical and illegal practices**.

STABILITY — a form of government which protects **against capricious or frivolous change**.

PARTICIPATION — a form of government which encourages **maximum participation by all persons**.

EFFECTIVENESS — a form of government which **solves the problems facing the community**.

EFFICIENCY — a form of government which gets the **greatest results per dollar spent**.

ACCOUNTABILITY — a form of government which **assigns responsibility and evaluates performance**.

BALANCE — a form of government which **prevents over-concentration of power**.

FLEXIBILITY — a form of government which **adapts readily** as conditions change.

While some respondents may have had difficulty in separating some of the characteristics from each other, most apparently were able to recognize the distinctions and made an effort to arrange them in order of desirability.

Ranking of Desirable Characteristics

The results of the survey ranking characteristics of local government according to relative desirability are shown in Appendix Table I for each group of respondents. They show a remarkable degree of consistency, at least for the four characteristics given the highest ranking. **HONESTY** is placed first by every group of respondents, possibly reflecting a reaction to the Watergate episodes of the 1970's. Second in desirability is **EFFECTIVENESS**, the ability to make government work to solve the community's problems; **EFFECTIVENESS** ranks close to **HONESTY** for those personnel having some executive responsibility, such as Chief Appointed Administrative Officers (CAAO's), and not so close for other respondents. In third place according to all groups of respondents is **EFFICIENCY** -- the characteristic of making the most of the fiscal resources available. Finally, among the characteristics gaining a broad consensus, is **RESPONSIVENESS** -- the ability of the local

government to do what its constituents want done.

Following the top four characteristics, the consensus begins to break down, although the variations generally are small, and only a few may be significant enough to justify comment. Elected officials -- mayors and governing body members -- appear to place a little more emphasis on PARTICIPATION in government by all persons, than do the non-elected officials. Members of governing bodies give a rather high rating to ECONOMY -- the performance of governmental functions in the least expensive way, regardless of the achievement of some other objectives. Municipal clerks, probably the public officials in the survey with the longest tenure in their municipalities, give a relatively high rating to STABILITY -- the characteristic of government which protects against capricious or frivolous change.

Other variations might be pointed out, but even those mentioned involve such minor differences that there is danger of over-generalization. The value of the survey, however, lies in the major differences in ranking. If some component of a local government organization can be shown to promote one of the most desirable characteristics, such as HONESTY, EFFECTIVENESS, EFFICIENCY, or RESPONSIVENESS, even at the expense of some other characteristic, then its use is justified, since these are the attributes which appear to be universally at the top of the list.

Performance in Achieving Desirable Characteristics

After the municipal respondents had ranked the characteristics of local government in order of their desirability, they were asked to evaluate their own local government's performance in achieving each characteristic on a five-way scale, running from "Excellent" through "Good", "Fair", "Poor", and "Very Poor". In order to reduce this 5-way evaluation to a single figure for each group of respondents, the following weightings have been used:

- the percentage of "Excellent" responses has been multiplied by 10;
- the percentage of "Good" responses has been multiplied by 7.5;
- the percentage of "Fair" responses has been multiplied by 5.0;
- the percentage of "Poor" responses has been multiplied by 2.5;
- the percentage of "Very Poor" responses has been multiplied by 0;
- and the products have been added.

The resulting figure is an evaluation of performance scaled on a base of 1,000 for a perfect score of 100% "Excellent". The evaluations by each group of respondents, on a statewide basis, are shown in Appendix Table 2.

Evaluations by the four groups of municipal officials are strikingly similar. All give their own municipalities "Excellent" or "Good to Excellent" marks for Honesty in government. "Good" or "Fair to Good" grades go to all of the other characteristics. With only minor variations, the rank order of the evaluations also is the same. Economy -- the performance of governmental functions in the least expensive way -- is evaluated as the second most successful characteristic of local government by all types of municipal officials. Stability -- the ability to resist capricious or frivolous change -- is third. Efficiency, Responsiveness, Effectiveness, Balance and Participation follow. Lowest in performance generally are Accountability -- the assignment of responsibility and evaluation of performance, and Flexibility -- the ability of the local government to adjust to changing conditions. Among these respondents, the mayors and CAAO's appear to be the most favorable in their

evaluations, and governing body members also are less enthusiastic. Responses from members of governing bodies may represent a true difference of opinion from other municipal officials, or they may indicate a change over time, since they were gathered two years later than the responses from the other municipal officials.

The statewide data presented in Appendix Table 2 was compared with evaluations of performance under different forms of local government, appearing in Chapter IV. It should be noted that while this survey was helpful to a better understanding of various aspects of local government, it contributed only indirectly to the formulation of the Commission's conclusion and recommendations regarding municipal government forms.

Appendix Table 1 Average Ranking of Local Government Characteristics in Order of Desirability; Mayors, Chief Appointed Administrative Officers, and Municipal Clerks, 1974; Members of Municipal Governing Bodies, 1976.

B-4

Mayors	Members of Governing Bodies	CAAO's and Clerk - CAAO's	Municipal Clerks
2.84 – Honesty	3.11 – Honesty	2.98 – Honesty	2.75 – Honesty
3.26 – Effectiveness	3.37 – Effectiveness	3.02 – Effectiveness	3.24 – Effectiveness
4.12 – Efficiency	3.95 – Efficiency	4.00 – Efficiency	3.62 – Efficiency
4.55 – Responsiveness	4.74 – Responsiveness	4.63 – Responsiveness	5.34 – Responsiveness
5.75 – Participation	5.92 – Participation	5.71 – Accountability	5.85 – Stability
6.28 – Accountability	6.41 – Economy	6.16 – Participation	6.14 – Accountability
6.30 – Stability	6.43 – Accountability	6.40 – Stability	6.31 – Flexibility
6.84 – Flexibility	6.69 – Stability	6.40 – Flexibility	6.39 – Participation
6.93 – Economy	7.13 – Balance	7.32 – Economy	6.63 – Economy
7.61 – Balance	7.20 – Flexibility	7.36 – Balance	6.63 – Balance

Appendix Table 2 Evaluation by Municipal Officials of Municipal Government Performance.

	Mayors	Members of Governing Bodies	CAAO's and Clerk - CAAO's	Municipal Clerks
Excellent 937.5	Honesty		Honesty	
Good to Excellent 812.5		Honesty		Honesty
Good 687.5	Economy Stability Efficiency Responsiveness Effectiveness Balance	Economy Stability Responsiveness Efficiency	Economy Stability Efficiency Responsiveness Balance Effectiveness Participation	Economy Stability Efficiency Effectiveness Responsiveness
Fair to Good 562.5	Participation Flexibility Accountability	Effectiveness Balance Participation Flexibility Accountability	Flexibility	Balance Participation Flexibility Accountability
Fair 437.5				
Poor to Fair 312.5				
Poor 187.5				
Very Poor to Poor 62.5				
Very Poor				

Notes on the Use of Appendix C

- 1) Data contained in Appendix C reflects the form of government in effect prior to the November 7, 1978 elections. On that date, the following changes were adopted and are to take effect at a later date:

Municipality & County	Present Form of Government	New Form of Government
a. Medford Twp. Burlington	Township Committee	Council-Manager Plan E 5 Councilmen, at large Eff. 1/1/80
b. Mine Hill Twp. Morris	Township Committee	Mayor-Council Plan E 5 Councilmen, at large Eff. 1/1/80
c. Englewood City Bergen	2nd Class City	Special Charter Council-Manager Eff. 1/1/80
d. Allamuchy Twp. Warren	Township Committee	Small Municipality Plan C OMCL, Mayor & 4 Eff. 1/1/80
e. Avalon Boro Cape May	Commission	Mayor-Council Plan B 5 Councilmen, at large Eff. 7/1/79

- 2) Population shown is the 1970 census population.
- 3) Addition of (&) in the "Forms" column indicates use of ordinance-administrator.

