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Report on county government
Second Tentative Draft

Title 40A. Municipalities and Counties.
Chapter 11. County Forms and Structure.
Chapter 13. Optional County Government Law.

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INTRODUCTION

Conceived in pre-Norman England as a convenient territorial and political subdivision for the administration of central government affairs, the county unit of government in the United States has, throughout most of its history and in accord with the basis of its creation, functioned as an administrative agent of the State. See Bebout, Introduction to National Municipal League, Model County Charter xi-xii (1956) (hereinafter cited as "Bebout"); Collier, County Government in New Jersey 3-6 (1953); Cape May County Planning Board, County Government: Structure and Building Space Needs 11-14 (1960) (hereinafter cited as "Cape May County"); Note, The Urban County: A Study of New Approaches To Local Government in Metropolitan Areas, 73 Harv. L. Rev. 526 (1960) (hereinafter cited as "Urban County, 73 Harv."). Historical fact matches practical necessity. A different orientation toward citizen demands for services was not required by a predominantly rural America. As

a State administrative agent, the governmental impact of counties was slight. Variouslly described some years ago as the "dark continent of American government", "an anachronism", and "a fifth wheel on the wagon" (Gibson and Overman, County Government in Virginia 38 (2nd ed. 1961) (hereinafter cited as "County Government in Virginia")), ". . . many people were happily predicting the progressive decay, if not the early demise, of county government. The outmoded structure, small size and inadequate resources of many counties lent plausibility to such predictions, particularly when the apparent stagnation of county government was contrasted with the dynamic growth and rapid modernization of city governments since the turn of the century." Bebout at xi; Urban County 73 Harv. at 526. Such forecasts have proved erroneous. The impact of modern social and economic developments has assigned a vital significance to county government. Rapid population growth, redistribution of the population and increased urbanization have blurred the distinct boundaries separating the governmental responsibilities of local units and defining intergovernmental

relations. The regional problems of service, planning and development engendered by such developments have focused attention on the need for areas of administration larger than municipal units. Thus, in addition to fulfilling increasing demands as an agent of the State, many new powers, duties and responsibilities of a local nature, usually associated with the governmental tasks of municipal corporations, have been assigned to counties. Cape May County at 14-15; Bebout at xii; Editorial Comment, National Civic Review (March 1962) 116 (hereinafter cited as "Editorial Comment"); State of New York, Special Legislative Committee on Revision and Simplification of the Constitution, Staff Report on County Government (Staff Report No. 15) I, 6-7 (1958) (hereinafter cited as "Staff Report"); Bureau of Municipal Research and Service, University of Oregon, Background Information on the Proposed Constitutional Amendment For County Home Rule 5, 9 (1958) (hereinafter cited as "Oregon Report"); Atkinson, Principles of a Model County Government, 32 National Mun. Rev. 465, 469 (1933) (hereinafter cited as "Atkinson"); 10 Burns Ill. Stats. Ann. § § 53-801 to 810 (1962

Supp.) (Metropolitan Planning Commissions); 10 Burns Ill. Stats. Ann. § § 53-1001 to 1098 (1962 Supp.) (Area Planning Departments); Vernon's Missouri Stats. Ann. § § 64.010 to 450 (1951), § § 64.211 to 295, 64.510 to 690 (1962 Supp.) (County Planning and Zoning); 2 Revised Codes of Montana Ann. § § 16-4401 to 4408 (1961 Supp.) (Metropolitan Sanitary and Storm Sewer Systems - county or county and town cooperation); 3c General Stats. of N. C. § § 153-276 to 283 (1961 Supp.) (Regional Planning Commission); 3c General Stats. of N. C. § § 153-295 to 324 (1961 Supp.) (Metropolitan Sewerage Districts); 3c General Stats. of N. C. § § 153-284 to 294 (1961 Supp.) (Water and Sewerage Facilities Board); 2 North Dakota Century Code Ann. § § 11-33-01 to 20 (1960) (county zoning); Tennessee Stats. § § 5-1601 to 5-1612 (urban public facilities - counties); see County Government in Virginia at 34-37 (county zoning).

The rapid urbanization of modern America has also focused attention on counties as an appropriate unit of "metropolitan government." The need for such a unit is attributable to the mobility of a dramatically increasing population. The

automobile and other improved means of transportation permit the worker to reside at a considerable distance from his place of employment. The result has been a redistribution of population in an outward spiral from an urban core to outlying suburban communities. This panorama of "urban sprawl" depletes the resources of the core city, in terms of population, leadership and financial resources, and invokes a demand for increased governmental services in the suburban areas which the local municipal units are either ill-equipped to provide or which, when furnished, greatly increase governmental costs and are characterized by a wasteful duplication of activity. Moreover, to the extent that the county responds to the demand and uses general revenues to supply needed services, the increased tax burden on city residents is not matched by expenditures on their behalf since revenues are utilized in suburban areas. And the complexity of the problems posed, increased by duplication and overlapping jurisdictions, dilutes citizen control of government, thus posing a threat to the effectiveness of democratic

institutions. See McMahon, North Carolina County Government 27 (1959); County Government in Virginia at 38; Urban County, 73 Harv. at 527; Weidner, The American County, Patchwork of Boards 15-17 (1946); Proceedings, Governor's Conference on Metropolitan and Urban Problems, Denver, Colorado, 3, 13-14, 16-17, 85-89 (1958); Staff Report at 6, 11, 122, 129-130; Oregon Report at 5, 9; Atkinson at 465, 469; Alderfer, American Local Government and Administration 34, 110, 112-113 (1956) (hereinafter cited as "Alderfer"); Public Administration Service, Metropolitan Surveys 3, 5-6 (1958) (hereinafter cited as "Metropolitan Surveys"); Cape May County at 15; Milwaukee County Government Report 10-11 (1961); Hallstead, The Case For The County Manager, 93 Public Works, No. 6 116 (June 1962) (hereinafter cited as "Hallstead"); Orton, Bankrupt Principles of Urban Growth, 76 American City, No. 10 101 (Oct. 1961); Metropolitan Government Charter Commission, Proposed Metropolitan Government Charter For Nashville and Davidson County (1958). The new phenomena has been met on its own terms.

"A metropolitan area requires a metropolitan government."

Urban County, 73 Harv. at 582. Solutions are varied and include annexation of outlying areas by the core city, creation of a central metropolitan federated government as in Dade County, Florida and Toronto, Canada, city-county consolidation (see Tennessee Stats. § § 6-3701 to 6-3723 (1961 Supp.); 3 New Mexico Stats. Ann. § § 14-12-1 to 14-12-18) and the optional transfer of functions from municipal units to the county as in Los Angeles County, California. See Urban County, 73 Harv. at 529-558; Governor's Conference at 5-10, 57-58, 85-87; Alderfer at 23-27, 33, 110-114, 127-129, 320; Dade County Research Foundation, Vote on the Charter (1957); Bureau of Governmental Research, University of California, Los Angeles, County Government in California (3rd ed 1958); Staff Report at 129-130.

Considerable support exists for the proposition that the county unit constitutes the appropriate means of solving metropolitan problems due to geographical considerations, its familiarity as an existing service unit to the populace, its historical and functional ties with the State, and the fact that the federal

government favors it as a desirable unit upon which to base the administration of aid programs. Bebout at xii-xiv, xxxvii; Urban County, 73 Harv. at 527; Staff Report at 6, 130; Editorial Comment at 117, 118.

The above discussion, which points to the increased and increasing importance of the county unit in community affairs, highlights the need for immediate and effective reform of the organizational basis of county government. Though county functions have multiplied, there has not been a concomitant alteration of the structure of county government so as to permit it to meet effeciently the added demands upon it. Oregon Report at 5, 9, 11; Atkinson at 469; County Government in Virginia at Indeed, at present county government is "clumsy, antiquated and almost inevitably expensive in relation to the services it renders." Bebout at xi. Most counties are governed by boards which operate on a "commission" basis. Both the legislative and administrative powers of the county are thus lodged in the same body. And responsibility is diffused among members of the board and a host of other elected and appointed county officials.

Patently lacking is an executive head, "'an individual officer charged with general oversight of an integrated administrative system.'" Alderfer at 319.

