

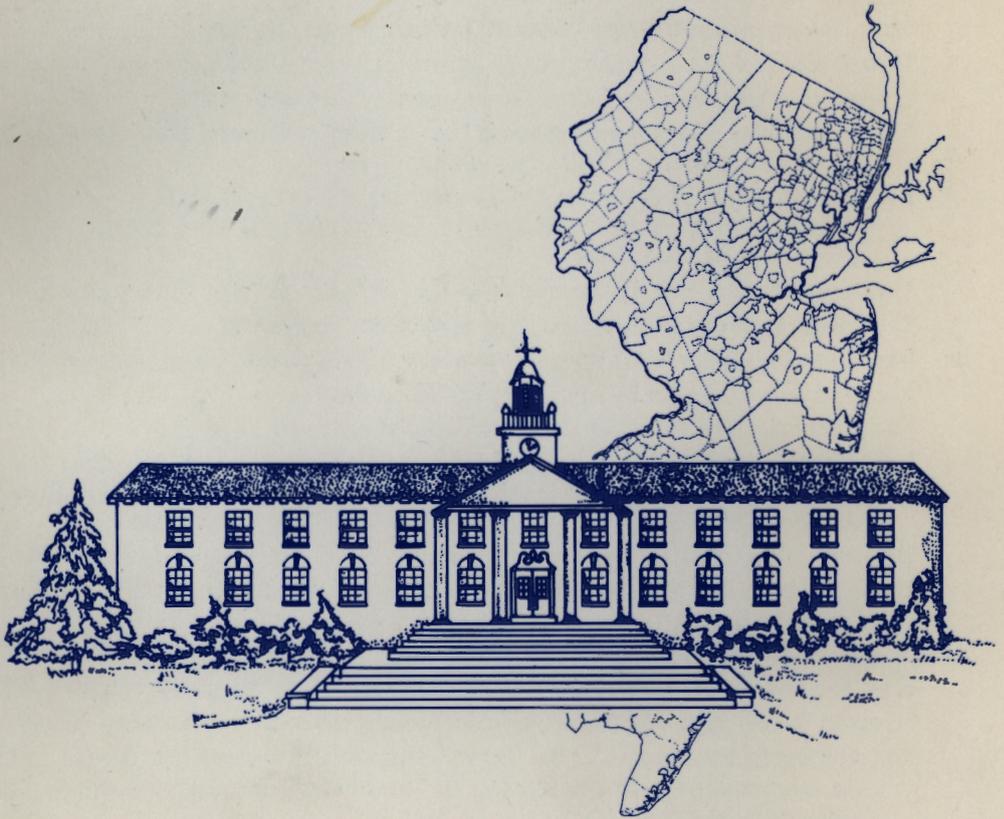


STATE OF NEW JERSEY
COUNTY AND MUNICIPAL GOVERNMENT
STUDY COMMISSION
A Legislative Agency

OPTIONAL MUNICIPAL CHARTER LAW

(Faulkner Act)

As Amended, January, 1987.



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COUNTY AND MUNICIPAL GOVERNMENT
STUDY COMMISSION

**OPTIONAL MUNICIPAL CHARTER LAW
(FAULKNER ACT)
As Amended, January 1987**

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To His Excellency Governor Thomas H. Kean, Honorable Members of the Senate and General Assembly, Municipal Officials and Citizens of New Jersey:

I am pleased to present to you the fourth edition of the County and Municipal Government Study Commission's pamphlet, entitled *The Optional Municipal Charter Law*, otherwise known as the 'Faulkner Act'.

Over the years, since its first appearance in 1974, this pamphlet has been a popular handbook for all those people who have been concerned about modern municipal government in New Jersey. This new edition has been updated to include all amendments to the law to date and contains new features aimed at increasing the value of this booklet as a guide to the Faulkner Act.

The Commission hopes that this new edition will continue its long standing service to the many local officials and their citizens who grapple with the vexing and difficult problems of government at the local level in New Jersey today.

Sincerely,

Carmen A. Orechio,
Chairman

PREFACE

Since its enactment in 1950, the Optional Municipal Charter Law (Faulkner Act) has been amended on many occasions. In 1974, these amendments were consolidated in the Act and issued in pamphlet form by the County and Municipal Government Study Commission, mainly for the benefit of municipalities and their citizens.

In January of 1979, the Commission concluded its study 'Forms of Municipal Government in New Jersey', which recommended major revisions of the Faulkner Act, essentially to provide for a 'mix and match' of various provisions under the three basic plans provided in the Act: The Mayor-Council, Council-Manager and Small Municipality Plans, respectively. Those major recommended revisions were later enacted as P.L. 1981, chapter 465.

The last printing of the pamphlet occurred in June 1983, since which time a major revision of the Mayor-Council plan has been enacted as P.L. 1985, chapter 374. The law, sponsored by Senator John A Lynch Jr (a member of the County and Municipal Government Study Commission), clarified the 'legislative' and 'executive' powers and functions in the Mayor-Council plan and, as such, has warranted a new and fourth edition of the pamphlet, including all the amendments enacted up to January 1987, in addition to what was included in the June 1983 printing. Indeed, the Mayor-Council Plan is used by sixty municipalities in New Jersey, including the seven largest in the State.

This new edition has two new features. First, an index has been added in order to assist the public and municipal officials in locating particular items of interest in the law. Second, it has been thought useful to alert the reader to those sections on which a judicial construction has been placed. In so doing, the reader will know that case law has contributed to the definition of the section to which it relates. *It is important, however, to remember that such a list of cases as appears under any section in no way is to be considered as a substitute for proper legal research, undertaken either by or on the advice of counsel.*

Two bills in the current session of the Legislature, introduced by Senator John A. Lynch Jr., S. 2632 and S. 3093, make sundry amendments to the Faulkner Act. Assemblyman Garabed 'Chuck' Haytaian (a member of the County and Municipal Government Study Commission) has introduced a companion bill (A. 3828) in the Assembly to S. 2632. It is hoped that, should these bills become law, an addendum can be published to be inserted in this new edition of the Faulkner Act.

The Commission wishes to acknowledge with thanks the dedicated secretarial work of Arlene K. Wilkinson and the typing of Kathleen L. Francis. The pamphlet could not have been published without their help.

For the Commission,

David C. Mattek
Executive Director

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INTRODUCTION

HISTORY OF FAULKNER ACT

The Optional Municipal Charter Law, better known as the Faulkner Act, was enacted into law on June 8, 1950, as chapter 210 of the laws of 1950. In subsequent years, the Faulkner Act has undergone many changes, mainly through amendment. Nonetheless, the basic structure of the law has remained intact.

1985 AMENDMENTS

The latest major revision of part of the Faulkner Act was enacted into law on November 26, 1985, as chapter 374 of the laws of 1985 (Senate Bill No. 1206 (4th OCR)). The Commission believes that, as a result, it would be appropriate to reissue its handbook on the Faulkner Act so as to include all the changes that have occurred since the pamphlet's last printing in 1983.

Senator Lynch introduced Senate Bill No. 1206 to clarify what powers were vested in the council and mayor, respectively, in the Mayor-Council plan (see, sections 40:69A-31 to 40:69A-48). During the legislative process, a number of alternatives were incorporated into the bill, which then passed both houses and was sent to the Governor. The Governor vetoed the bill conditionally, describing and recommending such amendments to the bill as he thought warranted (see, Insert A, pp. 00-00). The Bill was then reconsidered by the Legislature as amended in accordance with the Governor's recommendations. It was signed into law on November 26, 1985.

The main effect of the enacted amendments to the Faulkner Act is to define more closely what is meant by the 'legislative' and 'executive' functions in the Mayor-Council plan (see, section 40:69A-32). Specifically, the law has been amended to set out the council's powers in more detail (see, section 40:69A-36) and to delineate the mayor's powers more carefully (see, section 40:69A-40). The mayor's appointment powers are clarified in light of other changes to the general legislative and executive powers (see, section 40:69A-43 with regard to subordinate officers).

These changes are designed to avoid the ambiguities that existed formerly between the Faulkner Act and general municipal law. General law often provides for the 'governing body' to undertake certain functions of municipal government or to make appointments to various municipal bodies; such as, for example, the Municipal Utilities Authority, the Planning Board or the Zoning Board of Adjustment. As a result of these ambiguities in the past, municipal officials were often unclear who should exercise the appointment function. The changes wrought by Senate Bill No. 1206 are aimed at eliminating the vagueness in the statutory language.

1981 AMENDMENTS

A previous major revision of the Faulkner Act was enacted into law on January 9, 1982, as chapter 465 of the laws of 1981 (Senate Bill No. 3153 (2nd OCR)). That revision occurred as the result of a study made by the County and Municipal Government Study Commission, in its 17th report, *Forms of Municipal Government in New Jersey*.

The report was a comparative evaluation of the governmental structures of the eight municipal forms¹ in New Jersey. A major concern of the report was that the Optional Municipal Charter Law, since the optional charter law was the primary means to modernize the older governmental forms still in use, was too restrictive in the options it made available to municipalities interested in changing their form of government. Overall, the Commission recommended that the Optional Municipal Charter Law be rewritten in order to broaden its appeal both to elected officials and citizens. Consequently, the report stressed a greater choice of alternatives under the existing mayor-council, council-manager and small municipality plans; it established a fourth basic plan entitled the mayor-council-administrator plan; and it provided for a method to amend existing optional municipal charters, rather than reverting to a prior form of government or changing to another plan of government under the Faulkner Act. All of these recommendations have been implemented by the general revision to the Faulkner Act, enacted in 1981.

As of January 1, 1987, exactly 110 municipalities have adopted new charters based upon this Act. Of these, 60 have adopted the Mayor-Council plan, 35 have adopted the Council-Manager plan, 14 have adopted the Small Municipality plan and one municipality has adopted the Mayor-Council-Administrator plan. Other municipalities have charter studies in progress. The new, more flexible Optional Municipal Charter Law has helped Faulkner municipalities to respond to the fiscal and managerial challenges facing municipal government in the 1980s.

Summary of 1981 Amendments:

The Faulkner Act charter study process—namely, the evaluation of a particular municipal form and consideration of optional charter plans as alternatives to the present form—remained unchanged by the 1981 revision of the Act.

The following features, therefore, are all retained in Article 1 of the Act (see, sections 40:69A-1 to 40:69A-25): Study of a traditional form of government by establishing a charter study commission; further comparison of the provisions of the optional charter plans; recommendation of no change or a new charter in the study commission report; and, separately from the charter study process, proposal of a new charter by initiative and referendum.

¹The basic local government forms are city, town, borough, township, village, commission, municipal manager and optional municipal charter.

TABLE 1
Estimated 1985 Population of Municipalities Operating Under the
Optional Municipal Charter Law (As of January 1, 1987)

Forms of Government	Number of Municipalities	Estimated 1985 Population	Percentage of State Population
Mayor-Council Plan	60	2,628,314	34.75%
Council-Manager Plan	35	669,141	8.85%
Small Municipality Plan	14	80,259	1.06%
Mayor-Council-Administrator Plan	1	25,427	0.34%
TOTAL	110	3,403,141	45.00%

Source: Department of Community Affairs, Forty-eighth Annual Report of the Division of Local Government Services, *Statements of Financial Condition of Counties and Municipalities*, 1985.

The basic Mayor-Council, Council-Manager and Small Municipality plans were made more general and the individual lettered optional plans repealed; this all becoming effective on January 9, 1982.²

In making the basic plans more general, the features of each of the repealed 'lettered' plans became alternative provisions in the new basic plans. Therefore, all the features of the Faulkner Act remain available for consideration by the charter study commission in designing a new charter. These same alternatives can also be used to design a proposed plan for purposes of an initiative ordinance by voters of a municipality. In addition, the choice of wards was broadened for the Mayor-Council and Council-Manager plans. (see, sections 40:69A-12 to 40:69A-15 and 40:69A-18 to 40:69A-19).

The basic Mayor-Council plan now is the former optional plan A amended to allow for a choice of: (1) Regular municipal (non-partisan) or general (partisan) election of municipal officers; (2) at large or a combination of at large and ward elections of council; (3) concurrent or staggered terms for council members; (4) size of council; and (5) the number of wards in proposing a Mayor-Council charter for adoption (see, sections 40:69A-13 and 40:69A-34.1 to 40:69A-34.3). The plan was also amended to allow the governing body to provide for the business administrator to supervise all the departments of the municipality (see, section 40:69A-44).

²Here we are talking about the Mayor-Council plans A to F, the Council-Manager plans A to F and the Small Municipality plans A to D. It is important to remember that those municipalities, operating under the 'lettered' plans repealed by the 1981 revision of the Faulkner Act, continue to use the 'lettered' plans until such time as they change their forms of government.

The basic Council-Manager plan now is the former optional plan A. It too was amended to allow for a choice of type of election, method of council election and terms of council in designing a Council-Manager charter (see, sections 40:69A-83.1 to 40:69A-83.3). The general Council-Manager plan was amended also to allow for a choice of election of the mayor from council or direct election by voters (see, section 40:69A-86). Finally, the new plan provided for removal of the municipal manager without the payment of the statutory balance of salary where removal was for good cause (see, section 40:69A-93). Again it should be noted that, in proposing a new charter, the Act provided a choice of council size and a choice of the number of wards (see, section 40:69A-13).

The basic Small Municipality plan now is the former optional plan A amended to allow for a choice of: (1) Regular municipal (non-partisan) or general (partisan) election of municipal officers; (2) concurrent or staggered terms of office for the council members; and (3) election of mayor from council or direct election by voters (see, sections 40:69A-117.1 to 40:69A-117.3). In proposing a new charter, the charter study commission, or the voters by initiative and referendum, also have a choice of council size (see, section 40:69A-13).

A fourth basic plan, the Mayor-Council-Administrator plan, was established under the revised Act of 1981. This plan was based upon the borough form of government. The borough had traditionally been the most common form of government in New Jersey but previously was available only to municipalities originally incorporated as boroughs. The revised Faulkner Act, by adding the Mayor-Council-Administrator plan, made a variant of the borough form generally available as an optional charter.

In broad outline, the new plan provided for: (1) An elected mayor and a six-member council having staggered terms, both being elected at large in a general election; (2) the mayor to preside at council meetings but voting only in the event of a tie; (3) the replacement of the mayor by council president where the mayor fails to preside; (4) all legislative power in the council and all executive power in the mayor; (5) a mayoral veto of ordinances subject to a two-thirds vote to override by council; (6) the annual appointment of all administrative officers, including a municipal administrator, by the mayor with advice and consent of council; (7) removal of the municipal administrator by council; (8) budgetary power in the council; and (9) the powers of recall, initiative and referendum (see, sections 40:69A-149.1 to 40:69A-149.16). It should be noted that the provisions of the Mayor-Council-Administrator plan are mandatory charter provisions and, therefore, not subject to the general power of charter amendment otherwise available under the revised Act (see, section 40:69A-25.1).

A major feature of the 1981 revisions to the Faulkner Act was the ability of a municipality to amend its Mayor-Council, Council-Manager or Small Municipality optional charter without having to hold a referendum on the entire charter. This unique amending provision governed any municipality having adopted a Faulkner charter under the revised Act, except

those adopting Mayor-Council-Administrator charters. The provision to amend the charter is also granted to the 100 Faulkner municipalities existing prior to the revision of the Act. The amending provision allowed either the municipal governing body or the voters by initiative to propose that a referendum be held on the question of amending the municipal charter (see, section 40:69A-25.1(a)).

Permitted as amendments to a Faulkner Act charter were any of the choices previously available in designing a charter; that is, under one of the three original basic plans. Five separate groups of amendments were specified: (1) Type of election; (2) method of council election; (3) arrangement of terms of council; (4) selection of mayor; and (5) size of council. A new ballot form and appropriate language for each amendment to be proposed in the ballot were provided as well (see, section 40:69A-25.1 (b)). There were also specific ballot requirements for certain changes to the size of council in a municipality divided into wards (see, section 40:69A-25.1 (c)).

In addition, general transition procedures were provided when charters were amended: Namely, termination of current officers; election of new officers and fixing of wards when either the type of elections or method of council election was amended; setting terms of council members when the arrangements of council terms were amended; installation method or date of new mayor and reversion to council of prior mayor when the method to select the mayor was amended; and setting terms of council where council was elected at large when the size of council was amended (see, sections 40:69A-25.2 to 40:69A-25.5).

Finally, the provisions for conducting regular municipal elections as well as for fixing and determining ward boundaries were repealed.³

The Uniform Nonpartisan Election Law:

The Uniform Nonpartisan Election Law governs those Faulkner Act municipalities who have adopted a charter calling for elections on a non-partisan basis. As of 1 January 1987, 46 municipalities operating under the Faulkner Act are using the 'Uniform Nonpartisan Election Law'. (Additionally, the law is available to municipalities operating under the Village form of government, the Walsh Act (Commission form of government) and the 1923 Municipal Manager Act and, as of 1 January 1987, one village, 36 Commission and 9 Municipal Manager governments are using this law.)

The 'Uniform Nonpartisan Election Law' provides for the conduct of regular municipal elections only with respect to the time, manner and method of election (see, sections 40:45-6 to 40:45-16). Matters concerning the number of officers, terms of office and powers are determined by the four basic plans provided in the Act. The election statute also provides

³Faulkner Act municipalities are now governed by general law provisions applicable to all municipalities in election and ward law.

for the choice of a run-off election; conditions applying to holding a run-off election; a procedure to determine who the candidates are in a run-off election; and the votes necessary for the election of those candidates (see, sections 40:45-17 to 40:45-19). In addition, the election law provides for adoption or abandonment of a run-off provision by referendum. The referendum question may be submitted by ordinance of the governing body or upon a petition of registered voters. There are conditions for a sufficient petition and required language for the referendum question (see, section 40:45-21).

The Municipal Ward Law:

Municipalities operating under the Mayor-Council and Council-Manager plans of the Faulkner Act may be governed by the procedures of the 'Municipal Ward Law', should they adopt an alternative to have a combination of at large and ward elections of council members. As of 1 January 1987, 36 municipalities operating under the Faulkner Act are governed by the 'Municipal Ward Law'.

The Municipal Ward Law governs Mayor-Council and Council-Manager charters only to the extent of providing a uniform method to fix and determine ward boundaries. It does not change or invalidate existing wards or ward boundaries and does not require a Faulkner municipality to establish wards (see, sections 40:44-10 and 40:44-18). The ward law provides for the municipal clerk and the county board of elections to act as ward commissioners. It also establishes the conditions under which reimbursement of the commissioners and any staff are made (see, sections 40:44-11 and 40:44-12). In addition, there are various required time periods within which the commissioners must begin the determination of wards. The time period available depends upon whether or not there is an initial fixing of wards upon adoption of a charter; a later adjustment or division of the municipality into wards by ordinance; or a ward adjustment because of a new federal census. (see, section 40:44-13). Finally, the ward law provides a uniform method to determine ward boundaries and populations; thirty days to complete and file a ward report; and a procedure to determine when a new or adjusted wards take effect in the municipality (see, sections 40:44-15 to 40:44-17).

CONCLUSION

The provisions of the Optional Municipal Charter Law, as revised, are provided in this pamphlet. In Appendix A following the revised Faulkner Act, are the relevant provisions of the Uniform Nonpartisan Election Law and the Municipal Ward Law that govern Faulkner municipalities. In addition, a list of all the possible combinations of the revised plans are provided in Appendix B.

CAVEAT

It should be noted that the summary provided herein does not include important material that may affect the consideration, adoption and appli-

cation of the Faulkner Act to particular municipalities. Therefore, relevant commentary and explanation of the optional municipal charter process should be obtained from other sources.

Furthermore, it should be pointed out that references to case law in the text of the Faulkner Act that follows is intended purely as a guide for public officials and citizens alike, alerting them to the fact that a judicial construction has been placed on the Faulkner Act, in general, and on the section preceding, in particular. In no way, should such references be a substitute for proper advice given by counsel or any appropriate authority.



(FAULKNER ACT)
CHAPTER 210, LAWS OF 1950

As Amended and Supplemented to
January 13, 1987

An Act concerning municipalities, providing a plan of optional charters
and for the manner of adoption and effect thereof.

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

ARTICLE 1.

**PROCEDURE FOR ADOPTION
OF OPTIONAL CHARTER PLANS**

A. CHARTER COMMISSION

40:69A-1.

Election on question whether charter commission shall be elected.

(a) Whenever authorized by ordinance of the governing body or upon petition of the registered voters or any municipality, an election shall be held in the municipality upon the question: "Shall a charter commission be elected to study the charter of and to consider a new charter or improvements in the present charter and to make recommendations thereon?" The petition calling for such election shall be in the form required by subsection (b) hereof and shall be signed by the following per centum of registered voters of the municipality:

- 25% in municipalities of 7,000 or less inhabitants;
- 20% in municipalities of more than 7,000 and less than 70,000 inhabitants;
- 10% in municipalities of 70,000 or more inhabitants.

In either event, the municipal clerk shall provide for the submission of the question and for the election of a charter commission at the next general or regular municipal election, occurring not less than 75 days after the passage of the ordinance or the filing of the petition with the clerk. At the election the question above stated shall be submitted as other public questions are submitted to the voters of a single municipality.

(b) A petition under this section shall conform to the requirements of form for petitions under sections 17-37 through 17-39 hereof [sections 40:69A-186 to 40:69A-188] (except that there shall be no reference therein to any ordinance) and shall be subject to examination, certification and amendment as therein provided.

Last Amended by P.L. 1954, c. 69, §1.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW*

Cite	General Subject Matter of Case
Bucino <i>et al.</i> v Malone, 12 NJ 330 (1953)	An action to challenge the constitutionality of the Optional Municipal Charter Law.
Pappas v Malone, 36 NJ 1 (1961)	An action challenging city clerk's rejection of petition for revision to prior form of government.
Guernsey v Allan, 63 NJ Super 270 (1960)	Action challenging propriety of interpretative statement formed by charter study commission.
Richards v Barone, 114 NJ Super 243 (1971)	Action to set aside general election on grounds the public question was not published according to statute.
Hamilton Township Taxpayers' Association v Warwick <i>et al.</i> , 180 NJ Super 243 (1981)	Action regarding the validity of referendum petition.

40:69A-2.

Election of charter commission members at same time public question is submitted.

A charter commission of five members shall be elected by the qualified voters at the same time as the public question is submitted. Duly nominated candidates for the office of charter commissioner shall be placed upon the ballot containing the public question in the same manner as is provided by law for candidates nominated by petition for other offices elective by the people of a single municipality, except that they shall be listed without any designation or slogan. Each voter shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for five members of a charter commission who shall serve if the question is determined in the affirmative.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Johnson v Reichenstein, 50 NJ Super 116 (1958)	An action to compel the city clerk to accept petition of nomination for office of councilman-at-large in municipal election.
Dios v Ronnie, 76 NJ Super 390 (1962)	Action involving issue of whether or not section 2 of Faulkner Act prohibits bracketing of candidates for charter commission.

*As mentioned in both the Preface and Introduction, *supra*, the following and all subsequent 'lists of cases' are not meant in any way to be a substitute for proper legal research either by or on the advice on counsel.

40:69A-3.

Candidates for charter commission; nomination.

Candidates for the charter commission shall be registered voters of the municipality. They may be nominated by petition signed by at least 3% or 100, whichever is the lesser number, but at no time shall such number be less than 10, of the registered voters of the municipality, and filed with the municipal clerk not less than 60 days prior to the date of the election.

(a) Each nominating petition shall set forth the names, places of residence, and post-office addresses of the candidate or candidates thereby nominated, that the nomination is for the office of charter commissioner and that the petitioners are legally qualified to vote for such candidate or candidates. Every voter signing a nominating petition shall add to his signature, his place of residence, post-office address and street number, if any. No voter shall sign a petition or petitions for more than five candidates.

(b) Each nominating petition shall, before it may be filed with the municipal clerk, contain an acceptance of such nomination in writing, signed by the candidate or candidates therein nominated, upon or annexed to such petition, or if the same person or persons be named in more than one petition, upon or annexed to one of such petitions. Such acceptance shall certify that the candidate is a registered voter of the municipality, that the nominee consents to stand as a candidate at the election and that if elected he agrees to take office and serve.

(c) Each nominating petition shall be verified by an oath or affirmation of one or more of the signers thereof, taken and subscribed before a person qualified under the laws of New Jersey to administer an oath, to the effect that the petition was signed by each of the signers thereof in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, registered voters of the municipality, and that the petition is prepared and filed in good faith for the sole purpose of endorsing the person or persons named therein for election as stated in the petition.

Last Amended by P.L. 1975, c. 372, §1.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Johnson v Reichenstein, 50 NJ Super 116 (1958)	An action to compel the city clerk to accept petition of nomination for office of councilman-at-large in municipal election.

40:69A-4.

Canvass of election.

The result of the votes cast for and against the adoption of the public question shall be returned by the election officers, and a canvass of such election had, as is provided by law in the case of other public questions put to the voters of a single municipality. The votes cast for members of the charter commission shall be counted, and the result thereof returned by the election officers, and a canvass of such election had as is provided by law in the case of the election of members of the local governing body. The five candidates receiving the greatest number of votes shall be elected and shall constitute the charter commission, provided that if a majority of those voting on the public question shall vote against the election of a charter commission, none of the candidates shall be elected. If two or more candidates shall be equal and greatest in votes they shall draw lots to determine which one shall be elected.

40:69A-5.

Organization of charter commission; quorum; majority required for effective recommendations.

As soon as possible and in any event no later than fifteen days after its election, the charter commission shall organize and hold its first meeting and elect one of its members as chairman, fix its hours and place of meeting, and adopt such rules for the conduct of its business as it may deem necessary and advisable. A majority of the members of said commission shall constitute a quorum for the transaction of business but no recommendation of said commission shall have any legal effect pursuant to sections 1-15 and 1-16 of this act [sections 40:69A-15 and 40:69A-16, respectively] unless adopted by a majority of the whole number of the members of the commission.

40:69A-6.

Vacancies in charter commission.

In case of any vacancy in the charter commission, the remaining members of such commission shall fill it by appointing thereto some other properly qualified citizen.

40:69A-7.

Duties of charter commission.

It shall be the function and duty of the charter commission to study the form of government of the municipality, to compare it with other available forms under the laws of this State, to determine whether or not in its judgment the government of the municipality could be strengthened, made more clearly responsive or accountable to the people or whether its operation could become economical or efficient, under a changed form of government.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Giblin v Charter Commission of City of Newark, 27 NJ Super 411 (1953)	An action to require minority report of dissenting commission member be included in final report of charter study commission.
Showell <i>et al.</i> v Horn <i>et al.</i> , 65 NJ Super 374 (1961)	Action to set aside report of charter commission and to restrain city clerk from placing question on ballot.
Polillo v Deane <i>et al.</i> , 74 NJ 562 (1977)	Action alleging charter commission violated the Open Public Meetings Act.

40:69A-8.

No compensation; expenses of commission members; consultants and assistants.

Members of the charter commission shall serve without compensation but shall be reimbursed by the municipality for their necessary expenses incurred in the performance of their duties.

Within the limits of such appropriations and privately contributed funds and services as shall be made available to it, the charter commission may appoint one or

more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix a reasonable compensation to be paid such consultants and clerical and other assistants.

40:69A-9.

Hearings; public forums.

The charter commission shall hold public hearings, may hold private hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Giblin v Charter Commission of City of Newark, 27 NJ Super 411 (1953)	An action to require minority report of dissenting commission member be included on final report of charter study commission.
Showell <i>et al.</i> v Horn <i>et al.</i> , 65 NJ Super 374 (1961)	Action to set aside report of charter commission and to restrain city clerk from placing question on ballot.
Polillo v Deane <i>et al.</i> , 74 NJ 562 (1977)	Action alleging charter commission violated the Open Public Meetings Act.

40:69A-10.

Report of charter commission; copies.

The charter commission shall report its findings and recommendations to the citizens of the municipality in accordance with section 1-7 [section 40:69A-7] within 9 calendar months from the date of its election. For this purpose it shall file with the municipal clerk an original signed copy of any final report containing said findings and recommendations made by any member of the commission. It shall also deliver to the municipal clerk sufficient copies of any such report to permit distribution to any interested citizen. The municipal clerk shall deliver a copy of any such report to each member of the governing body. If the charter commission, or any member or members thereof shall recommend the adoption of any of the optional plans of government as authorized in section 1-12 (a) or 1-13 [sections 40:69A-12(a) and 40:69A-13, respectively], such report shall contain the complete plan as recommended.

Last Amended by P.L. 1960, c. 88, §1.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Giblin v Charter Commission of City of Newark, 27 NJ Super 411 (1953)	An action to require minority report of dissenting commission members be included in final report of charter study commission.
Showell <i>et al.</i> v Horn <i>et al.</i> , 65 NJ Super 374 (1961)	Action to set aside report of charter commission and to restrain city clerk from placing question on ballot.

40:69A-11.

Discharge of charter commission; change of recommendation; amended report.

(a) The charter commission shall be discharged upon the filing of this report; *provided*, that if the commission's recommendations require further procedure on the part of the governing body or the people of the municipality pursuant to section 1-15 or 1-16 of this act [sections 40:69A-15 and 40:69A-16, respectively], the commission shall not be discharged until the procedure required under those sections has been finally concluded.

(b) Any charter commission which has not been discharged pursuant to subsection (a) above may, any time before the procedure required under sections 1-15 or 1-16 of this act has not been finally concluded, but not later than one year from the date of the publication of its final report pursuant to section 1-10 of this act [section 40:69A-10], modify or change any recommendations set forth in said final report by publishing an amended report in accordance with the provision of section 1-10 hereof.

