

SENATE, No. 3006

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Revises provisions of “Municipal Rehabilitation and Economic Recovery Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2007)

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1 AN ACT concerning urban revitalization and amending and
2 supplementing P.L.2002, c.43.

3

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

6

7 1. (New section) The Legislature finds and declares:

8 a. The “Municipal Rehabilitation and Economic Recovery
9 Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), provides for the
10 appointment of a chief operating officer in a qualified municipality
11 for a five-year period, referred to in that law as the rehabilitation
12 term;

13 b. As of the effective date of P.L. , c. (C.) (pending
14 before the Legislature as this bill), that 2002 act has been
15 implemented in one municipality in the State;

16 c. The fourth-year report of the chief operating officer
17 appointed in that municipality, required pursuant to section 8 of
18 P.L.2002, c.43 (C.52:27BBB-8), recommended an extension of the
19 rehabilitation term to allow for the implementation of the reforms
20 anticipated by P.L.2002, c.43; and

21 d. Given the detailed assessment and recommendation in that
22 fourth-year report, it is apparent that under certain circumstances a
23 10-year rehabilitation term is a more realistic period within which
24 government reform may be effectuated in a qualified municipality.

25

26 2. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to
27 read as follows:

28 6. a. Upon the appointment of a chief operating officer
29 pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified
30 municipality shall be under rehabilitation and economic recovery.
31 This period shall begin with the assumption of job responsibilities
32 by the chief operating officer pursuant to this section and terminate
33 five years following the end of the term of the chief operating
34 officer. The period corresponding with the term of the chief
35 operating officer shall be referred to hereinafter as the rehabilitation
36 term. The period commencing with the expiration of the term of the
37 chief operating officer and terminating five years thereafter shall be
38 referred to hereinafter as the economic recovery term.

39 b. During the economic recovery term, the mayor shall exercise
40 those powers delegated to the mayor pursuant to the form of
41 government, the charter and the administrative code of the
42 municipality, and those powers delegated to the mayor under
43 general law. In addition, during the economic recovery term, the
44 mayor shall retain the power to veto the minutes of any independent
45 board or authority, including, but not limited to, the housing

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

Matter underlined thus is new matter.

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1 authority, parking authority, redevelopment authority, planning
2 board and board of adjustment.

3 While the municipality is under rehabilitation and economic
4 recovery, the mayor shall retain the power to make those
5 appointments to municipal authorities, boards or commissions, as
6 the case may be, which is otherwise allocated to the mayor pursuant
7 to law.

8 The mayor may retain staff for the purpose of advising the mayor
9 and aiding in the performance of constituent services.

10 c. Upon the assumption of job responsibilities by the chief
11 operating officer, the financial review board created pursuant to
12 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the
13 finances of the municipality shall cease to function and the
14 municipality shall cease to be under supervision pursuant to Article
15 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

16 All outstanding debts or obligations incurred by a qualified
17 municipality or the New Jersey Housing and Mortgage Finance
18 Agency established pursuant to section 4 of the "New Jersey
19 Housing and Mortgage Finance Agency Law of 1983," P.L.1983,
20 c.530 (C.55:14K-4) and secured by a right of first refusal on
21 municipally-owned property as of 10 days following a
22 determination by the commissioner that the municipality fulfills the
23 definition of a qualified municipality pursuant to section 4 of
24 P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency
25 with jurisdiction in a qualified municipality, other than those debts
26 or obligations represented by bonds or other negotiable instruments,
27 are forgiven.

28 Notwithstanding the termination of the financial review board
29 and supervision, all memorandums of understanding entered into by
30 the municipality as a condition of receiving assistance under
31 P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the
32 municipality to implement any government, administrative,
33 operational efficiency or oversight measures necessary for the fiscal
34 recovery of the municipality as recommended by the director and
35 approved by the Local Finance Board shall continue to have full
36 force and effect.