One measure of reform, which also meets the challenge of regional administration and of "urban sprawl", involves the grant of county home rule. The locally drafted charter, defining county powers, organization and functions, would modernize county government in accordance with the exigencies of the local situation. Such an approach is gaining favor. See Urban County, 73 Harv. at 550-568; Bureau of Governmental Research, University of California, Los Angeles, County Government in California 9, 29-31 (3rd ed. 1958).; Oregon Report at 13-15; Cleveland Metropolitan Services Commission, Staff Report on Government Organization 2 (1958); Charter and Administrative Code Revision Committee, County of Westchester, First Report (1959); Charter and Administrative Code Revision Committee, County of Westchester, Second Report (1961); Letter from William S. Ratchford II, Acting Executive Secretary, Maryland County Commissioners Association to Robert J. Del Tufo, April 16, 1962; N. Y. Constitution Art. 9, § 2; 11 McKinney's Consolidated Laws of N. Y.

Ann. § 320-325 (1962 Supp.); Ohio Constitution Art X, § 3; Oregon Constitution Art VI, § 10; 2 Oregon Rev. Stats. §§ 203.710 to 203.810; Texas Constitution Art 9, § 3; Vernon's Civil Stats. Ann. Art 1606a (1945); Maryland Constitution Art XIA; Ann. Code of Md. Art 25A (1951); Missouri Constitution Art 6, § 18; California Constitution Art XI, § 7½; West's Wisconsin Stats. Ann. § 59.-83 (1957).

Short of home rule, modernization of county government can be substantially accomplished by providing for an administrative head of county affairs in the form of the office of a county executive. Such an approach can properly segregate and centralize the policy-making, legislative function in the board and the total administration of county affairs in accord with board policy in the county executive. Atkinson at 471; Oregon Report at 11; County Government in Virginia 6-9; Weider, The American County, Patchwork of Boards 19-21 (1946). In the last analysis it means that a trained administrator "has charge of running the county on a businesslike basis. It means further that ultimate authority and responsibility for county

affairs rests in the board rather than being spread among a half-dozen independent offices." County Government in Virginia at 38.

The office of county executive has, where instituted, assumed a number of different forms. The most widely cited governmental reorganization around executive lines is the "county manager plan." In general, the plan visualizes an administrator, appointed by the county board solely on the basis of his qualifications, subject to the direction of the board and removable at its pleasure, who possesses extensive powers over the administration of county affairs including the appointment and removal of subordinate personnel. See Bebout at xxvii; National Municipal League, The County Manager Plan (1950) (hereinafter cited as "Manager Plan"). The plan is in effect in approximately eighteen (18) counties. See Hallstead at 117; see also Bebout at xxvii; Manager Plan at 24. However, many other plans have been adopted which closely approximate the manager approach, differing in terms of various executive powers or in terms of an elective rather than an appointed

executive. See generally Milwaukee County Government Report (1961); Annual Message to the Milwaukee County Board of Supervisors by John L. Doyme, County Executive, May 1, 1961; Hallstead at 116-118; Bureau of Governmental Research, University of California, Los Angeles, County Government in California (3rd ed. 1958); Bollen, Appointed Executive Local Government (1952) (California); Dade County Florida Charter § 3.01 et seq.; Code of Georgia Ann. Title 23-9 (1936) (Optional County Manager); 2 Choate & Wertz, Revised Codes of Montana Ann. § § 16-3901 to 16-3423 (1941) (Optional County Manager); 3A McKinney's Consolidated Laws of New York Ann. (1953) (Alternate Optional Forms). 3c General Stats. of North Carolina § § 153-16 to 153-24 (1952) (Authorize Appointment of County Manager); North Dakota Century Code Ann. § § 11-001-01 to 48 (1960) (Optional County Manager); 2 Nevada Revised Statutes § § 244.125 to 244.135 (Authorize Appointment of County Manager); 3 New Mexico Stats. Ann. 1953 § 15-36-24 (1961 Supp.) (authorize appointment of county manager); Baldwin's Ohio Revised Code Service Ann. § § 302.01 to 302.24 (1962 Supp.) (Optional County Manager -

appointed; or County Executive - elected); 3 Code of Virginia
§ § 15-272 to 304, 15-305 to 336 (1950) (Optional County
Executive or County Manager - both appointed; different powers);
Tenn. Stats. § § 5-1501 to 5-1529 (Optional County Manager).

Experience has shown that the institution of some form of government with an executive head has had favorable and desirable results. One of the most salient developments has been fiscal responsibility involving reduced tax rates, new services without new taxes and general governmental economy. See Hallstead at 118; Spicer, Fifteen Years of County Manager Government in Virginia 50, 83, 124 (1951). And Administrative leadership under a county manager program is not restricted to the use and benefit of large, urbanized counties. Petroleum County, Montana, with a population slightly in excess of 1000, has realized the advantages of county manager government since 1942.

Evaluation of various types of county executive plans would seem to favor "county manager" as the most desirable. The plan bases selection of the executive on administrative

qualifications and permits individuals residing outside the county and State to be considered for the post. The broad powers of the office facilitate proper, businesslike administration of county affairs. The fact that the manager is appointed, and subject to removal, by the board insures that he will be responsible to the governing body as its subordinate, administrative agent and will seek to implement its legislative program. Atkinson at 479; Cape May County at 17. Other plans which dilute the executive's powers decrease his effectiveness and blur the lines segregating centralized administrative functions from centralized policy - determining activities. Furthermore, an elected executive plan eliminates any assurance that a qualified administrator will obtain the executive position since the choice of personnel is subject to the political hazards of a popular election. Moreover, selection of an executive is bound by the territorial boundaries of the county. And since an elected executive would be responsible to the voters, not to the county board, there is no assurance that the board's program would be fully implemented. Atkinson at 479; Cape

May County at 17-18. On the other hand, an elected representative would perhaps be in a better position to initiate constructive programs. Cape May County at 18. And the importance of the post has created the conviction in some sources that it should constitute an elective office. In vetoing a charter for Suffolk County, New York, which provided for an appointed executive, Governor Harriman stated:

"Although the duties of the county executive are, primarily administrative, they have a direct impact on the affairs of the entire county and its departments. It is my considered judgment that an official with such wide range of duties should be elected by the people of the county and not appointed by the board of supervisors."

Memorandum filed with Senate Bill, Introductory No. 800, April 28, 1957. Quoted in Staff Report at 81.

In summary, whatever the type of plan, it is clear that administrative, executive leadership is essential to efficient functioning of county government. Inauguration of such a system is a prerequisite to meeting the demands of modern conditions. And, in this regard, it is significant to note that such reform is essential not only to the end of proper discharge of responsibilities but also to the maintenance of our heritage of local government. As community problems increase and magnify, an efficient, effective governmental unit must be prepared to

meet the challenge. The absence of such a unit can only result in increased centralization of power and a withering away of local institutions:

"...the absence of affirmative action on the part of the county could mean that government would become more 'centralized', and the realities of local self-government, so long a part of the rich heritage of this country, could ultimately disappear."

County Government in Virginia at 4.

"The county has proved to be a natural focal point for a growing number of the most significant inter-level administrative relationships. If the elements of local participation and responsibility which are of the essential genius of American government are not to be sacrificed, we must, therefore, have responsible government able to represent the sense and interests of the community at the county level."

Bebout at xiv.

THE SETTING OF COUNTY GOVERNMENT IN
NEW JERSEY

In many respects New Jersey may be characterized as a highly urban state beset by many urban problems. Some "metropolitan areas" presently exist within the State particularly

in Essex, Hudson, and Bergen Counties. Forecasts for the future, as attested by the prediction of the Regional Plan Association of a 100 mile "spread city" by 1985 encompassing many New Jersey localities (Newark Evening News, Sept. 4, 1962, page 1, col. 8), point toward further urbanization. The municipal unit may soon be inadequate to manage the affairs of the community. It is therefore essential that the solution to present and future community problems be viewed from a regional perspective with emphasis on the county as a flexible and workable unit of government in this regard. A regional approach is neither alien nor novel to the State of New Jersey. See Local Government in New Jersey, Readjusting Local Services and Areas (1937); c.f. N. J. S. A. 40:48B-1 et seq. (Consolidated Municipal Service Act); N. J. S. A. 40:55C-4 et seq. (Regional Development Agencies); N. J. S. A. 40:66A-1 et seq. (Incinerator Authorities). And counties have been recognized as a desirable unit in implementing regional projects. See N. J. S. A. 40:27-1 to 11 (County Planning Boards and Regional Planning Boards); N. J. S. A. 40:36A-1 et seq. (Sanitary Sewer District Authorities); N. J. S. A. 40:14A-1 et seq. (Sewerage Authorities);

water supply
N. J. S. A. 40:14b-1 et seq. (Municipal Utilities Authorities).