APPENDIX C
Form of Government — N. J. Municipalities

Municipality	Pop.	Form	Gov. Body	Method of Election	
				Dist/at Lge	Part/Non/Partisan
ATLANTIC COUNTY					
Absecon City	6,094	City Form &	Mayor-7 Council	Wards & A-L	Partisan
Atlantic City	47,859	Commission	5 Commission	At-Large	Non-Partisan
Brigantine City	6,741	Commission	3 Commission	At-Large	Non-Partisan
Buena Borough	3,283	Borough Form	Mayor-6 Council	At-Large	Partisan
Buena Vista Township	4,239	Township Form	5 Committee	At-Large	Partisan
Corbin City	258	City Form &	Mayor-3 Council	At-Large	Partisan
Egg Harbor City	4,304	City Form	Mayor-9 Council	At-Large	Partisan
Estell Manor City	539	OMCL:Sm Pl.D&	Mayor-4 Council	At-Large	Partisan
Folsum Borough	1,767	Borough Form	Mayor-6 Council	At-Large	Partisan
Galloway Township	8,276	OMCL:C-M PL.E	7 Council	At-Large	Partisan
Hamilton Township	6,445	Township Form	5 Committee	At-Large	Partisan
Hammonton Town	11,464	Town Form	Mayor-6 Alder.	At-Large	Partisan
Linwood City	6,159	City Form	Mayor-7 Council	Wards & A-L	Partisan
Longport Borough	1,225	Commission	3 Commission	At-Large	Non-Partisan
Margate City	10,576	Commission	3 Commission.	At-Large	Non-Partisan
Mullica Township	3,391	Township Form	5 Committee.	At-Large	Partisan
Northfield City	8,875	City Form	Mayor-7 Council	Wards & A-L.	Partisan
Pleasantville City	13,778	City Form	Mayor-7 Council	Wards & A-L	Partisan
Port Republic City	586	City Form	Mayor-7 Council	Wards & A-L	Partisan
Sumers Point City	7,919	City Form	Mayor-7 Council	Wards & A-L	Partisan
Ventnor City	10,385	Commission	3 Commission	At-Large	Non-Partisan
Weymouth Township	998	Township Form	3 Committee	At-Large	Partisan
BERGEN COUNTY					
Allendale Borough	6,240	Borough Form	Mayor-6 Council	At-Large	Partisan
Alpine Borough	1,344	Borough Form	Mayor-6 Council	At-Large	Partisan
Bergenfield Borough	29,000	Borough Form	Mayor-6 Council	At-Large	Partisan
Bogota Borough	8,960	Borough Form	Mayor-6 Council	At-Large	Partisan
Carlstadt Borough	6,724	Borough Form	Mayor-6 Council	At-Large	Partisan
Cliffside Park Borough	18,891	Borough Form	Mayor-6 Council	At-Large	Partisan
Closter Borough	8,604	Borough Form	Mayor-6 Council	At-Large	Partisan
Cresskill Borough	8,298	Borough Form	Mayor-6 Council	At-Large	Partisan
Demarest Borough	5,133	Borough Form	Mayor-6 Council	At-Large	Partisan
Dumont Borough	20,155	Borough Form	Mayor-6 Council	At-Large	Partisan
Elmwood Park Boro	20,511	Borough Form	Mayor-6 Council	At-Large	Partisan
East Rutherford Borough	8,536	Borough Form	Mayor-6 Council	At-Large	Partisan
Edgewater Borough	4,987	Borough Form	Mayor-6 Council	At-Large	Partisan
Emerson Borough	8,428	Borough Form	Mayor-6 Council	At-Large	Partisan
Englewood City	24,985	City Form	Mayor-5 Council	Wards & A-L	Partisan
Englewood Cliffs Boro	5,938	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government — — N. J. Municipalities