37 During the rehabilitation term, the chief operating officer shall
38 be responsible for entering into any memorandum of understanding
39 on behalf of the qualified municipality that is required as a
40 condition of receiving assistance under P.L.1987, c.75 (C.52:27D-
41 118.24 et seq.), or any other law; provided, however, that those
42 memoranda of understanding shall be consistent with the provisions
43 of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L. , c. (C.)
44 (pending before the Legislature as this bill), and the powers of the
45 chief operating officer granted pursuant thereto. Any such
46 memoranda of understanding shall be executed between the chief
47 operating officer and the Director of the Division of Local
48 Government Services in the Department of Community Affairs.

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1 Whenever the powers and duties of the chief operating officer have
2 devolved upon the director pursuant to subsection b. of section 7 of
3 P.L.2002, c.43 (C.52:27BBB-7), the memorandum of understanding
4 shall be executed between the director, on behalf of the qualified
5 municipality, and the State Treasurer, on behalf of the State.

6 (cf: P.L.2002, c.108, s.5)

7

8 3. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to
9 read as follows:

10 7. a. Upon receiving notification by the Commissioner of
11 Community Affairs pursuant to section 4 of P.L.2002, c.43
12 (C.52:27BBB-4), the Governor shall appoint the chief operating
13 officer in consultation with the mayor and the governing body. The
14 chief operating officer shall serve at the pleasure of the Governor.
15 The chief operating officer shall be qualified by training and
16 experience for the position and shall have at least 10 years of
17 experience in the management or supervision of government
18 activities, three years of which may be substituted by an advanced
19 degree in business, law, or public administration.

20 b. Pending the appointment of a chief operating officer or, in
21 the event of the death, resignation, removal or inability of the chief
22 operating officer to discharge the duties of that office, the functions,
23 powers and duties of the chief operating officer shall devolve upon
24 the director, for the time being, until a chief operating officer is
25 appointed or is able to discharge the duties of that office. In the
26 event that the chief operating officer does not serve out the chief
27 operating officer's term of office for any reason, a successor shall
28 be chosen by the Governor.

29 c. The term of the chief operating officer shall terminate five
30 years following the assumption of duties on the part of the initial
31 chief operating officer first appointed pursuant to P.L.2002, c.43
32 (C.52:27BBB-1 et al.), or 10 years thereafter if the fourth-year
33 report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8)
34 recommends an extension of that term, provided that the extension
35 is approved by the Commissioner of Community Affairs. The chief
36 operating officer may be hired as a State employee in the
37 unclassified service of Title 11A, Civil Service, of the New Jersey
38 Statutes or may be hired under contract, as provided hereunder.
39 Notwithstanding any other provision of law, no person so appointed
40 shall acquire tenure.

41 If the chief operating officer is hired under contract, the person
42 hired shall meet the qualifications set forth herein, and it shall be
43 clear from the contract that the position is full-time and that the job
44 site shall be at the principal offices of the municipality. If, for any
45 reason, a person engaged under contract is unable to fulfill the job
46 responsibilities of chief operating officer, the selection process shall
47 be recommenced in accordance with the provisions of this section.

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1 If the chief operating officer is hired under contract, the contract
2 shall be available for public inspection in the office of the
3 municipal clerk.

4 d. Subject to the approval of the **[commissioner]** State
5 Treasurer, the salary, benefits and costs of the chief operating
6 officer shall be fixed by the board and adjusted from time to time as
7 the board deems appropriate. The salary level and benefits shall be
8 comparable to that of the director of any public authority or agency
9 with jurisdiction in the qualified municipality. The salary, benefits,
10 and costs of the chief operating officer shall be an expense of the
11 State and paid through the Department of the Treasury.