However, recognition of the county as a regional unit has not necessarily brought commensurate powers. In planning and zoning the county's authority is virtually non-existent, the former by statute, the latter by constitutional edict denying counties zoning power. New Jersey Constitution Art. 4, § 6, Par.

2. Under the circumstances, it is submitted that study should continue on the problems of urbanization and "metropolitan areas" with a view toward strengthening the county as a major unit of government for future development of the State.

At the present time, New Jersey counties perform many and varied operations and services. In addition to those referred to above, county functions include law enforcement; welfare programs; public health services; operation of hospitals for communicable, mental, chronic and other diseases; park and other recreational facilities; mosquito control; roads, bridges and highways; water supply; sewerage disposal; parking facilities; educational institutions including vocational schools and county union colleges, the latter having been recently authorized by

L. 1962, c:41 (N. J. S. A. 18:22-100 to 124). See Cape May County at 22 to 50; Collier, County Government in New Jersey 29-51 (1953) (hereinafter cited as "Collier").

Compared with the scope and variety of county governmental activities, the structure of county government in New Jersey is limited and antiquated. It functions under boards of chosen freeholders which operate on a "commission government" basis. Seventeen New Jersey counties are governed by small boards of freeholders and four - Atlantic, Cumberland, Gloucester and Salem - by large boards. Collier at 11; see N. J. S. A. 40:20-2 to 19, 20 to 35 (small boards); N. J. S. A. 40:36 to 46, 47 to 51, 52 to 55, 56 to 61, 62 to 69 (large boards). Legislative and administrative functions and authority are combined in the board. Responsibility for the conduct of government is distributed among its members and other county officials. Clearly lacking, and patently required, is an executive head to assume administrative leadership of county affairs and to implement the policies and programs devised by the board. See Collier at 63; Cape May County at 17-18. It is true that N. J. S. A. 40:21-48 commands the election of a chief executive

officer in first class counties to be known as a county supervisor. The Statute does not, however, obviate the problem.

Only two counties - Essex and Hudson - have such an elected official. The powers granted the county supervisor, in an administrative sense, are insubstantial in terms of effective operation of county government. And finally, L. 1961, c. 64 § 1 has abolished the office prospectively.

This tentative draft seeks to provide county government with the executive leadership it requires and with the concomitant centralization of policy-making and administrative functions essential to efficient governmental operation.

THE DRAFT

The draft includes two alternative statutes. The first is "the Optional County Government Law." The second is the "County Manager Law." The former offers four different forms of government, each of which can be modified by alternative provisions dealing with the number and manner of election of members of the board of

chosen freeholders and with the powers of the county executive. The latter authorizes the board to appoint a county manager, specifies his duties and sanctions a referendum to compel appointment of a manager in counties where the freeholders have not exercised their discretion in this regard.

The statutes, in large part, are based on the county manager laws of the States of Montana, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Tennessee and Virginia. Other sources include the Model County Charter of the National Municipal League, the Faulkner Act, the statutory provisions dealing with the existing office of county supervisor (N. J. S. A. 40:21-48 et seq.) and the preliminary draft of the Revised Statute on Personnel circulated in August of 1961.

The Optional County Government Law is largely self-explanatory. Many of the definitions and the provisions dealing with permissive and mandatory creation of county offices, term of office, vacancy, compensation and other personnel matters were adopted, in modified form, from the Revised Statute on Personnel. Since such provisions were treated in the comments

in that draft, the substance of the discussion will not be repeated here. The optional law initially sets forth provisions common to all forms of government. It seeks to define the powers and policy-making functions of the board of chosen freeholders. Section 2(b) is of note. ^(see p. 4 of Optional Law) It injects a regional approach into the law and seeks to expand county powers on the basis of voluntary agreements between local units. General provisions concerning the county executive are designed to establish his status as administrative head of county affairs. The alternate forms themselves vary on two scores: 1.) whether the county executive is elected or appointed; 2.) whether the county executive exercises veto power over board resolutions and ordinances in a manner similar to that now ordained for the county supervisor by N. J. S. A. 40:21-48 et seq. Of course, the alternate provisions of Article 8 permit alteration of any plan in terms of dilution of the executive's personnel appointment and removal power.

Omitted from the law is an Article specifying the mechanics of adopting any one of the alternative forms. This ministerial aspect of the statute can be added at a later date

and should follow the procedure set forth in the Faulkner Act. In that connection, in providing for the creation of a charter commission to study the alternate forms of government, the draft should permit the charter commission to reject all alternatives and to devise a special charter for the county. In that event, also in accord with the Faulkner Act, the law should provide that the governing body must petition the legislature for adoption of that charter pursuant to Art. 4, § 7, Par. 10 of the Constitution.

As a final note, two points should be raised: 1.) consideration should be given to a constitutional amendment permitting counties to draft their own charters encompassing legislative, administrative and organizational provisions. Such an approach would constitute an important step toward meeting future urban problems and would, of course, permit a flexibility between local government and local conditions. See Cape May County at 19-21; Oregon Report at 18. 2.) The desirability of a strong administrative head of county government evokes consideration of the fact that certain important county officials are, by constitutional mandate, be elected - i.e., the county

clerk, the surrogate and the sheriff. Art. 7, § 2, Par. 2. It might be well to consider a constitutional amendment eliminating this requirement since election of such officials dilutes administrative centralization and responsibility. Each employes a staff of his own and is neither accountable to the Board of Freeholders nor to a county executive. Moreover, especially with respect to the surrogate and the sheriff, proper qualifications for the positions are of prime significance and suggest that filling the offices should not be left to the hazards of popular election.

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Title 40A.

SECOND TENTATIVE DRAFT

CHAPTER 11. COUNTY FORMS AND STRUCTURE

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Title 40A.

SECOND TENTATIVE DRAFT

CHAPTER 11. COUNTY FORMS AND STRUCTURE

40A:11-1. Counties divided into six classes.

Counties shall be classified on the basis of their population as ascertained by the federal census, as follows:

- a. Counties not bordering on the Atlantic Ocean and
 1. having a population exceeding 600,000 shall be counties of the first class,
 2. having a population of not less than 200,000 nor more than 600,000 shall be counties of the second class,
 3. having a population of not less than 50,000 nor more than 200,000 shall be counties of the third class,
 4. having a population of less than 50,000 shall be counties of the fourth class;
- b. Counties bordering on the Atlantic Ocean and
 1. having a population exceeding 100,000 shall be counties of the fifth class,
 2. having a population not exceeding 100,000 shall be counties of the sixth class.

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40A:11-2. Change in classification; when effective.

Whenever the classification of any county shall be changed by reason of an increase or decrease in population, as shown by federal census, the change in class shall be deemed to take effect on July first next following the promulgation thereof. No change in classification shall reduce the membership of any board of chosen freeholders.

40A:11-3. Creation; boundaries; county seat; corporate title.

The several counties, their boundaries and their county seats shall remain as heretofore established by law. The corporate title of each of the several counties shall be "county of (name of county)". The inhabitants of each of the several counties shall be a body politic and corporate and shall be known by its corporate title.

40A:11-4. Location and maintenance of county offices.

The board of chosen freeholders of any county may, by resolution, provide for the establishment and maintenance of any of the county offices at any location within the county except that the following shall be located only within the county seat:

- The county clerk's office;
- The register of deeds and mortgages office;
- The sheriff's office;
- The surrogate's office;
- The county prosecutor's office; and
- The county jail.

40A:11-5. Change of county seat; referendum.

The county seat of any county may be changed only in the manner hereinafter provided.

a. The board of chosen freeholders may adopt a resolution calling for a vote upon such change and designating place of change.

b. The board of chosen freeholders shall adopt such a resolution upon submission to it of a petition therefor signed by at least 20% of the legal voters of the county.

Upon adoption of such resolution, the clerk of the board of chosen freeholders shall forthwith transmit a certified copy thereof to the proper officer, notifying him that a vote is desired upon the question. Such officer shall, in the manner and form provided by law, place the same upon the ballots used at the next general election occurring not less than 30 days after the passage of the resolution.

40A:11-6. Ballot; form and content; submission at general election.

The question shall be printed upon the ballots to be used at the election in substantially the following form:

"To vote upon the public question printed below, if in favor thereof mark a cross (X) or plus (+) in the square at the left of the word YES, and if opposed thereto mark a cross (X) or plus (+) in the square at the left of the word NO.