Municipality	Pop.	Form of Government —	N. J. Municipalities	Method of Election	
		Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
BERGEN COUNTY (Con't.)					
Fair Lawn Borough	37,975	OMCL:C-M PL.E	5 Council	At-Large	Partisan
Fairview Borough	10,698	Borough Form	Mayor-6 Council	At-Large	Partisan
Fort Lee Borough	30,631	Borough Form	Mayor-6 Council	At-Large	Partisan
Franklin Lakes Borough	7,550	Borough Form	Mayor-6 Council	At-Large	Partisan
Garfield City	30,797	1923 Mgr. Form	5 Council	At-Large	Non-Partisan
Glen Rock Borough	13,011	Borough Form	Mayor-6 Council	At-Large	Partisan
Hackensack City	36,008	1923 Mgr. Form	5 Council	At-Large	Non-Partisan
Harrington Park Boro	4,841	Borough Form	Mayor-6 Council	At-Large	Partisan
Hasbrouck Heights Boro	13,651	Borough Form	Mayor-6 Council	At-Large	Partisan
Haworth Borough	3,760	Borough Form	Mayor-6 Council	At-Large	Partisan
Hillsdale Borough	11,768	Borough Form	Mayor-6 Council	At-Large	Partisan
Hohokus Borough	4,348	Borough Form	Mayor-6 Council	At-Large	Partisan
Leonia Borough	8,847	Borough Form	Mayor-6 Council	At-Large	Partisan
Little Ferry Borough	9,064	Borough Form	Mayor-6 Council	At-Large	Partisan
Lodi Borough	25,163	OMCL:C-M PL.B	Mayor-7 Council	At-Large	Non-Partisan
Lyndhurst Township	22,729	Commission	5 Commission.	At-Large	Non-Partisan
Mahwah Township	10,800	Township Form	5 Committee.	At-Large	Partisan
Maywood Borough	11,087	Borough Form	Mayor-6 Council.	At-Large	Partisan
Midland Park Borough	8,159	Borough Form	Mayor-6 Council	At-Large	Partisan
Montvale Borough	7,327	Borough Form	Mayor-6 Council	At-Large	Partisan
Moonachie Borough	2,951	Borough Form	Mayor-6 Council	At-Large	Partisan
New Milford Borough	19,149	Borough Form	Mayor-6 Council	At-Large	Partisan
North Arlington Boro	18,096	Borough Form	Mayor-6 Council	At-Large	Partisan
Northvale Borough	5,177	Borough Form	Mayor-6 Council	At-Large	Partisan
Norwood Borough	4,398	Borough Form	Mayor-6 Council	At-Large	Partisan
Oakland Borough	14,420	Borough Form	Mayor-6 Council	At-Large	Partisan
Old Tappan Borough	3,917	Borough Form	Mayor-6 Council	At-Large	Partisan
Oradell Borough	8,903	Borough Form	Mayor-6 Council	At-Large	Partisan
Palisades Park Borough	13,351	Borough Form	Mayor-6 Council	At-Large	Partisan
Paramus Borough	28,381	Borough Form	Mayor-6 Council	At-Large	Partisan
Park Ridge Borough	8,709	Borough Form	Mayor-6 Council	At-Large	Partisan
Ramsey Borough	12,571	Borough Form	Mayor-6 Council	At-Large	Partisan
Ridgefield Borough	11,308	Borough Form	Mayor-6 Council	At-Large	Partisan
Ridgefield Park Village	13,990	Commission	5 Commission.	At-Large	Non-Partisan
Ridgewood Village	27,547	OMCL:C-M PL.B	5 Council.	At-Large	Non-Partisan
River Edge Borough	12,850	Borough Form	Mayor-6 Council	At-Large	Partisan
River Vale Township	8,883	OMCL:C-M PL.E	Mayor-5 Council	Wards & A-L.	Partisan
Rochelle Park Township	6,380	Township Form	5 Committee.	At-Large	Partisan
Rockleigh Boro	,308	Borough Form	Mayor-6 Council	At-Large	Partisan
Rutherford Borough	20,802	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N.J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
BERGEN COUNTY (Con't.)					
Saddle Brook Township	15,975	OMCL:M-C PL.B	Mayor-7 Council	At-Large	Non-Partisan
Saddle River Borough	2,437	Borough Form	Mayor-6 Council	At-Large	Partisan
South Hackensack Township	2,412	Township Form	5 Committee.	At-Large	Partisan
Teaneck Township	42,355	1923 Mgr. Form	7 Council.	At-Large	Non-Partisan
Tenafly Borough	14,827	Borough Form	Mayor-6 Council	At-Large	Partisan
Teterboro Borough	19	1923 Mgr. Form	5 Council.	At-Large	Non-Partisan
Upper Saddle River Boro	7,949	Borough Form	Mayor-6 Council	At-Large	Partisan
Waldwick Borough	12,313	Borough Form	Mayor-6 Council	At-Large	Partisan
Wallington Borough	10,284	Borough Form	Mayor-6 Council	At-Large	Partisan
Washington Township	10,577	OMCL:M-C PL.E	Mayor-5 Council	At-Large	Partisan
Westwood Borough	11,105	Borough Form	Mayor-6 Council	At-Large	Partisan
Woodcliff Lake Borough	5,506	Borough Form	Mayor-6 Council	At-Large	Partisan
Wood-Ridge Borough	8,311	Borough Form	Mayor-6 Council	At-Large	Partisan
Wyckoff Township	16,039	Township Form	5 Committee.	At-Large	Partisan
BURLINGTON COUNTY					
Bass River Township	815	Commission	3 Commission.	At-Large	Non-Partisan
Beverly City	3,105	City Form	Mayor-9 Council	At-Large	Partisan
Bordentown City	4,490	Commission	3 Commission.	At-Large	Non-Partisan
Bordentown Township	7,303	Township Form	5 Committee.	At-Large	Partisan
Burlington City	12,010	City Form	Mayor-12 Council	Wards	Partisan
Burlington Township	10,621	OMCL:M-C PL.E	Mayor-7 Council	At-Large	Partisan
Chesterfield Township	3,190	Township Form	3 Committee.	At-Large	Partisan
Cinnaminson Township	16,962	Township Form	5 Committee.	At-Large	Partisan
Delanco Township	4,157	Township Form	3 Committee.	At-Large	Partisan
Delran Township	10,065	OMCL:M-C PL.D	Mayor-5 Council	Wards & A-L.	Non-Partisan
Eastampton Township	2,284	Township Form	3 Committee.	At-Large	Partisan
Edgewater Park Township	7,412	Township Form	5 Committee.	At-Large	Partisan
Evesham Township	13,477	OMCL:C-M PL.B	5 Council.	At-Large	Non-Partisan
Fieldsboro Borough	615	Borough Form	Mayor-6 Council	At-Large	Partisan
Florence Township	8,560	OMCL:M-C PL.F	Mayor-5 Council	Wards & A-L.	Partisan
Hainesport Township	2,990	Township Form	3 Committee.	At-Large	Partisan
Lumberton Township	3,945	Township Form	5 Committee.	At-Large	Partisan
Mansfield Township	2,597	Township Form	3 Committee.	At-Large	Partisan
Maple Shade Township	16,464	OMCL:C-M PL.E	5 Council.	At-Large	Partisan
Medford Township	8,292	Township Form	5 Committee.	At-Large	Partisan
Medford Lakes Borough	4,792	1923 Mgr. Form	3 Council.	At-Large	Non-Partisan
Moorestown Township	15,577	OMCL:C-M PL.E	5 Council.	At-Large	Partisan
Mount Holly Township	12,713	OMCL:C-M PL.A	5 Council.	At-Large	Non-Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
BURLINGTON COUNTY (Con't.)					
Mount Laurel Township	11,221	OMCL:C-M PL.E	5 Council	At-Large	Partisan
New Hanover Township	27,410	Township Form	5 Committee.	At-Large	Partisan
North Hanover Township	9,858	Township Form	5 Committee.	At-Large	Partisan
Palmyra Borough	6,969	Borough Form	Mayor-6 Council	At-Large	Partisan
Pemberton Borough	1,344	Borough Form	Mayor-6 Council	At-Large	Partisan
Pemberton Township	19,754	Township Form	5 Committee.	At-Large	Partisan
Riverside Township	8,591	Township Form	5 Committee.	At-Large	Partisan
Riverton Borough	3,412	Borough Form	Mayor-6 Council	At-Large	Partisan
Shamong Township	1,318	Township Form	3 Committee.	At-Large	Partisan
Southampton Township	4,982	Township Form	5 Committee.	At-Large	Partisan
Springfield Township	2,244	Township Form	3 Committee.	At-Large	Partisan
Tabernacle Township	2,103	Township Form	3 Committee.	At-Large	Partisan
Washington Township	673	Township Form	3 Committee.	At-Large	Partisan
Westampton Township	2,680	Township Form	5 Committee.	At-Large	Partisan
Willingboro Township	43,386	OMCL:C-M PL.E	5 Council	At-Large	Partisan
Woodland Township	2,032	Township Form	3 Committee.	At-Large	Partisan
Wrightstown Borough	2,719	Borough Form	Mayor-6 Council	At-Large	Partisan
CAMDEN COUNTY					
Audubon Borough	10,802	Commission	3 Commission.	At-Large	Non-Partisan
Audubon Park Borough	1,492	Borough Form	Mayor-6 Council	At-Large	Partisan
Barrington Borough	8,409	Borough Form	Mayor-6 Council	At-Large	Partisan