12 (cf: P.L.2002, c.108, s.6)

13

14 4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to
15 read as follows:

16 8. a. At the end of four years following the commencement of
17 duties by the chief operating officer and at the end of eight years, in
18 the event of an extension of the term of the chief operating officer,
19 as provided in subsection c. of section 6 of P.L.2002, c.43
20 (C.52:27BBB-6) (as amended by section 3 of this bill), the chief
21 operating officer or his or her successor shall submit a report to the
22 Governor, each member of the State Economic Recovery Board,
23 each member of the Senate and General Assembly, each member of
24 the county board of freeholders in the county in which the qualified
25 municipality is situated, each member of the regional impact
26 council, the mayor, and each member of the governing body of the
27 qualified municipality. The report shall evaluate progress made in
28 rehabilitating the qualified municipality and the status of economic
29 recovery efforts. The report shall include an enumeration of any
30 problems or hurdles encountered in rehabilitation and economic
31 recovery and, where applicable, recommendations for any
32 amendments to State law which would promote and encourage
33 rehabilitation and economic recovery. If the chief operating officer
34 anticipates that the rehabilitation term will be insufficient to achieve
35 rehabilitation goals, the chief operating officer shall include in the
36 report a detailed analysis of the causes for the municipality's
37 inability to reestablish local control and an assessment of the
38 amount of time necessary for the continuation of the period of the
39 rehabilitation term.

40 In addition to the foregoing, the report shall include detailed
41 information as to how those funds appropriated pursuant to
42 P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those
43 expenditures are serving to promote the economic revitalization of
44 the qualified municipality.

45 b. Within 30 days of receipt of **[the]** each report by members
46 of the Legislature, a hearing shall be held by the Senate Community
47 and Urban Affairs Committee and the Assembly Housing and Local

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1 Government Committee, or their successors, to provide an
2 opportunity for public comment and discussion.

3 (cf: P.L.2002, c.43, s.8)

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5 5. Section 9 of P.L.2002, c.43 (C.52:27BBB-9) is amended to
6 read as follows:

7 9. a. Upon the appointment of the chief operating officer
8 pursuant to subsection a. of section 7 of P.L.2002, c.43
9 (C.52:27BBB-7), all the functions, powers and duties heretofore or
10 hereafter assigned by any statute, regulation, ordinance, resolution,
11 charter or contract for municipal operations, municipal organization
12 and reorganization, development and implementation of workforce
13 training programs, and the hiring and firing of department heads,
14 managers and supervisory employees shall be reallocated to the
15 chief operating officer. The chief operating officer shall exercise
16 those functions, powers and duties in consultation with the mayor as
17 are hereinafter provided.

18 b. Except as otherwise provided in P.L.2002, c.43
19 (C.52:27BBB-1 et al.), the chief operating officer shall have the
20 power to perform all acts and do all things consistent with law
21 necessary for the proper conduct, maintenance, rehabilitation and
22 supervision of the qualified municipality. The chief operating
23 officer may propose ordinances, resolutions, rules, policies and
24 guidelines, not inconsistent with law, for the proper conduct,
25 maintenance and supervision of the municipality.

26 Ordinances and resolutions shall be adopted or amended as
27 provided by law except that the chief operating officer shall
28 exercise the functions, powers and duties of the mayor.

29 A proposal introduced by the chief operating officer shall be
30 deemed approved if the mayor or governing body fails to act upon
31 the proposal within 45 days following the chief operating officer's
32 submission of the proposal to either the mayor or the governing
33 body, or both, as appropriate. [Failure of] Disapproval by the
34 mayor or governing body [to act upon or approve] of any proposal
35 introduced by the chief operating officer shall constitute an impasse
36 and shall be subject to the dispute resolution procedures set forth in
37 section 5 of P.L.2002, c.43 (C.52:27BBB-5).

38 c. Notwithstanding the provisions of the "Long Term Tax
39 Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), the chief
40 operating officer may negotiate financial agreements and otherwise
41 exercise the powers of the governing body pursuant thereto,
42 including making available municipal land in order to facilitate a
43 project pursuant to section 17 of P.L.1991, c.431 (C.40A:20-17).
44 Any such agreements negotiated by the chief operating officer shall
45 be presented to the governing body for the information of the
46 members of the governing body.