"Shall the county seat of _____
county be changed from _____
to _____ (specify names of
municipalities)?"

() YES

() NO

The question shall be voted upon at said next general election, and the votes shall be canvassed, and the result determined and

announced in the manner provided by the laws relating to elections.

40A:11-7. Vote required for adoption; board to provide accommodations.

If a majority of the legal voters voting at the election shall vote "YES", the board of chosen freeholders shall thereupon provide suitable lands and buildings necessary for the accommodation of such of the courts and officers, and for the transaction of such of the business of the county as shall be accommodated and transacted in the municipality to which the change shall be made, and shall suitably furnish and equip such buildings.

40A:11-8. Resubmission.

A vote upon such question shall not be taken more than once in 5 years in the same county.

40A:11-9. Management vested in board of freeholders; members elected; term of office.

Except as may be otherwise provided by law, the property, finances and affairs of every county shall be governed by a board to be known as "the board of chosen freeholders of the county of(name of county)." The members of such board shall be elected by the voters of the county at the general election and shall hold office for 3 years from the annual stated meeting of the board next after their election and until their successors are elected and qualified.

40A:11-10. Small board; number of members.

In every county governed by a small board of chosen freeholders, the members shall be elected at large, and the number of members shall be as follows:

a. In counties having a population exceeding 350,000, 9 members;

b. In counties having a population not less than 200,000 nor more than 350,000, other than counties of the fifth class, 7 members;

c. In counties of the fifth class, counties having a population not less than 100,000 nor more than 200,000, and counties of the sixth class having a population less than 50,000, 5 members;

d. In counties having a population less than 100,000, except counties of the sixth class having a population less than 50,000, 3 members.

40A:11-11. Additional members in certain cases.

If any county governed by a small board of chosen freeholders shall become entitled to additional board members, the board then in office shall continue to hold office and the additional members shall be elected at the next ensuing general election.

40A:11-12. Vacancies; how filled.

Any vacancy in a small board of chosen freeholders caused by death, resignation or inability to serve in office shall be filled by the remaining members of the board until the annual stated meeting of the board next after the first general election at which the vacancy can be filled by election, and until the election and qualification of a successor; and, at such general election, a person shall be elected to fill the office for the unexpired term.

40A:11-13. First election; term of members first elected.

At the first election in each county adopting sections 40A:11-10 to 40A:11-13 of this chapter, the members of the board of chosen freeholders shall be elected as follows:

a. In counties entitled to a board of 9 members, 3 shall be elected for one year, 3 for 2 years, and 3 for 3 years.

b. In counties entitled to a board of 7 members, 2 shall be elected for one year, 2 for 2 years, and 3 for 3 years;

c. In counties entitled to a board of 5 members, one shall be elected for one year, 2 for 2 years, and 2 for 3 years;

d. In counties entitled to a board of 3 members, one shall be elected for one year, one for 2 years, and one for 3 years.

The ballots used at such elections shall designate the term which each candidate shall serve if elected.

40A:11-14. Terms of existing members and other officers.

The terms of office of all chosen freeholders in office at the time of the election of chosen freeholders under section 40A:11-13 of this chapter shall expire at the annual stated meeting next succeeding such election, notwithstanding they may have been elected or appointed for a longer term, and they shall be paid as compensation for their services only that part of the annual salary or emolument then provided by law calculated to the date of such termination.

The terms of office of all officers then holding office under appointment by such previous boards shall not be affected by the reorganization thereof, but such officers shall continue in office for the terms for which they were originally appointed or elected. Thereafter, all offices to be filled by the board of chosen freeholders shall be for the term of 3 years.

40A:11-15. Existing laws continued.

All laws relating to boards of chosen freeholders in force in any county at the time such county reorganizes its board under sections 40A:11-10 to 40A:11-14 of this chapter shall continue in force and shall apply to the board elected thereunder, so far as they shall not be inconsistent with the provisions thereof, and such newly elected board shall have all the powers, authority, rights, privileges and duties as are vested in or imposed upon the board of chosen freeholders then existing.

40A:11-16. Referendum; petition, submissions to voters.

The provisions of sections 40A:11-10 to 40A:11-18 shall be inoperative in any county until adopted by the voters thereof at a general election in the manner hereinafter provided. The question of adoption shall be submitted to the voters upon the filing of a petition therefor with the county clerk at least 90 days before the general election. The petition shall be signed by a number of the qualified voters of the county at least equal to 10% of the total number of the votes cast therein at the next preceding general election. Notice of the submission of the question shall be a part of and shall be given in the same manner as the notice required for the general election.

40A:11-17. Ballot; form and content.

The question shall be printed upon the official ballots to be used at the general election in substantially the following form:

"To vote upon the public question printed below, if in favor thereof mark a cross (X) or plus (+) in the square at the left of the word YES, and if opposed thereto mark a cross (X) or plus (+) in the square at the left of the word NO.

"Shall the county of reorganize its board of chosen freeholders under the provisions of sections
() YES 40A:11-10 to 40A:11-18 of the title Municipalities and Counties of
() NO the Revised Statutes?"

40A:11-18. Election.

All elections held under sections 40A:11-10 to 40A:11-18 of this chapter shall be conducted in accordance with the laws relating to elections, and the votes shall be canvassed, and the result determined and announced in the manner provided thereby. If a majority of the votes cast on the question are in favor of the adoption of sections 40A:11-10 to 40A:11-18 of this chapter, they shall become operative in the county immediately. If a majority of the votes cast on the question are opposed, the question shall not be submitted again in the county until the fifth general election following the rejection.

40A:11-19. Salaries of members and directors.

The board of chosen freeholders shall, by resolution, fix the annual salary of each member and the manner in which it shall be paid.

The director in every county shall receive, in addition to his salary as a member, an annual sum not exceeding \$500.00.

40A:11-20. Compensation fixed by resolution; compensation to exclusive; expenses.

The compensation of members and directors of boards of chosen freeholders shall be fixed by resolution which shall be adopted before September 1 in any year, to be effective not before January 1 next succeeding its adoption. Such compensation shall be in lieu of all fees or other compensation, but nothing contained herein shall preclude allowance to members and directors for their actual expenses necessarily incurred in the performance of their official duties, upon the filing with the county treasurer of an itemized bill therefor, verified by affidavit, and the same being ordered paid by the board of chosen freeholders.

40A:11-21. Publication of salary resolution.

Any resolution fixing the compensation of the members of a board of chosen freeholders or the director thereof shall, after being introduced and having first reading, be published at least once in two newspapers circulating in the county, one of which shall be a newspaper published at the county seat, if there be one, together with a notice of the introduction thereof and the time and place when and where it will be further considered for final passage. If there be only one such publication, the same shall be at least one week prior to the time fixed for further consideration for final passage. If there be more than one such publication, the first shall be at least one week prior to the time fixed for further consideration for final passage.

40A:11-22. Hearing and final passage.

At the time and place so stated in such publication, or at any other time and place to which the meeting for the further consideration of the resolution shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard concerning the resolution. Final passage thereof shall be at least 10 days after the first reading.

40A:11-23. Second reading.

At or after the hearing, the board of chosen freeholders may proceed to give the resolution a second reading or amend it, and thereupon pass or reject it with or without amendment.

40A:11-24. Publication after passage.

Upon passage, every such resolution, together with a notice of the date of passage or approval, or both, shall be published at least once in a newspaper published in the county or, if there be no newspaper published in such county, then in a newspaper of general circulation, circulated in such county.

40A:11-25. Majority approval.

No such resolution shall be passed or approved unless a majority of all the members of the board of chosen freeholders vote in favor of such passage or approval.

40A:11-26. Number of members, large board in certain counties.

The board of chosen freeholders in counties having a population of not less than 75,000 nor more than 200,000 which have heretofore adopted, by referendum, the provisions of an act entitled "An act to reorganize the board of chosen freeholders in each of the counties of this State having within its territorial limits a population of not less than 75,000 nor more than 200,000 inhabitants" passed May 9, 1894, shall consist of

- a. One member from each ward of each city;
- b. One member from each township;
- c. At least two members from each town and one member from each borough having a population of not less than 2,300 inhabitants or which embraces a whole township.

40A:11-27. Number of members, large board.

In all counties other than counties which have adopted the act referred to in 40A:11-27, the board of freeholders shall consist of

- a. One member from each township;
- b. One member from each ward in cities divided into wards, but not less than two members from each city;
- c. Not less than two members from each town;
- d. One member from each borough having a population of not

less than 2,300 inhabitants or which embrace a whole township within its limits except in counties of the fourth class and counties of the sixth class;

e. One member from each borough having a population of not less than 2,500 inhabitants or which embrace a whole township within its limits in counties of the fourth class and the sixth class.