Bellmawr Borough	15,618	Borough Form	Mayor-6 Council	At-Large	Partisan
Berlin Borough	4,997	Borough Form	Mayor-6 Council	At-Large	Partisan
Berlin Township	5,692	OMCL:SM PL.A	Mayor-4 Council	At-Large	Non-Partisan
Brooklawn Borough	2,870	Borough Form	Mayor-6 Council	At-Large	Partisan
Camden City	102,551	OMCL:M-C PL.B	Mayor-7 Council	At-Large	Non-Partisan
Cherry Hill Township	64,395	OMCL:C-M PL.B	7 Council	At-Large	Non-Partisan
Chesilhurst Borough	801	Borough Form	Mayor-6 Council	At-Large	Partisan
Clementon Borough	4,492	Borough Form	Mayor-6 Council	At-Large	Partisan
Collingswood Borough	17,422	Commission	3 Commission.	At-Large	Non-Partisan
Gibbsboro Borough	2,634	Borough Form	Mayor-6 Council	At-Large	Partisan
Gloucester City	14,707	Special Charter	Mayor-6 Council	Wards	Partisan
Gloucester Township	26,511	OMCL:C-M PL.E	7 Council	At-Large	Partisan
Haddon Township	18,192	Commission	3 Commission	At-Large	Non-Partisan
Haddonfield Borough	13,118	Commission	3 Commission.	At-Large	Non-Partisan
Haddon Heights Borough	9,365	Borough Form	Mayor-6 Council	At-Large	Partisan
Hi-Nella Borough	1,195	Borough Form	Mayor-6 Council	At-Large	Partisan
Laurel Springs Borough	2,566	Borough Form	Mayor-6 Council	At-Large	Partisan
Lawnside Borough	2,757	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
CAMDEN COUNTY (Con't.)					
Lindenwold Borough	12,199	Borough Form	Mayor-6 Council	At-Large	Partisan
Magnolia Borough	5,893	Borough Form	Mayor-6 Council	At-Large	Partisan
Merchantville Borough	4,425	Borough Form	Mayor-6 Council	At-Large	Partisan
Mount Ephraim Borough	5,625	Commission	3 Commission.	At-Large	Non-Partisan
Oaklyn Borough	4,626	Borough Form	Mayor-6 Council	At-Large	Partisan
Pennsauken Township	36,394	Township Form	5 Committee.	At-Large	Partisan
Pine Hill Borough	5,132	Borough Form	Mayor-6 Council	At-Large	Partisan
Pine Valley Borough	23	Commission	3 Commission.	At-Large	Non-Partisan
Runnemede Borough	10,475	Borough Form	Mayor-6 Council	At-Large	Partisan
Somerdale Borough	6,510	Borough Form	Mayor-6 Council	At-Large	Partisan
Stratford Borough	9,801	Borough Form	Mayor-6 Council	At-Large	Partisan
Tavistock Borough	12	Commission	3 Commission	At-Large	Non-Partisan
Voorhees Township	6,214	Township Form	5 Committee.	At-Large	Partisan
Waterford Township	4,073	Township Form	5 Committee.	At-Large	Partisan
Winslow Township	11,202	Township Form	9 Committee.	Wards & A-L.	Partisan
Wood-Lynne Borough	3,101	Borough Form	Mayor-6 Council	At-Large	Partisan
CAPE MAY COUNTY					
Avalon Borough	1,283	Commission	3 Commission.	At-Large	Non-Partisan
Cape May City	4,392	1923 Mgr. Form	3 Council	At-Large	Non-Partisan
Cape May Point Borough	204	Commission	3 Commission.	At-Large	Non-Partisan
Dennis Township	2,635	Township Form	3 Committee.	At-Large	Partisan
Lower Township	10,154	Township Form	3 Committee.	At-Large	Partisan
Middle Township	8,725	Township Form	3 Committee.	At-Large	Partisan
North Wildwood City	3,914	City Form	Mayor-7 Council	Wards & A-L.	Partisan
Ocean City	10,575	OMCL:M-C PL.D	Mayor-7 Council	Wards & A-L.	Non-Partisan
Sea Isle City	1,712	Commission	3 Commission.	At-Large	Non-Partisan
Stone Harbor Borough	1,089	Borough Form	Mayor-6 Council	At-Large	Partisan
Upper Township	3,413	Township Form	3 Committee.	At-Large	Partisan
West Cape May Borough	1,005	Commission	3 Commission.	At-Large	Non-Partisan
West Wildwood Borough	235	Commission	3 Commission.	At-Large	Non-Partisan
Wildwood City	4,110	Commission	3 Commission.	At-Large	Non-Partisan
Wildwood Crest Borough	3,483	Commission	3 Commission.	At-Large	Non-Partisan
Wildwood Crest Borough					
Woodbine Borough	2,625	Borough Form	Mayor-6 Council	At-Large	Partisan
CUMBERLAND COUNTY					
Bridgeton City	20,435	OMCL:M-C PL.A	Mayor-5 Council	At-Large	Non-Partisan
Commercial Township	3,667	Township Form	3 Committee.	At-Large	Partisan
Deerfield Township	2,464	Township Form	5 Committee.	At-Large	Partisan
Downe Township	1,777	Township Form	3 Committee.	At-Large	Partisan
Fairfield Township	4,990	Township Form	5 Committee.	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
CUMBERLAND COUNTY (Con't.)					
Greenwich Township	963	Township Form	3 Committee.	At-Large	Partisan
Hopewell Township	3,970	Township Form	5 Committee.	At-Large	Partisan
Lawrence Township	2,329	Township Form	3 Committee.	At-Large	Partisan
Maurice River Township	3,743	Township Form	3 Committee.	At-Large	Partisan
Millville City	21,366	Commission	5 Commission.	At-Large	Non-Partisan
Shiloh Borough	573	Borough Form	Mayor-6 Council	At-Large	Partisan
Stow Creek Township	1,050	Township Form	3 Committee.	At-Large	Partisan
Upper Deerfield Township	6,648	Township Form	5 Committee.	At-Large	Partisan
Vineland City	47,399	OMCL:M-C PL.A	Mayor-5 Council	At-Large	Non-Partisan
ESSEX COUNTY					
Belleville Town	37,629	Commission	5 Commission.	At-Large	Non-Partisan
Bloomfield Town	52,029	Special Charter	Mayor-6 Council	Wards & A-L.	Partisan
Caldwell Town	8,677	Borough Form	Mayor-6 Council	At-Large	Partisan
Cedar Grove Township	15,582	OMCL:C-M PL.B	5 Council	At-Large	Non-Partisan
East Orange City	75,471	City Form	Mayor-10 Council	Wards	Partisan
Essex Fells Borough	2,541	Borough Form	Mayor-6 Council	At-Large	Partisan
Fairfield Borough	6,884	OMCL:SM PL.C	Mayor-4 Council	At-Large	Partisan
Glen Ridge Borough	8,518	Borough Form	Mayor-6 Council	At-Large	Partisan
Irvington Town	59,743	OMCL:M-C PL.D	Mayor-7 Council	Wards & A-L.	Partisan
Livingston Township	30,127	OMCL:C-M PL.E	5 Council	At-Large	Partisan
Maplewood Township	24,932	Township Form	5 Committee.	At-Large	Partisan
Millburn Township	21,089	Township Form	5 Committee.	At-Large	Partisan
Montclair Town	44,043	Commission	5 Commission.	At-Large	Non-Partisan
Newark Part in 26th	26,355	OMCL:M-C PL.C	Mayor-9 Council	Wards & A-L.	Non-Partisan
North Caldwell Borough	6,733	Borough Form	Mayor-6 Council	At-Large	Partisan
Nutley Town	31,913	Commission	5 Commission.	At-Large	Non-Partisan
Orange City	32,566	OMCL:M-C PL.D	Mayor-7 Council	Wards & A-L.	Non-Partisan
Roseland Borough	4,453	Borough Form	Mayor-6 Council	At-Large	Partisan
South Orange Village	16,971	Special Charter	Pres.-6 Trust.	At-Large	Non-Partisan
Verona Borough	15,067	Borough Form	Mayor- 6 Council	At-Large	Partisan
West Caldwell Borough	11,913	Borough Form	Mayor-6 Council	At-Large	Partisan
West Orange Town	43,715	OMCL:M-C PL.B	Mayor-5 Council	At-Large	Non-Partisan
GLOUCESTER COUNTY					
Clayton Borough	5,193	Borough Form	Mayor-6 Council	At-Large	Partisan
Deptford Township	24,232	OMCL:C-M PL.E	7 Council	At-Large	Partisan
East Greenwich Township	3,280	Township Form	5 Committee.	At-Large	Partisan
Elk Township	2,707	Township Form	5 Committee.	At-Large	Partisan
Franklin Township	8,990	Township Form	5 Committee.	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Municipality	Pop.	Form	Gov. Body	Method of Election	
				Dist/at Lge	Part/Non Partisan
GLOUCESTER COUNTY (Con't.)					
Glassboro Borough	12,938	Borough Form	Mayor-6 Council	At-Large	Partisan
Greenwich Township	5,676	Township Form	5 Committee.	At-Large	Partisan
Harrison Township	2,661	Township Form	5 Committee.	At-Large	Partisan
Logan Township	1,840	Township Form	3 Committee.	At-Large	Partisan
Mantua Township	9,643	Township Form	5 Committee.	At-Large	Partisan
Monroe Township	14,071	OMCL:M-C PL.F	Mayor-7 Council	Wards & A-L.	Partisan
National Park Borough	3,730	Borough Form	Mayor-6 Council	At-Large	Partisan
Newfield Borough	1,487	Borough Form	Mayor-6 Council	At-Large	Partisan