47 d. Notwithstanding any provisions of P.L.2001, c.310 to the
48 contrary, the chief operating officer may, in consultation with the

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1 mayor and governing body, negotiate bond financing pursuant to
2 the "Redevelopment Area Bond Financing Law," sections 1 through
3 10 of P.L.2001, c.310 (C.40A:12A-64 through 73) and revenue
4 allocation financing pursuant to the "Revenue Allocation District
5 Financing Act," sections 11 through 41 of P.L.2001, c.310
6 (C.52:27D-459 through 489).

7 e. The functions, powers and duties reallocated to the chief
8 operating officer pursuant to this section shall include, but not be
9 limited to those powers allocated to the mayor which are found in
10 the charter and administrative code of the municipality, Titles 40
11 and 40A generally and specifically in the "Local Bond Law,"
12 N.J.S.40A:2-1 et seq., the "Local Budget Law," N.J.S.40A:4-1 et
13 seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the
14 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
15 seq.), any specific form of government law according to which the
16 municipality is governed, and such other sections or other laws
17 necessary to the governance and administration of a municipality,
18 the control of litigation, and the determination of service levels as
19 provided in this section.

20 Subject to the approval of the State Treasurer, the chief operating
21 officer may appoint staff necessary to assist the chief operating
22 officer in carrying out those responsibilities set forth in P.L.2002,
23 c.43 (C.52:27BBB-1 et al.). The salary and benefits of persons so
24 appointed and persons designated pursuant to subsection g. of this
25 section shall be included in the budget request prepared by the chief
26 operating officer pursuant to subsection b. of section 27 of
27 P.L.2002, c.43 (C.52:27BBB-27). Persons appointed pursuant to
28 this subsection shall serve at the pleasure of the chief operating
29 officer.

30 f. During the rehabilitation term, the chief operating officer
31 shall exercise the veto power of the mayor with respect to municipal
32 ordinances; provided, however, that the chief operating officer may
33 delegate the veto power to the mayor. In addition, during the
34 rehabilitation term, the chief operating officer shall have the power
35 to veto the minutes of any independent board or authority,
36 including, but not limited to, the housing authority, parking
37 authority, redevelopment authority, planning board and board of
38 adjustment.

39 During the rehabilitation term, the chief operating officer may
40 refer any matter involving any action or failure to act to the special
41 arbitrator.

42 g. Subject to the approval of the **[director]** treasurer, the chief
43 operating officer may appoint a confidential secretary and executive
44 assistant who shall be State employees and serve in the unclassified
45 service of the Civil Service. The salary and benefits of these
46 appointees shall be fixed by the **[director]** treasurer and adjusted
47 from time to time as the **[director]** treasurer deems appropriate.

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1 The salary, benefits, and costs of these appointees shall be an
2 expense of the State and shall be paid by the treasurer.

3 These appointees shall serve at the pleasure of the chief
4 operating officer.

5 (cf: P.L.2002, c.43, s.9)

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7 6. Section 25 of P.L.2002, c.43 (C.52:27BBB-25) is amended to
8 read as follows:

9 25. Unless otherwise provided pursuant to P.L.2002, c.43
10 (C.52:27BBB-1 et al.), the governing body shall retain all functions,
11 powers and duties prescribed to it pursuant to the charter and
12 administrative code of the municipality, Titles 40 and 40A
13 generally and specifically in the "Local Bond Law," N.J.S.40A:2-1
14 et seq., the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local
15 Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Public
16 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "New
17 Jersey Water Supply Public-Private Contracting Act," P.L.1995,
18 c.101 (C.58:26-19 et seq.), any specific form of government law
19 according to which the municipality is governed, and such other
20 sections or other laws which govern municipal operation or
21 administration.

22 The governing body shall set the schedule and agenda for
23 meetings of the governing body, which shall be duly advertised
24 pursuant to the "Open Public Meetings Act," P.L.1975, c.231
25 (C.10:4-6 et seq.). Meetings of the governing body shall be
26 presided over by the president of the governing body.