When a township shall have ceased to exist by reason of the creation of one or more boroughs within its territorial limits or by becoming absorbed by another municipality, the voters of the borough or boroughs remaining may jointly elect a single freeholder.

In any borough not entitled to a freeholder, the legal voters of the borough shall be entitled to vote within the borough for the chosen freeholder to be elected for the township from which the borough was formed. Where the borough was formed in part from a township and in part from a city or town, the legal voters of the borough shall be entitled to vote within the borough for the chosen freeholder to be elected for the township out of which the borough was in part formed.

Where a borough not entitled to a freeholder embraces within its territorial limits parts of more than one township, the legal voters of the borough shall be entitled to vote within the borough for the chosen freeholder to be elected for the township in which a majority of such legal voters resided at the time of the incorporation of the borough.

40A:11-28. Organization of board at first annual meeting.

Every board of chosen freeholders shall organize at the first annual stated meeting of the board next after the election of the members thereof and at the annual stated meeting in each year thereafter. Such meeting shall be held at the county seat at 12 o'clock noon on the second day of January or, if such date shall fall on a Sunday, the meeting shall be held the following day.

40A:11-29. Director; selection; substitute.

Every board of chosen freeholders shall, at each annual meeting, elect one of its members as director to preside at its meetings. In case of his absence or temporary disability, the board may select a member to preside at any meeting.

40A:11-30. Powers of the director.

The director of the board of chosen freeholders shall:

a. Be ex-officio member of all committees and shall have the right to attend meetings of all boards, commissions or other governing bodies appointed by the board of chosen freeholders;

b. Have the right to inspect all books, accounts, records or documents pertaining to the property, money or the assets of the county;

c. Name the members of all committees of the board of chosen freeholders and, with the consent of a majority of the full membership but not otherwise, discharge any member or any committee from further service therein;

d. Cause the laws and resolutions of the county to be executed and enforced;

e. Recommend to the board of chosen freeholders the passage of such measures as he may deem necessary or expedient for the welfare of the county;

f. Communicate to the board at such times as he shall deem expedient a general statement of the condition of the county in relation to its government, finances, institutions and improvements with such recommendations as he may deem proper;

g. Perform such other duties as may be required by law.

40A:11-31. Investigating charges against subordinate officers.

The county director shall exercise supervision over the conduct of all officers and employees, and investigate all complaints against any of them for violation or neglect of duty. If it is found that any officer or employee is guilty of the charges against him, the director may suspend or remove him as the case may require.

40A:11-32. Subpoenas for attendance of witnesses.

In connection with the powers provided for in section 40A:11-30 of this chapter, the director shall have power to take testimony and by subpoena to compel the attendance of witnesses and the production of books and records in the county pertinent to such investigations. Such powers shall be enforced, and any misconduct of a witness may be dealt with, pursuant to the County and Municipal Investigations Law (1953).

40A:11-33. False testimony a misdemeanor.

Any person who shall knowingly give false testimony before the director shall be guilty of a misdemeanor.

40A:11-34. Veto power.

Every resolution or ordinance passed by the board of chosen freeholders shall, before it takes effect, be presented, duly certified by the clerk of the board, to the director by the clerk of the board. If the director approves it, he shall sign it; if not, he shall return it with his objections, and file it with the clerk of the board within 10 days after receiving it.

40A:11-35. Passage over veto.

The board of chosen freeholders shall, at its next meeting after any resolution or ordinance shall have been returned to it, enter the objections at length on the minutes of the board, and proceed to reconsider the same. If two-thirds of all the members of the board agree to pass it, it shall take effect, but in every such case the vote shall be taken by yeas and nays and entered in full on the minutes of the board. If the resolution or ordinance is not returned within 10 days, it shall take effect as though the director had signed it.

40A:11-36. Vacancy in office.

When there shall be a vacancy in the office of director caused by his resignation, death or removal, the board of chosen freeholders shall elect to such vacancy any member of said board who, upon assuming the office of director, shall cease to be a member of the board.

40A:11-37. Rules of procedure of board of chosen freeholders.

a. The power of the county, whether in terms vested in the county or in the board of chosen freeholders shall, except as otherwise expressly provided, be exercised through a resolution duly adopted by the board.

b. A majority of the duly constituted membership of the board shall constitute a quorum for the transaction of business, but a less number may adjourn.

c. Every resolution shall have a title prefixed, concisely stating the contents. The clerk shall provide that the resolutions of the board be indexed and published.

d. Whenever the board of chosen freeholders is authorized or required to act and no greater proportion of the voting strength for their action is otherwise prescribed, such action shall be taken by the affirmative vote of the majority of the full membership of the board. A roll call shall be taken and entered by the clerk in the minutes of its proceedings.

e. All resolutions shall become effective upon their adoption or as specified in the resolution.

f. The board of chosen freeholders shall have the power to amend, repeal or supersede resolutions.

g. Regular and special meetings of the board of chosen freeholders shall be held at such times and places and under such conditions as to notice, quorum and adjournment as the board shall determine.

h. The board of chosen freeholders may, by resolution, designate all committees thereof, define their duties, and amend the number of members of which any committee shall be composed and may, at any time, abolish any committee created by it.

i. Except as otherwise expressly provided, the board of chosen freeholders of each county shall determine the rules of its own proceedings. Unless the rules of the board otherwise provide, no rule may be suspended except by the unanimous vote of the members present and voting at any regular or special meeting of the board.

j. The board of chosen freeholders shall cause to be printed after each session copies of its proceedings for distribution among its members, county officers, for exchange with other counties and for publication in the official newspaper or newspapers of the county.

k. The board of chosen freeholders, as soon after the close of each calendar year as practicable, shall cause to be printed in bound volumes copies of its proceedings. Such printed volume shall contain all resolutions adopted by the board during the year.

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First Tentative Draft

TITLE 40A. MUNICIPALITIES AND COUNTIES

CHAPTER 13. OPTIONAL COUNTY GOVERNMENT LAW

ARTICLE 1.

Short Title and Definitions

40A:13-1. Short title.

This chapter may be cited as the "Optional County Government Law".

40A:13-2. Definitions.

The following words as used in this chapter shall have the following meanings, unless the context clearly indicates a different meaning:

"appoint" means to elect, appoint, hire or engage in any other legal manner, a "person" as a "county servant";

"board" means the county board of chosen freeholders;

"county administrative unit" means any "county office", department, agency, board or other body but does not include the county board of chosen freeholders;

"county executive" means a county manager, a county supervisor, a county superintendent or a county administrator;

"county office" means any office, position or employment in a county other than an "elective county office";

"county servant" means a "person" who holds a "county office";

"elective county office" means any office, position or employment in a county which is filled by popular vote at an election;

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TITLE 40A. MUNICIPALITIES AND COUNTIES

CHAPTER 13. OPTIONAL COUNTY GOVERNMENT LAW

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"county executive" means a county manager, a county supervisor, a county superintendent or a county administrator;

"county office" means any office, position or employment in a county other than an "elective county office";

"county servant" means a "person" who holds a "county office";

"elective county office" means any office, position or employment in a county which is filled by popular vote at an election;

"elected county servant" means a "person" who holds an "elective county office";

"his" means "person";

"person" means any natural person;

"term of office" means the period of time for which a "county servant" may legally be appointed or elected to and hold a "county office". "Term of office" shall attach and relate to the "county office" itself and not to the incumbent thereof;

"vacancy" means an unoccupied "county office". A "county office" becomes vacant within the meaning of the term "vacancy" when for any reason, including resignation and expiration of "term of office", the incumbent is permanently or temporarily incapacitated to perform his duties.

ARTICLE 2.

Authorization and Optional Forms

40A:13-3. Authorization.

Any county in the state is hereby authorized to adopt one of the optional forms of county government as set forth in this chapter.

40A:13-4. Optional forms.

a. The optional forms of county government as set forth in this chapter shall consist of the following: County Manager; County Supervisor; County Superintendent; County Administrator.

b. In connection with any optional form of county government as set forth herein, a county may adopt any one or more variations of any such form as authorized by Article 8 hereof.