Paulsboro Borough	8,084	Borough Form	Mayor-6 Council	At-Large	Partisan
Pitman Borough	10,257	Borough Form	Mayor-6 Council	At-Large	Partisan
South Harrison Township	1,226	Township Form	5 Committee.	At-Large	Partisan
Swedesboro Borough	2,287	Borough Form	Mayor-6 Council	At-Large	Partisan
Washington Township	15,741	Township Form&	5 Committee.	At-Large	Partisan
Wenonah Borough	2,364	Borough Form	Mayor-6 Council	At-Large	Partisan
West Deptford Township	13,928	Township Form &	5 Committee.	At-Large	Partisan
Westville Borough	5,170	Borough Form	Mayor-6 Council	At-Large	Partisan
Woodbury City	12,408	City Form &	Mayor-9 Council	Wards	Partisan
Woodbury Heights Borough	3,621	Borough Form	Mayor-6 Council	At-Large	Partisan
Woolwich Township	1,147	Township Form	3 Committee.	At-Large	Partisan
HUDSON COUNTY					
Bayonne City	72,743	OMCL:M-C PL.G	Mayor-5 Council	Wards & A.L.	Non Partisan
East Newark Borough	1,922	Borough Form	Mayor-6 Council	At-Large	Partisan
Guttenberg Township	5,754	Town Form &	Mayor-5 Council	At-Large	Partisan
Harrison Town	11,811	Town Form	Mayor-8 Council	Wards	Partisan
Hoboken City	45,380	OMCL:M-C PL.D	Mayor-9 Council	Wards & A.L.	Non Partisan
Jersey City Part in 31st	108,407	OMCL:M-C PL.C	Mayor-9 Council	Wards & A.L.	Non Partisan
Kearny Town	37,585	Town Form	Mayor-8 Council	Wards	Partisan
North Bergen Township	47,751	Commission	5 Commission.	At-Large	Non Partisan
Secaucus Town	13,228	Town Form &	Mayor-6 Council	Wards	Partisan
Union City	57,305	Commission	5 Commission.	At-Large	Non Partisan
Weehawken Township	13,383	Township Form	7 Committee.	Wards & A.L.	Partisan
West New York Town	40,627	Commission	5 Commission.	At-Large	Non Partisan
HUNTERDON COUNTY					
Alexandria Township	2,127	Township Form	3 Committee.	At-Large	Partisan
Bethlehem Township	1,385	Township Form	3 Committee.	At-Large	Partisan
Bloomsbury Borough	879	Borough Form	Mayor-6 Council	At-Large	Partisan
Califon Borough	970	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
HUNTERDON COUNTY (Con't.)					
Clinton Town	1,742	Town Form	Mayor-6 Council	At-Large	Partisan
Clinton Township	5,119	OMCL:SM PL.C	Mayor-4 Council	At-Large	Partisan
Delaware Township	3,249	Township Form	3 Committee.	At-Large	Partisan
East Amwell Township	2,568	Township Form	3 Committee.	At-Large	Partisan
Flemington Borough	3,917	Borough Form	Mayor-6 Council	At-Large	Partisan
Franklin Township	2,154	Township Form	3 Committee.	At-Large	Partisan
Frenchtown Borough	1,459	Borough Form	Mayor-6 Council	At-Large	Partisan
Glen Gardner Borough	874	Borough Form	Mayor-6 Council	At-Large	Partisan
Hampton Borough	1,386	Borough Form	Mayor-6 Council	At-Large	Partisan
High Bridge Borough	2,606	Borough Form	Mayor-6 Council	At-Large	Partisan
Holland Township	3,587	Township Form	3 Committee.	At-Large	Partisan
Kingwood Township	2,294	Township Form	3 Committee.	At-Large	Partisan
Lambertville City	4,359	Commission	3 Commission.	At-Large	Non-Partisan
Lebanon Borough	885	Borough Form	Mayor-6 Council	At-Large	Partisan
Lebanon Township	4,235	Township Form	3 Committee.	At-Large	Partisan
Milford Borough	1,230	Borough Form	Mayor-6 Council	At-Large	Partisan
Raritan Township	6,934	Township Form	5 Committee.	At-Large	Partisan
Readington Township	7,688	Township Form	5 Committee.	At-Large	Partisan
Stockton Borough	619	Borough Form	Mayor-6 Council	At-Large	Partisan
Tewksbury Township	2,959	Township Form	3 Committee.	At-Large	Partisan
Union Township	2,351	Township Form	3 Committee.	At-Large	Partisan
West Amwell Township	2,142	Township Form	3 Committee.	At-Large	Partisan
MERCER COUNTY					
East Windsor Township	11,736	OMCL:C-M PL.E	5 Council	At-Large	Partisan
Ewing Township	32,831	Township Form	5 Committee.	At-Large	Partisan
Hamilton Township	79,609	OMCL:M-C PL.E	Mayor-5 Council	At-Large	Partisan
Hightstown Borough	5,431	Borough Form	Mayor-6 Council	At-Large	Partisan
Hopewell Borough	2,271	Borough Form	Mayor-6 Council	At-Large	Partisan
Hopewell Township	10,030	Township Form	5 Committee.	At-Large	Partisan
Lawrence Township	19,567	OMCL:C-M PL.E	5 Council	At-Large	Partisan
Pennington Borough	2,151	Borough Form	Mayor-6 Council	At-Large	Partisan
Princeton Borough	12,311	Borough Form	Mayor-6 Council	At-Large	Partisan
Princeton Township	13,651	Township Form	5 Committee.	At-Large	Partisan
Trenton City	104,786	OMCL:M-C PL.C	Mayor-7 Council	Wards & A-L.	Non-Partisan
Washington Township	3,311	Township Form	3 Committee.	At-Large	Partisan
West Windsor Township	6,431	Township Form	5 Committee.	At-Large	Partisan
MIDDLESEX COUNTY					
Carteret Borough	23,137	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
MIDDLESEX COUNTY (Con't.)					
Cranbury Township	2,253	Township Form	3 Committee.	At-Large	Partisan
Dunellen Borough	7,072	Borough Form	Mayor-6 Council	At-Large	Partisan
East Brunswick Township	34,166	OMCL:M-C PL.E	Mayor-5 Council	At-Large	Partisan
Edison Township	67,120	OMCL:M-C PL.E	Mayor-7 Council	At-Large	Partisan
Helmetta Borough	955	Borough Form	Mayor-6 Council	At-Large	Partisan
Highland Park Borough	14,385	Borough Form	Mayor-6 Council	At-Large	Partisan
Jamesburg Borough	4,584	Borough Form	Mayor-6 Council	At-Large	Partisan
Metuchen Borough	16,031	Borough Form	Mayor-6 Council	At-Large	Partisan
Middlesex Borough	15,038	Borough Form	Mayor-6 Council	At-Large	Partisan
Milltown Borough	6,470	Borough Form	Mayor-6 Council	At-Large	Partisan
Monroe Township	9,138	OMCL:M-C PL.F	Mayor-5 Council	Wards & A-L.	Partisan
New Brunswick City	41,885	OMCL:M-C PL.E	Mayor-5 Council	At-Large	Partisan
North Brunswick Township	16,691	Township Form	5 Committee.	At-Large	Partisan
Old Bridge Township	48,715	OMCL:C-M PL.E	7 Council	At-Large	Partisan
Perth Amboy City	38,798	OMCL:M-C PL.B	Mayor-5 Council	At-Large	Non-Partisan
Piscataway Township	36,418	OMCL:M-C PL.F	Mayor-7 Council	Wards & A-L.	Partisan
Plainsboro Township	1,648	Township Form	3 Committee.	At-Large	Partisan
Sayreville Borough	32,508	Borough Form	Mayor-6 Council	At-Large	Partisan
South Amboy City	9,338	OMCL:M-C PL.D	Mayor-5 Council	Wards & A-L.	Non-Partisan
South Brunswick Township	14,058	Township Form	5 Committee.	At-Large	Partisan
South Plainfield Borough	21,142	Borough Form	Mayor-6 Council	At-Large	Partisan
South River Borough	15,428	Borough Form	Mayor-6 Council	At-Large	Partisan
Spotswood Borough	7,891	OMCL:M-C PL.B	Mayor-5 Council	At-Large	Non-Partisan
Woodbridge Township	98,944	OMCL:M-C PL.F	Mayor-9 Council	Wards & A-L.	Partisan
MONMOUTH COUNTY					
*Aberdeen Township	17,680	OMCL:C-M PL.E	7 Council	At-Large	Partisan
Allenhurst Borough	1,012	Commission	3 Commission.	At-Large	Non-Partisan
Allentown Borough	1,603	Borough Form	Mayor-6 Council	At-Large	Partisan
Asbury Park City	16,533	1923 Mgr. Form	5 Council	At-Large	Non-Partisan
Atlantic Highlands Boro	5,102	Borough Form	Mayor-6 Council	At-Large	Partisan
Avon-by-the-Sea Borough	2,163	Commission	3 Commission.	At-Large	Non-Partisan
Belmar Borough	5,782	Commission	3 Commission.	At-Large	Non-Partisan
Bradley Beach Borough	4,163	Commission	3 Commission.	At-Large	Non-Partisan
Brielle Borough	3,594	Borough Form	Mayor-6 Council	At-Large	Partisan
Colts Neck Township	5,819	Township Form	5 Committee.	At-Large	Partisan
Deal Borough	2,401	Commission	3 Commission.	At-Large	Non-Partisan
Eatontown Borough	14,619	Borough Form	Mayor-6 Council	At-Large	Partisan
Englishtown Borough	1,048	Borough Form	Mayor-6 Council	At-Large	Partisan