27 The governing body and any other entity created by the
28 municipality, including the planning board, zoning board of
29 adjustment, personnel board, and any commission, council,
30 redevelopment agency, or corporation, shall include in its agenda
31 for meetings, all agenda items submitted by the chief operating
32 officer.

33 (cf: P.L.2002, c.43, s.25)

34

35 7. (New section) Notwithstanding the provisions of subsection
36 a. of section 52 of P.L.2002, c.43 (C.52:27BBB-51), moneys made
37 available pursuant thereto may be committed for a period not to
38 exceed two years following the effective date of P.L. ,
39 c. (C.) (pending before the Legislature as this bill).

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41 8. This act shall take effect immediately.

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STATEMENT

45

46 This bill revises provisions of the "Municipal Rehabilitation and
47 Economic Recovery Act. The City of Camden is the only
48 municipality that is currently qualified as being under rehabilitation

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1 and economic recovery pursuant to the "Municipal Rehabilitation
2 and Economic Recovery Act."

3 The bill would amend the "Municipal Rehabilitation and
4 Economic Recovery Act," N.J.S.A.52:27BBB-1 et al., to extend the
5 chief operating officer's term to 10 years following the assumption
6 of duties on the part of the chief operating officer in the event a
7 fourth-year report, filed pursuant to N.J.S.A.52:27BBB-8, indicates
8 an extension of that term is necessary to achieve the rehabilitation
9 goals, provided that the extension is approved by the Commissioner
10 of Community Affairs.

11 The bill also provides that the chief operating officer's salary is
12 to be approved by the State Treasurer, and is to be paid by the State.
13 The chief operating officer is to be responsible for entering into any
14 memorandum of understanding on behalf of the qualified
15 municipality that is required as a condition of receiving assistance
16 under N.J.S.A.52:27D-118.24 et seq., or any other law, during the
17 rehabilitation period; provided, however, that those memoranda of
18 understanding shall be consistent with the provisions of
19 N.J.S.A.52:27BBB-1 et al., the provisions of the bill, and the
20 powers of the chief operating officer granted pursuant to both, and
21 shall be executed between the chief operating officer and the
22 Director of the Division of Local Government Services in the
23 Department of Community Affairs. Whenever the powers and
24 duties of the chief operating officer have devolved upon the director
25 pursuant to subsection b. of N.J.S.A.52:27BBB-7, the memorandum
26 of understanding is to be executed between the director, on behalf
27 of the qualified municipality, and the State Treasurer, on behalf of
28 the State.

29 The bill provides that whenever a proposal is introduced by the
30 chief operating officer, it shall be deemed approved when the mayor
31 or governing body fails to act upon the proposal within 45 days
32 following the chief operating officer's submission of the proposal to
33 either the mayor or the governing body, or both, as appropriate.
34 Disapproval by the mayor or governing body of any proposal
35 introduced by the chief operating officer shall constitute an impasse
36 and shall be subject to the dispute resolution procedures set forth in
37 N.J.S.A.52:27BBB-5.

38 Subject to the approval of the director, any staff positions
39 proposed by the chief operating officer necessary for the fulfillment
40 of those responsibilities assigned pursuant to N.J.S.A.52:27BBB-1
41 et al., shall be included in the budget request prepared by the chief
42 operating officer pursuant to subsection b. of N.J.S.A.52:27BBB-
43 27. Staff shall serve at the pleasure of the chief operating officer.

44 The bill provides that the governing body and any other entity
45 created by the municipality, including the planning board, zoning
46 board of adjustment, personnel board, and any commission, council,
47 redevelopment agency, or corporation, is required to include in any

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1 agenda for meetings, all agenda items submitted by the chief
2 operating officer.

3 Finally, the bill provides a new section of law which provides
4 that, notwithstanding the provisions of subsection a. of
5 N.J.S.A.52:27BBB-51, moneys made available pursuant thereto
6 may be committed for a period not to exceed two years following
7 the effective date of the bill.