40A:13-5. Limitation.

a. Nothing contained in this chapter shall be construed to affect the powers, duties, responsibilities and functions of the following county elective offices: county clerk; register of deeds and mortgages; sheriff; surrogate.

b. Without limitation of the foregoing, any powers assigned to the county executive by this chapter shall not confer any authority with respect to the above-listed county elective offices, and elected public servants holding such county elective offices shall have the right to appoint their own subordinate county servants as may otherwise be authorized by law.

ARTICLE 3.

Provisions Applicable to All Optional Forms
of County Government

A. BOARD OF CHOSEN FREEHOLDERS.

40A:13-6. Composition; election; terms.

a. There shall be a governing body to be known as "the board of chosen freeholders of the county of (specifying name of county).

b. The board shall be composed of 5 members unless pursuant to section 40A:13-37 the board shall consist of 3, 7 or 9 members.

c. Each member of the board shall be elected at large in the county by the voters of the county at the general election. Each shall serve for a term of 4 years commencing at 12 o'clock noon on the date of the annual meeting of the board next succeeding his election and, after expiration of this term, shall continue to hold office until his successor has qualified.

40A:13-7. Powers of board of chosen freeholders.

The board of chosen freeholders shall be the policy-determining body of the county. Except as otherwise provided by this chapter, the board shall have all the powers, obligations, duties and responsibilities which are now or hereafter may be vested in counties and in boards of chosen freeholders by the Constitution and laws of the State of New Jersey.

Without limitation of the foregoing or of other powers given to it by this chapter or by law, the board shall have the power:

a. To take any action which it may reasonably deem appropriate to effectuate and implement the provisions of this chapter and to effectuate an equitable and orderly transition from an existing to an optional county form of government as authorized herein;

b. To enter into bilateral or multilateral contracts with another local unit or other local units, either within or contiguous to the boundaries of the county, for the joint performance, or for the performance by the county, or by one or more of the said units, or by the county and one or more of the said units in behalf of the other or others of any function or activity which the county and such other unit or units are authorized to perform;

c. To require periodic or special reports by the county executive concerning his functions and the county administrative units and county servants subject to his direction, supervision and control;

d. To make investigations of the affairs of the county and to make inquiries into the conduct of any county administrative unit and county servant, and for the purposes of such investigations or inquiries to subpoena witnesses, administer oaths, take testimony and require the

production of evidence of every kind.

e. To abolish, for good cause and by majority vote of all members of the board, any county administrative unit created pursuant to section 40A:13-8 of this chapter.

40A:13-8. Power to create county departments, agencies and offices necessary to county affairs; terms; conditions; powers.

By resolution, the board of chosen freeholders:

a. may create as many county administrative units as may be necessary for the proper and efficient conduct of the affairs of the county; and

b. shall fix and define, or provide for the fixing and defining of, the duties, powers and responsibilities of each county administrative unit created pursuant to "a" above; and

c. shall fix and define the term of office of those county offices created pursuant to "a" above, which would be considered within the "unclassified service" under R.S. 11:22-2, regardless of whether or not the county is governed by Civil Service pursuant to R.S. 11:22-1 et seq.: provided, that the term of office of each such county office shall, in no event, be longer than the term of office of members of the board.

40A:13-9. Qualifications.

Members of the board of chosen freeholders shall, throughout their term of office, reside within the county; provided, however, that should the method of electing members of the board set forth in 40A:13-38 be adopted, members shall reside in the appropriate freeholder districts of the county.

Whenever a member of the board ceases to comply with the residence requirement of this section, a vacancy in his office shall immediately

exist and he shall not exercise any of the duties or prerogatives of his office.

40A:13-10. Compensation.

By resolution, the board of chosen freeholders shall fix and determine the amount and manner of payment of the compensation of its members.

In fixing and determining such compensation, the board shall be guided by all relevant factors including, but not limited to, the following:

- a. the nature of the services rendered;
- b. the amount of labor, in terms of time, effort and expertise, required to perform the services;
- c. the size, resources and characteristics of the county.

40A:13-11. Ineligibility of members of the board of chosen freeholders for certain county offices.

Except when otherwise required or permitted by law, no member of the board of chosen freeholders shall be appointed to any other county office during his term of office, or to a county office created during his term of office until 3 years have elapsed from the expiration of his term of office during which the said county office was created.

40A:13-12. Vacancies.

A vacancy in the board of chosen freeholders shall be filled by resolution by majority vote of the remaining members of the board. Such a vacancy shall be filled until the next general election or for the unexpired term of office, whichever is shorter. Should such a vacancy be filled until the next general election, then at such general election

a person shall be elected to hold the said office only for the unexpired term of office.

40A:13-13. Meetings.

a. The board of chosen freeholders shall conduct an annual meeting to be held at the place of holding the County Court in and for the county at 12 o'clock noon on the second day of January, annually, except that if that date shall fall upon a Sunday, the meeting shall be held the following day.

b. The board of chosen freeholders shall meet regularly once each month at such places as the board, by resolution, shall determine. Special meetings may be held on the written or printed order of the director, or of any 3 members of the board, specifying the business and object thereof, and, except in cases of emergency, upon no less than 5 days' effective notice to each member.

c. All meetings shall be public and the public shall be afforded due notice of the time and place of regular and special meetings. To insure that the public may avail itself of the right to attend such meetings, regular and special board meetings shall commence at 8 o'clock p.m.

40A:13-14. Chairman.

At its annual meeting, the board of chosen freeholders shall elect one of its members as chairman of the board. The chairman shall preside at meetings of the board and shall serve at its pleasure.

40A:13-15. Ordinances; procedure for adoption.

The procedure for the adoption of resolutions authorizing expenditures of moneys by the board of chosen freeholders shall conform to the procedure prescribed for municipalities pursuant to R.S. 40:49-2.

B. COUNTY EXECUTIVE.

40A:13-16. Powers and duties.

There shall be a county executive. He shall be the chief executive officer and the administrative head of county government, shall devote his full time to his work, and shall be responsible to the board of chosen freeholders for the proper administration of county affairs placed under his direction and supervision by and under this chapter.

The county executive shall:

a. Direct and supervise the administration of all functions and activities of the county and its administrative units which the board has the authority to control;

b. With the authorization of the board, co-ordinate the various functions and activities referred to in "a" above, and unify and consolidate the management thereof;

c. Execute and enforce all resolutions and orders of the board and see that all laws of the State required to be enforced through the board or through a county administrative unit subject to the board's control are faithfully executed;

d. Supervise the care and custody of all county property including general supervision over all county institutions and agencies;

e. Supervise the collection of revenues, guard adequately all expenditures, and see to proper accounting for all funds;

f. Examine regularly the accounts, records and operations of every county administrative unit under his direction and supervision;

g. Attend all meetings of the board and recommend such action as he may deem expedient;

h. Recommend to the board the creation of such county administrative units which in his judgment are necessary for the proper and efficient conduct of the affairs of the county, and recommend to the board the abolition of such existing county administrative units which in his judgment are not necessary to the proper and efficient conduct of the affairs of the county;

i. Make regular monthly reports to the board on the administration of county affairs, and keep the board fully advised on the financial condition and future needs of the county;

j. Submit to the board at the end of each fiscal year a complete report on the finances and administrative activities of the county for the preceding year, and prepare and make available for distribution to the public, within 3 months after the end of each fiscal year, an annual report on county affairs during that fiscal year;

k. Prepare and submit the annual budget to the board, with his recommendations and with a detailed analysis of the items of expenditure and revenue appended thereto, and execute the same as finally adopted by the board.

l. Perform such other duties as may be required by this chapter or by the board.

40A:13-17. Absence or disability of county executive; suspension; vacancy.

a. By letter to the board, the county executive may designate a qualified county servant to perform his duties during his temporary absence or disability.

b. In the event the county executive fails to make such a designation, the board may designate by resolution a qualified county servant to perform the duties of the county executive during his temporary absence or disability.

c. If the county executive is suspended, or if a vacancy exists in his office for any reason other than his temporary absence or disability for a continuous period of 120 days or less, the board may designate by resolution a qualified county servant to perform the duties of the county executive during his suspension or to fill the vacancy in his county office, as the case may be.

C. COUNTY ADMINISTRATIVE UNITS.

40A:13-18. Distribution of county functions and activities among county administrative units.

The board of chosen freeholders shall distribute all county functions and activities under the direction and supervision of the county executive among such county administrative units as are or may be established by this chapter or by law.