(c) Whenever a charter commission issues an amended report pursuant to subsection (b) above, such amended report shall supersede the final report and such final report shall cease to have any legal affect under this act.

(d) The procedure to be taken under the amended report shall be governed by all provisions of article 1 of this act [sections 40:69A-1 to 40:69A-25] applicable to the final report of a charter commission submitted pursuant to section 1-10 of this act.

Last Amended by P.L. 1953, c. 253 §3.

40:69A-12.

Reports and recommendations which commission may make.

The charter commission may report and recommend:

(a) That a referendum shall be held to submit to the qualified voters of the municipality the question of adopting one of the plans of government authorized in this act, and such of the alternative provisions as permitted thereunder, to be specified by the commission; or

(b) That the governing body shall petition the Legislature for the enactment of a special charter or for one or more specific amendments of or to the charter of the municipality, the text of which shall be appended to the charter commission's report pursuant to Article IV, Section VII, Paragraph 10, of the Constitution of 1947 and to the enabling legislation enacted thereunder to the extent that such legislation is not inconsistent herewith; or

(c) That the form of government of the municipality shall remain unchanged; or

(d) Such other action as it may deem advisable consistent with its functions as set forth in section 1-7 [section 40:69A-7] of this article.

Last Amended by P.L. 1981, c. 465, §1.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Polillo v Deane <i>et al.</i> , 74 NJ 562 (1977)	Action alleging charter commission violated the Open Public Meetings Act.

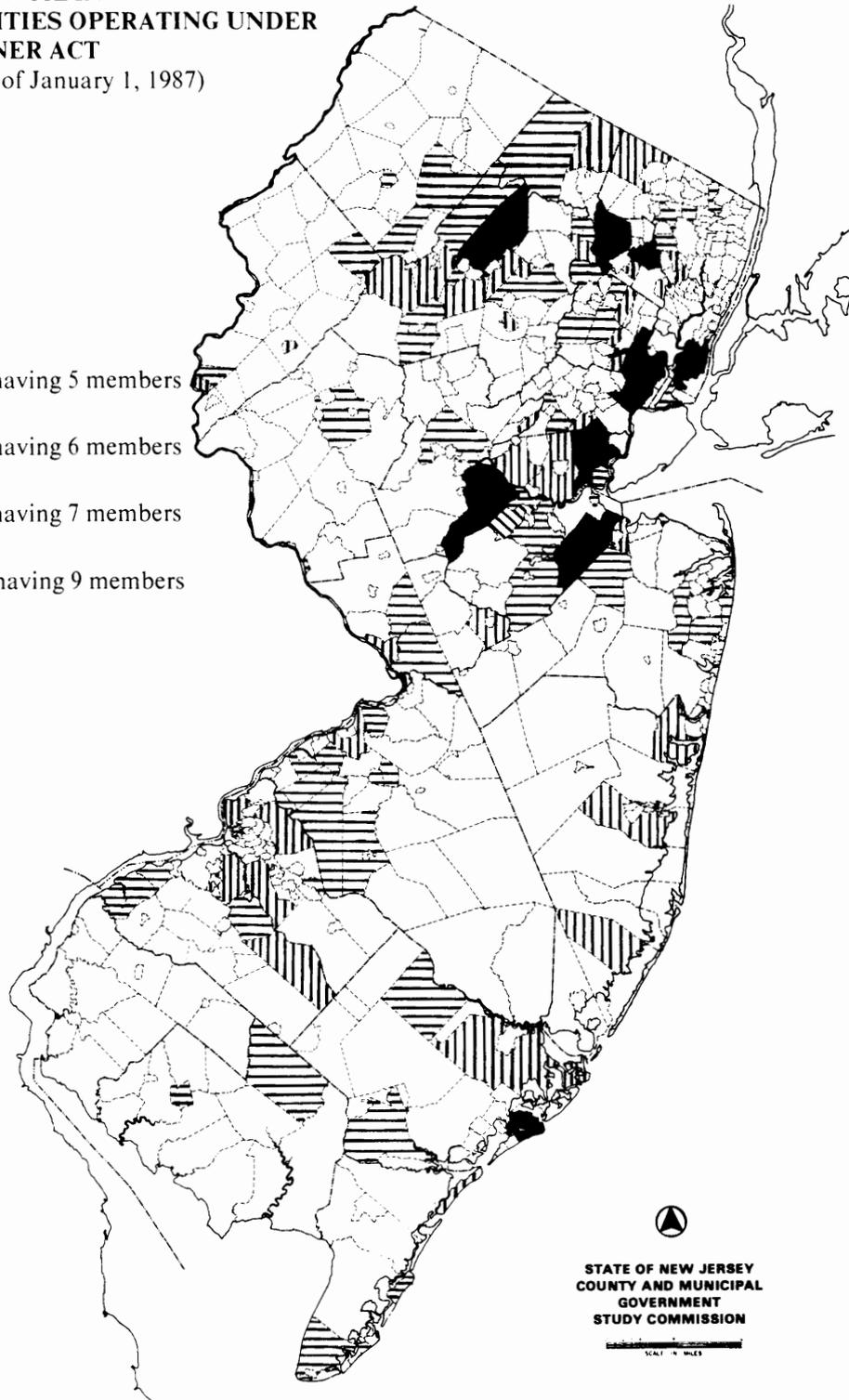
**SIZE OF COUNCIL IN
MUNICIPALITIES OPERATING UNDER
THE FAULKNER ACT**
(As of January 1, 1987)

Key:

-  Council having 5 members
-  Council having 6 members
-  Council having 7 members
-  Council having 9 members



COUNTY KEY MAP



STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION

SCALE IN MILES

40:69A-13.

Number of council members and wards; recommendations.

(a) If the charter commission shall recommend the adoption of the mayor-council plan of government or the council-manager plan of government, it may also specify that the municipal council shall consist of seven or nine members instead of five members as provided therein; or if the charter commission shall recommend the adoption of the small municipality plan of government, it may also specify that the council shall consist of five or seven members instead of three members as provided therein.

(b) If the charter commission shall recommend the adoption of the mayor-council plan of government or the council-manager plan of government it may further specify that the municipality shall be divided into two, three, four, five or six wards within the limitations hereinafter provided:

(1) Where the council is to consist of five members, the municipality may be divided into two or three wards;

(2) Where the charter commission specifies that the council shall consist of seven members, the municipality shall be divided into four wards; and

(3) Where the charter commission specifies that the council shall consist of nine members, the municipality shall be divided into five or six wards.

Last Amended by P.L. 1981, c. 465, §2.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Hodges v Van Fleet, 55 NJ 528 (1970)	Action brought to declare vote to change form of government a nullity.

40:69A-14.

Form of submission of question of adoption of optional plans of government.

The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this act [sections 40:69A-1 to 40:69A-210], including any of the alternatives contained in this act, shall be submitted in the following form or such part thereof as shall be applicable:

“Shall (insert name of plan)..... of the Optional

Municipal Charter law, providing for (a division of the municipality into (insert number)..... wards, with) (insert number)..... councilmen

(one to be elected from each ward and (insert number)..... to be elected

at large) at elections held in (insert May or November)..... ,

(insert, if appropriate) with run-off elections to be held thereafter if a sufficient number of candidates fail to attain a majority of votes be adopted by (insert name or municipality)..... ?”

Last Amended by P.L. 1981, c. 465, §3.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Guernsey v Allan, 63 NJ Super 270 (1960)	Action challenging propriety of interpretative statement framed by charter study commission.
Rooney Jr. v McEachern <i>et al.</i> , 128 NJ Super 578 (1974)	Action brought to require run-off elections.
Narciso v Worrick, 176 NJ Super 315 (1980)	Action challenging township's rejection of petition for change of government.

40:69A-15.

Ballots; submission of question of adoption of optional plan of government.

If the charter commission shall recommend that the question of adopting one of the optional plans of government authorized by this act shall be submitted to the voters of the municipality, it shall be the duty of the municipal clerk to cause the question of adoption or rejection to be placed upon the ballot at such time as the commission shall in its report specify. The commission may cause the question to be submitted to the people at the next general or regular municipal election, occurring not less than 60 days following the filing of a copy of the commission's report with the clerk, or at a special election occurring not less than 60 days nor more than 120 days after the filing of the report, at such time as the commission's report shall direct. At such election the question of adopting that plan of government recommended by the charter commission shall be submitted to the voters of the municipality in the same manner as other public questions to be voted upon by the voters of a single municipality. The charter commission shall frame the question to be placed upon the ballot as provided in section 1-14 [section 40:69A-14] and, if it deems appropriate, an interpretative statement to accompany such question.

Last Amended by P.L. 1981, c. 465, §4.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Guernsey v Allan, 63 NJ Super 270 (1960)	Action challenging propriety of interpretative statement framed by charter study commission.

40:69A-16.

Special charter or specific amendments of charters; petition to legislature.

If the charter commission shall propose a special charter or specific amendment or amendments of or to the existing charter of the municipality, it shall be the duty of the governing body of the municipality to forthwith petition the Legislature for a special law or laws, pursuant to the Constitution of 1947 and in the manner provided by general enabling legislation thereunder, to carry out the recommendations of the charter commission.

40:69A-17.

Other proceedings pending; no new regulation or petition within 4 years.

No ordinance may be passed and no petition may be filed for the election of a charter commission pursuant to section 1-1 of this act [section 40:69A-1] while proceedings are pending under any other petition or ordinance filed or passed under article 1 of this act [sections 40:69A-1 to 40:69A-25], or while proceedings are pending pursuant to section 1-18 hereof [section 40:69A-18] or any other statute providing for the adoption of any other charter or form of government available to the municipality, nor within four years after an election shall have been held pursuant to any such ordinance or petition passed or filed pursuant to section 1-1 hereof.

Last Amended by P.L. 1953, c. 254, §8.

B. PROCEDURE BY PETITION AND REFERENDUM

40:69A-18.

Adoption of optional plan without charter commission.

The legally qualified voters of any municipality may adopt any of the optional plans provided in this act upon petition and referendum, without a charter commission, hereinafter provided.

Last Amended by P.L. 1981, c. 456, §5.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Johnson v Reichenstein, 50 NJ Super 116 (1958)	Action to compel city clerk to accept petition of nomination for office of councilman-at-large in municipal election.

40:69A-19.

Petition for election upon adoption of optional plan of government.

Upon petition of the registered voters of any municipality, an election shall be held in the municipality upon the question of adopting any of the optional plans of government provided in this act. The petition calling for such election shall be subject to the provisions of section 1-1b hereof [section 40:69A-1(b)] and shall be signed by the following per centum of registered voters of the municipality:

- (a) 25% in municipalities of 7,000 or less inhabitants;
- (b) 20% in municipalities of more than 7,000 and less than 70,000 inhabitants;
- (c) 10% in municipalities of 70,000 or more inhabitants.

The petition shall designate the plan to be voted upon, which may include any of the alternatives provided in this act and the question to be placed upon the ballot shall be in the same form as is required by section 1-14 [section 40:69A-14] of this article.

Last Amended by P.L. 1981, c. 465, §6.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Pappas v Malone, 36 NJ 1 (1961)	An action challenging city clerk's rejection of petition for reversion to prior form of government.
Hodges v Van Fleet, 55 NJ 528 (1970)	Action brought to declare vote to change form of government a nullity.
Hamilton Township Taxpayers' Association v Warwick <i>et al.</i> , 180 NJ Super 243 (1981)	Action regarding the validity of referendum petition.

40:69A-20.

Submission of question to voters.

The municipal clerk shall provide for the submission of the question at the next general or regular municipal election if one is to be held not less than sixty days nor more than one hundred and twenty days after the filing of the petition, and if a general or regular municipal election is not to be held within that time, at a special election within such time. The question of adoption of an optional plan of government shall be submitted to the voters of the municipality in the same manner as other public questions to be voted upon by the voters of a single municipality.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Pappas v Malone, 36 NJ 1 (1961)	An action challenging city clerk's rejection of petition for reversion to prior form of government.
Seligson <i>et al.</i> v De Bruin, 174 NJ Super 60 (1980)	Action seeking relief from fixing of primary election as date of referendum on proposed change of form of government.

40:69A-21.

Other proceedings pending; no new petition within 4 years.

No petition for submission of the question of adopting an optional plan of government pursuant to section 1-18 of this act [section 40:69A-18] may be filed while proceedings are pending pursuant to another such petition, or under an ordinance passed or petition filed pursuant to section 1-1 of this act [section 40:69A-1], or while proceedings are pending pursuant to any other statute for the adoption of any other charter or form of government available to the municipality, nor within four years after an election shall have been held pursuant to any such petition filed pursuant to section 1-18 of this act.

Last Amended by P.L. 1953, c. 254, §11.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Chasis v Tumulty, 8 NJ 147 (1951)	Proceeding to compel city clerk of Jersey City to provide for special election on the question of adopting one of the statutory optional forms of municipal government.

**C. PROVISIONS APPLICABLE TO ALL REFERENDA
ON CHARTER CHANGES**

40:69A-22.

Vote in favor of change in form of government.

Whenever the legally qualified voters of any municipality, by a majority of those voting on the question, vote in favor of adopting a change in their form of government pursuant to this act [sections 40:69A-1 to 40:69A-210], either by the charter commission method or by direct petition and referendum, the proposed charter or charter amendment or amendments shall take effect according to its terms.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Johnson v Reichenstein, 50 NJ Super 116 (1958)	An action to compel city clerk to accept petition of nomination.

40:69A-23.

After adoption, no subsequent vote on change for 3 to 5 years.

The voters of any municipality which has adopted an optional form of government pursuant to this act [sections 40:69A-1 to 40:69A-210] may not vote on the question of adopting another form of government until three years thereafter, in the case of municipalities of 7,000 or less inhabitants, and five years thereafter in the case of all other municipalities.

40:69A-24.

Each optional plan declared complete form of government.

For the purposes of this act each of the optional plans of government provided in this act [sections 40:69A-1 to 40:69A-210], and each of said optional plans as modified by any available provisions concerning the time of elections, size and terms of council and number of wards, is hereby declared to be a complete and separate form of government provided by the Legislature for submission to the voters of the municipality.

Last Amended by P.L. 1981, c. 465, §12.

**D. ABANDONMENT OF A OPTIONAL PLAN AND
REVERSION TO A PRIOR FORM**

40:69A-25.

Petition and referendum on reversion to prior plan.

Any municipality may, subject to the provisions of sections 1-23 of this act [section 40:69A-23], abandon its optional plan and revert to the form of government under which it was governed immediately prior thereto, upon the filing of a petition and referendum as follows:

(a) Upon petition of the registered voters of the municipality, signed by the same number thereof as required in section 1-19 [section 40:69A-19], for an election to submit the question of abandonment and reversion as herein provided, the municipal clerk shall provide for submission of the question in like manner as provided in section 1-20 [section 40:69A-20].

(b) The form of the question shall be as follows:

Shall (Name of Municipality)..... abandon its present
 form of government and revert to its prior form of government, known
 as (Popular Name of Plan)..... as provided
 by (Statutory Reference of Prior Plan)..... ?

(c) If a majority of those voting on the question vote in the affirmative the municipality shall revert to its prior form of government as of 12 m. of the fifty-ninth day following the election of officers under the form of government to which the municipality will revert. The first officers under such form of government shall be elected at the next regular municipal or general election, as appropriate to the form of government to which the municipality will revert, occurring not less than 60 days following the referendum. It shall be the duty of the municipal clerk to perform all the duties respecting such election as would be required of a municipal clerk for elections under the form of government to which the municipality will revert. Whenever a municipality has reverted to any form of government other than the commission form of government law (R.S. 40:70-1 *et seq.*) or the municipal manager form of government (R.S. 40:79-1 *et seq.*), at a later date than the one fixed for the filing of nominating petitions at the primary election, the candidates to be first elected shall be nominated by direct petition in the manner provided by law for nomination, by direct petition for a general election.

Any law to the contrary notwithstanding, persons holding office at the time of a referendum approving reversion shall continue to hold office until the municipality reverts to the previous form of government. Vacancies existing at the holding of the referendum or which occur between the holding of the referendum and the reversion of the municipality to its previous form of government, shall be filled by appointment pursuant to procedures for the filling of vacancies appropriate to the "Optional Municipal Charter Law" [sections 40:69A-1 *et seq.*].

If a majority of those voting on the question vote in the negative, the question of abandonment and reversion shall not again be submitted for 5 years.

(d) The reversion to a prior form of government shall take effect as provided in sections 17-57 through 17-59 of this act [sections 40:69A-206 to 40:69A-208] for transition to an optional plan hereunder.

Last Amended by P.L. 1980, c. 82, §1.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Pappas v Malone, 36 NJ 1 (1961)	An action challenging city clerk's rejection of petition for reversion to prior form of government.
Hamilton Township Taxpayers' Association v Warwick <i>et al.</i> , 180 NJ Super 243 (1981)	Action regarding validity of referendum petition.

40:69A-25.1.

Amendment of charter to include alternative under plan of government; referendum; ballot; form of question.

a. Any municipality governed by a plan of government adopted pursuant to P.L. 1950, c. 210 (C. 40:69A-1 *et seq.*) may, by referendum, amend its charter to include any alternative permitted under that plan of government. The question of adopting an alternative may be initiated by the voters pursuant to, and subject to the pertinent provisions of, sections 17-35 through 17-47 (C. 40:69A-184 through 40:69A-196); or may be submitted to the voters by ordinance adopted by the governing body, in which case the question and ordinance shall be subject to the pertinent provisions of sections 17-42 through 17-47 (C. 40:69A-191 through 40:69A-196), except that no petition of the voters shall be necessary in order to submit the question.

b. At any election at which the question of adopting an alternative is to be submitted to the voters pursuant to this section, the question shall be submitted in substantially the following form:

“Shall the charter of (insert name of municipality).....
governed by (insert plan of government)..... be amended,
as permitted under that plan, to provide for (insert appropriate language...
from below for the alternative to be voted upon)..... ?

GROUP A.

- (1) “the holding of regular elections in May”;
- (2) “the holding of general elections in November”;

GROUP B.

- (3) “the election of all council members at large”;
- (4) “the division of the municipality into (insert number).....

wards with (insert number)..... council members to be elected
at large and one from each ward”;

GROUP C.

- (5) “the election of all council members for concurrent terms”;
- (6) “the election of council members for staggered terms”;

GROUP D.

- (7) “the election of the mayor by the members of the council from among their own number”;
- (8) “the election of the mayor directly by the voters of the municipality”;

GROUP E.

- (9) “a municipal council to consist of three members”;
- (10) “a municipal council to consist of five members”;
- (11) “a municipal council to consist of seven members”;
- (12) “a municipal council to consist of nine members”.

If more than one alternative is to be submitted to the voters at the same time, each alternative shall be separately stated on the ballot in the form of a question as set forth above. If the provisions of two or more alternatives adopted at the same

election conflict, then that receiving the greatest affirmative vote shall control. Nothing contained in this section shall authorize the submission to the voters of the question of adopting any alternative not authorized by the plan of government under which the municipality is governed. No question shall be submitted to the voters pursuant to this section within 4 years next following the adoption by the municipality of a plan of government authorized by P.L. 1950, c. 210 (C. 40:69A-1 *et seq.*) or this act [sections 40:69A-25.1 to 40:69A-25.5], or within 4 years next following the date on which the question of adopting it or any alternative in the same group was last submitted to the voters pursuant to this section.

c. In any municipality having adopted a charter providing for the division of the municipality into wards, the question of increasing or decreasing the number of council members to be elected in the municipality shall be submitted to the voters in the manner set forth in alternative (4) of Group B. of subsection b. of this section. None of the alternatives set forth in Group E. of that subsection shall be submitted to the voters in any municipality divided into wards, unless at the same election alternative (3) of Group B. of that subsection is also submitted, in which case both alternatives shall be approved by the voters in order for either to take effect.

P.L. 1981, c. 465, §7. (Supplement to P.L. 1950, c. 210.)

40:69A-25.2.

Group A or B alternatives; adoption; transitional provisions.

Whenever any municipality, pursuant to the authority granted in section 7 of this act [section 40:69A-25.1], shall amend its charter to include an alternative permitted under its plan of government and included in either Group A. or Group B. of subsection b. of section 7 of this act, the terms of all council members, and directly elected mayor if affected, currently serving in the municipality on the date of the election at which the amendment was adopted, and all affected officers elected at that election, shall terminate on June 30, or December 31, as appropriate to the election provisions of the amended charter, next following the date of the first election of officers under the amended charter. The nomination and election of those municipal officers as are required shall be conducted in accordance with the provisions of the amended charter and appropriate law for the election to be held on the second Tuesday in May next following the date of adoption, or on the first Tuesday after the first Monday in November next following the date of adoption. If the amendment adopted to the charter shall provide for the division of the municipality into wards, or by its terms require an increase or decrease in the number of wards into which the municipality is divided, the ward boundaries required by the amended charter shall be fixed and determined pursuant to law within 90 days of adoption.

If the municipality shall at the same time amend its charter to include an alternative permitted under its plan of government and included in Group C., Group D. or Group E. of subsection b. of section 7 of this act [section 40:69A-25.1], the transitional provisions of this section shall apply and the provisions of all amendments shall take effect for the election to be held pursuant to this section.

P.L. 1981, c. 465, §8. (Supplement to P.L. 1950, c. 210.)

40:69A-25.3.

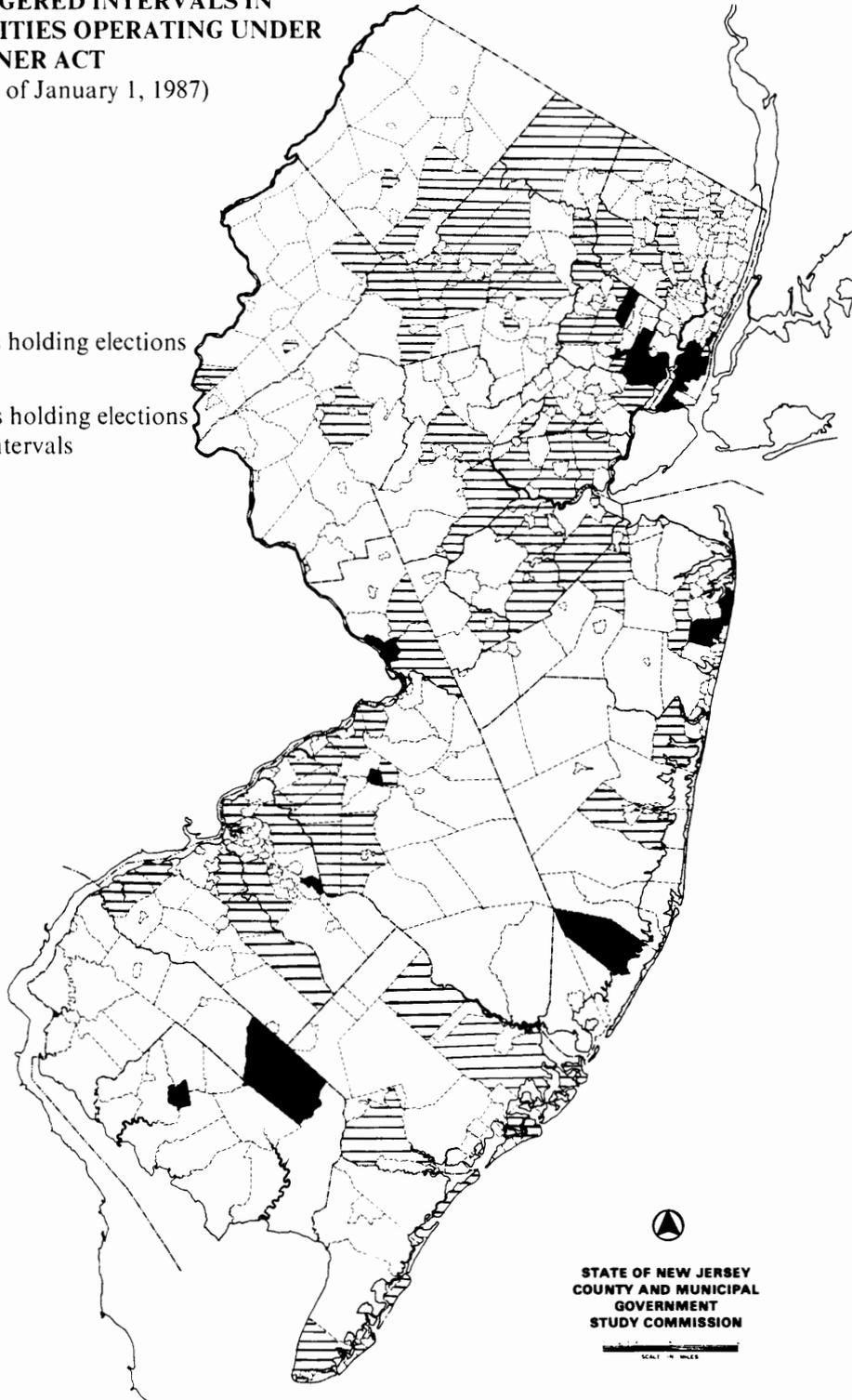
Group C alternatives; adoption; transitional provisions.

Whenever any municipality shall, pursuant to the authority granted in section 7 of this act [section 40:69A-25.1], amend its charter only to include an alternative permitted under this plan of government and included in Group C. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

**ELECTIONS HELD CONCURRENTLY
OR AT STAGGERED INTERVALS IN
MUNICIPALITIES OPERATING UNDER
THE FAULKNER ACT**
(As of January 1, 1987)

Key:

-  Municipalities holding elections concurrently
-  Municipalities holding elections at staggered intervals



**STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION**

SCALE IN MILES

a. If the amended charter shall provide for the election of all council members for concurrent terms in a municipality where prior to the amendment council members were elected for staggered terms, at the next election at which municipal officers are elected, and at each succeeding municipal election thereafter until such time as it shall occur that all council members shall be elected at the same election, council members elected at that election shall serve for a term equal in years to the number which the council member currently serving and having the greatest number of years remaining of his term has yet to serve of his term. At the election that it shall occur that all council members shall be elected at the same time, each council member shall be elected for the term of years provided in the amended charter.

b. If the amended charter shall provide for the election of council members for staggered terms in a municipality where prior to the amendment council members were elected for concurrent terms, the amendment to the charter shall take effect for the next election at which municipal officers are elected in the municipality.

P.L. 1981, c.465, §9. (Supplement to P.L. 1950, c. 210.)

40:69A-25.4.

Group D alternatives; adoption; transitional provisions.

Whenever any municipality shall, pursuant to the authority granted in section 7 of this act [section 40:69A-25.1], amend its charter only to include an alternative permitted under its plan of government and included in Group D. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If a municipality in which the mayor is elected by the members of the council shall adopt an amendment to its charter providing for the election of the mayor directly by the voters of the municipality, the amendment shall take effect for the next election held in the municipality at which municipal officers are elected, in accordance with the provisions of the amended charter. Any mayor currently serving on the date of that election shall, upon and after the date of the commencement of the term of the mayor elected at that election, serve as a member of the council for the remainder of his term but shall not exercise the powers or duties of mayor.

b. If a municipality in which the mayor is elected directly by the voters of the municipality shall adopt an amendment to its charter providing for the election of the mayor by the members of the council, the amendment shall take effect the first day of the next full month after adoption. On that date the members of the council currently serving shall meet and elect one of their number as mayor to serve until the first day of July, or January, as appropriate, next, at which time the members shall elect one of their number to serve a full term as mayor, pursuant to the amended charter. Any mayor serving on the effective date of the amendment shall, on and after that date, serve as a member of the council for the remainder of his term, but shall not exercise the powers or duties of mayor unless elected by the council.

P.L. 1981, c. 465, §10. (Supplement to P.L. 1950, c. 210.)

40:69A-25.5.

Group E alternatives; adoptions; transitional provisions.

Whenever any municipality shall, pursuant to the authority granted in section 7 of this act [section 40:69A-25.1], amend its charter only to include an alternative permitted under its plan of government and included in Group E. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If the amended charter shall provide for the election of council members at

large for concurrent terms, the increase or decrease in the number of council members shall take effect for the next election at which municipal officers are elected in the municipality.

b. If the amended charter shall provide for the election of council members at large for staggered terms, an increase in the number of council members shall take effect as follows:

(1) If the plan of government requires generally a 3-year term for council members:

(a) And the increase is from three to five council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 1 year and one for a term of 2 years;

(b) And the increase is from three to seven council members, at the next election at which municipal officers are elected, two additional council members shall be elected for terms of 1 year, one for a term of 2 years, and one for a term of 3 years; or,

(c) And the increase is from five to seven council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 1 year and one for a term of 3 years;

(2) If the plan of government requires generally a 4-year term for council members:

(a) And the increase is from five to seven council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 2 years and one for a term of 4 years;

(b) And the increase is from five to nine council members, at the next election at which municipal officers are elected, two additional council members shall be elected for terms of 2 years and two for terms of 4 years; or,

(c) And the increase is from seven to nine council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 2 years and one for a term of 4 years.

c. If the amended charter shall provide for the election of council members at large for staggered terms, and the adopted amendment requires a decrease in the number of council members, the terms of all council members currently serving in the municipality on the date of the election at which the amendment was adopted, and of all council members elected at that election, shall terminate on June 30, or December 31, as appropriate to the election provisions of the amended charter, next following the date of the first election of officers under the amended charter. The nomination and election of council members shall be conducted in accordance with the provisions of the amended charter and appropriate law for the election to be held on the second Tuesday in May next following the date of adoption, or on the first Tuesday after the Monday in November next following the date of adoption.