* Formerly Matawan Township

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
MONMOUTH COUNTY (Con't)					
Fair Haven Borough	6,142	Borough Form	Mayor-6 Council	At-Large	Partisan
Farmingdale Borough	1,148	Borough Form	Mayor-6 Council	At-Large	Partisan
Freehold Borough	10,545	Borough Form	Mayor-6 Council	At-Large	Partisan
Freehold Township	13,185	Township Form	5 Committee.	At-Large	Partisan
Hazlet Township	22,239	Township Form	5 Committee.	At-Large	Partisan
Highlands Borough	3,916	OMCL:SM PL.C	Mayor-4 Council	At-Large	Partisan
Holmdel Township	6,117	Township Form	5 Committee.	At-Large	Partisan
Howell Township	21,756	Township Form	5 Committee.	At-Large	Partisan
Interlaken Borough	1,182	Borough Form	Mayor-6 Council	At-Large	Partisan
Keansburg Borough	9,720	OMCL:C-M PL.B	5 Council	At-Large	Non-Partisan
Keyport Borough	7,205	Borough Form	Mayor-6 Council	At-Large	Partisan
Little Silver Borough	6,010	Borough Form	Mayor-6 Council	At-Large	Partisan
Loch Arbour Village	395	Village Form	5 Trustees	At-Large	Non-Partisan
Long Branch City	31,774	OMCL:M-C PL.A	Mayor-5 Council	At-Large	Non-Partisan
Manalapan Township	14,049	Township Form	5 Committee.	At-Large	Partisan
Manasquan Borough	4,971	Borough Form	Mayor-6 Council	At-Large	Partisan
Marlboro Township	12,273	OMCL:M-C PL.E	Mayor-5 Council	At-Large	Partisan
Matawan Borough	9,136	Borough Form	Mayor-6 Council	At-Large	Partisan
Middletown Township	54,623	Special Charter	5 Council	At-Large	Partisan
Millstone Township	2,535	Township Form	5 Committee.	At-Large	Partisan
Monmouth Beach Borough	2,042	Commission	3 Commission.	At-Large	Non-Partisan
Neptune City Borough	5,502	Borough Form	Mayor-6 Council	At-Large	Partisan
Neptune Township	27,863	Township Form	5 Committee.	At-Large	Partisan
Ocean Township	18,643	OMCL:C-M PL.A	5 Council	At-Large	Non-Partisan
Oceanport Borough	7,503	Borough Form	Mayor-6 Council	At-Large	Partisan
Red Bank Borough	12,847	Borough Form	Mayor-6 Council	At-Large	Partisan
Roosevelt Borough	814	Borough Form	Mayor-6 Council	At-Large	Partisan
Rumson Borough	7,421	Borough Form	Mayor-6 Council	At-Large	Partisan
Sea Bright Borough	1,339	Borough Form	Mayor-6 Council	At-Large	Partisan
Sea Girt Borough	2,207	Borough Form	Mayor-6 Council	At-Large	Partisan
Shrewsbury Borough	3,315	Borough Form	Mayor-6 Council	At-Large	Partisan
Shrewsbury Township	1,164	Township Form	3 Committee.	At-Large	Partisan
South Belmar Borough	1,490	Borough Form	Mayor-6 Council	At-Large	Partisan
Spring Lake Borough	3,896	Borough Form	Mayor-6 Council	At-Large	Partisan
Spring Lake Heights Boro	4,602	Borough Form	Mayor-6 Council	At-Large	Partisan
Tinton Falls Borough	8,395	Borough Form	Mayor-6 Council	At-Large	Partisan
Union Beach Borough	6,472	Borough Form	Mayor-6 Council	At-Large	Partisan
Upper Freehold Township	2,551	Township Form	3 Committee.	At-Large	Partisan
Wall Township	16,498	Township Form	5 Committee.	At-Large	Partisan
West Long Branch Boro	6,845	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government --- N. J. Municipalities