40A:13-19. Mandatory administrative units.

a. In addition to such county administrative units whose creation is mandatory by law or which may be created pursuant to section 40A:13-8 of this chapter, the board of chosen freeholders shall create, by resolution,

the following county administrative units. Any enumeration of duties, powers and responsibilities of such county administrative units shall be in addition to such other duties, powers and responsibilities, if any, which are or may be assigned to the said units by law or which may be assigned to the said units by the board:

1. clerk of the board of chosen freeholders. He shall

(a) keep the journal of board proceedings and make the same available for public inspection;

(b) maintain and make available for public inspection an index containing copies of every adopted ordinance, resolution, rule, regulation, code of regulation, order or other manifestation of governmental action, and every adopted amendment or modification of any of the foregoing;

(c) give due notice of the time and place of board meetings to members of the board and to the public;

(d) procure for the board any required publication of notices, ordinances or resolutions;

(e) have custody of the common seal of the county, and of the papers, deeds, writings, documents and books relating to the property and business of the county.

2. county engineer.

3. county planning board or department, and a director thereof.

4. chief medical examiner. He, or his designee, shall

(a) fully investigate the facts concerning the death of any person in the county who died as a result of violence, or by casualty or suicide, or suddenly when in apparent health, or when unattended by a physician, or within 24 hours after admission to a hospital or institution,

or in prison, or in a suspicious or unusual manner. If necessary to his investigation, he, or his designee, may take charge of the body and conduct an autopsy. A report as to the cause of death and the results of any autopsy shall be filed in his office. All such reports shall be properly indexed;

(b) promptly deliver to the county prosecutor copies of all records requested by the prosecutor and copies of all records relating to every death in which, in his judgment, further investigation may be deemed advisable;

(c) supervise all morgues and morgue keepers, shall grant exclusively to morgue keepers, and to no others, burial certificates for the unknown or unclaimed dead, shall arrange for the burial of any unknown or unclaimed person, shall take possession of all property of a deceased person in the absence of next of kin, shall retain any objects or articles which, in his opinion, may be useful in establishing the cause of death or in the investigation of the death by the county prosecutor, and, after deducting burial expenses, shall turn the balance of the property over to the county treasurer;

(d) he, and his assistants, may administer oaths and take affidavits, proofs and examinations as to any matter within the jurisdiction of his public office.

5. a morgue keeper. For each morgue within the county, there shall be at least one. Each morgue keeper shall

(a) be required to furnish suitable room or rooms for the holding of all necessary examinations;

(b) take in charge and make such disposal of the bodies of deceased persons as the chief medical examiner shall direct;

(c) keep a correct record of all bodies deposited in the morgue;

(d) if any unknown or unclaimed dead body shall be identified after being placed in the morgue, the morgue keeper shall, upon the order of the chief medical examiner, deliver it to the relative or friend making demand therefor, who shall make known the name and last residence of the deceased and sign a written receipt for the body in the book to be kept by the morgue keeper for that purpose.

6. county purchasing agent. He shall

(a) purchase all materials, supplies and equipment for the county and its administrative units in accordance with a schedule of suitable specifications and standards both established and enforced by him;

(b) execute all contracts incident to such purchases in the name and on behalf of the county.

7. county attorney or, in the alternative, a county department of law and a director thereof. The county attorney or the director of the county department of law, as the case may be, shall serve as legal advisor to the board of chosen freeholders, the county executive and county administrative units, and shall act as counsel for such parties in any proceeding instituted by or against them.

8. a county department of finance and a director thereof. The director of the county department of finance shall

- (a) collect and receive all moneys due the county;
 - (b) be the custodian of all county funds, and disburse the same only on the order of the board of chosen freeholders;
 - (c) assist the county executive and the board in the negotiation of loans and the issuance and sale of bonds and notes, maintain the records of county indebtedness and have charge of the payment of interest and principal thereon;
 - (d) maintain general books of account subject to the direction, as to detail, of the state auditor as provided in Article 2 of Chapter 24 of the title "State Government Departments and Officers" (N.J.S.A. 52:24-11 et seq.);
 - (e) render to the board, monthly, through the county executive, a true and detailed account of all moneys and other property in his hands, showing all receipts and disbursements made by him;
 - (f) submit to the board, through the county executive, at the end of each fiscal year a report of the financial transactions of that year, and a complete statement of the financial condition of the county at the end of the year;
 - (g) sell, at public sale, the property of any unclaimed or unknown deceased person turned over to him by the chief medical examiner. He shall hold the proceeds of such sale for the period of one year. If the proceeds are unclaimed after the expiration of this period, he shall apply them for the benefit of the county as the board may direct.
- b. The board of chosen freeholders shall fix and define the term of office of each county office created pursuant to "a" above; provided that the term of each such county office shall, in no event, be longer than the term of office of members of the board.

40A:13-20. Occupying one or more county offices

In addition to his other duties and responsibilities, the county executive or other qualified county servant may, with the authorization of the board of chosen freeholders, occupy any one or more county offices without additional compensation.

40A:13-21. Abolishment of elective county office of coroner.

The county elective office of coroner shall be and hereby is abolished.

D. GENERAL PROVISIONS DEALING WITH PERSONNEL.

40A:13-22. County office; qualifications of county servants.

A person may be appointed to and may hold county office if said person possesses the qualifications necessary to the proper discharge of the powers, duties and responsibilities of that county office. No person shall be denied appointment to any county office solely because of age or sex.

The board of chosen freeholders may, by resolution, require persons holding specified county offices to reside within the county.

40A:13-23. Commencement and length of term of office.

a. The term of office, if any, of county servants shall commence at 12 o'clock noon on the date of the annual meeting of the board of chosen freeholders in the year in which said county servants were appointed.

b. Upon the expiration of his term of office, a county servant shall continue to hold his county office until his successor has qualified.

40A:13-24. Vacancies; temporary appointments.

A vacancy in county office shall be filled by appointment by the

person or body having authority to appoint a county servant to the particular county office and for one of the following periods of time:

a. a vacancy caused by the temporary incapacity of a county servant to perform his duties shall be filled only for the period of such temporary incapacity;

b. a vacancy caused by expiration of term of office shall be filled for a full term of office;

c. all other vacancies shall be filled only for the unexpired term portion of the term of office.

40A:13-25. Compensation.

By resolution, the board of chosen freeholders shall fix and determine the amount and the manner of payment of compensation to every county servant.

The amount of compensation shall be reasonable and not excessive. The board, in fixing and determining reasonable and not excessive compensation, shall be guided by all relevant factors including, but not limited to, the following:

a. the nature of the services rendered;

b. the qualifications and competency of the county servant, and the period of time during which he has held the county office;

c. the amount of labor, in terms of time, effort and expertise, required to perform the services;

d. the size, resources and characteristics of the local unit.

PART II. OPTIONAL FORMS OF COUNTY GOVERNMENT.

ARTICLE 4.

County Manager

40A:13-26. Applicable laws.

The form of government provided in this Article shall be known as "County Manager" and shall, together with Articles 1, 2, 3 and '8, govern any county in which it has been adopted.

40A:13-27. County Manager; appointment; removal.

a. The board of chosen freeholders shall appoint a county manager. He shall be appointed solely on the basis of his executive and administrative qualifications and experience. At the time of his appointment, he need not be a resident of either the county or the State of New Jersey, but after his appointment, he may reside outside the county only with the authorization of the board.

b. The county manager shall serve at the pleasure of the board, shall not acquire tenure and shall be subject to removal by the board at any time.

c. 1. In the event the board determines to remove the county manager, it shall pass a resolution to that effect, a copy of which shall be delivered to the county manager. Subject to the provisions of sub-paragraph "2", the removal shall take effect upon the expiration of a period of 5 days from such delivery.

2. Within 5 days of delivery of the said resolution to the

county manager, the county manager may demand, in writing, a public hearing thereon. Should the county manager make such a demand, the board shall forthwith deliver to the county manager a written statement of the alleged reasons for his removal and a public hearing shall be held at a board meeting convened or occurring not less than 20 nor more than 45 days after the receipt of the demand by the board. Pending the hearing, the county manager shall retain his county office, but the board may suspend him from duty. After the hearing, the board shall, by resolution, sustain, modify or invalidate its initial resolution of removal.

The action of the board in suspending or removing the county manager shall not be subject to judicial or other review.