P.L. 1981, c. 465, §11. (Supplement to P.L. 1950, c. 210.)

ARTICLE 2.

INCORPORATION AND POWERS

40:69A-26.

Laws governing after adoption of optional form of government.

Upon the adoption by the qualified voters of any municipality of any of the optional forms of government set forth in this act [sections 40:69A-1 to 40:69A-210], the municipality shall thereafter be governed by the plan adopted, by the provisions of this act common to optional plans and by all applicable provisions of general law, subject to the transitional provisions of article 17 of this act [sections 40:69A-150 to 40:69A-210], unless and until the municipality should adopt another form of government as provided by law.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Bucino <i>et al.</i> v Malone, 12 NJ 330 (1953)	An action to challenge the constitutionality of the Optional Municipal Charter Law.
Myers v Township of Cedar Grove, 36 NJ 51 (1961)	An action attacking ordinance affecting plumbing inspector's compensation concerning the question whether or not a Faulkner Act municipality must maintain a separate and independent board of health.
Townsend <i>et al.</i> v Township of Pequannock, 47 NJ Super 294 (1957)	An action to set aside certain portions of a township ordinance, known as 'The Administrative Code'.
O'Keefe v Dunn, 89 NJ Super 383 (1965)	Action challenging veto by mayor of appointment to local housing authority.
Pritel v Burriss, 94 NJ Super 485 (1967)	Action to require clerk to accept nominating petition.
Jones v Buford, 132 NJ Super 209 (1975)	Appeal of order denying claim for relief under statute relating to powers of local board of health.
Myers v Worrick, 182 NJ Super 117 (1981)	Action to require referendum.
Traino v McCoy, 187 NJ Super 638 (1982)	Action challenging decision of township board of ethics that mayor's conduct as council member as well as planning board member violated code of ethics' provisions.

40:69A-27.

Municipality remains body incorporate and politic; name.

Upon such adoption of a plan under this act, the inhabitants of any municipality or municipalities within the corporate limits as now or hereafter established shall be and remain a body corporate and politic with perpetual succession, and with such corporate name as it has heretofore adopted or may hereafter adopt.

40:69A-28.

“General law” defined.

For the purposes of this act [sections 40:69A-1 to 40:69A-210], a “general law” shall be deemed to be any law or provisions of law, not inconsistent with this act, heretofore, or hereafter enacted which is by its terms applicable or available to all municipalities, and the following additional laws whether or not such additional laws are so applicable or available to all municipalities; legislation relating to taxation, local courts, education, health, public authorities serving more than one municipality, and municipalities in unsound financial condition.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Bucino <i>et al.</i> v Malone, 12 NJ 330 (1953)	An action to challenge the constitutionality of the Optional Municipal Charter Law.
Myers v Township of Cedar Grove, 36 NJ 51 (1961)	An action attacking ordinance affecting plumbing inspector’s compensation concerning the question whether or not a Faulkner Act municipality must maintain a separate and independent board of health.
Townsend <i>et al.</i> v Township of Pequannock, 47 NJ Super 294 (1957)	An action to set aside certain portions of a township ordinance, known as ‘The Administrative Code’.
O’Keefe v Dunn, 89 NJ Super 383 (1965)	Action challenging veto by mayor of appointment to local housing authority.
Pierro v City of Hoboken, 90 NJ Super 386 (1966)	Action for salary due member of municipal board of alcoholic beverage control.
Pritel v Burris, 94 NJ Super 485 (1967)	Action to require clerk to accept nominating petition.
State of New Jersey v Hatco Chemical Company, 96 NJ Super 238 (1967)	Appeal of conviction in municipal court charging violations of township’s air pollution control ordinance.
Jones v Buford, 132 NJ Super 209 (1975)	Appeal of an order denying claim for relief under a statute relating to the powers of the local board of health.
City Council of City of Elizabeth v Naturile, 136 NJ Super 213 (1975)	Action against property owners regarding application of electrical and plumbing regulations in the administrative code.
Myers v Worrick, 182 NJ Super 117 (1981)	Action to require referendum.
Traino v McCoy, 187 NJ Super 638 (1982)	Action challenging decision of township board of ethics that mayor’s conduct as council member as well as planning board member violated code of ethics’ provisions.

40:69A-29.

General powers of municipalities governed by optional form of government.

Each municipality governed by an optional form of government pursuant to this act shall, subject to the provisions of this act or other general laws, have full power to:

(a) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their term, tenure and compensation;

(b) Adopt and enforce local police ordinances of all kinds and impose penalties of fine not exceeding \$1,000.00 or imprisonment for any term not exceeding 90 days or both for the violation thereof; prescribe that for the violation of particular ordinances at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.00; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(c) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(d) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law.

Last Amended by P.L. 1983, c. 410, §2.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Wagner v Mayor and Council of City of Newark, 24 NJ 467 (1957)	An action to invalidate a rent control ordinance, involving the exercise of legislative powers by the municipality.
Myers v Township of Cedar Grove, 36 NJ 51 (1961)	An action attacking ordinance affecting plumbing inspector's compensation concerning the question whether or not a Faulkner Act municipality must maintain a separate and independent board of health.
State of New Jersey v Boston Juvenile Shoes, 60 NJ 249 (1972)	Appeal from conviction of violating township ordinance regarding the display of signs.
Paterson Police PBA v Paterson, 87 NJ 78 (1982)	Action to compel city to abide by arbitrator's award to each of several police officers.
Ingling v Sylvester, 56 NJ Super 424 (1959)	Action seeking to invalidate suspension of official by township director of public safety.
Riddlestorffer v City of Rahway, 82 NJ Super 36 (1963)	Action to oust members of Board of Education.
Ward v City of Camden, 87 NJ Super 150 (1965)	Appeal from Civil Service Commission decision to reinstate plumbing inspector.
McCartney v Franco, 87 NJ Super 292 (1965)	An action to challenge abolition of office of city tax assessor.
State of New Jersey v Hatco Chemical Company, 96 NJ Super 238 (1967)	Appeal of conviction in municipal court charging violations of township's air pollution control ordinance.
Hutt v Robbins <i>et al.</i> , 98 NJ Super 99 (1967)	Action brought to remove official installed in office that plaintiff had occupied.
New Jersey Civil Service Association v Mayor of Camden, 135 NJ Super 308 (1975)	Action challenging whether or not municipality had authority to agree to provide dental services under collective bargaining agreement.

Camden v Dicks, 135 NJ Super 559 (1975)	Action against former employee to recover additional severance pay under claim payment was <i>ultra vires</i> .
City Council of City of Elizabeth v Naturile, 136 NJ Super 213 (1975)	Action against property owners regarding application of electrical and plumbing regulations in the administrative code.
State v Giacchetto, 166 NJ Super 351 (1979)	Appeal from conviction of violating an ordinance requiring removal of snow and ice from sidewalks.
Angelo v Shapiro, 168 NJ Super 459 (1979)	Action by treasurer, whose employment was terminated by administrative code, challenging the validity of the code.
Traino v McCoy, 187 NJ Super 638 (1982)	Action challenging decision of township board of ethics that mayor's conduct as council member as well as planning board member violated code of ethics' provisions.

40:69A-30.

Power of local self-government conferred; construction of grants of power.

The general grant of municipal power contained in this article [sections 40:69A-26 to 40:69A-30] is intended to confer the greatest power of local self-government consistent with the Constitution of this State. Any specific enumeration of municipal powers contained in this act [sections 40:69A-1 to 40:69A-210] or in any other general law shall not be construed in any way to limit the general description of power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of municipal power to municipalities governed by an optional plan under this act, whether in the form of specific enumeration or general terms, shall be liberally construed, as required by the Constitution of this State, in favor of the municipality.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Wagner v Mayor and Council of City of Newark, 24 NJ 467 (1957)	An action to invalidate a rent control ordinance, involving the exercise of legislative powers by the municipality.
Myers v Township of Cedar Grove, 36 NJ 51 (1961)	An action attacking ordinance affecting plumbing inspector's compensation concerning the question whether or not a Faulkner Act Municipality must maintain a separate and independent board of health.
Whelan v NJ Power and Light Co., 45 NJ 237 (1965)	Action for declaratory judgement with regard to the validity of a contract between the city and the utility.
New Jersey Builders Association v Mayor of East Brunswick Township 60 NJ 222 (1972)	Action testing validity of ordinance seeking to regulate building contractors.
Inganamort <i>et al.</i> v Borough of Fort Lee <i>et al.</i> , 62 NJ 521 (1973)	Action concerning power of municipality to enact a rent control ordinance.

Hudson Circle Servicer, Inc. v Kearny, 70 NJ 289 (1976)	Action by truck park operator challenging ordinance regulating parking lots operated in conjunction with 'truck stops'.
Riddlestorffer v City of Rahway, 82 NJ Super 36 (1963)	Action to oust members of Board of Education.
Central Tower Co. v Borough of Fort Lee, 160 NJ Super 223 (1978)	Action challenging requirement of rent levelling board that unbudgeted school aid refund be passed on to tenants.
State v East Shores Incorporated, 164 NJ Super 530 (1979)	Appeal from order of Superior Court to require township to provide adequate, potable water supply.

ARTICLE 3.

MAYOR-COUNCIL PLAN

A. FORM OF GOVERNMENT

40:69A-31.

Applicable laws.

The form of government provided in this article [sections 40:69A-31 to 40:69A-48] shall be known as the “mayor-council plan” and shall, together with articles 2 and 17 [sections 40:69A-26 to 40:69A-30 and 40:69A-150 to 40:69A-210, respectively], govern any municipality the voters of which have adopted it pursuant to this act [sections 40:69A-1 to 40:69A-210].

Last Amended by P.L. 1981, c. 465, §13.

40:69A-32.

Government by council, mayor and appointed officers and employees.

a. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article [sections 40:69A-31 to 40:69A-48], general law or ordinance.

b. For the purpose of construction of all others applicable statutes, unless the explicit terms and context of the statute require a contrary construction, any administrative or executive functions assigned by general law to the governing body shall be exercised by the mayor, and any legislative and investigative functions assigned by general law to the governing body shall be exercised by the council. Those functions shall be exercised pursuant to the procedures set forth in this plan of government, unless other procedures are required by specific terms of the general law.

Last Amended by P.L. 1985, c. 374, §1.

Insert A
Governor’s Reconsideration and
Recommendation Statement

Senate No. 1206—P.L. 1985, c. 374

To the Senate:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Senate Bill No. 1206 (3rd OCR) with my objections and recommendations for amendment.

This bill would clarify the separation of powers between the executive and legislative branches of municipal governments operating under the mayor-council form of government authorized by the Optional Municipal Charter Law, otherwise known as the Faulkner Act.

This bill attempts to eliminate ambiguities concerning the role of the mayor and the council in mayor-council Faulkner Act municipalities, and it reflects the thinking of the Legislature following deliberations on this bill and its predecessors over the course of the last two years.

The County and Municipal Government Study Commission has pointed out, in its publication *Forms of Municipal Government in New Jersey*, that the mayor-council form of government under the Optional Municipal Charter Law is particularly important because most of the larger municipalities of the State operate under its provisions. The Study Commission has estimated that as many as one-third of New Jersey's people are governed locally under this version of the Faulkner Act. Newark, Jersey City, Paterson, Elizabeth, Trenton, Camden and Woodbridge Township, to name but seven of the almost 60 municipalities affected, operate under this form of government.

I agree with the intent of this legislation insofar as it clarifies the role of the mayor and the council in mayor-council Faulkner Act municipalities. Delineation between executive and legislative functions at the local level is compatible with the delineation that exists at the county level in those counties that have a county executive and board of chosen freeholders under the Optional County Charter Law and, indeed, at the State level itself between the powers of the Governor and the Legislature.

Major provisions of this bill include placing in the applicable statute the presumption that administrative or executive functions assigned by general law to the governing body shall be exercised by the mayor, and any legislative and investigative functions assigned by general law to the governing body shall be exercised by the council. The bill goes on to list specific legislative powers to be exercised by the council and specific executive powers to be exercised by the mayor. The bill clarifies certain appointment powers of the mayor, as well as authority to fix the amount of salary, wages or other compensation to be paid to employees of the administrative departments of the municipal governments.

I believe, however, that certain technical amendments should be incorporated into the provisions of this bill. Specifically, I am opposed to defining the term "governing body" in mayor-council Faulkner Act municipalities to include both the mayor and the municipal council. I am advised that the language is not necessary because the Optional Municipal Charter Law currently contains no ambiguous use of the term "governing body". Current law adequately and clearly expresses the form of government in question, and to infer that the mayor is a member of the governing body is misleading in that he has no voting rights and, indeed, need not attend council meetings. Therefore, my suggestions include amending the legislation to continue to define the term "governing body" in a manner consistent with the intent of the Optional Municipal Charter Law.

I am suggesting technical amendments to ensure that where general law now clearly requires action by council resolution in these Faulkner Act municipalities this legislation will not modify that procedure. I note that the bill now specifies the 'Local Budget Law' (N.J.S. 40A:4-1 *et seq.*) as such a possible area, and my amendments cite the 'Local Fiscal Affairs Law' (N.J.S. 40A:5-1 *et seq.*), as another possible area where council action is mandated. Other similar sections of general law may also exist.

Other technical amendments make clear that the municipal council shall be able to set the salaries of council employees, subject to pertinent civil service requirements and any pertinent contractual obligations, and within the general limits of the municipal budget. Another amendment limits the right of the mayor to remove municipal officers who are neither department heads nor subordinate departmental officers or employees to other municipal executive officers. As the bill reached my desk, it did not specify that this power of removal of other municipal officers was to be confined to municipal executive officers, as should be the case.

I am also suggesting technical amendments to ensure that the municipal tax collector shall continue to be appointed by the procedure currently in force. I also wish to clarify the section of the bill that extends the right of the mayor in any municipality operating under this form of government to make appointments to boards, authorities or commissions with the advice and consent of the council to ensure that specific terms of general law now on the books continue to operate for appointments to such entities as zoning boards of adjustments and municipal utilities authorities.

I am also suggesting that the section amending the Municipal Land Use Law concerning the appointment of certain classes of planning board members be deleted. I believe that amendments to the Municipal Land Use Law or any other similar general legislation should be considered separately and not as part of a clarifying statute related to the Optional Municipal Charter Law.

Therefore, I herewith return Senate Bill No. 1206 (3rd OCR) and recommend that it be amended as follows:

* * * * *

Respectfully,
/s/Thomas H. Kean
GOVERNOR

The Legislature accepted the Governor's recommendations for changes to the bill as passed by both houses and enacted Senate Bill Number 1206 with the Governor's amendments included.

B. ELECTED OFFICIALS

40:69A-33.

Mayor; election; term.

The mayor shall be elected by the voters of the municipality and shall serve for a term of 4 years.

Last Amended by P.L. 1981, c. 465, §14.

40:69A-34.

Council members; number; term.

The council shall consist of five members, unless otherwise provided in the municipal charter, who shall serve for a term of 4 years.

Last Amended by P.L. 1981, c.465, §15.

40:69A-34.1.

Mayor-Council plan; election of mayor and council; regular municipal or general election.

Any municipality adopting a mayor-council plan of government shall provide in its charter that the mayor and council shall be elected by the voters of the municipality either:

a. At a regular municipal election held on the second Tuesday in May in the years which municipal officers are to be elected, in which case the term of office of the mayor and council members shall begin on July 1 next following their election; or,

b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the mayor and council members shall begin on January 1 next following their election.

P.L. 1981, c. 465, §16. (Supplement to P.L. 1950, c. 210.)

40:69A-34.2.

Council members; election at large or by ward.

Any municipality adopting a mayor-council plan of government shall provide in its charter either:

a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; or,

b. That the municipality shall be divided into wards pursuant to the authority granted in sections 1-13 or 1-19 (C. 40:69A-13 or 40:69A-19); that councilmen shall be elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one councilman shall be elected from each ward established in the municipality, and all other councilmen shall be elected at large.

P.L. 1981, c. 465, §17. (Supplement to P.L. 1950, c. 210.)

40:69A-34.3.

First council members; term of office.

Any municipality adopting a mayor-council plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan, shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for 4 years and three for 2 years; if the municipal council is to consist of seven members three shall serve for 4 years and four for 2 years; or, if the municipal council is to consist of nine members, four shall serve for 4 years and five for 2 years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in sections 1-13 or 1-19 (C.40:69A-13 or 40:69A-19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan, shall serve as follows: the councilmen elected at large for

a term of 4 years; and the councilmen elected from wards for a term of 2 years. *P.L. 1981, c. 465, §18.* (Supplement to P.L. 1950, c. 210.)

40:69A-35. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See now, C. 40A:16-5.

C. COUNCIL

40:69A-36.

Legislative power.

The legislative power of the municipality shall be exercised by the municipal council, subject to the procedures set forth in this plan of government. Legislative powers shall be exercised by ordinance, except for the exercise of those powers that, under this plan of government or general law, do not require action by the mayor as a condition of approval for the exercise thereof, and may, therefore, be exercised by resolution, including, but not limited to:

- a. The override of a veto of the mayor;
- b. The exercise of advice and consent to actions of the mayor;
- c. The conduct of a legislative inquiry or investigation;
- d. The expression of disapproval of the removal by the mayor of officers or employees;
- e. The removal of any municipal officer for cause;
- f. The adoption of rules for the council;
- g. The establishment of times and places for council meetings;
- h. The establishment of the council as a committee of the whole and the delegation of any number of its members as an *ad hoc* committee;
- i. The declaration of emergencies respecting the passage of ordinances;
- j. The election, appointment, setting of salaries and removal of officers and employees of the council, subject to any pertinent civil service requirements and any pertinent contractual obligations, and within the general limits of the municipal budget;
- k. Designation of official newspapers;
- l. Approval of contracts presented by the mayor;
- m. Actions specified as resolutions in the "Local Budget Law" (N.J.S. 40A:4-1 *et seq.*) and the "Local Fiscal Affairs Law" (N.J.S. 40A:5-1 *et seq.*); and
- n. The expression of council policies or opinions which require no formal action by the mayor.

Last Amended by P.L. 1985, c. 374, §2.

**LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW**

Cite	General Subject Matter of Case
In re Shain, 92 NJ 524 (1983)	Action to compel mayor to testify at council hearing.
Mentus v Town of Irvington, 79 NJ Super 177 (1963)	Proceeding to determine validity of appointment of members of town zoning board of adjustments.

TABLE 2
Municipalities Operating Under the Mayor-Council Plan of the
Optional Municipal Charter Law (As of January 1, 1987)

Name of Municipality	Type of Municipality	County
Atlantic City	City	Atlantic
Mullica	Township	Atlantic
Lodi	Borough	Bergen
Mahwah	Township	Bergen
River Vale	Township	Bergen
Saddle Brook	Township	Bergen
Washington Township	Township	Bergen
Burlington Township	Township	Burlington
Delran	Township	Burlington
Florence	Township	Burlington
Camden City	City	Camden
Cherry Hill	Township	Camden
Gloucester Township	Township	Camden
Avalon	Borough	Cape May
Ocean City	City	Cape May
Wildwood	City	Cape May
Bridgeton	City	Cumberland
Vineland	City	Cumberland
Irvington	Township	Essex
Newark	City	Essex
Orange	Township	Essex
West Orange	Township	Essex
Monroe	Township	Gloucester
Washington	Township	Gloucester
Bayonne	City	Hudson
Hoboken	City	Hudson
Jersey City	City	Hudson
Hamilton	Township	Mercer
Trenton	City	Mercer
East Brunswick	Township	Middlesex
Edison	Township	Middlesex
Monroe	Township	Middlesex
New Brunswick	City	Middlesex
Old Bridge	Township	Middlesex
Perth Amboy	City	Middlesex
Piscataway	Township	Middlesex
South Amboy	City	Middlesex
Spotswood	Borough	Middlesex
Woodbridge	Township	Middlesex
Long Branch	City	Monmouth
Marlboro	Township	Monmouth
Tinton Falls	Borough	Monmouth

(continued)

TABLE 2 (continued)
Municipalities Operating Under the Mayor-Council Plan of the
Optional Municipal Charter Law (As of January 1, 1987)

Denville	Township	Morris
Jefferson	Township	Morris
Lincoln Park	Borough	Morris
Mine Hill	Township	Morris
Morristown	Town	Morris
Mount Olive	Township	Morris
Parsippany-Troy Hills	Township	Morris
Rockaway Township	Township	Morris
Berkeley Township	Township	Ocean
Brick	Township	Ocean
Passaic City	City	Passaic
Paterson	City	Passaic
Wayne	Township	Passaic
Bridgewater	Township	Somerset
North Plainfield	Borough	Somerset
Clark	Township	Union
Elizabeth	City	Union
Rahway	City	Union

Source: Rutgers, State University of New Jersey, *New Jersey Legislative District Data Book*, 1987.

40:69A-37.

Powers; requiring sworn statements from officers; removal of officers.

The council, in addition to such other powers and duties as may be conferred upon it by this charter [sections 40:69A-31 to 40:69A-48] or otherwise by general law, may:

(a) require any municipal officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and otherwise to investigate the conduct of any department, office or agency of the municipal government;

(b) remove, by at least two-thirds vote of the whole number of the council, any municipal officer, other than the mayor or a member of council, for cause, upon notice and an opportunity to be heard.

Last Amended by P.L. 1985, c. 374, §3.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
In re Shain, 92 NJ 524 (1983)	Action to compel mayor to testify at council hearing.

D'Ippolito v Maguire, 33 NJ Super 477 (1955)	Action by police officer to compel city officials to dismiss alleged charges against him and return him to duty as chief of police.
Galloway v Council of Township of Clark, 94 NJ Super 527 (1967)	Action against council for judgement determining that council's adoption of bond ordinance was invalid.
Dunn v Froelich, 155 NJ Super 249 (1978)	Action for declaratory judgement with regard to dual office holding of councilman.

40:69A-37.1.

Contact with employees through mayor or designee; inquiry into administration of municipality.

In any municipality adopting the mayor-council plan of government, the municipal council shall deal with employees of the department of administration and other administrative departments solely through the mayor or his designee. All contact with the employees, and all actions and communications concerning the administration of the government and the provision of municipal services, shall be through the mayor or his designee, except as otherwise provided by law.

Nothing in this section shall be construed to prohibit the council's inquiry into any act or problem of the administration of the municipality. Any council member may, at any time, require a report on any aspect of the government of the municipality by making a written request to the mayor. The council may, by a majority vote of the whole number of its members, require the mayor or his designee to appear before the council sitting as a committee of the whole, and to bring before the council those records and reports, and officials and employees of the municipality, as the council may determine necessary to ensure clarification of the matter under study. The council may further, by a majority of the whole numbers of its members, designate any number of its members as an *ad hoc* committee to consult with the mayor or his designee to study any matter and to report to the council thereon. It is the intent of the mayor-council plan of government to confer on the council general legislative powers, and such investigative powers as are germane to the exercise of its legislative powers, but to retain for the mayor full control over the municipal administration and over the administration of municipal services.

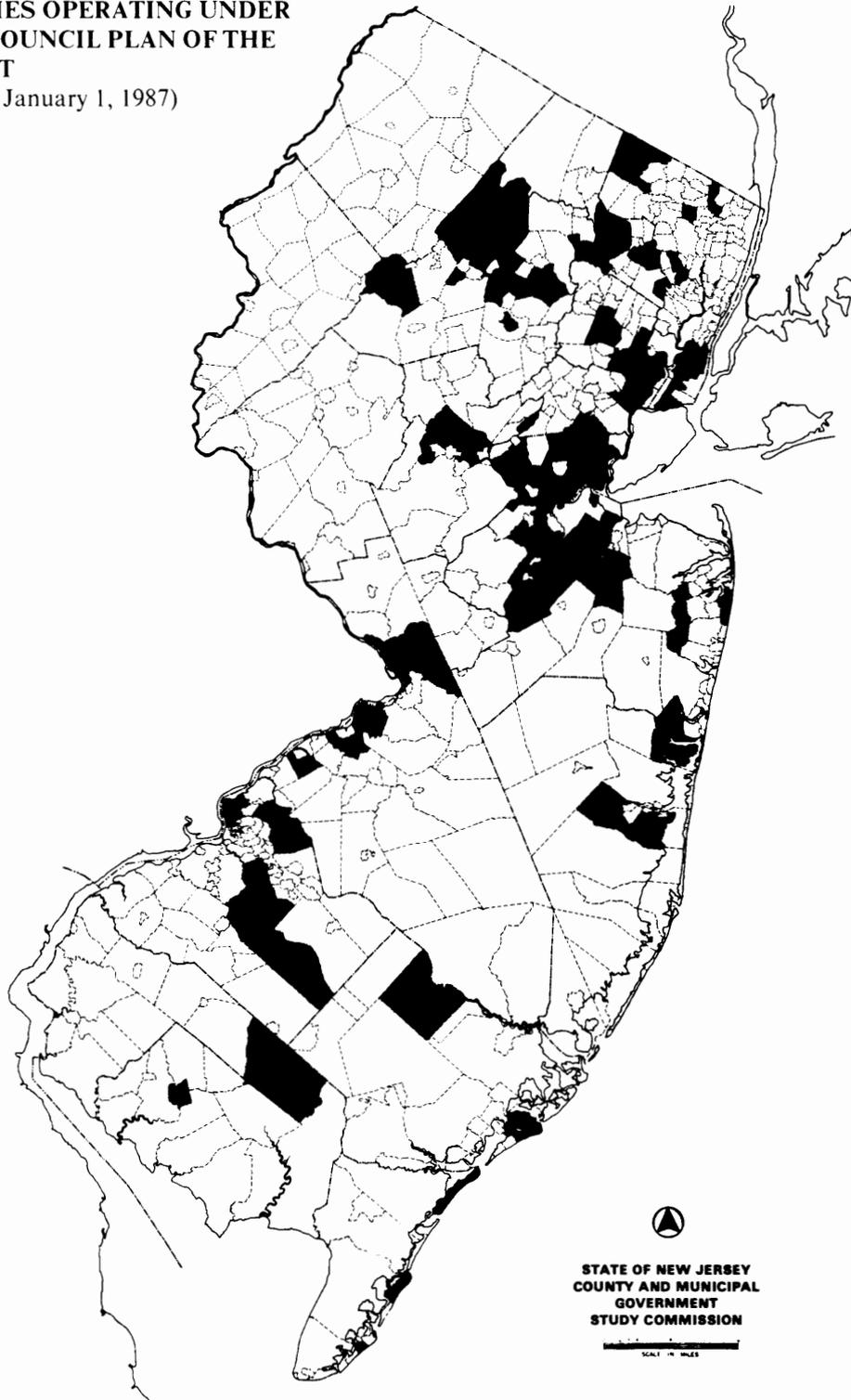
P.L. 1985, c. 374 §8. (Supplement to P.L. 1950, c. 210.)

40:69A-38.

Municipal clerk; duties.

The council shall appoint a municipal clerk, who shall serve as clerk of the council, keep the minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this act [sections 40:69A-1 to 40:69A-210] requires, and perform such functions as may be required by law. The municipal clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

**MUNICIPALITIES OPERATING UNDER
THE MAYOR-COUNCIL PLAN OF THE
FAULKNER ACT**
(As of January 1, 1987)



▲
**STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION**
SCALE IN MILES

D. MAYOR AND ADMINISTRATION

40:69A-39.

Executive power.

The executive power of the municipality shall be exercised by the mayor, subject to the procedures set forth in this plan of government.

Last Amended by P.L. 1985, c. 374, §4.

40:69A-40.

Duties of the mayor.

The mayor shall:

a. Enforce the charter and ordinances of the municipality and all general laws applicable thereto;

b. Report annually to the council and to the public on the state of the municipality, and the work of the previous year; he shall also recommend to the council whatever action or programs he deems necessary for the improvement of the municipality and the welfare of its residents. He may from time to time recommend any action or programs he deems necessary or desirable for the municipality to undertake;

c. Supervise, direct and control all departments of the municipal government and shall require each department to make an annual and such other reports of its work as he may deem desirable;

d. Require such reports and examine such accounts, records and operations of any board, commission or other agency of municipal government, as he deems necessary;

e. Prepare and submit to the council for its consideration and adoption an annual operating budget and a capital budget, establish the schedules and procedures to be followed by all municipal departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;

f. Supervise the care and custody of all municipal property, institutions and agencies, and make recommendations concerning the nature and location of municipal improvements and execute improvements determined by the governing body;

g. Sign all contracts, bonds or other instruments requiring the consent of the municipality;

h. Review, analyze and forecast trends of municipal services and finances and programs of all boards, commissions, agencies and other municipal bodies, and report and recommend thereon to the council;

i. Supervise the development, installation and maintenance of centralized budgeting, personnel and purchasing procedures as may be authorized by ordinance;

j. Negotiate contracts for the municipality subject to council approval;

k. Assure that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, franchise or other contract are faithfully kept and performed;

l. Serve as an *ex officio* nonvoting member of all appointive bodies in municipal government of which he is not an official voting member.

Last Amended by P.L. 1985, c. 374, §5.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Robertson v Washington Township MUA, 211 NJ Super 504 (1986)	Action to reverse township Municipal Utilities Authority's decision to accept members appointed by township council.

40:69A-41.

Approval or veto of ordinances; attending meetings.

(a) Ordinances adopted by the council shall be submitted to the mayor, and he shall within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the municipal clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to him, or unless council upon reconsideration thereof on or after the third day following its return by the mayor shall by a vote of two-thirds of the members resolve to override the mayor's veto.