Form of Government --- N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
MORRIS COUNTY					
Boonton Town	9,261	Town Form	Mayor-8 Alder.	Wards	Partisan
Boonton Township	3,070	Township Form	5 Committee.	At-Large	Partisan
Butler Borough	7,051	Borough Form	Mayor-6 Council	At-Large	Partisan
Chatham Borough	9,566	Borough Form	Mayor-6 Council	At-Large	Partisan
Chatham Township	8,093	Township Form	5 Committee.	At-Large	Partisan
Chester Borough	1,299	Borough Form	Mayor-6 Council	At-Large	Partisan
Chester Township	4,265	OMCL:SM PL.C	Mayor-4 Council	At-Large	Partisan
Denville Township	14,045	OMCL:M-C PL.F	Mayor-7 Council	Wards & A-L.	Partisan
Dover Town	15,039	Town Form	Mayor-8 Alder.	Wards	Partisan
East Hanover Township	7,734	Township Form	5 Committee.	At-Large	Partisan
Florham Park Borough	8,094	Borough Form	Mayor-6 Council	At-Large	Partisan
Hanover Township	10,700	Township Form	5 Committee.	At-Large	Partisan
Harding Township	3,249	Township Form	5 Committee.	At-Large	Partisan
Jefferson Township	14,122	OMCL:M-C PL.E	Mayor-5 Council	At-Large	Partisan
Kinnelon Borough	7,600	Borough Form	Mayor-6 Council	At-Large	Partisan
Lincoln Park Borough	9,034	OMCL:M-C PL.F	Mayor-7 Council	Wards & A-L.	Partisan
Madison Borough	16,710	Borough Form	Mayor-6 Council	At-Large	Partisan
Mendham Borough	3,729	Borough Form	Mayor-6 Council	At-Large	Partisan
Mendham Township	3,697	Township Form	5 Committee.	At-Large	Partisan
Mine Hill Township	3,557	Township Form	3 Committee.	At-Large	Partisan
Montville Township	11,846	Special Charter	5 Committee.	At-Large	Partisan
Morris Township	19,414	Township Form	5 Committee.	At-Large	Partisan
Morris Plains Borough	5,540	Borough Form	Mayor-6 Council	At-Large	Partisan
Morristown Town	17,662	OMCL:M-C PL.F	Mayor-7 Council	Wards & A-L.	Partisan
Mountain Lakes Boro	4,739	OMCL:C-M PL.E	7 Council	At-Large	Partisan
Mount Arlington Borough	3,590	Borough Form	Mayor-6 Council	At-Large	Partisan
Mount Olive Township	10,394	OMCL:M-C PL.E	Mayor-7 Council	At-Large	Partisan
Netcong Borough	2,858	Borough Form	Mayor-6 Council	At-Large	Partisan
Parsippany-Troy Hills Twsp.	55,112	OMCL:M-C PL.E	Mayor-5 Council	At-Large	Partisan
Passaic Township	7,393	Township Form	5 Committee.	At-Large	Partisan
Pequannock Township	14,350	OMCL:C-M PL.E	5 Council	At-Large	Partisan
Randolph Township	13,296	OMCL:C-M PL.E	7 Council	At-Large	Partisan
Riverdale Borough	2,729	Borough Form	Mayor-6 Council	At-Large	Partisan
Rockaway Borough	6,383	Borough Form	Mayor-6 Council	At-Large	Partisan
Rockaway Township	18,955	OMCL:M-C PL.F	Mayor-9 Council	Wards & A-L.	Partisan
Roxbury Township	15,754	Township Form	5 Committee.	At-Large	Partisan
Victory Gardens Borough	1,027	Borough Form	Mayor-6 Council	At-Large	Partisan
Washington Township	6,962	Township Form	5 Committee.	At-Large	Partisan
Wharton Borough	5,535	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
OCEAN COUNTY					
* Barnegat Township	1,539	Township Form	5 Committee.	At-Large	Partisan
Barnegat Light Borough	554	Borough Form	Mayor-6 Council	At-Large	Partisan
Bay Head Borough	1,083	Borough Form	Mayor-6 Council	At-Large	Partisan
Beach Haven Borough	1,488	Commission	3 Commission.	At-Large	Non-Partisan
Beachwood Borough	4,390	Borough Form	Mayor-6 Council	At-Large	Partisan
Berkeley Township	7,918	Township Form	5 Committee.	At-Large	Partisan
Brick Township	35,057	OMCL:M-C PL.B	Mayor-7 Council	At-Large	Non-Partisan
Dover Township	43,751	Township Form	5 Committee.	At-Large	Partisan
Eagleswood Township	823	Township Form	3 Committee.	At-Large	Partisan
Harvey Cedars Borough	314	Commission	3 Commission.	At-Large	Non-Partisan
Island Heights Borough	1,397	OMCL:SM PL.A	Mayor-6 Council	At-Large	Non-Partisan
Jackson Township	18,276	Township Form	5 Committee.	At-Large	Partisan
Lacey Township	4,616	Township Form	5 Committee.	At-Large	Partisan
Lakehurst Borough	2,641	Borough Form	Mayor-6 Council	At-Large	Partisan
Lakewood Township	25,223	Township Form	5 Committee.	At-Large	Partisan
Lavallette Borough	1,509	Borough Form	Mayor-6 Council	At-Large	Partisan
Little Egg Harbor Twsp.	2,972	Township Form	5 Committee	At-Large	Partisan
Long Beach Township	2,910	Commission	3 Commission.	At-Large	Non-Partisan
Manchester Township	7,550	Township Form	5 Committee.	At-Large	Partisan
Mantoloking Borough	319	Borough Form	Mayor-6 Council	At-Large	Partisan
Ocean Township	2,222	Township Form	3 Committee.	At-Large	Partisan
Ocean Gate Borough	1,081	Borough Form	Mayor-6 Council	At-Large	Partisan
Pine Beach Borough	1,395	Borough Form	Mayor-6 Council	At-Large	Partisan
Plumstead Township	4,113	Township Form	3 Committee.	At-Large	Partisan
Point Pleasant Borough	15,968	Borough Form	Mayor-6 Council	At-Large	Partisan
Point Pleasant Beach Boro	4,882	Borough Form	Mayor-6 Council	At-Large	Partisan
Seaside Heights Boro	1,248	Borough Form	Mayor-6 Council	At-Large	Partisan
Seaside Park Borough	1,432	Borough Form	Mayor-6 Council	At-Large	Partisan
Ship Bottom Borough	1,079	Borough Form	Mayor-6 Council	At-Large	Partisan
South Toms River Boro	3,981	Borough Form	Mayor-6 Council	At-Large	Partisan
Stafford Township	3,684	Township Form	3 Committee.	At-Large	Partisan
Surf City Borough	1,129	Borough Form	Mayor-6 Council	At-Large	Partisan
Tuckerton Borough	1,926	Borough Form	Mayor-6 Council	At-Large	Partisan
PASSAIC COUNTY					
Bloomington Borough	7,797	Borough Form	Mayor-6 Council	At-Large	Partisan
Clifton City	82,437	1923 Mgr. Form	7 Council	At-Large	Non-Partisan
Haledon Borough	6,767	Borough Form	Mayor-6 Council	At-Large	Partisan