40A:13-28. County manager; appointment and removal of county servants.

a. With the exception of the clerk of the board of chosen freeholders who shall be appointed by the board, the county manager shall appoint all county servants to county office and, when in his discretion the welfare of the county requires, suspend, demote, dismiss, remove or transfer such county servants; but he may delegate to and authorize any county servant appointed by him to appoint, suspend, demote, dismiss or remove subordinates in the county administrative unit of that county servant.

b. Any county servant suspended, demoted, dismissed, removed or transferred in accordance with sub-paragraph "a" above shall, if he so requests in writing within 5 days of any such action, be given a written statement setting forth the reasons therefor. Within 5 days of receipt of the said statement, the county servant may submit a written reply to

the county manager. If such a reply is submitted, the county manager shall, within 10 days of its receipt and by a written decision, sustain, modify or invalidate the suspension, demotion, dismissal, removal or transfer. Copies of the written statement, written reply and written decision shall be filed as a public record with the clerk of the board of chosen freeholders and shall be open to inspection by the public.

c. The county manager shall report to the board of chosen freeholders as to any appointment, suspension, demotion, dismissal, removal or transfer at the regular monthly meeting of the board next succeeding any such action.

40A:13-29. Restrictions on board of freeholders and its members.

Neither the board of chosen freeholders nor any of its members shall in any manner direct or request the appointment, suspension, demotion, dismissal or removal of any county servant subject to the direction and supervision of the county manager or his subordinates.

Except in emergencies or for the purpose of inquiry, as provided in section 40A:13-7 d of this chapter, the board and its members shall deal with any county servant subject to the direction and supervision of the county manager exclusively through the county manager, and neither the board nor its members shall give orders to any such county servants either publicly or privately.

A knowing and willful violation of this section by any member of the board shall be sufficient grounds for removal and for the declaration of a vacancy in his elective county office in an action instituted in the Superior Court by any citizen of the county.

ARTICLE 5

County Supervisor

40A:13-30. Applicable laws.

The form of government provided in this Article shall be known as "County Supervisor" and shall, together with Articles 1, 2, 3 and 8, and sections 40A:13-28 and 40A:13-29 of this chapter govern any county in which it has been adopted.

For the purposes of this Article, the words "county supervisor" shall be substituted for the words "county manager" wherever the latter appear in sections 40A:13-28 and 40A:13-29 of this chapter.

40A:13-31. County supervisor; election; term of office.

There shall be a county supervisor who shall be elected at large in the county. He shall be voted for at the same time and at the same places as members of the board of chosen freeholders and shall serve for a term of 4 years. His term of office shall commence at 12 o'clock noon on the date of the annual meeting of the board next succeeding his election and, after expiration of his term, he shall continue to hold office until his successor has qualified.

40A:13-32. Residence.

The county supervisor shall, throughout his term of office reside within the county. Should the county supervisor cease to comply with the residence requirement of this section, a vacancy in his office shall immediately exist and he shall not exercise any of the duties or prerogatives of his office.

40A:13-33. Vacancy.

A vacancy in the elective county office of county supervisor, other than temporary absence or disability as referred to and governed by section 40A:13-17 a and b of this chapter shall be filled by resolution by majority vote of all members of the board of chosen freeholders. Such a vacancy shall be filled until the next general election or for the unexpired term of office, whichever is shorter. Should such a vacancy be filled until the next general election, then, at that election a person shall be elected to hold the said office only for the unexpired term of office.

ARTICLE 6

County Superintendent

40A:13-34. Applicable laws.

The form of government provided in this Article shall be known as "County Superintendent" and shall, together with Articles 1, 2, 3 and 8, and sections 40A:13-27, 40A:13-28, and 40A:13-29 of this chapter govern any county in which it has been adopted.

For the purposes of this Article, the words "county superintendent" shall be substituted for the words "county manager" wherever the latter appear in sections 40A:13-27, 40A:13-28 and 40A:13-29 of this chapter.

40A:13-35. Veto power; passage over veto.

Every resolution and ordinance passed by the board of chosen freeholders shall, before it takes effect, be presented, duly certified by the clerk of the board, and to the county superintendent by the clerk of the board. If the county superintendent approves, he shall sign it, but if not, he shall return it with his objections to the board by filing

it with the clerk of the board.

The board, at its regular monthly meeting next succeeding the return of any resolution or ordinance, shall enter the objections at length on the minutes of the board and proceed to reconsider it. If 2/3 of all the members of the board agree to pass it, it shall take effect.

If the county superintendent neither signs nor returns any resolution or ordinance within 10 days after its presentation to him by the clerk of the board, it shall be deemed to be adopted with like effect as if he had signed it.

ARTICLE 7

County Administrator

40A:13-36. Applicable laws.

The form of government provided in this Article shall be known as "County Administrator" and shall, together with Articles 1, 2, 3 and 8, and sections 40A:13-28, 40A:13-29, 40A:13-31, 40A:13-32, 40A:13-33, and 40A:13-35 govern any county in which it has been adopted.

For the purposes of this Article, the words "county administrator" shall be substituted for the words:

- a. "county manager" wherever the latter appear in sections 40A:13-28 and 40A:13-29 of this chapter;
- b. "county supervisor" wherever the latter appear in sections 40A:13-31, 40A:13-32, and 40A:13-33 of this chapter;
- c. "county superintendent" wherever the latter appear in section 40A:13-35 of this chapter.

ARTICLE 8

Optional Alternatives

40A:13-37. Board of chosen freeholders; number of members.

Any optional form of county government may provide that the board of chosen freeholders shall be composed of either 3, 7 or 9 members instead of 5 members as provided by section 40A:13-6 b of this chapter.

40A:13-38. Election of members of the board of chosen freeholders; freeholder districts.

In lieu of electing members of the board of chosen freeholders at large in the county as provided by section 40A:13-6 c, any optional form of county government may adopt the following provision which provides for election of members of the board from freeholder districts:

Upon the adoption of an optional form of county government, the county board of elections shall divide the county into as many districts as there are members of the board of chosen freeholders. The districts shall be known as "freeholder districts" and the voters of each district shall, at the general election, elect 1 member of the board.

The freeholder districts so created shall not differ in population, according to the most recent federal census, by more than 10% of the population of the least populous district created. Each district shall

composed of compact and contiguous territory. So far as practicable, the boundary lines of districts shall follow the boundaries of municipalities and shall not divide such local units except where division appears necessary in order to satisfy other requirements of this section.

New freeholder districts shall be created after each federal census and prior to the election next succeeding declaration of the census. Subject to the requirements of this section, the districts may be revised at any time.

Should the county board of elections fail to establish freeholder districts after the adoption of this method of electing members of the board or after the declaration of a federal census, the county court shall establish such districts and the said court shall act in time for the first election of members of the board after adoption of this method or declaration of the census, as the case may be.

40A:13-39. Appointment and removal of county servants.

In lieu of the appointment, suspension, demotion, dismissal, removal or transfer of county servants by the county executive as provided by section 40A:13-28 of this chapter, incorporated by reference into Articles 5, 6 and 7, any optional form of county government may adopt any one of the following provisions which provide for the appointment, suspension, demotion, dismissal, removal or transfer of county servants:

I

a. With the exception of the clerk of the board of chosen freeholders who shall be appointed by the board, the county executive shall appoint all county servants to county offices and, when in his discretion the welfare of the county requires, suspend, demote, dismiss, remove or transfer such county servants: but he may delegate to and authorize any county servant appointed by him to appoint, suspend, demote, dismiss or remove subordinates in the county administrative unit of that county servant.

b. Any and all action taken by the county executive or his subordinates pursuant to subparagraph "a" shall be subject to confirmation by the board.

c. When any county servant is suspended, demoted, dismissed, removed or transferred in accordance with subparagraph "a", the county executive shall, within 5 days of any such action, deliver a written statement setting forth the reasons therefor to the clerk of the board and serve a copy thereof upon the county servant either personally or by registered mail. The matter shall be considered by the board at a public meeting of the board, convened or occurring not less than 20 days nor more than 45 days after such action, at which time the county servant shall be given an opportunity to be heard. By resolution, the board shall either confirm, modify or invalidate the suspension, demotion, dismissal, removal or transfer of the county servant.

II

a. The clerk of the board of chosen freeholders shall be appointed by the board. All other county servants shall be appointed to county offices by the board upon the written recommendation of the county executive.

b. Upon the written recommendation of the county executive setting forth specific reasons therefor, the board may suspend, demote, dismiss, remove or transfer any county servant appointed by it. The county executive shall deliver such recommendation to the clerk of the board and shall, within 5 days of such delivery, serve a copy thereof upon the county servant either personally or by registered mail. The matter shall be considered by the board at a public meeting of the board,