(b) The mayor may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the questions of filling a vacancy in the council, in which case he may cast the deciding vote.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
O'Keefe v Dunn, 89 NJ Super 383 (1965)	Action challenging veto by mayor of appointment to local housing authority.
Robertson v Washington Township Council, 200 NJ Super 481 (1985)	Action demanding a variety of relief consequent on adoption of the administrative code.

40:69A-42.

Acting mayor.

The Mayor shall designate the business administrator, any other department head, or the municipal clerk to act as mayor whenever the mayor shall be prevented by absence from the municipality, disability or other cause from attending to the duties of his office. During such time the person so designated by the mayor shall possess all the rights, powers, and duties of mayor. Whenever the mayor shall have been unable to attend to the duties of his office for a period of sixty consecutive days for any of the above stated reasons, an acting mayor shall be appointed by the council, who shall succeed to all the rights, powers and duties of the mayor or the then acting mayor.

40:69A-43.

Departments; heads; appointment; term of office; removal; officers and employees; board of alcoholic beverage control.

(a) The municipality shall have a department of administration and such other departments, not less than two and not exceeding nine in number, as council may establish by ordinance. All of the administrative functions, powers and duties of the

municipality, other than those vested in the offices of the municipal clerk and the municipal tax assessor, shall be allocated and assigned among and with in such departments.

The offices of the municipal clerk and the municipal tax assessor shall be subject to such general administrative procedures and requirements as are departments of the municipal government, including, but not limited to, the preparation and submission of an annual budget and of such periodic budget reports as are generally required of departments, and such accounting controls, central purchasing practices, personnel procedures and regulations, and central data processing services as are generally required of departments.

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office or the mayor appointing him, and until the appointment and qualification of his successor. The mayor shall, with the advice and consent of the council, appoint the municipal assessor and all other municipal officers not assigned within municipal departments, subject to the terms of any general law providing for these officers, unless a different appointment procedure is clearly required by this plan of government or by general law.

(c) The mayor may in his discretion remove any department head, and, subject to any general provisions of law concerning term of office or tenure, any other municipal executive officer who is not a subordinate departmental officer or employee, after notice and an opportunity to be heard. Prior to removal the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice unless the council shall prior thereto have adopted a resolution, by a 2/3 vote of the whole number of the council, disapproving the removal.

(d) Department heads shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees subject to the provisions of the Revised Statutes, Title 11, Civil Service, where that Title is effective in the municipality, or other general law.

(e) Notwithstanding the foregoing provisions of this section in any city of the first class there shall be, and in any municipality having a population of 15,000 or more, there may be, a board of alcoholic beverage control which shall exercise the powers conferred upon municipal boards of alcoholic beverage control under Title 33 of the Revised Statutes. Such boards shall be composed of three members, no more than two of whom shall be of the same political party, who shall be appointed by the mayor, with the advice and consent of the council, each to serve for a term of 3 years, provided that of those first appointed, one shall be appointed to serve for a term of 1 year, one for 2 years, and one for 3 years. Any vacancy in such office shall be filled in the same manner as the original appointment for the balance of the unexpired term. Except in cities of the first class, the members of such board shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duty; in cities of the first class, the members of such board shall receive such compensation as shall be established by ordinance of the municipality. They shall be removable by the mayor for cause. Any person appointed hereunder shall not be subject to the provisions of Title 11 or the Revised Statutes, Civil Service, and no such person shall be a member of the city council.

Nothing in this subsection shall be construed to limit the general power of the municipal council under this act to establish, alter and abolish offices, boards and commissions in any municipality other than a city of the first class.

(f) Whenever the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appointment shall be deemed to vest in the mayor with the advice and consent of the council, unless the specific terms of that general law clearly require a different appointment procedure, or appointment by resolution in which case the appointment shall be by the council.

Last Amended by P.L. 1985, c. 374, §6.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Paterson Police PBA v Paterson, 87 NJ 78 (1982)	Action to compel city to abide by arbitrator's award to each of several police officers.
D'Ippolito v Maguire, 33 NJ Super 477 (1955)	Action by police officer to compel city officials to dismiss alleged charges against him and return him to duty as chief of police.
Crook v Township of Clark, 74 NJ Super 148 (1962)	Action to have council resolution declared illegal.
Mentus v Town of Irvington, 79 NJ Super 177 (1963)	Proceeding to determine validity of appointment of members of town zoning board of adjustment.
Pierro v City of Hoboken, 90 NJ Super 386 (1966)	Action for salary due member of municipal board of alcoholic beverage control.
Hutt v Robbins <i>et al.</i> , 98 NJ Super 99 (1967)	Action brought to remove official installed in office that plaintiff had occupied.
Indyk v Klink, 121 NJ Super 314 (1972)	Action for declaratory judgement with regard to the validity of certain sections of the administrative code.
Miller v Township of Wayne, 154 NJ Super 247 (1977)	Action for declaratory judgement with regard to the appointment of the chief of police.
Dunn v Froelich, 155 NJ Super 249 (1978)	Action for declaratory judgement with regard to dual office holding of councilman.
Myers v Worrick, 182 NJ Super 117 (1981)	Action to require referendum.
Gauntt v City of Bridgeton, 194 NJ Super 468 (1984)	Action seeking restraining order against city's director of department of police and fire from further interference with police chief's duties.
Robertson v Washington Township Council, 200 NJ Super 481 (1985)	Action demanding a variety of relief consequent on adoption of administrative code.
Robertson v Washington Township MUA, 211 NJ Super 504 (1986)	Action to reverse township Municipal Utilities Authority's decision to accept members appointed by township council.
Corrigan v Palkowski, 213 NJ Super 316 (1986)	Action to determine who has the authority to appoint members of the zoning board of adjustment.
Monroe Twp. Council v Garibaldi, 216 NJ Super 19 (1987)	Action seeking declaratory judgement with regard to whether or not a department head's appointment had expired and, therefore, a vacancy existed in his position.
Mele v Fahy, 579 F Supp 1576 (1984)	Action against mayor who terminated appointment of police director.

40:69A-43a.

Employees of administrative departments; compensation; determination; department directors.

The mayor shall, subject to any pertinent civil service requirements and any pertinent contractual obligations, and within the general limits of the municipal budget, fix the amount of salary, wages or other compensation to be paid to employees of the administrative departments of the municipal government, except that the salary, wages or other compensation paid the director of each department shall be fixed by the council pursuant to subsection (c) of section 17-31 of P.L. 1950, c. 210 (C. 40:69A-180), and except that salaries of officers which are required by law to be fixed by ordinance shall be fixed by ordinance.

P.L. 1985, c. 374, §9. (Supplement to P.L. 1950, c. 210.)

40:69A-43.1.

Deputy director of department.

The director of each department in any city of the second class which, prior to the effective date of this amendatory and supplementary act [January 9, 1982], has adopted the form of government designated as "Mayor-Council Plan D" provided for in article 6 [sections 40:69A-61 to 40:69A-67.2] of the act to which this act [sections 40:69A-43.1 to 40:69A-43.2] is a supplement, may appoint a deputy director of his department who shall serve, and be removable at the pleasure of the director, in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by the director with the approval of the council.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

Last Amended by P.L. 1981, c. 465, §39. (Supplement to P.L. 1950, c. 210.)

40:69A-43.2.

Powers and duties of deputy.

The director shall prescribe, in writing, the powers and duties of the deputy so appointed by him and the acts of such deputy, within the scope of his authority, shall in all cases be as legal and binding as if done and performed by the director for whom he is acting.

P.L. 1954, c. 62, §2. (Supplement to P.L. 1950, c. 210.)

40:69A-44.

Department of administration; director; qualifications; powers and duties.

The department of administration shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor, shall:

- (a) Assist in the preparation of the budget;
- (b) Administer a centralized purchasing system;
- (c) Be responsible for the development and administration of a sound personnel system; and
- (d) Perform such other duties as council may prescribe.

(e) The governing body of the municipality may provide, by ordinance, that the business administrator also shall, subject to the direction of the mayor, supervise the administration of each of the departments established by ordinance. For this purpose, he shall have power to investigate the organization and operation of any and all departments, to prescribe standards and rules of administrative practice and procedure, and to consult with the heads of the departments under his jurisdiction; provided that with respect to any department of law or department of audit, accounts or control, the authority of the business administrator under this subsection shall extend only to matters of budgeting, personnel and purchasing.

Last Amended by P.L. 1981, c. 465, §19.

E. BUDGET AND CONTROL

40:69A-45.

Preparation of budget.

The municipal budget shall be prepared by the mayor with the assistance of the business administrator. During the month of November, the mayor shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before the mayor or the business administrator at public hearings, which shall be held during that month, on the various requests.

40:69A-46.

Recommended budget; submission of.

On or before the fifteenth day of January the mayor shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of two-thirds of the members of council.

40:69A-47.

System of work programs and quarterly allotments.

The council shall where practicable provide for the maintenance of a system of work programs and quarterly allotments, for operation of the budget. It shall be the duty of the officer or department administering any such program to develop and report appropriate unit costs of budgeted expenditures.

40:69A-48.

Control function.

Provision shall be made by ordinance for the exercise of a control function, in the management of the finances of the municipality, by some officer other than the business administrator. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit of all claims and demands against the municipality prior to payment, and for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof.

Last Amended by P.L. 1985, c. 374, §7.

ARTICLES 4 TO 8.
MAYOR-COUNCIL PLANS REPEALED

ARTICLE 4.
MAYOR-COUNCIL PLAN B

40:69A-49 to 40:69A-53. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by mayor-council plan of government, authorized by P.L. 1950, c. 210, after January 9 1982, see C. 40:69A-208.1.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-49	40:69A-31
40:69A-50	40:69A-32
40:69A-51	40:69A-33, 40:69A-34.1, 40:69A-34.2
40:69A-52	40:69A-34, 40:69A-34.1, 40:69A-34.2
40:69A-53	40:69A-34.3

40:69A-54. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-4; 40A:16-5.

ARTICLE 5.
MAYOR-COUNCIL PLAN C

40:69A-55 to 40:69A-59. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by mayor-council plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.1.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-55	40:69A-31
40:69A-56	40:69A-32
40:69A-57	40:69A-34.2
40:69A-58	40:69A-33, 40:69A-34.1
40:69A-59	40:69A-34, 40:69A-34.1, 40:69A-34.2

40:69A-60. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-5.

40:69A-60.1.

Municipalities over 300,000 and 80,000 to 300,000; adoption date; deputy mayors, secretaries and aides.

The mayor of any municipality having a population of more than 300,000 which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 [sections 40:69A-55 to 40:69A-60] of the act of which this act [sections 40:69A-60.1 to 40:69A-60.2] is a supplement, may appoint one or two deputy mayors, a personal secretary, an executive secretary, and aides not exceeding ten in number, who shall serve, and be removable, at the pleasure of the mayor, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

No municipality shall adopt the provisions of this section on or after the date occurring six months after the effective date [April 26, 1985] of this amendatory act.

The mayor of any municipality having a population of more than 80,000 but less than 300,000 which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of P.L. 1950, c. 210 (40:69A-55 *et seq.*) may appoint one or two deputy mayors, a personal secretary, an executive secretary, and aides not exceeding five in number, who shall serve, and be removable, at the pleasure of the mayor, and who shall serve in the unclassified service of the civil service of the municipality and shall receive such salary as shall be fixed by ordinance.

Last Amended by P.L. 1985, c. 159, §1. (Supplement to P.L. 1950, c. 210.)

40:69A-60.2.

Powers and duties of deputy, secretaries and aides.

The mayor shall prescribe, in writing, the powers and duties of the deputy or deputies, personal secretary, executive secretary, and aides to the mayor.

Last Amended by P.L. 1970, c. 168, §2. (Supplement to P.L. 1950, c. 210.)

40:69A-60.3.

Municipalities over 300,000; department of administration; assistant business administrator.

The director of the department of administration in any municipality having a population of more than 300,000 which, prior to the effective date of this amendatory and supplementary act [January 9, 1982], had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 [sections 40:69A-55 to 40:69A-60] of the act of which this act [sections 40:69A-60.3 to 40:69A-60.4] is a supplement, may appoint and may remove, with the approval of the mayor, an assistant business administrator of his department who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

Last Amended by P.L. 1981, c. 465, §41. (Supplement to P.L. 1950, c. 210.)

40:69A-60.4.

Powers and duties of assistant business administrator.

The director shall prescribe, in writing, the power and duties of the assistant business administrator so appointed and the acts of such assistant business administrator, within the scope of his authority, shall in all cases be as legal and binding as if done by the director for whom he is acting.

P.L. 1965, c. 35, §2. (Supplement to P.L. 1950, c. 210.)

40:69A-60.5.

Municipalities over 300,000 and 200,000 to 300,000 prior to January 9, 1982; aides for councilmen.

The municipal council of any municipality having a population of more than 300,000 which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 [sections 40:69A-55 to 40:69A-60] of the act of which this act [sections 40:69A-60.5 to 40:69A-60.6] is a supplement, may appoint an executive secretary and not more than four aides for each councilman, who shall serve, and be removable, at the pleasure of the councilman, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance but said salary shall not exceed the salaries of persons presently holding the positions of executive secretary or aide on the effective date of this amendatory act. Persons appointed pursuant to this section may have their salaries increased on a periodic basis, but not in excess of the average percentage increase granted to other municipal employees in the same period.

The municipal council of any municipality having a population of more than 200,000, but less than 300,000, which, prior to January 9, 1982, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of P.L. 1950, c. 210 (C. 40:69A-55 to 40:69A-60) may appoint not more than one aide for each councilman, who shall serve, and be removable, at the pleasure of the councilman, and who shall serve in the unclassified service of the civil service of the city and shall receive a salary as shall be fixed by ordinance, except that the salary so fixed shall not exceed \$10,000.00.

No municipality shall adopt the provisions of this section on or after the date occurring six months after the effective date [April 26, 1985] of this amendatory act.
Last Amended by P.L. 1985, c. 159, §2. (Supplement to P.L. 1950, c. 210.)

40:69A-60.6.

Powers and duties of aides.

The municipal council shall prescribe, in writing, the powers and duties of the aide.

P.L. 1973, c. 89, §2. (Supplement to P.L. 1950, c. 210.)

40:69A-60.7.

City of first class under Mayor-Council Plan C; police chief; appointment; term of office; removal.

a. Notwithstanding the provisions of any other law to the contrary, the governing body of any city of the first class, which, prior to the effective date [January 9, 1982] of this amendatory and supplementary act, had adopted the form of govern-

ment designated as "Mayor-Council Plan C" provided for in article 5 [sections 40:69A-55 to 40:69A-60] of the act to which this act [section 40:69A-60.7] is a supplement, may provide, by ordinance, that the mayor shall appoint a police chief, who shall have served as a superior police officer and possess at least 5 years administrative and supervisory police experience, who shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

b. The mayor of any first class city adopting the provisions of this supplementary act may in his discretion remove any person appointed pursuant to the provisions of this act, after notice and an opportunity to be heard. Prior to removing such person the mayor shall first file written notice of his intention to do so with the council, and such removal shall become effective on the twentieth day after the filing of such notice unless the council shall prior thereto have adopted a resolution disapproving such removal by at least a 2/3 vote of the membership of the council.

Last Amended by P.L. 1981, c. 465, §43. (Supplement to P.L. 1950, c. 210.)

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Newark Superior Officers Association v Newark, 98 NJ 212 (1985)	Action challenging statute granting the mayor in a city of the first class the power to appoint a police chief whose position would not be in the classified civil service system.

ARTICLE 6.

MAYOR-COUNCIL PLAN D

40:69A-61 to 40:69A-66. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by mayor-council plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.1.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-61	40:69A-31
40:69A-62	40:69A-32
40:69A-63	40:69A-34.2
40:69A-64	40:69A-33, 40:69A-34.1
40:69A-65	40:69A-34, 40:69A-34.1, 40:69A-34.2
40:69A-66	40:69A-34.3

40:69A-67. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-4, 40A:16-5.

40:69A-67.1.

Municipality with Mayor-Council Plan D; housing counsellor; duties.

The governing body of any municipality having a population in excess of 60,000 persons, in which, prior to the effective date [January 9, 1982] of P.L. 1981, c. 465 (C. 40:69A-12 *et al.*), the voters adopted the form of government designated as "Mayor-Council Plan D" formerly provided for in Article 6 [sections 40:69A-61 to 40:69A-67] of the "Optional Municipal Charter Law", P.L. 1950 c. 210 (C. 40:69A-1 *et seq.*), may by ordinance create the position of housing counsellor to counsel new and prospective home owners concerning purchase and maintenance costs of housing within the municipality, and may prescribe such additional duties as are appropriate to the position.

P.L. 1982, c. 47, §1. (Supplement to P.L. 1950, c. 210.)

40:69A-67.2.

Appointment; removal; salary.

The position of housing counsellor created pursuant to section 1 of this act [section 40:69A-67.1] shall be filled by appointment of the council. The housing counsellor shall serve in the unclassified service of the civil service of the municipality, be removable at the pleasure of the council, and shall receive such salary as shall be fixed by the council.

P.L. 1982, c. 47, §2. (Supplement to P.L. 1950, c. 210.)

ARTICLE 7.

MAYOR-COUNCIL PLAN E

40:69A-68 to 40:69A-72. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by mayor-council plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.1.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-68	40:69A-31
40:69A-69	40:69A-32
40:69A-70	40:69A-33, 40:69A-34.1
40:69A-71	40:69A-34, 40:69A-34.1
40:69A-72	40:69A-34.3

40:69A-73. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-5.

ARTICLE 8.

MAYOR-COUNCIL PLAN F

40:69A-74. to 40:69A-79. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by mayor-council plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.1.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-74	40:69A-31
40:69A-75	40:69A-32
40:69A-76	40:69A-34.2
40:69A-77	40:69A-33, 40:69A-34.1
40:69A-78	40:69A-34, 40:69A-34.1, 40:69A-34.2
40:69A-79	40:69A-34.3

40:69A-80. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-5.

ARTICLE 9.

COUNCIL-MANAGER PLAN

A. FORM OF GOVERNMENT; ELECTION OF COUNCILMEN

40:69A-81.

Applicable Laws.

The form of government provided in this article [sections 40:69A-81 to 40:69A-98] shall be known as the "council-manager plan" and shall, together with articles 2 and 17 [sections 40:69A-26 to 40:69A-30 and 40:69A-150 to 40:69A-210, respectively], govern any municipality, the voters of which have adopted this plan pursuant to this act.

Last Amended by P.L. 1981, c. 465, §21.

40:69A-82.

Government by elected council and appointed manager and other officers and employees.

Each municipality under this article [sections 40:69A-81 to 40:69A-98] shall be governed by an elected council and by an appointed municipal manager, and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

40:69A-83.

Council.

The municipal council shall consist of five members, unless otherwise provided in the municipal charter, who shall serve for a term of 4 years.

Last Amended by P.L. 1981, c. 465, §22.

40:69A-83.1.

Council-Manager plan; charter provision; regular municipal or general election; term of office.

Any municipality adopting a council-manager plan of government shall provide in its charter that the council members shall be elected by the voters of the municipality either:

a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the council members shall begin on July 1 next following their election; or,

b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the council members shall be begin on January 1 next following their election.

P.L. 1981, c. 465, §23. (Supplement to P.L. 1950, c. 210.)

TABLE 3

**Municipalities Operating Under the Council-Manager Plan of the
Optional Municipal Charter Law (As of January 1, 1987)**

Name of Municipality	Type of Municipality	County
Galloway	Township	Atlantic
Fair Lawn	Borough	Bergen
Ridgewood	Village	Bergen
Eastampton	Township	Burlington
Evesham	Township	Burlington
Maple Shade	Township	Burlington
Medford	Township	Burlington
Moorestown	Township	Burlington
Mount Holly	Township	Burlington
Mount Laurel	Township	Burlington
Willingboro	Township	Burlington
Lower Township	Township	Cape May
Cedar Grove	Township	Essex
Livingston	Township	Essex
Montclair	Township	Essex
Deptford	Township	Gloucester
Weehawken	Township	Hudson
East Windsor	Township	Mercer
Lawrence	Township	Mercer
Aberdeen	Township	Monmouth
Keansburg	Borough	Monmouth
Ocean Township	Township	Monmouth
Mountain Lakes	Borough	Morris
Pequannock	Township	Morris
Randolph	Township	Morris
Roxbury	Township	Morris
Ringwood	Borough	Passaic
West Milford	Township	Passaic
Franklin Township	Township	Somerset
Byram	Township	Sussex
Newton	Town	Sussex
Sparta	Township	Sussex
Scotch Plains	Township	Union
Phillipsburg	Town	Warren
Washington Borough	Borough	Warren

Source: Rutgers, State University of New Jersey, *New Jersey Legislative District Data Book*, 1987.

40:69A-83.2.

Election at large or by ward.

Any municipality adopting a council-manager plan of government shall provide in its charter either:

a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; or,

b. That the municipality shall be divided into wards pursuant to the authority granted in sections 1-13 or 1-19 (C. 40:69A-13 or 40:69A-19); that councilmen shall be elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one councilman shall be elected from each ward established in the municipality, and all other councilmen shall be elected at large.

P.L. 1981, c. 465, §24. (Supplement to P.L. 1950, c. 210.)

40:69A-83.3.

First members of council; term of office.

a. Any municipality adopting a council-manager plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan, shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for 4 years and three for 2 years; if the municipal council is to consist of seven members, three shall serve for 4 years and four for 2 years; or, if the municipal council is to consist of nine members, four shall serve for 4 years and five for 2 years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this subsection, be counted among those first councilmen to serve a 4 year term.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in sections 1-13 or 1-19 (C. 40:69A-13 or 40:69A-19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve as follows: the councilmen elected at large for a term of 4 years; and, the councilman elected from wards for a term of 2 years.
P.L. 1981, c. 465, §25. (Supplement to P.L. 1950, c. 210.)

40:69A-84. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by council-manager plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.2. See, now, C. 40:69A-83.1, 40:69A-83.2.

40:69A-85. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40:69A:16-5.

B. COUNCIL

40:69A-86.

Mayor; election by council or by voters; charter provision.

Any municipality adopting a council-manager plan of government shall provide in its charter either:

a. That the mayor shall be elected by the members of the council; in which case on the first day of July or January, as appropriate, following their election, the members-elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken in 2 days of said organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled; or

b. That the mayor shall be elected directly by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide. At the first election following the adoption of the charter, and each appropriate subsequent election, one position of council member to be elected at large shall be designated and voted for under the title of mayor, and candidates for the position shall be clearly designated as candidates for mayor in their respective nominating petitions. The candidate for mayor receiving the greatest number of votes shall be elected, and shall serve a term of 4 years.

Last Amended by P.L. 1981, c. 465, §26.

40:69A-87.

Duties of mayor.

The mayor shall preside at all meetings of the municipal council and shall have a voice and vote in its proceedings. He shall fill vacancies occurring in the trustees of the public library and in the board of education where the municipality is operating under chapter 6 of Title 18 of the Revised Statutes for such terms of office as are provided by law. All bonds, notes, contracts and written obligations of the municipality shall be executed on its behalf by the mayor, or, in the event of his inability to act, by such councilman as the municipal council shall designate to act as mayor during his absence or disability. The powers and duties of the mayor shall be only such as are expressly conferred upon him by this article [sections 40:69A-81 to 40:69A-98].

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

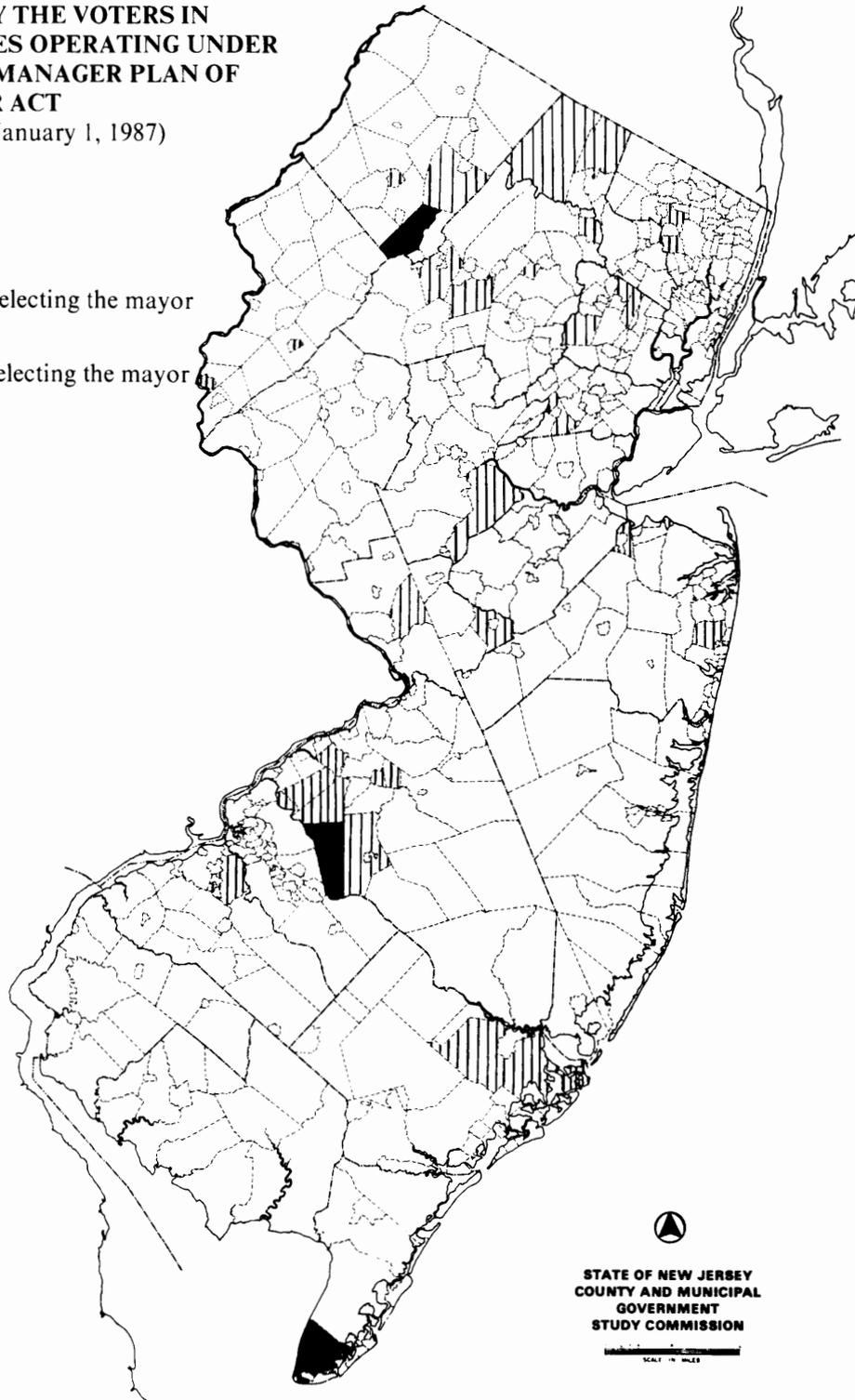
Cite	General Subject Matter of Case
Bowen v City of Long Branch, 79 NJ Super 177 (1963)	Action to review validity of proceedings taken by city council in removing city manager.

**ELECTION OF THE MAYOR BY
COUNCIL OR BY THE VOTERS IN
MUNICIPALITIES OPERATING UNDER
THE COUNCIL-MANAGER PLAN OF
THE FAULKNER ACT**

(As of January 1, 1987)

Key:

-  Municipalities electing the mayor by council
-  Municipalities electing the mayor by the voters



COUNTY KEY MAP



**STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION**

SCALE 1/4 INCHES

40:69A-88.

Powers of municipality vested in council; exceptions.

All powers of the municipality and the determination of all matters of policy shall be vested in the municipal council, except as otherwise provided by this act [sections 40:69A-1 to 40:69A-210] or by general law.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Kaufman v Pannuccio, 121 NJ Super 27 (1972)	Action challenging the right of assistant tax assessor and police officer to sit as members of city council.

40:69A-89.

Appointment of municipal manager and clerk and others.

The municipal council shall appoint a municipal manager and a municipal clerk. Both of such offices may be held by the same person. The council may provide for the manner of appointment of a municipal attorney, any planning board, zoning board of adjustment or personnel board in the municipality, and may create commissions and other bodies with advisory powers.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Townsend <i>et al.</i> v Township of Pequannock, 47 NJ Super 294 (1957)	An action to set aside certain portions of a township ordinance, known as 'The Administrative Code'.
Mentus v Town of Irvington, 79 NJ Super 177 (1963)	Proceeding to determine validity of appointment of members of town zoning board of adjustment.

40:69A-90.

Departments, boards and offices; deputy manager.

The municipal council shall continue or create, and determine and define the powers and duties of such executive and administrative departments, boards and offices, in addition to those provided for herein, as it may deem necessary for proper and efficient conduct of the affairs of the municipality, including the office of deputy manager which shall not be included in the classified service under Title 11 of the Revised Statutes [Civil Service]. Any department, board or office so continued or created may at any time be abolished by the municipal council.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Mara v Township of Parsippany-Troy-Hills, 24 NJ 113 (1957)	An action to clarify the civil service law in connection with the powers of appointment of the manager.
Ingling v Sylvester, 56 NJ Super 424 (1959)	Action seeking to invalidate suspension of official by township director of public safety.
Kaufman v Pannuccio, 121 NJ Super 27 (1972)	Action challenging the right of assistant tax assessor and police officer to sit as members of city council.