* Formerly Union Township

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
PASSAIC COUNTY (Con't.)					
Hawthorne Borough	19,173	Commission	5 Commission.	At-Large	Non-Partisan
Little Falls Township	11,727	Township Form	5 Committee.	At-Large	Partisan
North Haledon Borough	7,614	Borough Form	Mayor-6 Council	At-Large	Partisan
Passaic City	55,124	OMCL:M-C PL.B	Mayor-7 Council	At-Large	Non-Partisan
Paterson City	144,824	OMCL:M-C PL.D	Mayor-9 Council	Wards & A-L.	Non-Partisan
Pompton Lakes Boro	11,397	Borough Form	Mayor-6 Council	At-Large	Partisan
Prospect Park Borough	5,176	Borough Form	Mayor-6 Council	At-Large	Partisan
Ringwood Borough	10,393	Borough Form	Mayor-6 Council	At-Large	Partisan
Totowa Borough	11,580	Borough Form	Mayor-6 Council	At-Large	Partisan
Wanaque Borough	8,636	Borough Form	Mayor-6 Council	At-Large	Partisan
Wayne Township	49,141	OMCL:M-C PL.F	Mayor-9 Council	Wards & A-L.	Partisan
West Milford Township	17,304	OMCL:C-M PL.D	5 Council	Wards & A-L.	Non-Partisan
West Paterson Borough	11,692	OMCL:SM PL.C	Mayor-6 Council	At-Large	Partisan
SALEM COUNTY					
Alloway Township	2,550	Township Form	3 Committee.	At-Large	Partisan
Carney's Point Township	7,016	Township Form	5 Committee.	At-Large	Partisan
Elmer Borough	1,592	Borough Form	Mayor-6 Council	At-Large	Partisan
Elsinboro Township	1,204	Township Form	3 Committee.	At-Large	Partisan
Lower Alloways Creek Twsp.	1,400	Township Form	5 Committee	At-Large	Partisan
Mannington Township	1,913	Township Form	3 Committee.	At-Large	Partisan
Oldmans Township	2,088	Township Form	3 Committee.	At-Large	Partisan
Penns Grove Borough	5,727	Borough Form	Mayor-6 Council	At-Large	Partisan
Pennsville Township	13,296	Township Form	5 Committee.	At-Large	Partisan
Pilesgrove Township	2,706	Township Form	3 Committee.	At-Large	Partisan
Pittsgrove Township	4,618	Township Form	5 Committee.	At-Large	Partisan
Quinton Township	2,567	Township Form	3 Committee.	At-Large	Partisan
Salem City	7,648	City Form	Mayor-8 Council	Wards	Partisan
Upper Pittsgrove Twsp.	2,884	Township Form	3 Committee.	At-Large	Partisan
Woodstown Borough	3,137	Borough Form	Mayor-6 Council	At-Large	Partisan
SOMERSET COUNTY					
Bedminster Township	2,597	Township Form	5 Committee.	At-Large	Partisan
Bernards Township	13,305	Township Form	5 Committee.	At-Large	Partisan
Bernardsville Borough	6,652	Borough Form	Mayor-6 Council	At-Large	Partisan
Bound Brook Borough	10,450	Borough Form	Mayor-6 Council	At-Large	Partisan
Branchburg Township	5,742	Township Form	5 Committee.	At-Large	Partisan
Bridgewater Township	30,235	OMCL:M-C PL.B	Mayor-5 Council	At-Large	Non-Partisan
Far Hills Borough	780	Borough Form	Mayor-6 Council	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Form of Government — N. J. Municipalities				Method of Election	
Municipality	Pop.	Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
SOMERSET COUNTY (Con't.)					
Franklin Township	30,389	OMCL:C-M PL.D	9 Council	Wards & A-L.	Non-Partisan
Green Brook Township	4,302	Township Form	5 Committee.	At-Large	Partisan
Hillsborough Township	11,061	Township Form	5 Committee.	At-Large	Partisan
Manville Borough	13,029	Borough Form	Mayor-6 Council	At-Large	Partisan
Millstone Borough	630	Borough Form	Mayor-6 Council	At-Large	Partisan
Montgomery Township	6,353	Township Form	5 Committee.	At-Large	Partisan
North Plainfield Borough	21,796	OMCL:M-C PL.E	Mayor-7 Council	At-Large	Partisan
Peapack-Gladstone Boro	1,924	Borough Form	Mayor-6 Council	At-Large	Partisan
Raritan Borough	6,691	Borough Form	Mayor-6 Council	At-Large	Partisan
Rocky Hill Borough	917	Borough Form	Mayor-6 Council	At-Large	Partisan
Somerville Boro	13,652	Borough Form	Mayor-6 Council	At-Large	Partisan
South Bound Brook Boro	4,525	Borough Form	Mayor-6 Council	At-Large	Partisan
Warren Township	8,592	Township Form	5 Committee.	At-Large	Partisan
Watchung Township	4,750	Borough Form	Mayor-6 Council	At-Large	Partisan
SUSSEX COUNTY					
Andover Borough	813	Borough Form	Mayor-6 Council	At-Large	Partisan
Branchville Borough	911	Borough Form	Mayor-6 Council	At-Large	Partisan
Byram Township	4,592	Township Form	5 Committee.	At-Large	Partisan
Frankford Township	2,777	Township Form	3 Committee.	At-Large	Partisan
Franklin Borough	4,236	Borough Form &	Mayor-6 Council.	At-Large	Partisan
Fredon Township	1,372	Township Form	5 Committee.	At-Large	Partisan
Green Township	1,343	Township Form	5 Committee.	At-Large	Partisan
Hamburg Borough	1,820	Borough Form	Mayor-6 Council	At-Large	Partisan
Hampton Township	2,091	Township Form	5 Committee.	At-Large	Partisan
Hardyston Township	3,499	Township Form	3 Committee.	At-Large	Partisan
Hopatcong Borough	9,052	Borough Form&	Mayor-6 Council	At-Large	Partisan
Lafayette Township	1,202	Township Form	5 Committee	At-Large	Partisan
Montague Township	1,131	Township Form	3 Committee	At-Large	Partisan
Newton Town	7,297	OMCL:C-M PL.B	5 Council	At-Large	Non-Partisan
Ogdensburg Borough	2,222	Borough Form	Mayor-6 Council	At-Large	Partisan
Sandyston Township	1,303	Township Form	3 Committee	At-Large	Partisan
Sparta Township	10,819	OMCL:C-M PL.B	5 Council	At-Large	Non-Partisan
Stanhope Borough	3,040	Borough Form	Mayor-6 Council	At-Large	Partisan
Stillwater Township	2,158	Township Form	5 Committee	At-Large	Partisan
Sussex Borough	2,038	Borough Form	Mayor-6 Council	At-Large	Partisan
Vernon Township	6,059	Township Form	5 Committee	At-Large	Partisan
Walpack Township	384	Township Form	3 Committee	At-Large	Partisan
Wantage Township	4,329	Township Form &	3 Committee	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Municipality	Pop.	Form	Gov. Body	Method of Election	
				Dist/at Lge	Part/Non/Partisan
UNION COUNTY					
Berkeley Heights Township	13,078	Township Form	5 Committee.	At-Large	Partisan
Clark Township	18,829	OMCL:M-C PL.F	Mayor-7 Council	Wards & A-L.	Partisan
Cranford Township	27,391	Township Form	5 Committee.	At-Large	Partisan
Elizabeth City	112,654	OMCL:M-C PL.F	Mayor-9 Council	Wards & A-L.	Partisan
Fanwood Borough	8,920	Borough Form	Mayor-6 Council	At-Large	Partisan
Garwood Borough	5,260	Borough Form	Mayor-6 Council	At-Large	Partisan
Hillside Township	21,636	Township Form	5 Committee.	At-Large	Partisan
Kenilworth Boro	9,165	Borough Form	Mayor-6 Council	At-Large	Partisan
Linden City	41,409	City Form	Mayor-11 Council	Wards & A-L.	Partisan
Mountainside Boro	7,520	Borough Form	Mayor-6 Council	At-Large	Partisan
New Providence Boro	13,796	Borough Form	Mayor-6 Council	At-Large	Partisan
Plainfield City	46,862	Special Charter	Mayor-7 Council	Wards & A-L.	Partisan
Rahway City	29,114	OMCL:M-C PL.F	Mayor-9 Council	Wards & A-L.	Partisan
Roselle Borough	22,585	Borough Form	Mayor-6 Council	Wards & A-L.	Partisan
Roselle Park Boro	14,277	Borough Form	Mayor-6 Council	Wards & A-L.	Partisan
Scotch Plains Township	22,279	OMCL:C-M PL.E	5 Council	At-Large	Partisan
Springfield Township	15,740	Township Form	5 Committee.	At-Large	Partisan
Summit City	23,620	City Form	Mayor-7 Council	Wards & A-L.	Partisan
Union Township	53,077	Township Form	5 Committee.	At-Large	Partisan
Westfield Town	33,720	Special Charter	Mayor-8 Council	Wards	Partisan
Winfield Township	2,184	Township Form	3 Committee.	At-Large	Partisan
WARREN COUNTY					
Allamuchy Township	1,138	Township Form	3 Committee.	At-Large	Partisan
Alpha Borough	2,829	Borough Form	Mayor-6 Council	At-Large	Partisan
Belvidere Town	2,722	Town Form	Mayor-6 Council	At-Large	Partisan
Blairstown Township	2,189	Township Form	5 Committee.	At-Large	Partisan
Franklin Township	1,973	Township Form	3 Committee.	At-Large	Partisan
Frelinghuysen Township	1,118	Township Form	3 Committee.	At-Large	Partisan
Greenwich Township	1,482	Township Form	3 Committee.	At-Large	Partisan
Hackettstown Town	9,472	Special Charter	Mayor-6 Council	At-Large	Partisan
Hardwick Township	548	Township Form	3 Committee.	At-Large	Partisan
Harmony Township	2,195	Township Form	3 Committee.	At-Large	Partisan
Hope Township	1,140	Township Form	3 Committee.	At-Large	Partisan
Independence Township	2,057	Township Form	3 Committee.	At-Large	Partisan
Knowlton Township	1,738	Township Form	5 Committee.	At-Large	Partisan
Liberty Township	1,229	Township Form	3 Committee.	At-Large	Partisan
Lopatcong Township	3,144	OMCL:SM PL.L	Mayor-4 Council	At-Large	Partisan
Mansfield Township	3,546	Township Form	5 Committee.	At-Large	Partisan

APPENDIX C

Form of Government — N. J. Municipalities

Municipality	Pop.	Form of Government — N. J. Municipalities		Method of Election	
		Form	Gov. Body	Dist/at Lge	Part/Non/Partisan
WARREN COUNTY (Con't.)					
Oxford Township	1,742	OMCL:SM PL.C	Mayor-2 Council	At-Large	Partisan
Pahaquarry Township	71	Township Form	3 Committee.	At-Large	Partisan
Phillipsburg Town	17,849	OMCL:C-M PL.B	7 Council	At-Large	Non-Partisan
Pohatcong Township	3,924	Township Form	3 Committee.	At-Large	Partisan
Washington Borough	5,943	OMCL:C-M PL.E	7 Council	At-Large	Partisan
Washington Township	3,585	Township Form	5 Committee.	At-Large	Partisan
White Township	2,326	Township Form	3 Committee.	At-Large	Partisan