40:69A-91.

Municipal council to act as a body; administrative service to be performed through manager; committees or commissions.

It is the intention of this article [sections 40:69A-81 to 40:69A-98] that the municipal council shall act in all matters as a body, and it is contrary to the spirit of this article for any of its members to seek individually to influence the official acts of the municipal manager, or any other officer, or for the council or any of its members to direct or request the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. The council and its members shall deal with the administrative service solely through the manager and shall not give orders to any subordinates of the manager, either publicly or privately. Nothing herein contained shall prevent the municipal council from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the municipality, and delegating to such committee or commissions such powers of inquiry as the municipal council may deem necessary. Any councilman violating the provisions of this section shall, upon conviction thereof in a court of competent jurisdiction, be disqualified as councilman.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Stern v Hall, 183 NJ Super 536 (1982)	Action to remove council members from office and seeking damages.
Traino v McCoy, 187 NJ Super 638 (1982)	Action challenging decision of township board of ethics that mayor's conduct as council member as well as planning board member violated code of ethics' provisions.

C. MUNICIPAL MANAGER

40:69A-92.

Qualifications of municipal manager.

The municipal manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council.

40:69A-93.

Term of municipal manager; removal; suspension.

The municipal manager shall hold office for an indefinite term and may be removed by a majority vote of the council. At least 30 days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing,

if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next 3 calendar months following adoption of the preliminary resolution unless he is removed for good cause. For the purposes of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of sections 17-14, 17-15, 17-16, 17-17 or 17-18 of P.L. 1950, c.210 (C. 40:69A-163 through 40:69A-167), or the violation of any code of ethics in effect within the municipality.

Last Amended by P.L. 1981, c. 465, §27.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Bowen v City of Long Branch, 79 NJ Super 177 (1963)	Action to review validity of proceedings taken by city council in removing city manager.

40:69A-94.

Absence or disability of manager.

The manager may designate a qualified administrative officer of the municipality to perform his duties during his temporary absence or disability. In the event of his failure to make such designation, the council may by resolution appoint an officer of the municipality to perform the duties of the manager during such absence or disability until he shall return or his disability shall cease.

40:69A-95.

Powers and duties of manager.

The municipal manager shall:

- (a) Be the chief executive and administrative official of the municipality;
- (b) Execute all laws and ordinances of the municipality;
- (c) Appoint and remove a deputy manager if one be authorized by the council, all department heads and all other officers, subordinates, and assistants, except a tax assessor, for whose selection or removal no other method is provided in this article [sections 40:69A-81 to 40:69A-98], except that he may authorize the head of a department to appoint and remove subordinates in such department, supervise and control his appointees, and report all appointments or removals at the next meeting thereafter of the municipal council;
- (d) Negotiate contracts for the municipality subject to the approval of the municipal council, make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the municipal council;
- (e) See that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation call the same to the attention of the municipal council;

(f) Attend all meetings of the municipal council with the right to take part in the discussions, but without the right to vote;

(g) Recommend to the municipal council for adoption such measures as he may deem necessary or expedient, keep the council advised of the financial condition of the municipality, make reports to the council as requested by it, and at least once a year make an annual report of his work for the benefit of the council and the public;

(h) Investigate at any time the affairs of any officer or department of the municipality;

(i) Perform such other duties as may be required of the municipal manager by ordinance or resolution of the municipal council.

The municipal manager shall be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council.

Last Amended by P.L. 1981, c. 393, §6.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

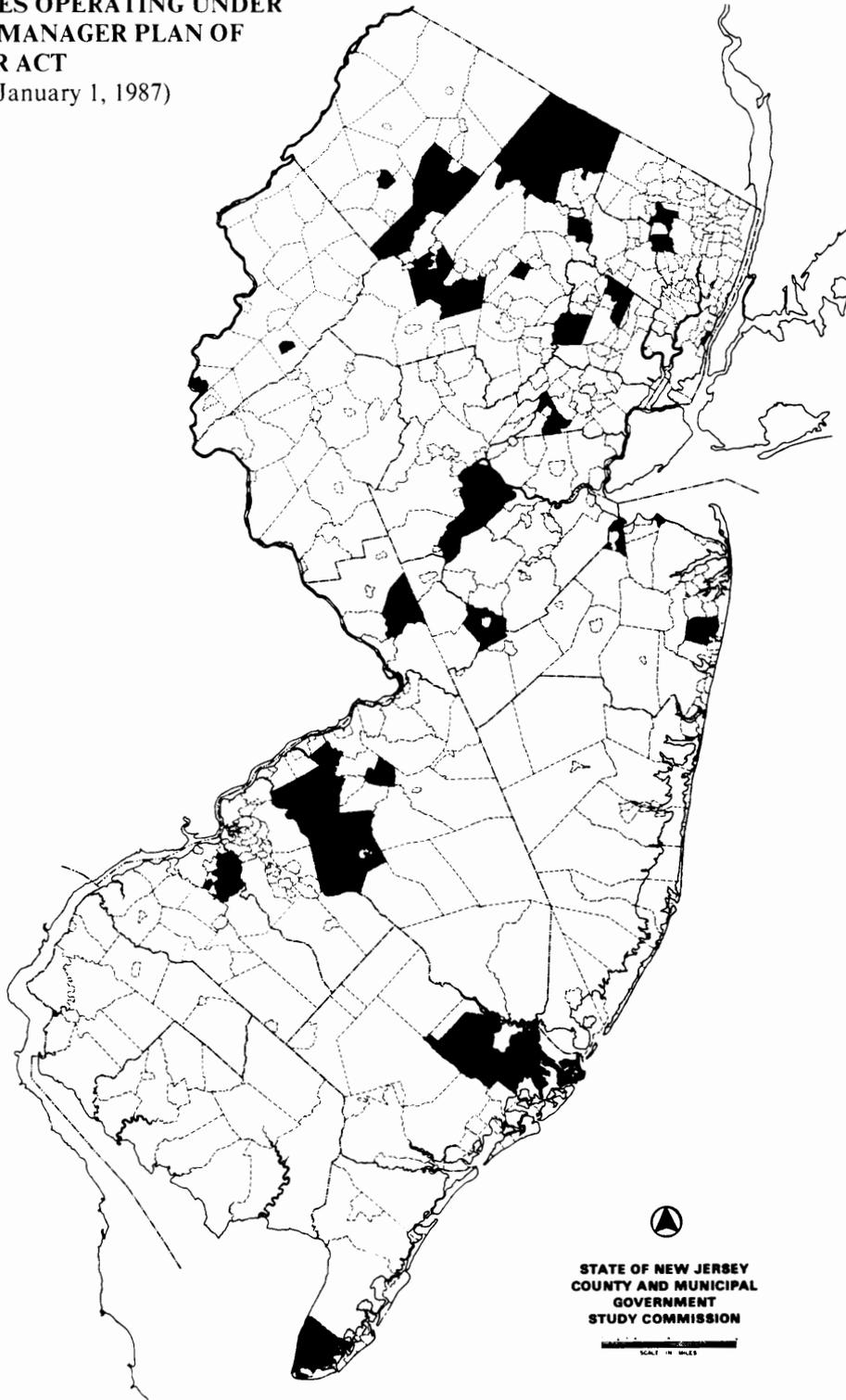
Cite	General Subject Matter of Case
Mara v Township of Parsippany-Troy-Hills, 24 NJ 113 (1957)	An action to clarify the civil service law in connection with the powers of appointment of the manager.
Townsend <i>et al.</i> v Township of Pequannock, 47 NJ Super 294 (1957)	An action to set aside certain portions of a township ordinance, known as 'The Administrative Code'.
Ingling v Sylvester, 56 NJ Super 424 (1959)	Action seeking to invalidate suspension of official by township director of public safety.
Mentus v Town of Irvington, 79 NJ Super 177 (1963)	Proceeding to determine validity of appointment of members of town zoning board of adjustment.
Township of Madison v Fiore, 112 NJ Super 23 (1970)	Action by township against tax assessor of township.
Ream <i>et al.</i> v Kuhlman <i>et al.</i> , 112 NJ Super 175 (1970)	Action to declare that tax assessor was duly appointed upon change in form of government.
Kessler v City of Passaic, 113 NJ Super 59 (1971)	Action to have declared invalid the designation of city clerk as public officer for administration of rent control.
Kaufman v Pannuccio, 121 NJ Super 27 (1972)	Action challenging the right of assistant tax assessor and police officer to sit as members of city council.
Planning Board of Township of West Milford v Township Council, 123 NJ Super 135 (1973)	Action challenging power of manager to appoint planning board attorney.
Properties v Macy, 183 NJ Super 572 (1982)	Action questioning township manager's authority over township construction official.

40:69A-96.

Budget; preparation by manager.

The municipal budget shall be prepared by the municipal manager. During the month of November in each year, the municipal manager shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before him at public hearings, which shall be held during that month, on the various requests.

**MUNICIPALITIES OPERATING UNDER
THE COUNCIL-MANAGER PLAN OF
THE FAULKNER ACT**
(As of January 1, 1987)




**STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION**
 SCALE IN MILES

40:69A-97.**Recommended budget; submission by manager; system of work programs and quarterly allotments.**

On or before the fifteenth day of January the municipal manager shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets and shall in addition have appended thereto detailed analysis of the various items of expenditure and revenue.

The council shall, where practicable, provide by ordinance for the operation of a system of work programs and quarterly allotments for operation of the budget, and for development and reporting of appropriate unit costs of budgeted expenditures.

40:69A-98.**Laws conferring powers upon mayor or other executive head construed as meaning municipal manager.**

Any provision of general law conferring the appointing power or other power upon the mayor or other executive head of the municipality shall be construed as meaning the municipal manager in a municipality governed under this article [sections 40:69A-81 to 40:69A-98], and the appointments or the power exercised by the municipal manager in accordance with such provision shall be classified and given the same force and effect as if executed by the official named therein, except that members of the board of education and of the trustees of the public library, whenever required to be appointed by any such provision by any board or official of the municipality, shall be appointed under this article by the mayor, and except that the mayor shall serve as the fifth member of the board of school estimate pursuant to N.J.S. 18A:22-1.
Last Amended by P.L. 1981, c. 68, §1.

ARTICLES 10 TO 12B.

COUNCIL-MANAGER PLANS REPEALED

ARTICLE 10.

COUNCIL-MANAGER PLAN B

40:69A-99 to 40:69A-102. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by council-manager plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.2.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-99	40:69A-81
40:69A-100	40:69A-82
40:69A-101	40:69A-83, 40:69A-83.1, 40:69A-83.2
40:69A-102	40:69A-83.3

40:69A-103. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-4, 40A:16-5.

ARTICLE 11.

COUNCIL-MANAGER PLAN C

40:69A-104 to 40:69A-107. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by council-manager plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.2.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-104	40:69A-81
40:69A-105	40:69A-82
40:69A-106	40:69A-83.2
40:69A-107	40:69A-83, 40:69A-83.1, 40:69A-83.2

40:69A-108. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-5.

ARTICLE 12.

COUNCIL-MANAGER PLAN D

40:69A-109 to 40:69A-113. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by council-manager plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see, C. 40:69A-208.2.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-109	40:69A-81
40:69A-110	40:69A-82
40:69A-111	40:69A-83.2
40:69A-112	40:69A-83, 40:69A-83.1, 40:69A-83.2
40:69A-113	40:69A-83.3

40:69A-114. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-4, 40A:16-5.

ARTICLE 12A.

COUNCIL-MANAGER PLAN E

40:69A-114.1 to 40:69A-114.4. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by council-manager plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.2.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-114.1	40:69A-81
40:69A-114.2	40:69A-82
40:69A-114.3	40:69A-83, 40:69A-83.1, 40:69A-83.2
40:69A-114.4	40:69A-83.3

40:69A-114.5. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-5.

ARTICLE 12B.

COUNCIL-MANAGER PLAN F

40:69A-114.6 to 40:69A-114.10. Repealed by P.L. 1981. c. 465, §44

Continuance of governance of municipality by council-manager plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.2.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-114.6	40:69A-81
40:69A-114.7	40:69A-82
40:69A-114.8	40:69A-83.2
40:69A-114.9	40:69A-83, 40:69A-83.1, 40:69A-83.2
40:69A-114.10	40:69A-83.3

40:69A-114.11. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-5.

ARTICLE 13.

SMALL MUNICIPALITY PLAN

40:69A-115.

Adoption by municipalities under 12,000; applicable laws.

The form of government provided in this article [sections 40:69A-115 to 40:69A-132] shall be known as the "small municipality plan". It may be adopted by any municipality having a population of less than 12,000 inhabitants and shall together with articles 2 and 17 [sections 40:69A-26 to 40:69A-30 and 40:69A-150 to 40:69A-210, respectively], govern any municipality the voters of which have adopted the plan pursuant to this act.

Last Amended by P.L. 1981, c. 465, §29.

40:69A-116.

Government by elected council and mayor and appointed officers.

Each municipality shall be governed by an elected council and a mayor and such officers as shall be appointed pursuant to this article [sections 40:69A-115 to 40:69A-132], general law or ordinance.

Last Amended by P.L. 1981, c. 465, §30.

40:69A-117.

Council.

The council shall consist of the mayor and two councilmen, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act [sections 40:69A-13 or 40:69A-19], or unless provided by amendment of the charter pursuant to section 7 of this amendatory act [section 40:69A-25.1], the municipality shall be governed by a mayor and four or six councilmen. Members of the council shall be elected at large by the voters of the municipality and shall serve for a term of 3 years.

Last Amended by P.L. 1981, c. 465, §31.

40:69A-117.1.

Small municipality plans; members of council; election at regular municipal or general election.

Any municipality adopting a small municipality plan of government shall provide in its charter that the council members shall be elected by the voters of the municipality either:

a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the council members shall begin on July 1 next following their election; or,

b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the council members shall begin on January 1 next following their election.

P.L. 1981, c. 465, §32. (Supplement to P.L. 1950, c. 210.)

40:69A-117.2.

First members of council; term of office.

Any municipality adopting a small municipality plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan, shall serve for the following terms: if the municipal council is to consist of three members, one shall serve for 1 year, one for 2 years and one for 3 years; if the municipal council is to consist of five members, two shall serve for 1 year, two for 2 years and one for 3 years; or, if the municipal council is to consist of seven members, three shall serve for a term of 1 year, two for a term of 2 years and two for a term of 3 years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following their election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this section, be counted among those first councilmen to serve a 4 year term.

P.L. 1981, c. 465, §33. (Supplement to P.L. 1950, c. 210.)

40:69A-117.3.

Mayor; election by council or by voters; charter provision.

Any municipality adopting a small municipality plan of government shall provide in its charter either:

a. That the mayor shall be elected by the members of the council; in which case on the first day of July or January, as appropriate, following their election, the members-elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor; that the mayor shall be chosen by ballot by majority vote of members of the municipal council; that if the members shall be unable, within five ballots to be taken within 2 days of the organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be mayor; and that should that person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled; or,

b. That the mayor shall be elected directly by the voters of the municipality at the regular municipal election, or general election as the charter shall provide; that at the first election following the adoption of the charter, and each appropriate subsequent election, one position of council member to be elected at large shall be designated and voted for under the title of mayor, and candidates for the position shall be clearly designated as candidates for mayor in their respective nominating petitions; and that the candidate for mayor receiving the greatest number of votes shall be elected and shall serve for a term of 4 years.

P.L. 1981, c. 465, §34. (Supplement to P.L. 1950, c. 210.)

40:69A-118. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by small municipality plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.3. See, now, C. 40:69A-117.1, 40:69A-117.3.

40:69A-119. Repealed by P.L. 1979, c. 83, §1 (C. 40A: 16-23)

See, now, C. 40A:16-5.

TABLE 4
Municipalities Operating Under the Small Municipality Plan of the
Optional Municipal Charter Law (As of January 1, 1987)

Name of Municipality	Type of Municipality	County
Estell Manor	City	Atlantic
Berlin Township	Township	Camden
Fairfield Township	Township	Essex
Greenwich	Township	Gloucester
Logan	Township	Gloucester
Clinton Township	Township	Hunterdon
Lambertville	City	Hunterdon
Highlands	Borough	Monmouth
Chester Township	Township	Morris
Island Heights	Borough	Ocean
Stafford	Township	Ocean
West Paterson	Borough	Passaic
Allamuchy	Township	Warren
Lopatcong	Township	Warren

Municipalities Operating Under the Mayor-Council-Administrator Plan of the
Optional Municipal Charter Law (As of January 1, 1987)

Name of Municipality	Type of Municipality	County
North Brunswick	Township	Middlesex

Source: Rutgers, State University of New Jersey, *New Jersey Legislative District Data Book*, 1987.

40:69A-120.

Legislative power; quorum; mayor's duties; president of council.

The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. The mayor shall participate and vote as other council members. A majority of the whole number of the governing body shall constitute a quorum for the transaction of business but a smaller number may meet and adjourn from time to time. The mayor shall preside over all meetings of the council. The council shall elect from among its members a president of the council who shall serve in place of the mayor in the event of his absence, disability or refusal to act.

40:69A-121.

Executive power; mayor's duties.

The executive power of the municipality shall be exercised by the mayor. It shall be his duty to see that all laws and ordinances in force and effect within the municipality are observed. He shall address the council and report to the residents annually, and at such other times as he may deem desirable, on the condition of the municipality and upon its problems of government.

40:69A-122.

Assessor; tax collector; attorney; clerk; treasurer; other officers; appointment.

An assessor, a tax collector, an attorney, a clerk, a treasurer and such other officers as may be provided by ordinance shall be appointed by the mayor with the advice and consent of the council. One person may be appointed to two or more such offices, except that one person shall not be the assessor and treasurer, or assessor and collector.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Baumann v Council of West Paterson, 93 NJ Super 564 (1967)	Action by mayor to invalidate council appointments.
Indyk v Klink, 121 NJ Super 314 (1972)	Action for declaratory judgement with regard to the validity of certain sections of the administrative code.
Borough of Highlands v Davis, 124 NJ Super 217 (1973)	Action by mayor for declaratory judgement with regard to his authority to make appointments and promotions in the police department.

40:69A-123.

Finance committee and other committees of council.

The mayor shall also appoint a finance committee of council, which may consist of one or more councilmen, and may appoint and designate other committees of council of similar composition.

40:69A-124.

Appointment of officers and employees by mayor.

All officers and employees whose appointment or election is not otherwise provided for in this article [sections 40:69A-115 to 40:69A-132] or by general law shall be appointed by the mayor. If the municipality has not adopted the provisions of Title 11 of the Revised Statutes (Civil Service), it shall be the duty of the mayor to recruit, select and appoint persons qualified by training and experience for their respective offices, positions and employments.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Baumann v Council of West Paterson, 93 NJ Super 564 (1967)	Action by mayor to invalidate council appointments.
Borough of Highlands v Davis, 124 NJ Super 217 (1973)	Action by mayor for declaratory judgement with regard to his authority to make appointments and promotions in the police department.

40:69A-125.

Residence in municipality not required.

Appointive officers and employees need not be residents of the municipality unless council shall so require.

40:69A-126.

Municipal clerk.

A municipal clerk shall be appointed by the mayor with the advice and consent of council. The municipal clerk shall be qualified by previous training or experience to perform the duties of his office. He shall serve at the pleasure of the council, except as otherwise provided by this act [sections 40:69A-1 to 40:69A-210].

40:69A-127.

Duties of municipal clerk.

The municipal clerk shall serve as clerk of the council, perform such functions as may be required by law of municipal clerks generally, have such other powers and duties as council may prescribe. He shall maintain the records and minutes of the governing body.

40:69A-128.

Annual Budget.

The mayor shall prepare the annual budget with the assistance of the treasurer and the co-operation of the other members of the council.

40:69A-129.

Treasurer's duties.

The treasurer shall be the chief financial officer of the municipality and shall keep and maintain books and records of all financial transactions of the municipality in accordance with the standards and requirements of the State Division of Local Government. The treasurer shall have custody of all public moneys of the municipality. He shall make monthly reports to council of all receipts, expenditures, commitments and unencumbered appropriation balances.

40:69A-130.

Disbursement of municipal funds.

No municipal funds shall be disbursed except pursuant to and within the limits of appropriations made in accordance with law. All disbursements shall be by bank check or draft signed by the mayor and countersigned by the treasurer, upon warrant of the chairman of the finance committee of council approved by council.

40:69A-131.

Tax collector; duties.

The municipal tax collector shall receive and collect all moneys assessed or raised by taxation or assessment for any purpose. The collector shall enter in suitable books or other records to be kept by him the sums received each day together with the account to which each receipt is credited. Within forty-eight hours after the receipt of any moneys of the municipality, or on the first banking day thereafter, the collector shall deposit such moneys in the authorized public depository of the municipality to the credit of the appropriate account. He shall report to council at least once each month at the same time as the treasurer is required to report, all receipts and deposits and

**MUNICIPALITIES OPERATING UNDER
THE SMALL MUNICIPALITY AND
MAYOR-COUNCIL-ADMINISTRATOR
PLANS OF THE FAULKNER ACT**

(As of January 1, 1987)

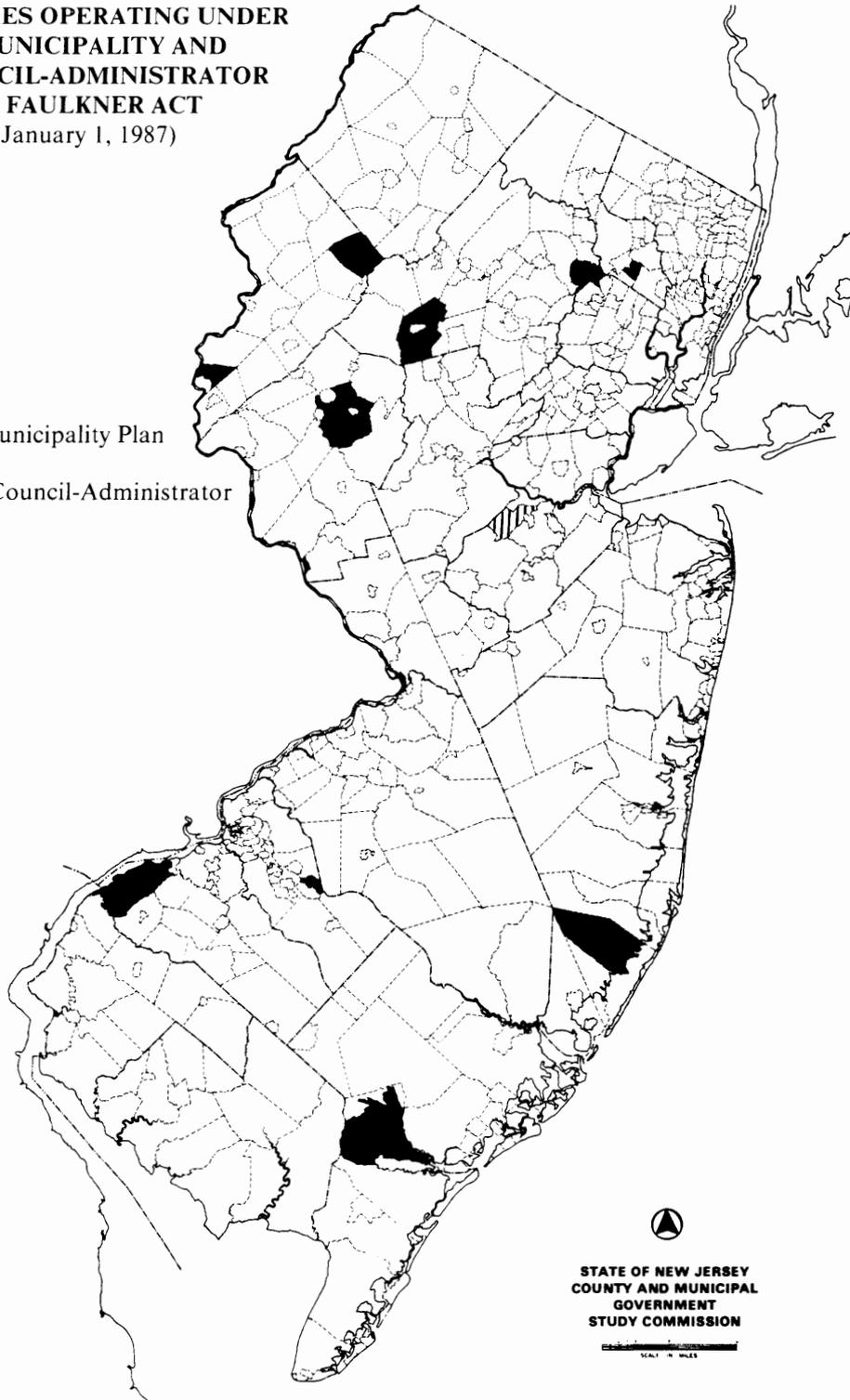
Key:

 Small Municipality Plan

 Mayor-Council-Administrator Plan



COUNTY KEY MAP



**STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION**

SCALE IN MILES

cash on hand belonging to the municipality. Within sixty days after the end of the fiscal year, and at such other times as may be required by council, the collector shall make and furnish a detailed and true list of all delinquent taxpayers for the next preceding year or for such period as council may require.

40:69A-132.

Bond of treasurer and collector.

The treasurer and the collector shall each give bond, at the expense of the municipality, in accordance with general law.

ARTICLES 14 TO 16.

SMALL MUNICIPALITY PLANS REPEALED

ARTICLE 14.

SMALL MUNICIPALITY PLAN B

40:69A-133 to 40:69A-136. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by small municipality plan of government, authorized by P.L. 1950, c. 210, after January 9, see C. 40:69A-208.3.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-133	40:69A-115
40:69A-134	40:69A-116
40:69A-135	40:69A-117, 40:69A-117.1
40:69A-136	40:69A-117.1, 40:69A-117.3

40:69A-137. Repealed by P.L. 1979, c. 83, §1 (C. 40A:16-23)

See, now, C. 40A:16-5.

40:69A-138. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by small municipality plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.3. See, now, C. 40:69A-117.3.

ARTICLE 15.

SMALL MUNICIPALITY PLAN C

40:69A-139 to 40:69A-143. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by small municipality plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.3.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-139	40:69A-115
40:69A-140	40:69A-116
40:69A-141	40:69A-117, 40:69A-117.1
40:69A-142	40:69A-117.2, 40:69A-117.3
40:69A-143	40:69A-117.1, 40:69A-117.3, 40:69A-119

ARTICLE 16.

SMALL MUNICIPALITY PLAN D

40:69A-144 to 40:69A-149. Repealed by P.L. 1981, c. 465, §44

Continuance of governance of municipality by small municipality plan of government, authorized by P.L. 1950, c. 210, after January 9, 1982, see C. 40:69A-208.3.

The following shows the allocation of the subject matter of repealed sections in new law:	
Repealed Section	New Section
40:69A-144	40:69A-115
40:69A-145	40:69A-116
40:69A-146	40:69A-117, 40:69A-117.1
40:69A-147	40:69A-117.2
40:69A-148	40:69A-117.1, 40:69A-119
40:69A-149	40:69A-117.3

ARTICLE 16A.

MAYOR-COUNCIL-ADMINISTRATOR PLAN

40:69A-149.1.

Adoption by voters; applicable laws.

The form of government provided in this article shall be known as the “mayor-council-administrator plan”, and shall, together with articles 2 and 17 [sections 40:69A-26 to 40:69A-30 and 40:69A-150 to 40:69A-210, respectively], govern any municipality the voters of which have adopted it pursuant to law.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.2.

Government by elected mayor and council and, appointed municipal administrator and other officers and employees.

Each municipality hereunder shall be governed by an elected mayor and council, and an appointed municipal administrator, and by such other officers and employees as may be duly appointed pursuant to this article [sections 40:69A-149.1 to 40:69A-149.16], general law or ordinance.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.3.

Council; composition; mayor and councilmen; elections; terms of office.

The council shall consist of the mayor and six councilmen. The mayor and council shall be elected at the general election to be held on the first Tuesday after the first Monday in November. Except as otherwise provided in this article for councilmen first elected, the mayor shall serve for a term of 4 years and the councilmen for a term of 3 years, beginning on January 1 next following their election.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.4.

Election at large; terms of office of first elected.

The mayor and councilmen shall be elected at large by the voters of the municipality. At the first election following the adoption by a municipality of this section, of the six councilmen to be elected, two shall serve for a term of 3 years, two shall serve for a term of 2 years, and two shall serve for a term of 1 year.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.5.

Council; legislative power; status of mayor; quorum; president; special meetings.

The legislative power of the municipality shall be exercised by the council, except as may otherwise provided by general law. The mayor shall preside over all meetings of the council except as herein provided, but shall not vote except to give the deciding

vote in case of a tie. Three councilmen and the mayor and, in the absence of the mayor, four councilmen shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. The council shall annually select from among the councilmen, a president of the council who shall serve in place of the mayor in the event of his absence, disability or refusal to preside. The mayor shall, when necessary, call special meetings of the council. In case of his neglect or refusal, any four councilmen may call a special meeting upon due notice of the time and place to the mayor and all councilmen.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.6.

Mayor; powers and duties.

The executive power of the municipality shall be exercised by the mayor. He shall enforce the charter and ordinances of the municipality and all general laws applicable thereto, and shall recommend such actions to the council as he may deem in the public interest.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.7.

Ordinances; approval by mayor.

Each ordinance adopted by the council shall be submitted to the mayor, and he shall within 10 days after receiving it either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the municipal clerk, together with a written statement of his objections thereto or to any item or part thereof. No ordinance, or any item or part thereof, shall take effect without the mayor's approval unless the mayor fails to return an ordinance to the council within 10 days after it has been presented to him, or unless the council, upon reconsideration thereof on or after the third day following its return by the mayor, shall resolve to override the mayor's veto by a vote of at least 2/3 of the members.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.8.

Officers; annual appointment by mayor.

a. The mayor shall nominate, and with the advice and consent of the council appoint, a municipal administrator, an assessor, a tax collector, an attorney, a clerk, a treasurer and such other officers as may be provided by ordinance. Except where otherwise prohibited by general law, one person may be appointed to two or more such offices, except that one person shall not be simultaneously the assessor and treasurer, or assessor and collector. All such officers shall be annually appointed unless another term is provided by this article [sections 40:69A-149.1 to 40:69A-149.16] or by general law.

b. The municipality may provide by ordinance for the establishment of municipal departments, not to exceed six in number. Each department shall be headed by a director, who shall be appointed by the mayor with advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of a successor. The mayor may remove any department head upon written notice to the council. The council may remove department heads for cause after a hearing.

The municipal administrator shall supervise the administration of each of the departments established by ordinance. For this purpose, the municipal administrator shall have the power to investigate the organization and operations of any department, to prescribe standards and rules of administrative practice and procedure, and to consult with the heads of departments.

Last Amended by P.L. 1985, c. 458, §1. (Supplement to P.L. 1950, c. 210.)

Senate County and Municipal Government Committee Statement
Senate, No. 2948—P.L. 1985, c. 458

Senate Bill No. 2948 Sca amends section 36 (16A-8) of P.L. 1981, c. 465 (C. 40:69A-149.8) to clarify that any municipality which has adopted the “mayor-council-administrator plan” form of government under the “Optional Municipal Charter Law” (P.L. 1950, c. 210; C. 40:69A-1 *et seq.*) may, by ordinance, provide for the establishment of up to six municipal departments. The amendment provides that each municipal department is to be headed by a director who is to be appointed by the mayor with the advice and consent of the council. Each department head is to serve during the term of the mayor who made the appointment. Department heads may be removed by the mayor upon written notice to the council and by the council for cause after a hearing.

The amendment authorizes the municipal administrator to supervise the administration of all municipal departments established by ordinance and to investigate the organization and operation of those departments, to prescribe standards and rules of administrative practice and procedure, and to consult with the various department heads.

The bill also amends section 36 (16A-9) of P.L. 1981, c. 465 (C. 40:69A-149.9) to specify that the municipal administrator of a municipality which has adopted the “mayor-council-administrator plan” form of government is to serve during the term of the mayor, rather than at the pleasure of the council.

Finally, the bill validates the actions of any municipality operating under the “mayor-council-administrator plan” form of government which, prior to the effective date of this bill, established by ordinance municipal departments.

The committee amendment is technical in nature.

40:69A-149.8a.

Ordinances heretofore adopted and actions taken pursuant to the ordinances providing for establishment of municipal departments; validation and confirmation; condition.

Any ordinance heretofore adopted by a municipality governed by section 36 of P.L. 1981, c. 465 (C. 40:69A-149.1 through 40:69A-149.16) which provides for the establishment of municipal departments, and any actions taken by a municipality pursuant to that ordinance, are validated and confirmed; provided, that the ordinance shall be amended to conform with the provisions of this amendatory and supplementary act within 90 days after its effective date.

P.L. 1985, c. 458, §3. (Supplement to P.L. 1950, c. 210.)

40:69A-149.9.

Municipal administrator; powers and duties; compensation; term of office.

The municipal administrator shall administer the business affairs of the municipality and shall, as provided by ordinance, have such powers and perform such duties which are not required by this article [sections 40:69A-149.1 to 40:69A-149.16] or general law to be exercised by the mayor, council or other officer, board or body. The administrator shall receive such compensation as may be provided by ordinance. The municipal administrator shall serve during the term of the mayor, but may be removed by a vote of at least 2/3 of the members of the council. The resolution of removal shall become effective three months after its adoption. The council may provide that the resolution shall have immediate effect, but in that case the council shall cause to be paid to the administrator forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the resolution unless he is removed for good cause. For the purposes of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of sections 17-14, 17-15, 17-16, 17-17 or 17-18 of P.L. 1950, c. 210 (C. 40:69A-163 through 40:69A-167), or the violation of any code of ethics in effect within the municipality.

Last Amended by P.L. 1985, c. 458, §2. (Supplement to P.L. 1950, c. 210.)

40:69A-149.10.

Officers and employees; appointment and recruitment by mayor.

All officers and employees whose appointment or election is not otherwise provided for in this article [sections 40:69A-149.1 to 40:69A-149.16] or by general law shall be appointed by the mayor. If the municipality has not adopted the provisions of Title 11 of the Revised Statutes, it shall be the duty of the mayor to recruit, select and appoint persons qualified by training and experience for their respective offices, positions and employments.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.11.

Clerk.

The municipal clerk shall serve as clerk of the council, perform such functions as may be required by law of municipal clerks generally, and have such other powers and duties as the council may prescribe. He shall maintain the records and minutes of the governing body. The municipal clerk shall be qualified by previous training or experience to perform the duties of his office. He shall serve for such term as is generally provided by law.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.12.

Annual budget; preparation.

The council shall prepare the annual budget with the assistance of the municipal administrator and the treasurer.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.13.

Treasurer.

The treasurer shall be the chief financial officer of the municipality and shall keep and maintain books and records of all financial transactions of the municipality in accordance with the standards and requirements of the Division of Local Government Services in the Department of Community Affairs. The treasurer shall have custody of all public moneys of the municipality. He shall make monthly reports to the council of all receipts, expenditures, commitments and unencumbered appropriation balances. *P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)*

40:69A-149.14.

Municipal funds; disbursement.

No municipal funds shall be disbursed except pursuant to and within the limits of appropriations made in accordance with law. All disbursements shall be by bank check or draft signed by the mayor and countersigned by the treasurer, upon warrant of the council.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.15.

Tax Collector.

The municipal tax collector shall receive and collect all moneys assessed or raised by taxation or assessment for any purpose. The collector shall enter in suitable books or other records to be kept by him the sums received each day together with the account to which each receipt is credited. Within 48 hours after the receipt of any moneys of the municipality, or on the first banking day thereafter, the collector shall deposit such moneys in the authorized public depository of the municipality to the credit of the appropriate account. He shall report to the council at least once each month at the same time as the treasurer is required to report, all receipts and deposits and cash on hand belonging to the municipality. Within 60 days after the end of the fiscal year, and at such other times as may be required by the council, the collector shall make and furnish a detailed and true list of all delinquent taxpayers for the next preceding year or for such period as the council may require.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

40:69A-149.16.

Bond; Treasurer and Collector.

The treasurer and the collector shall each give bond, at the expense of the municipality, in accordance with general law.

P.L. 1981, c. 465, §36. (Supplement to P.L. 1950, c. 210.)

ARTICLE 17.

ADDITIONAL PROVISIONS TO OPTIONAL PLANS

A. ELECTIONS IN GENERAL

40:69A-150.

Municipal elections; time.

Regular municipal elections shall be held in each municipality on the second Tuesday in May in the years in which municipal officers are to be elected, where the election of such officers is not provided to be at the general election. Regular municipal elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law", P.L. 1981, c. 379 (C. 40:45-5 to 40:45-21).

Last Amended by P.L. 1981, c. 379, §30.

40:69A-151. Repealed by P.L. 1981, c. 379, §31

See, now, C. 40:45-7, 40:69A-150.

40:69A-152.

Terms of municipal officers.

Every municipal officer elected under any of the plans provided in this act [sections 40:69A-1 to 40:69A-210] shall serve for the term of office specified in the plan and until his successor is elected and qualified.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

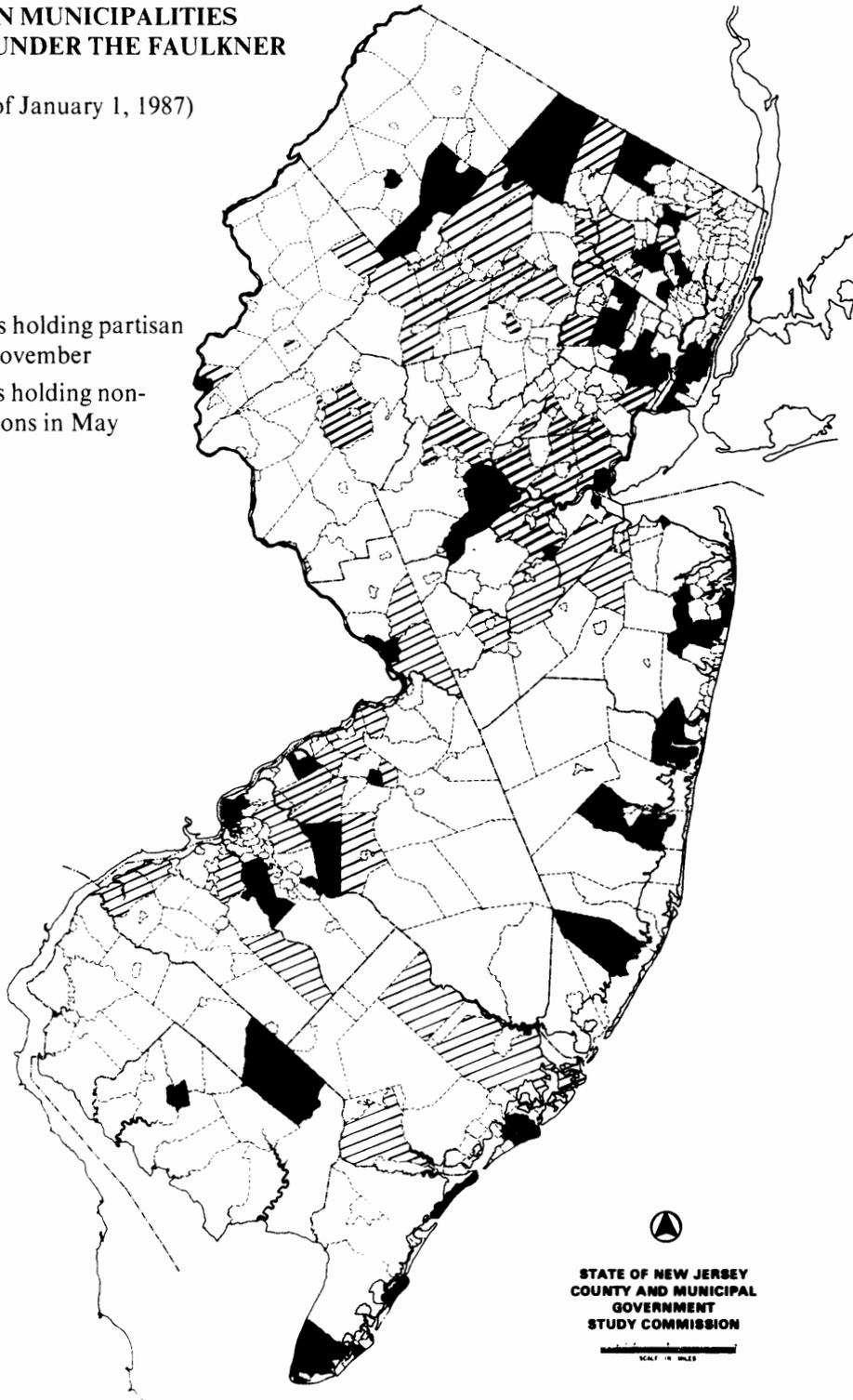
Cite	General Subject Matter of Case
Haack v Ranieri, 83 NJ Super 526 (1964)	Proceeding by former councilwoman to oust her successor.
Sloan v Lettieri, 171 NJ Super 445 (1979)	Action seeking a judgement as to the validity of an ordinance proposed by initiative, limiting the number of terms for which a municipal official could be elected.

**PARTISAN AND NON-PARTISAN
ELECTIONS IN MUNICIPALITIES
OPERATING UNDER THE FAULKNER
ACT**

(As of January 1, 1987)

Key:

-  Municipalities holding partisan elections in November
-  Municipalities holding non-partisan elections in May



**STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION**

SCALE IN MILES

B. REGULAR MUNICIPAL ELECTIONS

40:69A-153. Repealed by P.L. 1981, c. 379, §31

The following shows the allocation of the subject matter of the repealed sections in the Uniform Nonpartisan Election Law in Chapter 45 of Title 40:	
Repealed Section	New Section
40:69A-151	40:45-7
40:69A-153	40:45-8
40:69A-154	40:45-9
40:69A-155	40:45-10
40:69A-156	40:45-12
40:69A-157	40:45-13
40:69A-158	40:45-14
40:69A-159	40:45-15
40:69A-159.1	40:45-16
40:69A-160	40:45-17, 40:45-18, 40:45-20, 40:45-21
40:69A-161	40:45-19

40:69A-153.1.

Dual candidacy; prohibition.

No person shall accept nomination for more than one municipal office to be voted for at a regular municipal election to be held pursuant to Article 17 of P.L.1950, c. 210 (C. 40:69A-150 *et seq.*).

P.L. 1981, c. 87, §1. (Supplement to P.L. 1950, c. 210.)

40:69A-154 to 40:69A-161. Repealed by P.L. 1981, c. 379, §31

40:69A-161.1. Repealed by P.L. 1980, c. 75, §3

40:69A-162. Repealed by P.L. 1981, c. 379, §31

C. OFFICERS AND EMPLOYEES

40:69A-163.

Interest in contracts or jobs forbidden.

No officer or employee elected or appointed in any municipality shall be interested directly or indirectly in any contract or job for work or materials, or the profits thereof, to be furnished or performed for the municipality, and no such officer or employee shall be interested directly or indirectly in any contract or job for work or materials or the profits thereof, to be furnished or performed, for any person operating any interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of such municipality.

TABLE 5**Municipalities Operating Under the Optional Municipal Charter Law Holding Elections at the Regular Municipality Election in May (As of January 1, 1987)**

Name of Municipality	Form of Government	County
Atlantic City	Mayor-Council	Atlantic
Lodi	Mayor-Council	Bergen
Mahwah	Mayor-Council	Bergen
Ridgewood	Council-Manager	Bergen
Saddle Brook	Mayor-Council	Bergen
Delran	Mayor-Council	Burlington
Evesham	Council-Manager	Burlington
Mount Holly	Council-Manager	Burlington
Berlin Township	Small Municipality	Camden
Camden City	Mayor-Council	Camden
Gloucester	Mayor-Council	Camden
Avalon	Mayor-Council	Cape May
Lower Township	Council-Manager	Cape May
Ocean City	Mayor-Council	Cape May
Wildwood	Mayor-Council	Cape May
Bridgeton	Mayor-Council	Cumberland
Vineland	Mayor-Council	Cumberland
Cedar Grove	Council-Manager	Essex
Irvington	Mayor-Council	Essex
Montclair	Council-Manager	Essex
Newark	Mayor-Council	Essex
Orange	Mayor-Council	Essex
West Orange	Mayor-Council	Essex
Bayonne	Mayor-Council	Hudson
Hoboken	Mayor-Council	Hudson
Jersey City	Mayor-Council	Hudson
Weehawken	Council-Manager	Hudson
Trenton	Mayor-Council	Mercer
Perth Amboy	Mayor-Council	Middlesex
South Amboy	Mayor-Council	Middlesex
Spotswood	Mayor-Council	Middlesex
Keansburg	Council-Manager	Monmouth
Long Branch	Mayor-Council	Monmouth
Ocean Township	Council-Manager	Monmouth
Berkeley Township	Mayor-Council	Ocean
Brick	Mayor-Council	Ocean
Island Heights	Small Municipality	Ocean
Stafford	Small Municipality	Ocean
Passaic City	Mayor-Council	Passaic
Paterson	Mayor-Council	Passaic
West Milford	Council-Manager	Passaic
Franklin Township	Council-Manager	Somerset
Newton	Council-Manager	Sussex
Sparta	Council-Manager	Sussex
Phillipsburg	Council-Manager	Warren

Source: Rutgers, State University of New Jersey, *New Jersey Legislative District Data Book*, 1987.

40:69A-164.

Franks, free passes, tickets or services; acceptance forbidden.

No officer or employee shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a municipality, any interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or receive, directly or indirectly, from any person, any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the municipal officials heretofore provided by any franchise or ordinance be affected by this section.

40:69A-165.

Promise of office, position, employment or benefits forbidden.

No candidate for office, appointment or employment, and no officer, appointee, or employee in any municipality shall directly or indirectly give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

40:69A-166.

Persons convicted of offenses; violations of sections 40:69A-163 through 40:69A-165.

Any person convicted of a crime or offense involving moral turpitude shall be ineligible to assume any municipal office, position or employment in a municipality governed pursuant to this act [sections 40:69A-1 to 40:69A-210], and upon conviction thereof while in office shall forfeit his office; provided, however, any person convicted of such an offense who has achieved a degree of rehabilitation which in the opinion of the appointing authority and the Civil Service Commission, as to employment subject to the Civil Service law, indicates his employment would not be incompatible with the welfare of society and the aims and objectives of the governmental agency, may be considered eligible to apply for employment or be continued in employment. Any person who shall violate any of the provisions of sections 17-14, 17-15, or 17-16 of this article [sections 40:69A-163 to 40:69A-165] shall upon conviction thereof in a court of competent jurisdiction forfeit his office.

Last Amended by P.L. 1970, c. 82, §1.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
City of Newark v Department of Civil Service, 68 NJ Super 416 (1961)	Proceeding to review determination of Civil Service Commission relating to suspension and removal of a city electrical inspector who had been convicted of income tax evasion.
Raphalides v New Jersey Department of Civil Service, 80 NJ Super 407 (1963)	Action appealing removal of bookkeeping machine operator from position by city of Jersey City.
Ward v City of Camden, 87 NJ Super 150 (1965)	Appeal from Civil Service Commission decision to reinstate plumbing inspector.
Galloway v Council of Township of Clark, 94 NJ Super 527 (1967)	Action against council for judgement determining that council's adoption of bond ordinance was invalid.

40:69A-167.

Failure to appear or testify before court, legislative committee or Governor.

If any person hereafter elected or appointed to any office or position in a municipality governed under this act shall, after lawful notice or process, willfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any questions regarding the property, government or affairs of the municipality, or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which he may be asked to testify may be removed from office by the governing body of the municipality in its discretion. Any person removed from office pursuant to this section shall not thereafter be eligible for election or appointment to any office or employment in such municipality.

40:69A-167.1. Repealed by P.L. 1980, c. 94, §7

See, now, C. 40A:9-1.11 *et seq.*

D. RECALL

40:69A-168.

Elective officers; removal by recall petition and vote.

Any elective officer shall be subject to removal from office for cause connected with his office, after he has served at least one year, upon the filing of a recall petition and the affirmative vote of a majority of those voting on the question of removal at any general, regular municipal or special election.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Grubb <i>et al.</i> v Wyckoff <i>et al.</i> , 52 NJ 599 (1968)	Action involving special recall election of two councilmen of township.
Roman v Sharper, 53 NJ 338 (1969)	Action to restrain election of successor after filing of petition for recall of councilman.
In Re Hackensack Recall Election, 57 NJ Super 257 (1959)	Proceeding in the matter of alleged errors in the preparation for a recall election ballot.
Westpy v Burnett, 82 NJ Super 239 (1964)	Action involving validity of recall petition.
Stone <i>et al.</i> v Wyckoff <i>et al.</i> , 102 NJ Super 26 (1968)	Action to compel township clerk to call for recall election with respect to township councilman.
Eisenberg v Committee to recall Levin, 175 NJ Super 115 (1980)	Action seeking to determine whether or not a recall election in the borough had to be conducted.
Baker v Deane, 196 NJ Super 416 (1983)	Action to effect the recall of the mayor.
Matthews v Deane, 196 NJ Super 428 (1984a)	Action alleging irregularities in procedures employed by recall committee.
Matthews v Deane, 201 NJ Super 583 (1984b)	Action seeking determination by the court of the validity of printed signatures in a recall election.
Zimmerman v Municipal Clerk of Township of Berkeley, 201 NJ Super 363 (1985)	Action seeking to compel clerk to accept petition.

40:69A-169.

Recall petition.

A recall petition shall demand the removal of a designated incumbent, shall be signed by qualified voters equal in number to at least twenty-five per centum (25%) of the registered voters of the municipality, and shall be filed with the municipal clerk. It shall set forth a statement of the cause upon which the removal is sought.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Roman v Sharper, 53 NJ 338 (1969)	Action to restrain election of successor after filing of petition for recall of councilmen.
Westpy v Burnett, 82 NJ Super 239 (1964)	Action involving validity of recall petition.
Stone <i>et al.</i> v Wyckoff <i>et al.</i> , 102 NJ Super 26 (1968)	Action to compel township clerk to call for recall election with respect to township councilmen.
In re Petition of Smith, 114 NJ Super 421 (1971)	Action concerning recall of mayor and seven councilmen.
Matthews v Deane, 201 NJ Super 583 (1984b)	Action seeking determination by the court of the validity of printed signatures in a recall election.
Jones v Warren, 202 NJ Super 165 (1984)	Action challenging township clerk's refusal to certify recall petition and call election.
Jones v Warren, 202 NJ Super 173 (1985)	A counterclaim action against petitioners of recall petition.

40:69A-170.

Signatures to recall petition.

The signatures to a recall petition need not all be appended to one paper but each signer shall add to his signature his place of residence giving the street and number or other sufficient designation if there shall be no street and number. One of the signers to each such paper shall take an oath before an officer competent to administer oaths that the statement therein made is true as he believes and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing the petition the municipal clerk shall complete his examination and ascertain whether or not such petition is signed by the requisite number of qualified voters, and shall attach to the petition his certificate showing the result of his examination. If by that certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The municipal clerk shall, within five days after such amendment, make a similar examination and determination of the amended petition, and if the certificate shall show the same to be insufficient, it shall be returned to the person filing it without prejudice to the filing of a new petition to the same effect.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Stone <i>et al.</i> v Wyckoff <i>et al.</i> , 102 NJ Super 26 (1968)	Action to compel township clerk to call for recall election with respect to township councilmen.
In re Petition of Smith, 114 NJ Super 421 (1971)	Action concerning recall of mayor and seven councilmen.
Baker v Deane, 196 NJ Super 416 (1983)	Action to effect the recall of the mayor.

Matthews v Deane, 196 NJ Super 428 (1984a)	Action alleging irregularities in procedures employed by recall committee.
Jones v Warren, 202 NJ Super 165 (1984)	Action challenging township clerk's refusal to certify recall petition and call election.
Jones v Warren, 202 NJ Super 173 (1985)	A counterclaim action against petitioners of recall petition.

40:69A-171.

Notice to officer; recall election; notice of filing of petition.

If the petition shall be sufficient the municipal clerk shall within two days notify the mayor, councilman or councilmen whose recall is sought thereby. If such notice cannot be served personally upon the mayor, councilman or councilmen affected, service may be made by registered mail addressed to the officer's last known address. If within five days after the service of the notice by the municipal clerk the mayor, councilman or councilmen sought to be recalled by such petition do not resign, or having tendered their resignation it shall not have been accepted by the municipal council, the municipal clerk shall order and fix a date for holding a recall election not less than sixty nor more than ninety days from the filing of the petition. Notice of the filing of the petition and of the date of the election shall be posted for public view in the office of the municipal clerk and he shall also insert the notice forthwith in a newspaper published in the municipality or if there be no such newspaper then in a newspaper having general circulation in such municipality.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Matthews v Deane, 196 NJ Super 428 (1984a)	Action alleging irregularities in procedures employed by recall committee.

40:69A-172.

Ballots.

The ballots at the recall election shall conform to the requirements respecting the election of municipal officers in the municipality, as provided in this article [sections 40:69A-150 to 40:69A-210] or in Title 19 of the Revised Statutes (Elections), whichever shall apply in the municipality in accordance with the provisions of this act [sections 40:69A-1 to 40:69A-210], except that the words "recall election" shall appear on the ballot. The recall features of the ballot shall appear at the top thereof and shall be separated from the portion of the ballot for the election of officers by a heavy black line. The proposal for recall shall be placed on the ballot in the following manner:

"Shall (here insert name of incumbent)..... be

removed from office by recall?"

This matter shall occupy two lines in bold-face type. Immediately below the above wording shall appear the phrase "for recall", and immediately underneath such phrase the words "against recall". Immediately at the left of each of these two phrases shall be printed a square, in which the voter may make a cross (X) or plus (+) or a check (✓) mark. Immediately below the foregoing shall appear the following:

"Indicate your vote by placing a cross (X) or plus (+) or a check (✓) mark in one of the squares above."

40:69A-173.

Removal of more than one officer.

If the removal of more than one officer is sought the same provisions for submitting to the electors the question and direction hereinbefore described shall be repeated in the case of each officer concerned and their position on the ballot for their recall shall be in the order of the filing of the petition with the municipal clerk.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Grubb <i>et al.</i> v Wyckoff <i>et al.</i> , 52 NJ 599 (1968)	Action involving special recall election of two councilmen of township.
Stone <i>et al.</i> v Wyckoff <i>et al.</i> , 102 NJ Super 26 (1968)	Action to compel township clerk to call for recall election with respect to township councilman.
Zimmerman v Municipal Clerk of Township of Berkeley, 201 NJ Super 363 (1985)	Action seeking to compel clerk to accept petition.

40:69A-174.

Election of successor; use of recall ballot.

The same ballot used for submitting the questions of recall shall be used for the election of a successor to the incumbent sought to be removed and immediately under the black line following the recall question shall appear the phrase "Nominees for successors of (here insert name of incumbent)..... in the event he is recalled". The names of all persons nominated as successors shall be placed upon the ballot in the same manner provided for other elections of municipal officers in the municipality.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Grubb <i>et al.</i> v Wyckoff <i>et al.</i> , 52 NJ 599 (1968)	Action involving special recall election of two councilmen of township.

40:69A-175.

Laws governing recall elections; selection of candidate for successor of recalled incumbent.

The provisions of this article [sections 40:69A-150 to 40:69A-210] or Title 19 of the Revised Statutes (Elections), whichever shall apply in the municipality in accordance with the provisions of this act [sections 40:69A-1 to 40:69A-210], concerning the nomination of municipal officers, preparation of the ballot, election of municipal officers, counting and canvassing of the results of the election of such officers, shall apply to the election for the recall of officers and the election of their successors. Where the plan of government in effect in the municipality provides for partisan elections, the county committee of each political party shall be authorized to select a candidate for successor of a recalled incumbent in the same manner as provided by Title 19 of the Revised Statutes for nominations to fill a vacancy after the last day for filing petitions for nominations in the primary elections.

40:69A-176.

Publication of notices of arrangements for recall elections; conduct.

The municipal clerk shall cause to be made due publication of notices of arrangements for holding all recall elections and they shall be conducted as are other elections for municipal officers in the municipality.

40:69A-177.

Results of election.

(a) If a majority of votes in connection with the recall of any officer be in favor of the recall, the term of office of such officer shall terminate upon the certification of the results of election by the municipal clerk.

(b) If the results of such recall election shall, by the certificate of the municipal clerk, be shown to be against the recall of the officer he shall continue in office as if no recall election had been held, and the vote for the election for the successor of such officer taken at the time of such attempted recall shall be void.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Grubb <i>et al.</i> v Wyckoff <i>et al.</i> , 52 NJ 599 (1968)	Action involving special recall election of two councilmen of township.

40:69A-178.

Successor where incumbent resigns or is recalled.

If the office of the incumbent shall become vacant either by his resignation or by the result of the recall election, his successor shall be the nominee receiving the greatest number of votes at the recall election. The person so elected shall serve for the remainder of the unexpired term.

E. LOCAL LEGISLATION

40:69A-179.

Meetings of council; journal.

The council shall by ordinance or resolution designate the time of holding regular meetings, which shall be at least monthly. The mayor may, and upon written request of a majority of the members of the council, shall, call a special meeting of the council. In the call he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The municipal clerk shall keep a journal of its proceedings and record the minutes of every meeting.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Crook v Township of Clark, 74 NJ Super 148 (1962)	Action to have council resolution declared illegal.

40:69A-180.

Rules of procedure; quorum; ordinances and resolutions; presiding officer; compensation.

(a) Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, but no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

(b) Each ordinance or resolution shall be introduced in written or typewritten form and shall be read and considered as provided by general law. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the municipal clerk.

(c) The council at its organization meeting shall elect a president of the council from among the members thereof and he shall preside at its meetings and perform such other duties as the council may prescribe. In the absence of the president, the council shall elect a temporary presiding officer. The compensation of the mayor, councilmen and department heads shall be fixed by the council immediately after its organization.

Last Amended by P.L. 1954. c. 69, §5.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
South Hamilton Association v Mayor and Council of Morristown, 99 NJ 437 (1985)	Action seeking determination that retroactive provisions of ordinance were invalid.
Crook v Township of Clark, 74 NJ Super 148 (1962)	Action to have council resolution declared illegal.
Sliwka v Council of Township of Franklin, 95 NJ Super 249 (1967)	Action to determine the number of votes required for passage of resolution.
Skarbrick v Spina, 125 NJ Super 87 (1973)	Action seeking removal of councilman from office.

40:69A-181.

Adoption and publication of ordinances; effective date.

(a) Except as may otherwise be provided in this act [sections 40:69A-1 to 40:69A-210], all ordinances shall be adopted and published in the manner required by general law; *provided, however*, that any ordinance may incorporate by reference any standard technical regulations or code, official or unofficial, which need not be so published whenever ten copies of said regulations or code have been placed on file in the office of the municipal clerk and in the office of the body or department charged with the enforcement of said ordinance for the examination of the public so long as said ordinance is in effect.

(b) No ordinance other than the local budget ordinance shall take effect less than twenty days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least two-thirds of all the members of the council vote in favor of such resolution.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Cuprowski <i>et al.</i> v City of Jersey City, 101 NJ Super 15 (1968)	Action to compel city clerk to accept petition re- questing city budget be subject to referendum.

40:69A-182.

Recording of ordinances and resolutions.

The municipal clerk shall record all ordinances and resolutions adopted by council and at the close of each year, with the advice and assistance of the municipal attorney, shall bind, compile or codify all the ordinances and resolutions, or true copies thereof, of the municipality which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

40:69A-183.

Rules and regulations, filing, publishing.

No rule or regulation made by any department, officer, agency or authority of the municipality, except such as relates to the organization or internal management of the municipal government or a part thereof, shall take effect until it is filed either with the municipal clerk or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

F. INITIATIVE AND REFERENDUM

40:69A-184.

Petitions; percentage of registered voters required.

The voters of any municipality may propose any ordinance and may adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the municipal council by a petition signed by a number of the legal voters of the municipality equal in number to at least 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected. An initiated ordinance may be submitted to the municipal council by a number of the legal voters of the municipality equal in number to at least 10% but less than 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected, subject to the restrictions set forth in section 17-43 (C. 40:69A-192) of this act.

Last Amended by P.L. 1982, c. 145, §1.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Paoletta <i>et al.</i> v City of Hackensack, 76 NJ Super 86 (1962)	Action seeking to use initiative and referendum provisions of Faulkner Act to submit ordinance regu- lating hours of employment of employees in Fire Department.
Wright <i>et al.</i> v Village of South Orange, 79 NJ Super 96 (1963)	Proceeding on a petition by voters and taxpayers of a municipality protesting against a library ordinance.

McCrink <i>et al.</i> v Township of West Orange, 85 NJ Super 86 (1964)	Action to invalidate initiative ordinance.
Meridian Development Company v Township of Edison, 91 NJ Super 310 (1966)	Action involving question whether or not voters may amend zoning ordinance by initiative and referendum.
Smith v Township of Livingston, 106 NJ Super 444 (1969)	Action to determine whether or not a proposed zoning ordinance should be passed on at the then next general election.
Township of Sparta v Spillane, 125 NJ Super 519 (1973)	Actions seeking to determine whether or not referendum procedures applied to amendments of zoning ordinances.
D'Ascensio v Benjamin, 142 NJ Super 52 (1976)	Action concerning a petition seeking a public referendum on the question of an ordinance establishing a citizen complaint review board in the City of Newark.
City of Newark v Benjamin, 144 NJ Super 389 (1976)	Action seeking judgement as to the validity of an ordinance proposed by initiative, concerning a police review board.
Maese v Snowden, 148 NJ Super 7 (1977)	Action to compel placement of initiative ordinance on ballot.
Stop the Pay Hikes v Town Council Irvington, 166 NJ Super 197 (1979)	Action to compel town clerk to file a petition and place on ballot a referendum concerning a portion of a salary ordinance.
Lettieri v Governing Body of City of Bayonne, 168 NJ Super 423 (1979)	Action to invalidate an ordinance increasing the mayor's salary.
Sloan v Lettieri, 171 NJ Super 445 (1979)	Action seeking a judgement as to the validity of an ordinance proposed by initiative, limiting the number of terms for which a municipal official could be elected.
Marotta v Leone, 172 NJ Super 62 (1979)	Action to compel city clerk to examine petition protesting against a bond ordinance.
Donato v Gibson, 178 NJ Super 163 (1981)	Action seeking to stop implementation of an ordinance raising the salaries of the mayor and council.
All People's Congress of Jersey v Jersey City, 195 NJ Super 532 (1984)	Action challenging a rent control ordinance.

40:69A-185.

Power of referendum; time for filing petition.

The voters shall also have the power of referendum which is the power to approve or reject at the polls any ordinance submitted by the council to the voters or any ordinance passed by the council, against which a referendum petition has been filed as herein provided. No ordinance passed by the municipal council, except when otherwise required by general law or permitted by the provisions of section 17-32 (b) of this act [section 40:69A-181(b)], shall take effect before 20 days from the time of its final passage and its approval by the mayor where such approval is required. If within 20 days after such final passage and approval of such ordinance a petition protesting against the passage of such ordinance shall be filed with the municipal clerk and if the petition shall be signed by a number of the legal voters of the municipality equal in number to at least 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

The provisions of this section shall not apply to any ordinance which by its terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof.

Last Amended by P.L. 1982, c. 145, §2.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Lindquist <i>et al.</i> v Lee, 34 NJ Super 576 (1955)	Action to set aside declaration that certain petitions were insufficient and, therefore, a referendum election should be held.
Wright <i>et al.</i> v Village of South Orange, 79 NJ Super 96 (1963)	Proceeding on a petition by voters and taxpayers of a municipality protesting against a library ordinance.
Meridian Development Company v Township of Edison, 91 NJ Super 310 (1966)	Action involving question whether or not voters may amend zoning ordinance by initiative and referendum.
Cuprowski <i>et al.</i> v City of Jersey City, 101 NJ Super 15 (1968)	Action to compel city clerk to accept petition requesting city budget be subject to referendum.
Smith v Township of Livingston, 106 NJ Super 444 (1969)	Action to determine whether or not a proposed zoning ordinance should be passed on at the then next general election.
Township of Sparta v Spillane, 125 NJ Super 519 (1973)	Actions seeking to determine whether or not referendum procedures applied to amendments of zoning ordinances.
Lawrence <i>et al.</i> v Butcher <i>et al.</i> , 130 NJ Super 209 (1974)	Action to compel township clerk to file a petition and place referendum question on general election ballot.
Lawrence v Schrof, 162 NJ Super 375 (1978)	Action to compel city clerk to accept referendum petition.
State v East Shores Incorporated, 164 NJ Super 530 (1979)	Appeal from order of Superior Court to require township to provide adequate, potable water supply.
All People's Congress of Jersey v Jersey City, 195 NJ Super 532 (1984)	Action challenging a rent control ordinance.

40:69A-186.

Petition papers; affidavits.

All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circular thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition paper the names and addresses of five voters, designated as the Committee of the Petitioners, who shall be regarded as responsible for the circulation and filing of the petition and for its possible withdrawal as hereinafter provided. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence and that he believes them to be the genuine signatures of the persons whose names they purport to be.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Pappas v Malone, 36 NJ 1 (1961)	An action challenging city clerk's rejection of petition for reversion to prior form of government.
Lindquist <i>et al.</i> v Lee, 34 NJ Super 576 (1955)	Action to set aside declaration that certain petitions were insufficient and, therefore, a referendum election should be held.
McCrink <i>et al.</i> v Township of West Orange, 85 NJ Super 86 (1964)	Action to invalidate initiative ordinance.
Meridian Development Company v Township of Edison, 91 NJ Super 310 (1966)	Action involving question whether or not voters may amend zoning ordinance by initiative and referendum.
Stop the Pay Hikes v Town Council of Irvington, 166 NJ Super 197 (1979)	Action to compel town clerk to file a petition and place on ballot a referendum concerning a portion of a salary ordinance.
Hamilton Township Taxpayers' Association v Warwick <i>et al.</i> , 180 NJ Super 243 (1981)	Action regarding validity of referendum petition.

40:69A-187.

Filing of petition papers; examination; certification of result.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the municipal clerk as one instrument. Within twenty days after a petition is filed, the municipal clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified voters. After completing his examination of the petition, the municipal clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify at least two members of the Committee of the Petitioners of his findings.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Pappas v Malone, 36 NJ 1 (1961)	An action challenging city clerk's rejection of petition for reversion to prior form of government.
Lindquist <i>et al.</i> v Lee, 34 NJ Super 576 (1955)	Action to set aside declaration that certain petitions were insufficient and, therefore, a referendum election should be held.
Meridian Development Company v Township of Edison, 91 NJ Super 310 (1966)	Action involving question whether or not voters may amend zoning ordinance by initiative and referendum.
D'Ascensio v Benjamin, 142 NJ Super 52 (1976)	Action concerning a petition seeking a public referendum on the question of an ordinance establishing a citizen complaint review board in the City of Newark.

40:69A-188.

Amendment of initiative or referendum petition.

An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been served by the municipal clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The municipal clerk shall, within five days after such an amendment is filed, examine the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the Committee of the Petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Pappas v Malone, 36 NJ 1 (1961)	An action challenging city clerk's rejection of petition for reversion to prior form of government.
Lindquist <i>et al.</i> v Lee, 34 NJ Super 576 (1955)	Action to set aside declaration that certain petitions were insufficient and, therefore, a referendum election should be held.
Meridian Development Company v Township of Edison, 91 NJ Super 310 (1966)	Action involving question whether or not voters may amend zoning ordinance by initiative and referendum.
Lawrence v Schrof, 162 NJ Super 375 (1978)	Action to compel city clerk to accept referendum petition.
Stop the Pay Hikes v Town Council of Irvington, 166 NJ Super 197 (1979)	Action to compel town clerk to file a petition and place on ballot a referendum concerning a portion of a salary ordinance.
Marotta v Leone, 172 NJ Super 62 (1979)	Action to compel city clerk to examine petition protesting against a bond ordinance.

40:69A-189.

Suspension of ordinance.

Upon the filing of a referendum petition with the municipal clerk, the ordinance shall be suspended until ten days following a finding by the municipal clerk that the petition is insufficient or, if an amended petition be filed, until five days thereafter or, if the petition or amended petition be found to be sufficient, until it be withdrawn by the Committee of the Petitioners or until repeal of the ordinance by vote of the council or approval or disapproval of the ordinance by the voters.

40:69A-190.

Submission to municipal council.

Upon a finding by the municipal clerk that any petition or amended petition filed with him in accordance with this act is sufficient, the clerk shall submit the same to the municipal council without delay. An initiative ordinance so submitted shall be deemed to have had first reading and provision shall be made for a public hearing.

40:69A-191.

Submission of ordinance to voters; withdrawal of petition.

If within 20 days of the submission of a certified petition by the municipal clerk the council shall fail to pass an ordinance requested by an initiative petition in substantially the form requested or to repeal an ordinance as requested by a referendum petition, the municipal clerk shall submit the ordinance to the voters unless, within 10 days after final adverse action by the council or after the expiration of the time allowed for such action, as the case may be, a paper signed by at least four of the five members of the Committee of the Petitioners shall be filed with the municipal clerk requesting that the petition be withdrawn. Upon the filing of such a request, the original petition shall cease to have any force or effect.

Last Amended by P.L. 1982, c. 145, §3.

40:69A-192.

Referendum election.

Any ordinance to be voted on by the voters in accordance with section 17-36 or section 17-42 of this act (C. 40:69A-185 or C. 40:69A-191) shall be submitted at the next general or regular municipal election occurring not less than 40 days after the final date for withdrawal of the petition as provided for in section 17-42 of this act (C. 40:69A-191), provided that if no such election is to be held within 90 days the council shall provide for a special election to be held not less than 40 nor more than 60 days from the final date for withdrawal of the petition as provided for in section 17-42 (C. 40:69A-191) of this act.

In the case of an initiated petition signed by not less than 10% nor more than 15% of the legal voters, the ordinance shall be submitted at the next general or regular municipal election occurring not less than 40 days after the final date for withdrawal of the petition as provided for in section 17-42 (C. 40:69A-191) of this act. In any instance where a referendum election is to be held as a result of an ordinance of the council which by its terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorized a referendum in the municipality concerning the subject matter thereof, the time for submission of the question to the voters shall be calculated for the purposes of this section and section 17-44 of P.L. 1950, c. 210 (C. 40:69A-193) from the date of final passage and approval of the ordinance.

Last Amended by P.L. 1982, c. 145, §4.

<p>Governor's Reconsideration and Recommendation Statement</p>
<p>To the Senate:</p> <p>Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Senate Bill No. 763 (2nd OCR) with my objections for reconsideration.</p> <p>This bill amends the initiative and referendum provisions of the Optional Municipal Charter Law ("Faulkner Act") and the commission form</p>

of government (the "Walsh Act") in order to provide a greater uniformity and efficiency in these procedures. While I have no problem with any of the substantive amendments made to the law by the bill, one technical problem has been called to my attention which I recommend be corrected.

In section 4 of the bill dealing with the timetables for submitting questions to the voters in Faulkner Act municipalities the time periods are computed from "the final date for withdrawal of the petition". This language is not relevant in instances where an ordinance adopted by the governing body requires an issue to be submitted to the voters. See section 17 of P.L. 1981, c. 379 and section 7 of P.L. 1981, c. 465. For this reason, I suggest that the bill be amended to provide that where the proposition is initiated by ordinance rather than by petition that the time periods be calculated from the date of final passage and approval of the ordinance.

Accordingly, I recommend the following amendment for concurrence by the Legislature:

* * * * *

Respectfully,
/s/ Thomas H. Kean
GOVERNOR

40:69A-193.

Number of proposed ordinances voted upon; time between special elections.

Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this article [sections 40:69A-150 to 40:69A-210], but there shall not be more than one special election in any period of six months for such purpose.

During that six-month period, any ordinance, which would otherwise be submitted to the voters at a special election if one were not already scheduled, shall be submitted at the scheduled special election if at least 30 days shall remain prior thereto from the final date for withdrawal of the petition; otherwise, the ordinance shall be submitted at the next general election or regular municipal election, whichever shall first occur.

Last Amended by P.L. 1982, c. 145, §5.

40:69A-194.

Publication of ordinance.

Whenever an ordinance is to be submitted to the voters of the municipality at any election in accordance with this article [sections 40:69A-150 to 40:69A-210], the clerk shall cause the ordinance to be published in at least two of the newspapers published or circulated in the municipality. The publication shall be not more than twenty nor less than five days before the submission of the ordinance or proposition to be voted on.

40:69A-195.

Ballots.

The ballots to be used at such election shall be in substantially the following form:

“To vote upon the public question printed below, if in favor thereof mark a cross (X) or plus (+) or check (✓) in the square at the left of the word Yes, and if opposed thereto mark a cross (X) or plus (+) or a check (✓) in the square to the left of the word No.”

	Yes	“Shall the ordinance (indicate whether submitted by council or initiative or referendum petition) providing for (here state nature of proposed ordinance or proposition) be adopted?”
	No	

40:69A-196.

Results of election; conflicting measures.

If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the municipality and be published as in the case of other ordinances. No such ordinance shall be amended or repealed within three years immediately following the date of its adoption by the voters, except by a vote of the people. The council may, within three years immediately following the date of adoption of the ordinance, submit a proposition for the repeal or amendment of that ordinance to the voters at any succeeding general election or regular municipal election. If the proposition submitted shall receive a majority of the votes cast at that election, the ordinance shall be repealed or amended accordingly. If the provisions of two or more measures approved or adopted at the same election conflict then the measure, receiving the greatest affirmative vote shall control.

Last Amended by P.L. 1982, c. 145, §6.

G. WARDS

40:69A-197 to 40:69A-204. Repealed by P.L. 1980, c. 496, §18

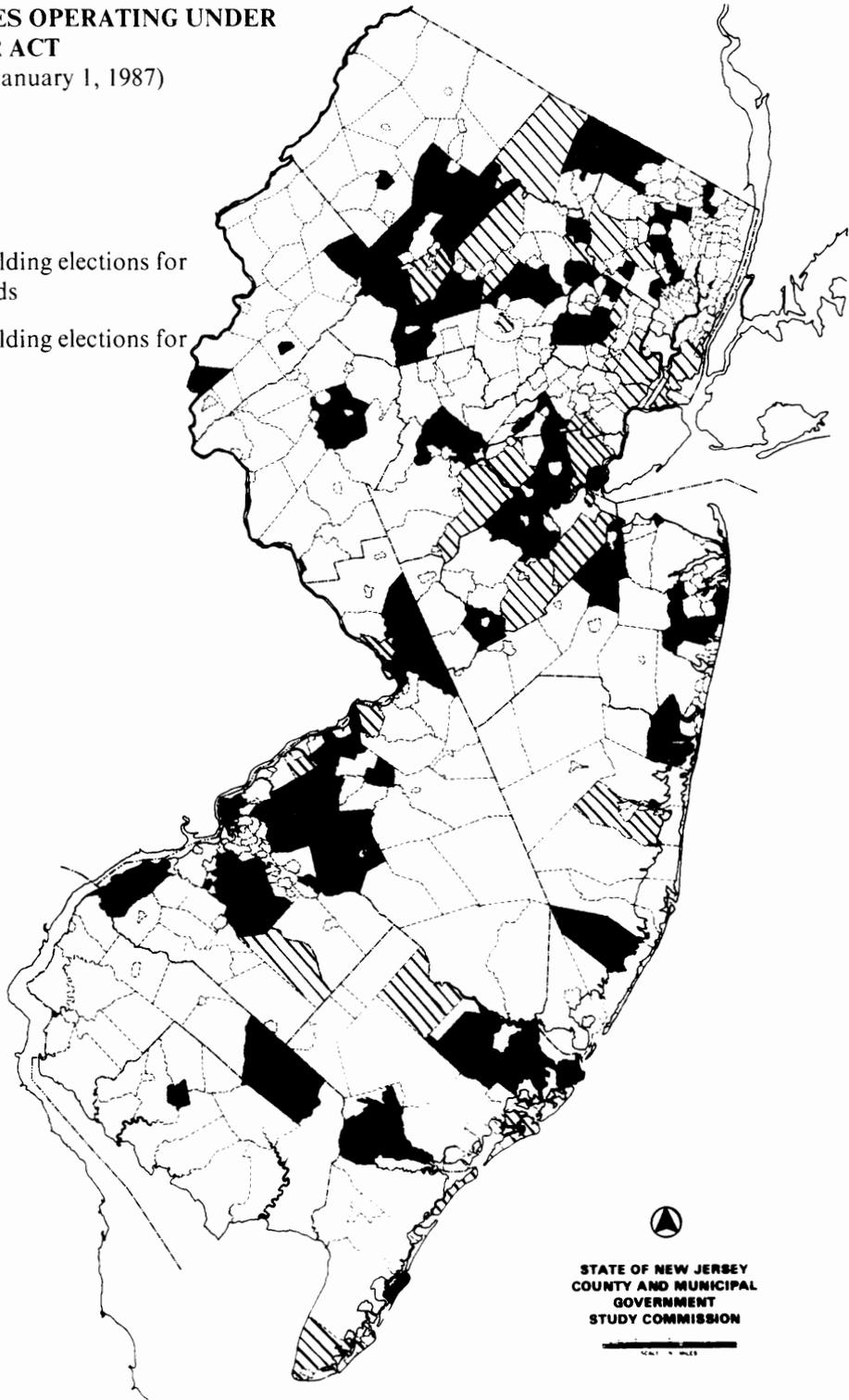
The following shows the allocation of the subject matter of the repealed sections in the Municipal Ward Law:	
Repealed Section	New Section
40:69A-197	40:44-11
40:69A-198	40:44-11
40:69A-199	40:44-13
40:69A-199.1	40:44-12
40:69A-199.2	40:44-12
40:69A-200	40:44-14
40:69A-201	40:44-15
40:69A-202	40:44-16
40:69A-203	40:44-13
40:69A-204	40:44-17

WARD AND AT LARGE ELECTIONS IN MUNICIPALITIES OPERATING UNDER THE FAULKNER ACT

(As of January 1, 1987)

Key:

-  Municipalities holding elections for council from wards
-  Municipalities holding elections for council at large



COUNTY KEY MAP


**STATE OF NEW JERSEY
 COUNTY AND MUNICIPAL
 GOVERNMENT
 STUDY COMMISSION**
SCALE: 1 INCH = 100 MILES

H. SUCCESSION IN GOVERNMENT

40:69A-205.

Schedule of installation of optional plan adopted.

The schedule of installation of an optional plan adopted pursuant to this act shall, as provided herein, take the following course:

(a) An election to submit the question of adoption of an optional plan may be held at any time in accordance with the provisions of article 1 [sections 40:69A-1 to 40:69A-25] of this act;

(b) In the event of a favorable vote of the voters at the above election, the first election of officers under the adopted plan shall take place on (1) the second Tuesday in May occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections at which all members of the council are to be elected at large; (2) the second Tuesday in May occurring not less than 120 days following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections and for the division of the municipality into wards; (3) at the next general election occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections at which all members of the council are to be elected at large; or (4) at the next general election occurring not less than 120 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections and for the division of the municipality into wards.

Whenever a municipality has adopted a charter referred to in subsection (3) above, within 10 days, or subsection (4), within 40 days, prior to the last day fixed for the filing of nominating petitions for the primary election, the candidates to be first elected shall be nominated in the manner provided by chapter 27 of Title 19 of the Revised Statutes with respect to the filling of certain vacancies in nominations for county or municipal officers to be filled at the general election.

(c) An optional plan shall take effect, in accordance with the further provisions of this article at (1) 12 o'clock noon on July 1 next following the first election of officers in municipalities adopting a charter providing for the holding of regular municipal elections, or (2) 12 o'clock noon on January 1 next following the first election of officers in municipalities adopting a charter providing for the holding of general elections.

Last Amended by P.L. 1981, c. 465, §37.

40:69A-206.

Charters, amendments and supplements superseded; existing ordinances and resolutions remain in force where not inconsistent.

Upon the effective date of an optional charter adopted pursuant to this act [sections 40:69A-1 to 40:69A-210], any other charter and its amendments and supplements theretofore applicable to the municipality shall be superseded with respect to such municipality. All ordinances and resolutions of the municipality to the extent that they are not inconsistent with the provisions of this act shall remain in full force and effect until modified or repealed as provided by law.

TABLE 6
Municipalities Operating Under the Municipal Charter Law
Which Have Adopted At Large and Ward Elections in Their Charters
(As of January 1, 1987)

Name	County
Atlantic City	Atlantic
Mullica	Atlantic
Delran	Burlington
Florence	Burlington
Lower Township	Cape May
Ocean City	Cape May
Wildwood	Cape May
Irvington	Essex
Montclair	Essex
Newark	Essex
Orange	Essex
Monroe	Gloucester
Bayonne	Hudson
Hoboken	Hudson
Jersey City	Hudson
Weehawken	Hudson
Trenton	Mercer
Monroe	Middlesex
Old Bridge	Middlesex
Piscataway	Middlesex
South Amboy	Middlesex
Woodbridge	Middlesex
Denville	Morris
Lincoln Park	Morris
Morristown	Morris
Rockaway Township	Morris
Roxbury	Morris
Berkeley Township	Ocean
Paterson	Passaic
Wayne	Passaic
West Milford	Passaic
Franklin Township	Somerset
Clark	Union
Elizabeth	Union
Rahway	Union

Source: Rutgers, State University of New Jersey, *New Jersey Legislative District Data Book*, 1987.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Chirichella v Department of Civil Service, 31 NJ Super 404 (1954)	An action challenging the validity of discharging from employment the secretary to the director of the department of public affairs of the municipality.

40:69A-207.

Existing offices abolished on effective date of optional plan; exceptions.

At 12 o'clock noon on the effective date of an optional plan adopted pursuant to this act [sections 40:69A-1 to 40:69A-210], all offices then existing in such municipality shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; provided, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of the board of education, board of fire commissioners of a township fire district, trustees of the free public library, commissioners of a local housing authority, members of a municipal shade tree commission, board of managers of a municipal hospital, municipal magistrates or of any official or employee now protected by any tenure of office law or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by a tenure of office law. If the municipality is operating under the provisions of Title 11 of the Revised Statutes (Civil Service) at the time of the adoption of an optional plan under this act, nothing herein contained shall affect the tenure of office of any person holding any position or office coming within the provisions of said Title 11 as it applies to said officers and employees. If the municipal clerk has, prior to the effective date of the optional plan, acquired a protected tenure of office pursuant to law, he shall become the first municipal clerk under the optional plan.

Provision for officers and for the organization and administration of the municipal government under the optional plan may be made by resolution pending the adopting of ordinances, but any such resolution shall expire not later than 30 days after the effective date of the optional plan.

Last Amended by P.L. 1977, c. 392, §9.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Myers v Township of Cedar Grove, 36 NJ 51 (1961)	An action attacking ordinance affecting plumbing inspectors compensation involving the question whether a Faulkner Act municipality must maintain a separate and independent Board of Health.
Broadway National Bank <i>et al.</i> v Parking Authority of Bayonne, 40 NJ 227 (1963)	An action to adjudicate which individuals constituted the commissioners of the city parking authority.
Jordan v Zidel <i>et al.</i> , 40 NJ 244 (1963)	Municipal utilities authority office holder's action to contest the appointment of another individual by the new council to his former office.
Parking Authority of Trenton v City of Trenton, 40 NJ 251 (1963)	An action to adjudge whether or not the parking authority offices were abolished by a change in form of government and, thereby, the terms of office terminated.

Loboda <i>et al.</i> v Township of Clark, 40 NJ 424 (1963)	An action challenging the right of municipal employees and officers to retain their offices and employment after change in form of government.
Chirichella v Department of Civil Service, 31 NJ Super 404 (1954)	An action challenging the validity of discharging from employment the secretary to the director of the department of public affairs of the municipality.
City of Newark v Department of Civil Service, 68 NJ Super 416 (1961)	Proceeding to review determination of Civil Service Commission relating to suspension and removal of a city electrical inspector who had been convicted of income tax evasion.
Downey <i>et al.</i> v Board of Education of Jersey City, 74 NJ Super 548 (1962)	Action to oust members of board of education.
Bierne v Gangemi, 74 NJ Super 557 (1962)	Action to decide whether or not plaintiff had a right to the office of city collector.
Dobbs v Pierce <i>et al.</i> , 76 NJ Super 64 (1962)	Action to establish right of the former commissioner of the city board of assessments to the position of city assessor upon change in form of government.
Town of Irvington v Huhn, 81 NJ Super 489 (1963)	Appeal from a determination by the Civil Service Commission setting aside municipal removal of employee from position.
McCartney v Franco, 87 NJ Super 292 (1965)	An action to challenge abolition of office of city tax assessor.
Bottone v Township of Madison, 92 NJ Super 564 (1966)	Action challenging employment of individual as member of the municipal utilities authority.
Baumann v Council of West Paterson 93 NJ Super 564 (1967)	Action by mayor to invalidate council appointments.

40:69A-207.1.

Local industrial commission; continuance or re-establishment.

The governing body of any municipality governed by a form of government authorized by the "Optional Municipal Charter Law" may by ordinance provide for the continuance or re-establishment, as the case may be, of any local industrial commission which was established in said municipality pursuant to P.L. 1962, c. 96 (C. 40:106-1(123) to 40:106-1(132)) and which commission was performing its functions, powers and duties under said law immediately prior to the adoption by the municipality of its form of government under the Optional Municipal Charter Law. *P.L. 1972, c. 170, §1.* (Supplement to P.L. 1950, c. 210.)

40:69A-208.

Appointments between election and time of taking office under optional plan; pending actions and proceedings.

(a) No subordinate board, department, body, office, position or employment shall be created and no appointments shall be made to any subordinate board, department or body, or to any office, employment or position, including without limitation patrolmen and firemen, between the date of election of officers and the date the newly elected officers take office under any optional plan.

(b) All actions and proceedings of a legislative, executive or judicial character which are pending upon the effective date of an optional plan adopted pursuant to this act [sections 40:69A-1 to 40:69A-210] may continue, and the appropriate officer or employee under such optional plan shall be substituted for the officer or employee

theretofore exercising or discharging the function, power or duty involved in such action or proceeding.

Last Amended by P.L. 1954, c. 69, §7.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON
THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Downey <i>et al.</i> v Board of Education of Jersey City, 74 NJ Super 548 (1962)	Action to oust members of board of education.
Georgia v Suruda, 154 NJ Super 439 (1977)	Action seeking declaration that plaintiffs were lawful members of school board and that defendants should be ousted.

40:69A-208.1.

Continuance of charter adopted prior to Jan. 9, 1982 of municipality with Mayor-Council plan.

Any municipality having adopted, prior to the effective date [January 9, 1982] of this amendatory and supplementary act, a charter encompassing a mayor-council plan of government heretofore authorized pursuant to P.L. 1950, c. 210 shall continue to be governed, after the effective date of this act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of that act (C. 40:69A-1 through 40:69A-25), or amended pursuant to section 7 [section 40:69A-25.1] of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to, P.L. 1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

P.L. 1981, c. 465, §20. (Supplement to P.L. 1950, c. 210.)

40:69A-208.2.

Continuance of charter adopted prior to Jan. 9, 1982 of municipality with Council-Manager plan.

Any municipality having adopted, prior to the effective date [January 9, 1982] of this amendatory and supplementary act, a charter encompassing a council-manager plan of government heretofore authorized pursuant to P.L. 1950, c. 210 shall continue to be governed, after the effective date of this act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of that act (C. 40:69A-1 through 40:69A-25), or amended pursuant to section 7 [section 40:69A-25.1] of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to, P.L. 1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

P.L. 1981, c. 465, §28. (Supplement to P.L. 1950, c. 210.)

40:69A-208.3.

Continuance of charter adopted prior to Jan. 9, 1982 of municipality with Small Municipality plan.

Any municipality having adopted, prior to the effective date [January 9, 1982] of this amendatory and supplementary act, a charter encompassing a small municipality plan of government heretofore authorized pursuant to P.L. 1950, c. 210 shall continue to be governed, after the effective date of this amendatory and supplementary act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of P.L. 1950, c. 210 (C. 40:69A-1 through 40:69A-25), or amended pursuant to section 7 [section 40:69A-25.1] of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to, P.L. 1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

P.L. 1981, c. 465, §35. (Supplement to P.L. 1950, c. 210.)

I. GENERAL PROVISIONS

40:69A-209.

Partial invalidity.

If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgement shall have rendered.

LIST OF CASES IN WHICH A JUDICIAL CONSTRUCTION HAS BEEN PLACED UPON THE ABOVE SECTION OF THE LAW

Cite	General Subject Matter of Case
Ingling v Sylvester, 56 NJ Super 424 (1959)	Action seeking to invalidate suspension of official by township director of public safety.

40:69A-210.

Short title.

This act shall be known as the Optional Municipal Charter Law.

APPENDIX A

(NONPARTISAN ELECTIONS LAW)

CHAPTER 379, LAWS OF 1981

As Amended and Supplemented to

January 13, 1987

An Act providing for a uniform method of holding nonpartisan elections, supplementing Title 40 of the Revised Statutes and revising and repealing parts of the statutory law pertaining thereto.

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

40:45-5.

Short title.

This act shall be known and may be cited as the "Uniform Nonpartisan Elections Law".

40:45-6.

Application of act.

This act shall govern all municipalities having adopted a plan or form of government, or a charter, which provides for the election of municipal officers at regular municipal elections held on the second Tuesday in May, including municipalities holding regular municipal under the "Optional Municipal Charter Law", P.L. 1950, c. 210 (C. 40:69A-1 *et seq.*), under the "commission form of government law" (R.S. 40:70-1 *et seq.*), under the "municipal manager form of government law" (R.S. 40:79-1 *et seq.*), or under the village form of government (R.S. 40:157-16 *et seq.*), or under any plan or form of government, or charter, hereafter authorized which provides for the holding of regular municipal elections at that time. This act shall govern these municipalities only with respect to the time, manner and method of election of municipal officers. The officers to be elected, and their number, the length of their terms of office, and their powers and responsibilities shall be determined by the laws authorizing the plan or form of government, or charter, which the municipalities have adopted.

40:45-7.

Regular municipal elections; date; place; conduct; election officers.

Except as may otherwise be provided by law for initial elections conducted in a municipality following its adoption of a plan or form of government, or a charter or an amendment thereto, regular municipal elections shall be held in each municipality governed by this act on the second Tuesday in May in the years in which municipal officers are to be elected. The municipal election shall be held at the same place or places and conducted in the same manner, so far as possible, as the general election. The election officers shall be those provided for conducting the general election.

40:45-8.

Names of candidates; filing; manner; form and conditions.

On or before the 54th day prior to a regular municipal election, the names of candidates for all elected offices shall be filed with the municipal clerk, in the following manner and form and subject to the following conditions:

a. The petition of nomination shall consist of individual certificates, equal in number to a least 1%, but in no event less than 25, of the registered voters of the municipality or the ward, as the case may be, and shall read substantially as follows:

“I, the undersigned, a registered voter of the municipality of , residing at , certify that I do hereby join in a petition of the nomination of whose residence is at for the office of mayor (or councilman-at-large, or ward councilman of the ward or commissioner, or village trustee, as the case may be) to be voted for at the election to be held in the municipality on the 19....., and I further certify that I know this candidate to be a registered voter, for the period required by law, of the municipality (and the ward, in the case of ward councilman) and a person of good moral character, and qualified, in my judgment, to perform the duties of the office, and I further certify that I have not signed more petitions or certificates of nominations than there are places to be filled for the above office.

Signed ”

Any such petition of nomination which is provided to candidates by the municipal clerk shall contain the following notice: “Notice: All candidates are required by law to comply with the provisions of the ‘New Jersey Campaign Contributions and Expenditures Reporting Act’. For further information, please call (insert phone number of the Election Law Enforcement Commission)”.

b. Each petition signature shall be on a separate sheet of paper and shall bear the name and address of the petitioner. The candidate for office and his campaign manager shall make an oath before an officer competent to administer oaths that the statements made therein are true, and that each signature to the papers appended thereto is the genuine signature of the person whose name it purports to be, to their best knowledge and belief. The oath, signed by the candidate, shall constitute his acceptance of nomination and shall be annexed to the petition, together with the oath of his campaign manager, at the time the petition is submitted.

Last Amended by P.L. 1985, c. 92, §34.

40:45-9.

Individual certificates of nomination; signatures; filing; notice of defect; amendment.

a. The municipal clerk shall furnish, upon request, a reasonable number of forms of individual certificates of nomination.

b. Each certificate shall contain the name of one candidate, and no more. Each signer must not, at the time of signing the certificate, have signed more certificates for candidates for that office than there are places to be filled for the office. Where ward councilmen are to be elected, no petitioner shall sign more than one certificate for ward council, and the candidate named in the petition shall reside in the same ward as the signer. All certificates not complying substantially with this act [sections 40:45-5 to 40:45-21] shall be rejected.

c. When a petition of nomination is presented for filing to municipal clerk, he shall examine it and ascertain whether or not it conforms to the provisions of this act and, where applicable, the provisions of the general election laws. If it does not conform, he shall retain the petition and notify the person nominated of the defect, by written notice delivered to him personally or by certified mail to his place of residence stated in the petition.

d. Where the nominating petition, or any affidavit or affidavits thereto is found defective, the candidate named therein may file such amendment or amendments as may be necessary to eliminate the defect, whether of matters of substance or form, and when so amended the effect shall be as if the petition had been originally filed in the amended form. After the last day for the filing of the original petition, no amendment may be made for the purpose of adding the name of any person who did not sign the original petition, nor shall any amendment be made at any time for the purpose of changing the name of the candidate or the office for which he was to be nominated. No amendment to a nominating petition shall be made and filed less than 48 days before the election.

Last Amended by P.L. 1985, c. 92, §35.

40:45-10.

Designation of candidate on ballot.

Any candidate whose name is to be printed on the ballot may petition the municipal clerk to print, opposite his name on the ballot, such designation, in not more than six words, as requested by him in the petition, for the purpose of indicating either an official act or policy to which he is pledged or committed. The designation shall not indicate political party affiliations. On the filing of the petition the clerk shall cause the designation to be printed opposite the name of the candidate upon the ballot. If several candidates for the same office shall petition that their names be grouped together and that the one designation named by them shall be printed opposite their names, the clerk shall group their names in a bracket, and opposite the bracket shall print the designation. Petitions requesting a designation or grouping of candidates shall be filed with the clerk on or before the last day fixed for filing the petition for nomination. If two candidates or groups select the same designation, the clerk shall notify the candidate or group which petition was last filed, and the candidate or group shall select a new designation.

40:45-11.

Nomination for one office only.

No person shall accept nomination for more than one municipal office to be voted for at a regular municipal election to be held under this act.

40:45-12.

Order of names of candidates on ballot; drawing lots.

The municipal clerk shall draw lots to determine the order in which the names of the candidates or groups of candidates first drawn shall occupy first place on the ballot, or voting machine, and the name of the person or group of candidates next drawn shall occupy second place, and so forth. For the purpose of conducting the drawing by lot paper cards with the name of each candidate or group of candidates written thereon shall be placed in a covered box with an aperture in the top large enough to allow the cards to be withdrawn. The municipal clerk in the presence of any candidate shall draw from the box each card without knowledge on his part as to which card he is drawing. The municipal clerk shall at least 2 days prior to the drawing notify each candidate by registered mail of the time and place of the drawing. The candidate or his representative shall have the right to examine the cards prior to their being placed in the covered box.

40:45-13.

Publication of names of candidates.

Within 10 days after the expiration of the time for filing certificates, statements and petitions for candidates, and the drawing for position, the municipal clerk shall cause the names of the candidates as they are to appear upon the ballots to be published in proper form once in each of two newspapers having circulation in the municipality and published in this State.

40:45-14.

Persons with same name of identification on ballot.

When persons bearing the same name are nominated for the same office, either person may file with the municipal clerk a statement in writing containing not more than six words as a means of identification. The statement or designation shall be printed upon the official ballot to be used at the election.

40:45-15.

Ballots; printing and authentication; contents; delivery.

The municipal clerk shall cause the ballots to be printed and authenticated by his signature. Upon the ballots shall be printed the title of each office to be filled. Under each of the titles of office shall be printed the names of the candidates for each office with a square to the left of each name. Below the names of the candidates for each office the words "vote for (insert number of positions to be filled at the election)". The ballot shall be printed upon plain, substantial white paper, and shall be substantially in the following form:

"Municipal election of (insert name of municipality), county of (insert name of county), held (insert the date of the election). To vote for any person make a cross (X) or plus (+) or a check (✓) mark in the square preceding the name. Vote for only

as many persons as there are officers to be elected. If you wrongly mark the ballot, tear or deface it, return it to election officer and obtain a new ballot.”

Blank spaces equal to the number of offices to be filled shall be left below the printed names of the candidates for each office to be voted, wherein the voter may write the name or names of any person or persons for whom he may wish to vote.

The municipal clerk shall deliver ballots to the election officials at each polling place equal in number to 110% of the number of registered voters in each election district, except that where voting machines are used ballots shall be furnished as otherwise provided by law.

40:45-16.

Count of ballots; statement of returns; canvass.

The district boards of registry and election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in the election district for each of the candidates in the manner provided by law for the general election, and return the numbers to the municipal clerk immediately upon the completion of the count, upon proper blanks to be furnished by the clerk. In counties having a superintendent of elections one of the returns shall be made available immediately to the superintendent of elections. The superintendent may arrange to accept the statement of returns in each municipality within the county at the office of the clerk of the municipality or some other convenient place. On the day following the municipal election, the municipal clerk shall canvass all returns received from the election districts and the absentee ballots, and immediately make and file in his office the result thereof. The canvass by the municipal clerk shall be publicly made.

40:45-17.

Number of votes for election; commencement of term of office.

At the regular municipal election in any municipality which has adopted this act, the candidates receiving the greatest number of votes cast shall be elected to the respective offices. Except as otherwise provided by law, the term of office of any officer elected pursuant to this act shall begin on July 1 next following election.

Last Amended by P.L. 1983, c. 183, §3.

40:45-18.

Municipalities with run-off elections; election of councilmen-at-large, commissioners or village trustees with less than majority of votes.

Notwithstanding the provision of section 13 of this act [section 40:45-17], if the voters of any municipality shall adopt the proposition of holding run-off elections in the municipality, at the regular municipal election held in that municipality the candidates receiving the greatest number and a majority of votes cast shall be elected to the respective offices, except that if:

a. Nine councilmen-at-large (or commissioners, or village trustees) are to be elected and four or more candidates for that office receive a majority of the votes cast, the nine candidates receiving the greatest number of votes shall be elected; or

b. Eight councilmen-at-large (or commissioners, or village trustees) are to be elected and four or more candidates for that office receive a majority of the votes cast, the eight candidates receiving the greatest number of votes shall be elected; or

c. Seven councilmen-at-large (or commissioners, or village trustees) are to be elected and three or more candidates for that office receive a majority of the votes cast, the seven candidates receiving the greatest number of votes shall be elected; or

d. Six councilmen-at-large (or commissioners, or village trustees) are to be elected and three or more candidates for that office receive a majority of the votes cast, the six candidates receiving the greatest number of votes shall be elected; or

e. Five councilmen-at-large (or commissioners, or village trustees) are to be elected and two or more candidates for that office receive a majority of the votes cast, the five candidates receiving the greatest number of votes shall be elected; or

f. Four councilmen-at-large (or commissioners, or village trustees) are to be elected and two or more candidates for that office receive a majority of the votes cast, the four candidates receiving the greatest number of votes shall be elected; or

g. Three councilmen-at-large (or commissioners, or village trustees) are to be elected and one or more candidates for that office receive a majority of the votes cast, the three candidates receiving the greatest number of votes shall be elected; or

h. Two councilmen-at-large (or commissioners, or village trustees) are to be elected and one or more candidates for that office receive a majority of the votes cast, the two candidates receiving the greatest number of votes shall be elected.

For the purpose of this section, the number constituting a majority of the votes cast shall be computed by dividing by two the number of voters who cast a vote for at least one candidate for councilman-at-large (or commissioner, or village trustee) and then adding one. Voting machines to be used in the election shall be equipped, as soon as practicable, with one or more counters so connected as to keep a tally of the number of voters who cast votes for one or more of the candidates for councilman-at-large (or commissioner, or village trustee). Until suitable counters have been provided, or whenever the tally of the number of voters cannot be determined for any reason, then the number constituting the majority of the votes cast shall be computed by adding all the votes cast for each candidate for that office, dividing that total by twice the number of councilmen-at-large (or commissioners, or village trustees) to be elected and then adding one.

40:45-19.

Run-off election; date; candidates; military service ballots; votes necessary for election; tie votes.

In any regular municipal election held under section 14 of this act [section 40:45-18], if a sufficient number of candidates do not receive a majority of the votes cast to elect the required number of councilmen-at-large (or commissioners, or village trustees) or no candidate for mayor or no candidate for ward councilman receives a majority of the votes cast for his respective office, a run-off election in the municipality or ward, as the case may be, shall be held on the fourth Tuesday next following that municipal election; unless in any year that Tuesday shall be the date upon which a primary election shall be held, in which case the run-off election shall be held on the fifth Tuesday next following the municipal election.

At the run-off election, the candidates for councilman-at-large (or commissioner, or village trustee) shall be those candidates not elected at the regular municipal election who received the greatest number of votes at that election, but the candidates shall be equal in number to twice the number of councilmen-at-large (or commissioners, or village trustees) remaining to be elected. The candidates for mayor or ward coun-

cilmen at the run-off election shall be the two candidates for the office who received the greatest number of votes at the regular municipal election. Military services ballots shall be printed and distributed for the run-off election in the same manner, as far as possible, as for other municipal elections.

The candidate or candidates who receive the greatest number of votes at the run-off election shall be elected to the office or offices to be filled. If two or more candidates shall be equal and greatest in votes for any of the purposes of this section, they shall draw lots to determine which one shall enter the run-off election, or be elected, as the case may be.

If any candidate to be voted for at the run-off election dies 7 or more days prior to the run-off election, the candidate for the office not theretofore included in the run-off election but next highest in number of votes for that purpose, shall be substituted at the run-off election in the place of the deceased candidate and his name shall be substituted on the ballots for that of the deceased candidate.

Last Amended by P.L. 1982, c. 13, §1.

**Senate County and Municipal
Government Committee Statement
Senate, No. 8940—P.L. 1982, c. 13**

Senate Bill No. 894 corrects an error in P.L. 1981, c. 379, the “Uniform Nonpartisan Election Law”, concerning the time upon which run-off elections are to be held under that act. The date provided by the current statute (the fourth Tuesday after the municipal election) would coincide with the date of the primary election in years when a November general election is to be held. It would be inappropriate and administratively unfeasible for a non partisan run-off election to be held at the same time as a partisan primary election. This bill provides that whenever the fourth Tuesday after the municipal election is the primary election date, the run-off election shall be held on the fifth Tuesday.

Run-off elections are optional to municipalities governed by the “Uniform Nonpartisan Elections Law”. This bill does not affect that.

40:45-20.

Continuation of provisions for run-off elections.

Any municipality in which, immediately prior to the effective date of this act [January 1, 1982], run-off elections were required to be held pursuant to the plan or form of government, or charter, of the municipality, shall, on and after the effective date of this act, be governed by the provisions of sections 14 and 15 of this act [sections 40:45-18 and 40:45-19] for so long as it continues to be governed by that plan or form of government, or that charter, except as provided in section 17 of this act [section 40:45-21].

40:45-21.

Run-off elections; adoption or abandonment of provisions; submission by ordinance or petition to voters; vote necessary.

a. Any municipality governed by the provisions of this act, [sections 40:45-5 to 40:45-21] but not by the provisions of sections 14 and 15 of this act [sections 40:45-18 and 40:45-19], may, by referendum, adopt the provisions of those sections. Any municipality governed by the provisions of this act and by the provision of sections 14 and 15 may, by referendum, abandon the provisions of those sections and continue to be governed by the provisions of this act. The question of adopting, or of abandoning, those provisions may be submitted to the voters either by ordinance of the governing body or by petition of the registered voters. Any ordinance adopted, or each petition paper submitted for the purpose shall state the proposition that run-off elections be held in the municipality; or, in the case of abandonment, that run-off elections not be held in the municipality.

b. Upon adoption by the governing body of an ordinance conforming with the provisions of this section, the municipal clerk shall provide for the submission of the question at the next general election or regular municipal election occurring in the municipality not less than 60 days after the date of the adoption of the ordinance.

c. Any petition submitted by the registered voters pursuant to this section shall be signed by the registered voters of the municipality in a number at least equal to 10% of the total votes cast in the municipality at the last preceding general election at which members of the General Assembly were elected. The petition shall be filed with the clerk of the municipality who shall, upon filing, ascertain and certify the number and validity of the signatures affixed thereto. If the petition is determined to be insufficient, the person designated in the petition for the purpose shall have 10 days from the notification of insufficiency to file a supplementary petition designed to rectify the insufficiency, which shall be in the same form and shall be filed in the same manner as the original petition. If no supplementary petition is filed within 10 days after notification, or if the clerk shall examine the supplementary petition and determine that an insufficiency still exists, the clerk shall file a certificate of insufficiency in his office and notify the designated person of the insufficiency. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose.

If the petition is determined to be sufficient, the clerk shall so certify, shall transmit a certified copy to the governing body of the municipality, and shall provide for the submission of the question at the next general election or regular municipal election occurring in the municipality not less than 60 days after the date of certification.

d. At the election, the question shall be submitted in the appropriate form as follows:

(1) If the ordinance or petition proposes the holding of run-off elections in the municipality, the question shall be posed: "Shall run-off elections be held in (insert name of municipality) as permitted by the 'Uniform Nonpartisan Election Law?'"

(2) If the ordinance or petition proposes the abandonment of run-off elections in the municipality, the question shall be posed: "Shall (insert name of municipality) abandon the holding of run-off elections as permitted by the 'Uniform Nonpartisan Elections Law?'"

e. The question submitted pursuant to subsection d. of this section shall be approved if a majority of those voting on the question shall vote in favor of the question, and shall take effect for the next regular municipal election held in the municipality and thereafter.

f. No ordinance may be adopted and no petition may be filed proposing the adoption of the provisions of sections 14 and 15 of this act, or the abandonment of the provisions of those sections, within 4 years after the date on which the municipality initially adopted a plan or form of government, or charter, requiring the holding of run-off elections in the municipality, or within 4 years after the date on which a question was last submitted to the voters pursuant to subsection d. of this section.

APPENDIX B

(MUNICIPAL WARD LAW) CHAPTER 496, LAWS OF 1981

As Amended and Supplemented to

January 13, 1987

An Act providing a uniform method for fixing and determination of municipal ward boundaries by ward commissioners and revising parts of the statutory law pertaining thereto.

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

40:44-9.

Short Title.

This act shall be known and may be cited as the "Municipal Ward Law".

40:44-10.

Application to and governance of municipalities divided into wards.

This act shall apply to and govern any municipality having adopted a charter form of government, or ordinance, providing that the municipality shall be divided into wards, or other similar representation districts, for the purpose of the election or appointment of any municipal officers. It shall constitute the exclusive method whereby the boundaries of wards, or other similar representation districts, in municipalities shall be fixed and determined, and to this end all acts or parts of acts whether of a general or special character, which conflict or are incompatible with its provisions are superseded to the degree of the conflict or incompatibility. Nothing in this act shall be sufficient in itself to authorize any municipality to divide into wards or other similar representation districts, nor to increase or decrease the number of its wards or similar representation districts.

40:44-11.

Division into wards by ward commissioners.

A municipality shall be divided by the ward commissioners, in the manner provided in this act, into so many wards as the charter form of government, or ordinance, may provide. The members of the county board of elections of the county in which the municipality is located, together with the municipal clerk, shall constitute the ward commissioners.

40:44-12.

Ward commissioners; reimbursement of expenses; compensation; assistance; payments.

Each ward commissioner shall be entitled to be reimbursed for necessary expenses incurred in the performance of his duties and to such compensation as the governing body may provide by ordinance.

The ward commissioners shall be entitled in the performance of their duties to the assistance of a surveyor or engineer, and, when they deem necessary, may employ a surveyor or engineer and such other assistants as shall be necessary to aid them in the discharge of their duties.

The governing body of the municipality shall provide, upon certification of the ward commissioners, for payment of the expenses of the ward commissioners, their compensation as determined by ordinance, and the expenses for the services of the surveyor, engineer or other assistants as the ward commissioners shall have incurred. No person employed under this section shall be compensated by receiving a percentage of the contract under which he renders services.

40:44-13.

Meetings; oath; division into wards or change of boundaries.

a. Within 5 days following any election at which the voters of the municipality shall have adopted a charter, or an amendment thereof, or a form of government requiring a division of the municipality into a number of wards, the ward commissioners shall meet and, having first taken and subscribed, before an officer authorized to administer oaths, an oath to faithfully and impartially perform their duties, shall proceed to divide the municipality into wards as required by the charter or form of government and this act.

b. Within 30 days following the final adoption pursuant to law by the municipal governing body or any ordinance which by its terms requires that the municipality be divided into wards, or that the existing wards of the municipality be increased or decreased, or that the existing ward boundaries of the municipality be adjusted to allow for the annexation or deannexation of territory, the ward commissioners shall meet in the manner provided in subsection a. of this section and proceed to divide the municipality into wards, or to make such adjustments in ward boundaries, as shall be required to conform with the provisions of the ordinance and this act.

c. Within 3 months following the promulgation by the Governor pursuant to law of each Federal decennial census, the ward commissioners shall meet in the manner provided in subsection a. of this section and proceed to make such adjustments in ward boundaries as shall be necessary to conform them to the requirements of this act.

40:44-14.

Boundaries; requirements.

The ward commissioners shall fix and determine the ward boundaries so that each ward is formed of compact and contiguous territory. The population of the most populous ward so created shall not differ from the population of the least populous ward so created by more than 10% of the mean population of the wards derived by dividing the total population of the municipality by the number of wards created. The most recent Federal decennial census shall be used as the population determinant.

40:44-15.

Report on ward boundaries; certification; filing.

Within 30 days following their initial meeting pursuant to section 5 of this act [section 40:44-13], the ward commissioners shall file their report, certified by at least three of their signatures, setting forth and properly describing the ward boundaries fixed and determined. There shall be annexed to the report a map of the municipality with the ward boundaries clearly marked thereon.

The report so certified shall be filed in the office of the county clerk, and copies shall be filed with the Secretary of State and in the office of the municipal clerk.

40:44-16.

Publication of notice; supersedure of former wards; election or appointment of officers from ward.

Within 2 weeks immediately following the filing of the certified report by the ward commissioners, the municipal clerk shall cause to be published at least once in at least one newspaper generally circulating in the municipality a notice of the ward boundaries as fixed and determined in the report.

Upon completion of the publication, the former wards, if any, shall be superseded, and thereafter all officers elected or appointed in the municipality for or representing the wards thereof shall be elected from, or appointed for, the wards fixed and determined by the ward commissioners; except that, in municipalities wherein municipal officers are elected at the general election held on the first Tuesday after the first Monday in November, if the publication shall be completed in a year in which municipal officers are elected during the period between the date 75 days before the primary election and the date of the general election, the wards so fixed and determined shall take effect on the day following the holding of that general election; and, in municipalities wherein municipal officers are elected at a regular municipal election held on the second Tuesday in May, if the publication shall be completed in a year in which municipal officers are elected during the period between the date 75 days before the regular municipal election and the date of the election, the wards so fixed and determined shall take effect on the day following the holding of that regular municipal election.

40:44-17.

Adjustment of boundaries; continuance in office of elected officers.

Whenever the boundaries of existing wards are adjusted pursuant to subsection b. or c. of section 5 of this act [section 40:44-13], all officers elected therefore shall continue in office until their respective terms of office shall expire and until their successors are elected and qualified from adjusted wards.

40:44-18.

Inapplicability of act to wards or ward boundaries existing on January 12, 1982.

Nothing contained in this act shall invalidate any ward or ward boundaries existing in any municipality on the effective date of this act [January 12, 1982] which were fixed and determined pursuant to any previous law, but the provisions of this act shall apply to and govern any municipality on and after the date on which any of the circumstances set forth in section 5 of this act [section 40:44-13] shall occur therein.

APPENDIX C

OPTIONS AVAILABLE UNDER THE FAULKNER ACT

(As Revised by P.L. 1981, c. 465.)

Listed below are all of the possible combinations of options available under the four basic Faulkner plans:

MAYOR-COUNCIL PLAN

1. Mayor and council elected at general election at large for concurrent terms.
2. Mayor and council elected at general election at large for staggered terms.
3. Mayor and council elected at general election using wards for concurrent terms.
4. Mayor and council elected at general election using wards for staggered terms.
5. Mayor and council elected at regular municipal election at large for concurrent terms.
6. Mayor and council elected at regular municipal election at large for staggered terms.
7. Mayor and council elected at regular municipal election using wards for staggered terms.
8. Mayor and council elected at regular municipal election using wards for concurrent terms.

COUNCIL-MANAGER PLAN

1. Council elected at general election at large for concurrent terms, with mayor elected directly by voters.
2. Council elected at general election at large for concurrent terms, with mayor elected by council.
3. Council elected at general election at large for staggered terms, with mayor elected directly by voters.
4. Council elected at general election at large for staggered terms, with mayor elected by council.
5. Council elected at general election using wards for concurrent terms, with mayor elected directly by voters.
6. Council elected at general election using wards for concurrent terms, with mayor elected by council.

7. Council elected at **general election using wards for staggered terms**, with mayor elected directly by voters.
8. Council elected at **general election using wards for staggered terms**, with mayor elected by council.
9. Council elected at regular municipal election at large for concurrent terms, with mayor elected directly by voters.
10. Council elected at regular municipal election at large for concurrent terms, with mayor elected by council.
11. Council elected at regular municipal election at large for staggered terms, with mayor elected directly by voters.
12. Council elected at regular municipal election at large for staggered terms, with mayor elected by council.
13. Council elected at regular municipal election using wards for concurrent terms, with mayor elected directly by voters.
14. Council elected at regular municipal election using wards for concurrent terms, with mayor directly elected by council.
15. Council elected at regular municipal election using wards for staggered terms, with mayor elected directly by voters.
16. Council elected at regular municipal election using wards for staggered terms, with mayor elected by council.

SMALL MUNICIPALITY PLAN

1. Council elected at general election for concurrent terms, with mayor elected directly by voters.
2. Council elected at general election for concurrent terms, with mayor elected by council.
3. Council elected at general election for staggered terms, with mayor elected directly by voters.
4. Council elected at general election for staggered terms, with mayor elected by council.
5. Council elected at regular municipal election for concurrent terms, with mayor elected directly by voters.
6. Council elected at regular municipal election for concurrent terms, with mayor elected by council.
7. Council elected at regular municipal election for staggered terms, with mayor elected directly by voters.
8. Council elected at regular municipal election for staggered terms, with mayor elected by council.

MAYOR-COUNCIL-ADMINISTRATOR PLAN

No optional arrangements are provided under this plan.

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ABOUT THE COMMISSION

The New Jersey Legislature established the County and Municipal Government Study Commission with the charge to “study the structure and functions of county and municipal government . . . and to determine their applicability in meeting the present and future needs of the State and its political subdivisions”.

To achieve as broad a representation as possible in carrying out this legislative charge, a Commission of fifteen members was created, nine of whom are named by the governor, three of whom are senators named by the president of the senate, and three of whom are assemblymen, named by the speaker of the general assembly. Of the governor’s appointments, three are nominees of the New Jersey Association of Counties, three are nominees of the New Jersey State League of Municipalities, and three are from among the citizens of the State.

The Commission’s initial report, *Creative Localism: A Prospectus*, recommended a comprehensive and systematic study of the patterns of planning, financing, and performing functions of government. This assessment seeks to develop more effective approaches for providing services among municipal, county, and state governments through statutory amendment and changes in administrative practices and policies.

In light of these goals, the Commission has examined alternative forms of providing services on a larger-than-municipal scale and evaluated current systems for the provision of services. This research has led to a series of structural studies dealing with county government, joint services, consolidation, and municipal government forms. The Commission also engages in functional studies that are focused upon the services that local governments provide or should so provide. These functional studies have included examinations of transportation, housing, social services, health, solid waste management, flood control, libraries, and state mandates. In addition, a series of informational periodicals and handbooks are published for the use of officials, administrators, and others interested in New Jersey government.

While the Commission’s research efforts are primarily directed toward continuing structural and functional studies, its staff is often asked to assist in the drafting of legislation and regulatory action based upon Commission recommendations. The Commission also serves as a general resource to the legislature, executive agencies, local government officials, and civic organizations, as well as to related activities at the national level.

*Functional Fragmentation and the Traditional Forms of Municipal Government in
New Jersey, January 1986

Local Liability Insurance: A Crisis, May 1986

*The Structure of County Government: Current Status and Needs, July 1986

*Local Redevelopment In New Jersey: Structuring a New Partnership, January 1987

*Judicial Unification, August 1987

*Optional Municipal Charter Law (Faulkner Act), As Amended, January 1987, Octo-
ber 1987

*Available upon request

